

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case officer recommendation:	ML	24/03/2023
Planning Manager / Team Leader authorisation:	AN	27/03/23
Planning Technician final checks and despatch:	ER	29/03/2023

Application: 23/00242/VOC **Town / Parish:** Harwich Town Council

Applicant: Bocking Homes

Address: Sato UK Ltd Valley Road Dovercourt

Development: Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 9 (Arboricultural Impact Assessment) of appeal decision for 18/02109/OUT to align with 22/01920/DETAIL in terms of soft landscaping.

1. Town / Parish Council

Harwich Town Council Harwich Town Council has no objection to this application

2. Consultation Responses

Tree & Landscape Officer
23.02.2023

The southern boundary of the application site backs onto the rear boundaries of the dwellings in Ramsey Road and the western boundary abuts the rear boundaries of properties in Clayton Road. Consequently, the trees are not prominent features in the public realm and their visual amenity value is relatively low. Nevertheless, they perform a moderately valuable screening function.

In terms of the impact of the proposed development on trees on the land current proposal identifies the removal of 13 of the 23 existing trees including most of the trees on the southern boundary adjacent to the rear gardens of the properties in Ramsey Road.

Whilst the removal of most of the boundary trees is not, in itself, desirable and would be likely to diminish the existing level of screening currently enjoyed by adjacent residents it should be noted that amended plan submitted with planning application 22/01920/DETAIL now makes provision for the planting of 98 new trees and shows 9 new trees to be planted close to the southern boundary that will, in time, replicate the current level of screening provided by the trees identified for removal.

In total the demolition of the redundant factory and implementation of the proposed development would result in a net gain of 85 trees

The applicant has also amended the site layout in order to make provision for the retention of T18 (Lime). The amended layout shows the retention of T18 and the use of specialist construction techniques for the foundations of the double garage situated within the Root Protection Area (RPA) of the tree.

In landscape terms the demolition of the factory and its replacement with new dwellings will remove a large and unattractive building and

replace it with houses and new garden areas that are to be planted with trees, shrubs and hedges.

Therefore, in terms of the general amenity of the locality it is considered that the removal of the factory itself and its replacement with residential properties will create a more open character and visually pleasing appearance of the area.

3. Planning History

15/01549/OUT	Hybrid application consisting of: Full application for a replacement factory on northern component of site (following demolition of existing office). Outline application for up to 38 residential units on southern component of site.	Approved	06.05.2016
16/00768/DISCON	Discharge of condition 7 (vehicular turning facility) and 8 (discharge of surface water) relating to the full permission and part discharge of condition 22 (materials), 23 (site levels), 24 (surface water drainage), 25 (off site flooding) and 30 (construction method statement) relating to the full and outline permission of the hybrid application approved under reference 15/01549/OUT.	Approved	21.09.2016
16/00790/OUT	Variation of condition 2 of planning permission 15/01549/OUT to vary the design of the factory and reduce the number of car parking spaces provided.	Approved	19.09.2016
16/00791/FUL	New swale and retaining wall.	Approved	11.10.2016
17/00370/OUT	Variation of condition 2 of planning permission 15/01549/OUT to vary the design of the factory and the number of car parking spaces provided.	Approved	16.05.2017
18/02109/OUT	Demolition of existing redundant factory and outline application with all matters reserved with the exception of access for up to 42 residential units.	Refused (Allowed at Appeal)	17.01.2020
22/01151/DISCON	Discharge of condition 6 (Site investigation of the nature and extent of contamination) of application 18/02109/OUT.	Approved	16.08.2022

22/01587/DISCON	Discharge of condition 8 (Demolition Management Plan and Construction Management Plan) of application 18/02109/OUT (granted on appeal under ref: APP/P1560/W/20/3246908).	Approved	12.10.2022
22/01806/DISCON	Discharge of conditions 6 (site investigation of the nature and extent of contamination) and 17 (Biodiversity Enhancement Strategy) of application 18/02109/OUT (granted on appeal under ref: APP/P1560/W/20/3246908).	Approved	28.11.2022
22/01920/DETAIL	Reserved matters application for the demolition of the existing redundant factory with the erection of 42 residential units on the site, considering details of appearance, landscaping, layout and scale, pursuant to outline application 18/02109/OUT, approved on appeal under APP/P1560/W/20/3246908.	Current	
23/00242/VOC	Application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 9 (Arboricultural Impact Assessment) of appeal decision for 18/02109/OUT to align with 22/01920/DETAIL in terms of soft landscaping.	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

SP6 Infrastructure and Connectivity

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

HP1 Improving Health and Wellbeing

HP5 Open Space, Sports & Recreation Facilities

LP1 Housing Supply

LP2 Housing Choice

LP3 Housing Density and Standards

LP4 Housing Layout

LP5 Affordable and Council Housing

PPL1 Development and Flood Risk

PPL4 Biodiversity and Geodiversity

PPL5 Water Conservation, Drainage and Sewerage

PPL10 Renewable Energy Generation

CP1 Sustainable Transport and Accessibility

CP2 Improving the Transport Network

DI1 Infrastructure Delivery and Impact Mitigation

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 located on the western side of Valley Road within the settlement of Dovercourt. The site currently accommodates a large redundant factory building, which is in the process of being demolished and was previously utilised by Sato (a global labelling specialist). They have vacated the factory and re-located to a new purpose-built unit directly to the north of the application site.

The site is bordered by residential properties to the south, east and west. Along the southern and western boundaries of the site are areas of trees/vegetation which are predominantly conifers.

Proposal

This submission is an application under Section 73 of the Town and Country Planning Act, to allow a variation of condition 9 (Arboricultural Impact Assessment) of appeal decision for 18/02109/OUT to align with 22/01920/DETAIL in terms of soft landscaping and the tree removal/constraints plan.

Condition 9 states the following;

The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment prepared by Open Spaces Landscape Architects (ref OS 1773-19-Doc1, dated January 2019) and associated tree protection plan (dwg nos. OS 177-19.1 & 19.2) and tree removal plan (dwg nos. OS 177-19.3 & 19.4), including in respect of the protection of trees, shrubs and hedgerows during construction.

This application seeks to amend the associated tree protection plan and tree removal plan to update which trees/hedges are now proposed for removal. This is to ensure the associated Reserved Matters submission, which is currently under consideration, is consistent with the details approved at outline stage.

Planning History

A previous hybrid planning application (Ref - 15/01549/OUT) granted full planning permission for the factory element and outline permission for 38 units on application site. The factory has been built out. Condition 10 of the hybrid application, which related to the residential element of the proposal, required the application for the approval of reserved matters pursuant to the residential scheme to be made within three years, namely by 19th October 2018. No such application was submitted and consequently the residential scheme lapsed.

Following this an outline application for 42 units was submitted and approved at appeal under reference 18/02109/OUT (Appeal reference - APP/P1560/W/20/3246908). The Reserved Matters

application (Ref - 22/01920/DETAIL) was received in December 2022 and is still currently under consideration.

Impact of the Changes

Trees/Visual Impacts

The site is currently occupied by a redundant factory unit adjacent to a new industrial building constructed to replace the building on the application site.

There are no trees or other significant vegetation in the main body of the land, but the southern and western boundaries of the application site are well populated with established trees and hedging species. This vegetation currently provides a reasonable level of screening.

The southern boundary of the application site backs onto the rear boundaries of the dwellings in Ramsey Road and the western boundary abuts the rear boundaries of properties in Clayton Road.

The Council's Trees and Landscaping Officer has reviewed the submitted information in conjunction with a site visit and has concluded the following;

'The trees are not prominent features in the public realm and their visual amenity value is relatively low. Nevertheless, they perform a moderately valuable screening function. In terms of the impact of the proposed development on trees on the land the current proposal identifies the removal of 13 of the 23 existing trees including most of the trees on the southern boundary adjacent to the rear gardens of the properties in Ramsey Road. Whilst the removal of most of the boundary trees is not, in itself, desirable and would be likely to diminish the existing level of screening currently enjoyed by adjacent residents it should be noted that the landscaping plan submitted with planning application 22/01920/DETAIL now makes provision for the planting of 98 new trees and shows 9 new trees to be planted close to the southern boundary that will, in time, replicate the current level of screening provided by the trees identified for removal. In total the demolition of the redundant factory and implementation of the proposed development would result in a net gain of 85 trees. The applicant has also amended the site layout in order to make provision for the retention of T18 (Lime). The amended layout shows the retention of T18 and the use of specialist construction techniques for the foundations of the double garage situated within the Root Protection Area (RPA) of the tree'.

In landscape terms the demolition of the factory and its replacement with new dwellings will remove a large and unattractive building and replace it with houses and new garden areas that are to be planted with trees, shrubs and hedges.

Therefore, in terms of the general amenity of the locality it is considered that the proposed tree removal is acceptable when set against the extensive tree planting and soft landscaping associated with the development of the land.

Conditions/Legal Agreement

Several of the conditions included on the original planning permission have already been discharged. These conditions will be included on the permission securing the details already approved. The Reserved Matters application has already been submitted too, so the commencement conditions have been updated to reflect this.

The legal agreement secured as part of the original outline permission included a clause that ensured it would remain in force for any subsequent S73 applications. The legal agreement secured affordable housing provision and education/RAMS contributions.

Other Considerations

Harwich Town Council have no objections to the application.

Several letters of representation have been received in respect of the current demolition work that is taking place. Concerns are raised in regard to the vibration of properties and health and safety

concerns over the demolition and the fact the existing factory comprises of asbestos. (Officer Response - a demolition method statement has been provided and assessed by the Council's Environmental Protection Team, who had no objections over the methodology provided in respect of asbestos removal and the demolition. Moreover, any damage to existing properties would represent a civil matter between the developer and the affected third party).

1 letter of objection has been received regarding the loss of the trees and the reduction in screening this would cause along with the impact upon wildlife. (Officer Response - whilst it is acknowledged that the removal of the vegetation would reduce screening, the spacing in between existing and proposed properties accords with the back-to-back distances outlined in the Essex Design Guide and the provision of new planting will in time assist in providing a good degree of screening. In terms of wildlife impacts, a Biodiversity Enhancement Strategy has been approved in consultation with the Council's Ecology advisors (Place Services), and this helps to overall provide a net gain in terms of biodiversity across the whole site. Furthermore, the developers are obliged to adhere to the provisions of the Wildlife Act in terms of clearance of vegetation outside of the bird nesting season.

6. Recommendation

Approval

7. Conditions

- 1 The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason - To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Dwg. No. 6635 - 1103

Dwg. No. 6635 - 1101 (Main Point of Access Only)

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

- 3 The development hereby approved shall not exceed 42 dwellings.

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

- 4 The development shall be carried out in full accordance with the recommendations outlined within the submitted 'Site Investigation Protocol' document (as prepared by Ground and Environmental Investigation Limited and approved under planning reference 22/01151/DISCON) and in full accordance with the recommendations outlined within the submitted 'Phase 2 Contamination Risk Assessment' (as prepared by Ground and Environmental Investigation Limited, Ref - 22-253 and approved under planning reference 22/01806/DISCON).

As the Phase 2 Contamination Risk Assessment concludes at Section 11 that a watching brief shall be implemented on this site during enabling works and should any contamination or potentially contaminative sources be discovered during the proposed enabling works all site works shall cease and suitably competent consultants/engineers will attend site to agree a formal remediation strategy. Any formal remediation strategy shall be submitted to and approved, in writing, by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

Reason - The site has been utilised for industrial purposes. Consequently, the assessment/s shall assist in the protection of the health of site workers and end users.

- 5 No piling or any other foundation designs using penetrative methods shall take place until a piling/foundation method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out), has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with any such approved piling/foundation method statement.

Reason - In the interests of residential amenity.

- 6 All site demolition works and construction works shall take place in full accordance with the details and recommendations outlined within the following documents (as approved under planning reference 22/01587/DISCON);

- 'Construction Management Plan' - as prepared by Saint Safety Ltd and Bocking Homes (dated 16th September 2022); and
- 'Method Statement' - as prepared by Anglian Demolition And Asbestos Ltd

Reason - In the interests of health and safety, residential amenity and highway safety.

- 7 The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment prepared by Open Spaces Landscape Architects (ref OS 1773-19-Doc1, dated January 2019) and associated tree protection/removal plans (dwg nos. OS 2435-22.1 REV B and OS 2435-22.2 REV B), including in respect of the protection of trees, shrubs and hedgerows during construction.

Reason - In the interests of visual amenity.

- 8 Prior to construction above damp-proof course level, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of any dwelling, the foul water drainage works relating to that dwelling must have been carried out in complete accordance with the approved scheme.

Reason - To safeguard the ground water environment from harm.

- 9 Details of the internal access road(s), to be submitted pursuant to the reserved matters submission, shall include details for their design, geometry, visibility splays and materials of construction. Prior to the laying out of the internal access roads, timescale(s) for their completion and details for their ongoing maintenance and management shall have been submitted to and approved in writing by the local planning authority. The internal access road(s) shall thereafter be constructed in accordance with the approved details and timescales and shall be managed and maintained as approved for the lifetime of the development.

Reason - To ensure that roads and footways are constructed to an acceptable standard, in the interests of highway safety.

- 10 Prior to the first occupation of each dwelling hereby approved, parking for vehicles, in accordance with a scheme that has been submitted to and approved in writing by the local planning authority, shall be provided for each dwelling.

Reason - To ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would otherwise be detrimental to highway safety.

- 11 Prior to the first occupation of each dwelling hereby approved, secure parking for cycles, in accordance with a scheme that has been submitted to and approved in writing by the local planning authority, shall be provided for each dwelling. These facilities shall be retained thereafter for the parking of cycles only.

Reason - In the interests of promoting sustainable transport modes.

- 12 No dwelling hereby permitted shall be occupied until a Residential Travel Information Pack that promotes sustainable transport for future residents has been submitted to and approved in writing by the local planning authority. A Residential Travel Information Pack shall be made available in each dwelling upon occupation.

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

- 13 Prior to construction above damp proof course level, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, shall have been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to:

- Limiting discharge rates to 3.3 l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provision of sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.

The approved scheme shall be implemented prior to first occupation of the development.

Reason - To safeguard the ground water environment and minimise the risk of flooding.

- 14 Prior to construction above damp-proof course level, a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall have been submitted to and agreed, in writing, by the local planning authority. The surface water drainage system shall be maintained in accordance with the approved plan.

Reason - To ensure the approved drainage system is adequately maintained to safeguard the ground water environment and minimise the risk of flooding.

- 15 The Biodiversity Enhancement Strategy (as approved under planning reference 22/01806/DISCON) shall be implemented in accordance with the approved details and timescales and the ongoing management and maintenance measures shall be adhered to for the life of the development.

Reason - To enhance Protected and Priority Species and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

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.

Legal Agreement Informative

This application is the subject of a S106 legal agreement and this decision should only be read in conjunction with this agreement.

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