

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	CT	03.01.2023
Planning Manager / Team Leader authorisation:	JJ	12/01/2023
Planning Technician final checks and despatch:	ER	12/01/23

Application: 22/01554/FUL **Town / Parish:** Mistley Parish Council

Applicant: Feng

Address: 1 Harwich Road Mistley Manningtree

Development: Proposed conversion of existing space to the rear along ground floor level to provide 1 bedroom self-contained flat with parking and access to communal amenity area.

1. Town / Parish Council

Mrs Susan Clements
07.10.2022

The Parish Council at its Planning Committee meeting on the 6 October 2022 opposed this application on the grounds of this being over-development of the site, the access is inadequate in the shared amenity space, there is insufficient parking and inadequate amenity space.

2. Consultation Responses

Environmental Protection
05.10.2022

I have reviewed the submitted noise assessment dated 20th May 2022 by Pace Consult and would recommend the following conditions:

- Noise mitigation measures shall be installed in accordance with the recommendations made in the noise impact assessment submitted with this application.
- 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.
- No materials produced as a result of the site development or clearance shall be burned on site.

ECC Highways Dept
09.11.2022

The information that was submitted in association with the application has been fully considered by the Highway Authority. No site visit was undertaken in conjunction with this planning application. The information submitted with the application has been thoroughly assessed and conclusions have been drawn from a desktop study

with the observations below based on submitted material, google earth image dated March 2021.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority subject to the following mitigation and conditions:

1. Prior to occupation of the development the proposed site layout as shown on Drawing No. LPS570 Rev C must be provided and retained at all times.
Reason: In the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
2. The Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.
Reason: To ensure appropriate cycle / powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.
3. Prior to occupation of the proposed development, 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)
Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

Informative:

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: 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.

UU Open Spaces
08.11.2022

Response from Public Realm
Open Space & Play

Application Details

Application No: 22/01554/FUL

Site Address: 1 Harwich Road Mistley Manningtree Essex

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

Current Position

There is currently a deficit of -3.00 hectares of equipped play/formal open space in Mistley.

Recommendation

No contribution is being requested on this occasion

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.		22.07.2019
21/30182/PREAPP	Conversion of part of the ground floor into a separate two bedroom flat, including parking and private amenity space.	Refused	04.08.2021
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
22/00199/FUL	Proposed conversion of existing space to provide 1 bedroom self-contained flat with parking and access to communal amenity area.	Refused	05.08.2022

22/01554/FUL

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

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)

SP3 Spatial Strategy for North Essex

SP4 Meeting Housing Needs

SP7 Place Shaping Principles

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

SPL1 Managing Growth

SPL2 Settlement Development Boundaries

SPL3 Sustainable Design

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

Essex County Council Development Management Policies 2011 (the Highways SPD)

Essex County Council Car Parking Standards - Design and Good Practice

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. Relevant History

Planning permission was refused by Tendring District Council on 2 February 2022 under ref; 22/00199/FUL for the proposed conversion of existing space at No.1 Harwich Road, Mistley to provide a 1 no. bedroom self-contained flat with parking and access to communal amenity area as (1) the application failed to demonstrate how an acceptable standard of private amenity space would be achieved for existing and future occupants of the development; and (2) the proposed parking arrangements were considered to be inadequate for the density and size of the application site leading to parking conflict and a potential hazard to highway safety whereby Harwich Road is a 'B' classified road (ECC Highways refusal recommendation).

6. Officer Appraisal (including Site Description and Proposal)

The main issues which arise with this proposal are as follows:

- 1) Principle of development
- 2) Design and Layout
- 3) Highway safety and parking
- 4) Impact on neighbouring residential amenity

- 5) Ecology (SPA/RAMS)
- 6) Other Matters.

Site Description

The site lies on the east side of Harwich Road to the south of The Anchor Inn and currently comprises a split level mixed use commercial/residential premises consisting of the following:

- ground floor fish and chip shop (Mistley Fisheries) positioned at higher frontage ground level with associated 3 bed self-contained flat at first floor over;
- two storey flat roofed rear projecting extension containing 1 no. x 2 bed self-contained flat (Existing Lower Ground Floor) and separate ground floor lounge accommodation for the flat associated with the fish and chip shop at the front (Existing Ground Floor).

The rear façade of the extension faces onto a small concrete hardstanding with low fenced rectangular grassed area situated beyond extending to the site's rear boundary currently used as a combined rear utility / amenity area by the occupants of the two existing flats. Resident parking for the existing flats currently exists to the side of the existing two storey extension in the form of 3 no. parking spaces extending off the end of a long sloping concrete vehicular access ramp which leads down the side of the site on its northern boundary from Harwich Road. The site has a pronounced fall from front to rear. The site is bordered by residential properties to both the sides and to the rear. The site is located within Flood Zone 1 (lowest risk of flooding).

Site Proposal

This full application relates to the proposed conversion of part of the rear ground floor of the existing building, namely that floorspace within the existing two storey rear extension, to a 1 no. x 1 bed self-contained flat with external occupant access via an existing side staircase together with parking and access to a communal amenity area and represents a re-submission application without change to refused application 22/00199/FUL (see relevant history above) only this time is accompanied by an additional drawing showing a swept path analysis for the existing and proposed parking arrangements.

No external changes would occur as a result of the proposal with the exception of the removal of an existing first floor rear window to the existing two storey rear extension. One of the bedrooms within the first floor of the flat over the existing fish and chip shop at the front of the site would be converted internally to a first floor lounge to compensate for the loss of the existing lounge at the rear end of the ground floor arising as a result of the introduction of the proposed additional 1-bed flat the subject of the current application leaving that existing flat accommodation as a 2 bed flat.

Planning Assessment

Principle of development

The site lies within the Settlement Boundary for Manningtree, Lawford and Mistley which is classed as a Smaller Urban Settlement within the Tendring District Local Plan 2013-2033 and Beyond. The principle of providing an additional unit of flat accommodation at this established mixed site user sustainable location as described above is therefore acceptable against the provisions of the NPPF and against Policies SP1, SP3, SP4, SPL1, SPL2 and LP2 of the adopted Local Plan and also against Policy PPL1 of the plan whereby the site lies within Flood Zone 1 (lowest risk of flooding) subject to the proposal being compliant with plan policies relating to relevant detailed matters which are now discussed.

Design and Layout

The proposal would introduce an additional 1-bed self-contained flat at this mixed use site through the conversion of lounge space on the ground floor of the two storey rear extension to the existing frontage fish and chip shop as previously described. Cited refusal reason 1 of refused application 22/00199/FUL in respect of failure to demonstrate how an acceptable standard of private amenity

space can be achieved for the three flats combined at the site (2 no. existing and 1 no. proposed) - and as now similarly shown for the current resubmitted proposal on submitted drawing 1.2 Rev C - has been duly noted.

Whilst it is accepted for this re-submission application that the indicated shared amenity provision for the three flats combined in terms of size and its siting beyond the existing/proposed parking area is not ideal, and noting the Parish Council's comments in this regard, it is the case that only a 1 no. x 1 bed flat is being proposed by the current application in addition to the existing two flats at this site, whilst one of the three bedrooms for the existing flat associated with the existing fish and chip shop is being lost in favour of a relocated lounge to a reconfigured first floor of that flat as previously described thereby making this flat into a resulting two bed flat unit. As a consequence, this in turn would result in effect in a net zero increase in bedroom accommodation proposed overall for the three flats if assessed in this way. Furthermore, it should be stressed that the proposal is for a conversion of existing floorspace and shared amenity space provision is already in place on site, albeit in a very ad-hoc and informal layout, and for two units rather than three. It should also be noted that the Parish Council recommended approval for refused application 22/00199/FUL.

It is a material consideration for the current proposal (as would have been the case for refused application 22/00199/FUL) that Mistletoe Quay and Mistletoe Marina are within easy walking/cycling distance of the site which can provide an accessible and therefore sustainable means of additional local residential amenity for existing and future occupants of the flat/s to augment the indicated proposed shared on-site amenity arrangements.

The additional flat proposed would be positioned at the back of an existing fish and chip shop and due regard therefore has to be had as to the residential amenity impacts that this existing commercial use would have on any future occupants of the flat as a new residential unit in terms of noise. A noise assessment report accompanies the application (Pace Consult) which has identified existing external sources of noise at the site, including noise emanating from existing extractor systems, and has recommended thermal double glazing and acoustically treated trickle ventilators as the only noise mitigation measures required to achieve significantly below desired internal noise levels set out by BS8233 to achieve suitability for the proposed development whereby the Council's Environmental Health Protection Team have viewed and accepted the report and have recommended that these measures be the subject of a planning condition of any planning permission granted in the interests of occupant residential amenity.

The proposal would not result in a change to the existing building's external appearance or an increase in its footprint.

It is therefore considered upon re-assessment for this re-submission application and having due regard to the new and additional information submitted, that no design or layout objections can reasonably be sustained to the proposal against Policies SPL3, LP3 and LP4 and the previously cited occupant amenity reason for refusal for refused application 22/00199/FUL accordingly falls away.

Highway safety and parking

Vehicular access to the rear of the site is and would continue to be via the ramped and sloping access which currently exists to the side of the building (no change from refused application 22/00199/FUL). Proposed parking arrangements would be in the form of 2 no. tandem parking spaces for the existing fish and chip shop flat (as reduced from 3 no. to 2 no. bedrooms as previously referenced), 2 no. adjacent tandem spaces for the existing 2 bed flat, 1 no. space for the proposed 1 bed flat with a single visitor parking space (no change) making a total of 6 no. parking spaces in total.

ECC Highways objected to previously submitted application 22/00199/FUL on the basis that the proposal failed to show how parking arrangements for the additional flat could be successfully implemented at the site without resulting in potential difficult turning manoeuvres and the potential for on-street parking to the detriment to highway safety.

The current re-submission application is accompanied by a swept path analysis drawing showing how vehicles for both the two existing flats and the new flat would be parked and turned at the site in different indicated manoeuvre situations. ECC Highways have examined this additional information which wasn't available for refused application 22/00199/FUL to carry out a re-assessment of the highway and parking implications of the proposal and have concluded from this along with other source material that the impact of the proposal is acceptable from a highway and transportation perspective subject to recommended highway conditions given the minor intensification of the existing vehicular access ramp onto Harwich Road should the occupant of the proposed flat use a car, whilst recognising at the same time that parking at the site would be confined. The number of parking spaces proposed would meet Essex County Council parking standards, including provision of a visitor parking space.

Accordingly, the proposal complies with Policies SPL3, LP4, CP1 and CP2 of the adopted Local Plan. Consequently, the previously raised highways objection against application 22/00199/FUL as cited for refusal reason no.2 for refused application 22/00199/FUL falls away.

Impact on neighbouring residential amenity

The site is flanked by residential properties on both sides. The potential minor intensification of use of the existing side vehicular access ramp and the provision of the shared rear amenity area is unlikely to give rise to any significant levels of noise and disturbance to adjoining neighbours over and above existing levels experienced at the site and no residential amenity objections are raised to the proposal under Policy SPL3, Part C of the adopted Local Plan.

Ecology (SPA/RAMS)

The site lies within the Zone of Influence (Zoi) for Special Protection Areas, Special Areas of Conservation and Ramsar sites at Stour and Orwell Estuaries SPA and Ramsar designated primarily to protect waders and wildfowl. As such, it is necessary for the applicant to make a financial contribution as a tariff payment via the LPA to offset the recreational disturbance impacts of the proposed development as a single new unit of residential accommodation (1 no. flat) on this SPA/RAMS site in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020.

The applicant has since made a commitment to making this financial contribution prior to the commencement of development through the submission of a Unilateral Undertaking to the Council (undertaking dated 13 December 2022) which has since been executed and formally lodged by the Council. The applicant has therefore discharged its procedural responsibility in this regard and the proposal complies with Policies SP2 and PPL4 of the adopted Local Plan.

Other Matters – Drainage, Public Open Space contribution, Renewable Energy Generation and Energy Efficiency Measures

Paragraph 170 of the NPPF 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 180 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.

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage and should include Sustainable Drainage Systems (SuDS) as a means of reducing flood risk, improving water quality, enhancing the Green Infrastructure network and providing amenity and biodiversity benefits.

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.

It is stated in the application that the site is connected to the main sewer and it would therefore be expected that foul sewerage disposal for the proposed flat would be via this existing method of foul drainage, whilst it is stated that surface water would be disposed of via a soakaway. Such methods of drainage are considered acceptable for the proposed development in accordance with this advice.

The Council's Public Realm, Open Space and Play Team have advised that there is currently a deficit of -3.00 hectares of equipped play and formal open space in Mistley, but have further advised that they are not recommending on this occasion that a play and formal open space financial contribution be requested by way of mitigation to offset the impacts of the proposed development as just a one additional residential unit scheme (Policy HP5).

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. No information has been submitted with the application in this regard, although it is considered that no such additional measures should be conditioned given the minor residential conversion nature of the proposal.

7. Recommendation

CONDITIONAL APPROVAL

8. 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 drawings / documents, and / or such other drawings / documents as may be approved by the Local Planning Authority in writing pursuant to other conditions of this permission or such drawings / documents as may be subsequently approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard:

Drwg No. 1.3	Location and Block Plan - Received 14/09/2022
Drwg No. 1.2 C	Existing and Proposed Site Plan - Received 14/09/2022
Drwg No. 1.1	Existing and Proposed Floor Plans and Elevations - Received 14/09/2022
Drwg No JG01	Swept Path Analysis - Received 14/09/2022

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

3. Prior to occupation of the 1 bedroom self-contained flat hereby approved, the proposed site layout as shown on Drawing No. 1.2 Rev C must be provided and retained at all times.

Reason: In the interests of highway safety and to avoid on-street parking.

4. The cycle parking as shown on Drawing No. 1.2 Rev C shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

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

5. Prior to occupation of the development hereby approved, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling for sustainable transport approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator).

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

6. Prior to first occupation of the 1 bedroom self-contained flat hereby approved, the noise mitigation measures to mitigate against existing external noise sources at the site shall be implemented in full in accordance with the recommendations made in the noise impact assessment submitted with the application entitled "Noise Assessment For Proposed Self-Contained Dwelling in Position of Existing Residential Accommodation Attached to Commercial Premises" (Pace Consult, 20th May 2022) and shall thereafter be retained for the duration of the development.

Reason: In the interests of the protection of future occupants' residential amenity.

7. No vehicle connected with the approved conversion works shall arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours shall be restricted between 08:00 and 18:00 Mondays to Saturdays (finishing at 13:00 on Saturdays) with no working of any kind on Sundays or any Public/Bank Holidays.

Reason: In the interests of the protection of neighbouring residential amenity.

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

Reason: In the interests of the protection of neighbouring residential amenity.

9. Informatives

1. 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.

2. Highway Informatives:

(i). 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 applicant should be advised to contact the Development Management Team by email at development.management@essexhighways.org

(ii): 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.

(iii):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.

3. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.
4. This permission shall be read in conjunction with the Unilateral Undertaking dated 13 December 2022 relating to a Recreational Disturbance, Avoidance and Mitigation Contribution (RAMS) (Relevant Designated European Wildlife Site).

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