

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Case Officer recommendation:	AL	13/09/2023
Planning Manager / Team Leader authorisation:	JJ	14/09/2023
Planning Technician final checks and despatch:	JJ	15/09/2023

Application: 21/01864/FUL **Town / Parish:** Brightlingsea Town Council

Applicant: Ms M White

Address: Brightlingsea New Church Queen Street Brightlingsea

Development: Proposed change of use from Use Class F1 f) - Place of worship to Use Class C3 - Residential, including alterations to the building.

1. Town / Parish Council

Brightlingsea Town Council
25.11.2021

The committee did not have any objection to this application for change of use but queried the statement that no internal alterations are proposed.

**INITIAL
COMMENTS**

23.06.2023

Brightlingsea Town Council supports the amended plans.

**FOLLOWING
REVISED PLANS**

2. Consultation Responses

TDC Environmental Protection
29.11.2021

With reference to the above application, I can advise we have reviewed the proposal and the associated documents, and can confirm that the EP team have no comments to make at this time. However we would request that should the application be approved, a standard condition pertaining to construction times and emissions is included:

Construction Activities - In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following below is conditioned;

- 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.

Adherence to the above condition will significantly reduce the likelihood of public complaint and potential enforcement action by Pollution and Environmental Control. The condition gives the best practice for Demolition and Construction sites. Failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974).

REASON: to protect the amenity of nearby residential premises

Essex County
Council Archaeology
30.11.2021

Thank you for consulting Place Services on the above application for change of use of a listed building to residential.

The building was erected in 1867/8 to serve as a Methodist Church within the historic core of Brightlingsea. The building is of architectural, historical and social significance as a long-serving Methodist Chapel and is a designated Heritage Asset under the terms of the NPPF and, as such, requires recording prior to development which will alter the character of the building.

No internal or external changes are proposed for this application, however the communal function of this 19th century building will be lost through conversion to a domestic dwelling and a historic building record would ensure a permanent record of the building following the change of use to act as a permanent record of the interior of the building prior to any future applications for alterations.

The following conditions are recommended in line with the National Planning Policy Framework:

1. Prior to any physical alterations to the building a programme of historic building recording will be required in accordance with a written scheme of investigation which has been submitted by the applicant, and approved by the planning authority.

2. The applicant will submit to the local planning authority an approved historic building report (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority).

A professional historic building specialist should undertake any fieldwork. A brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

Public Realm Open
Space & Play
07.12.2021

Current Position

There is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea. Any additional development in the Brightlingsea area will increase demand on already stretched play facilities and formal open space.

Recommendation

A contribution towards improvements of open space and or play is relevant and justified to the planning application. Any contribution would be used to make improvements Western Promenade Way.

ECC Highways Dept
12.01.2022

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 September 2016. The site is located within a predominately residential location with local amenities and access to public transport nearby. No new or altered means of access is proposed and the site offers adequate off-street parking, considering these factors:

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

1. The tandem vehicular parking space shall be retained and have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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 first occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

4. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

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.

Essex County
Council Heritage
06.12.2021
**INITIAL
COMMENTS**

The building is Grade II listed and located in the Brightlingsea Conservation Area.

I do not support this proposal and recommend it is refused considering paragraph 194 and 202 of the NPPF. The harm should be considered to both heritage assets noted above.

This application should not be permitted on two reasons.

Firstly, the optimum viable use of the heritage asset is as a place of worship/church. This is the use most compatible with the building's conservation. Whilst this may change, the optimum viable use needs to be

evidenced through sequential consideration and aided by relevant marketing exercises.

Secondly, the change of use should not be approved until it can be demonstrated that a sympathetic conversion can be realised with regard to both the listed building and Conservation Area. As such this proposal should not be considered for approval in principle unless accompanied by a detailed planning/listed building consent application which is informed by an adequately detailed heritage statement.

Essex County Council
Heritage
27.09.2022
**IN RESPONSE TO
FIRST SET OF
AMENDED PLANS /
ADDITIONAL
PLANS RECEIVED**

This looks like it could be an exciting scheme. I wasn't expecting as much detail so I have only given these a general look over and have the comments below. I suggest the detail is addressed during submission and there will probably need to be a site meeting during the app process etc.

Comments

- As discussed from outset-please ensure optimum viable use (ie marketed for other 'less harmful' uses) is demonstrated otherwise I think the 202 test maybe problematic on just the principle of the conversion.
- Confirm PV's will not be visible from the Con Area otherwise these may need to be re-sited etc
- In the application provide details of how existing fabric will be treated/retained. Provide details of the balustrade and GF/FF bay at west end
- Provide a demolition plan of features/fabric to be removed. I particularly want to look at west bay in more detail
- Was the floor in the church early/original? If it is can it be left exposed?
- Need to review detailed drawings before agreement of insulation and secondary glazing.
- Most of the items numbered on the sections need detailed drawings but in principle most sound fine.

Essex County Council
Heritage
25.07.2023
**IN RESPONSE TO
FURTHER AMENDED
PLANS / ADDITIONAL
PLANS RECEIVED**

The proposal is for proposed conversion to residential dwelling including new first floor for accommodation area, fitting secondary double glazing and new internal studwork partitioning within the 1970s church hall, installation of solar panels, woodburner flue and two new windows.

The building is Grade II Listed (List Entry ID: 1111399) and located in the Brightlingsea Conservation Area.

This letter should be read in addendum to my previous consultation. The principle of conversion of the church will cause some level of 'less than substantial harm' and therefore paragraph 202 of the NPPF will be relevant. As such, an application for change of the building's use should only be supported once it is demonstrated that residential use is now the 'optimum viable use' of the heritage asset.

Subject to the above, only one item needs to be addressed which is the placement or need for the bespoke infill panels in the roof truss. These do not appear to be required by the conversion given a ceiling is inserted. This item should be clarified or removed prior to determination.

Conditions pertaining to (for detail and agreement) should be attached to any permission:

- A detailed landscaping scheme with details of surface treatments;
- A detail of the ceiling mounted intakes and exhausts;
- A detail of the proposed solar panels;
- A section detail of floating floor construction;
- A detail of the balustrade;
- Detail drawing of the new timber stairs;

- Detail of secondary glazing;
- Proposal and specification for retention of pews within the building and specifically in the open nave area;
- Details of modifications to existing windows (for ventilation and fire escape);
- Detail of internal insulation to roof;
- Specification of repair of existing structure (where required);
- Detail of enclosure to existing timber balcony; and
- A scheme of archaeological building recording commensurate with a 'Level 3' as detailed in Historic England Guidance Understanding Historic Buildings.

Essex County Council
Heritage
30.08.2023
LATEST COMMENTS

The proposal is for proposed conversion to residential dwelling including new first floor for accommodation area, fitting secondary double glazing and new internal studwork partitioning within the 1970s church hall, installation of solar panels, woodburner flue and two new windows.

The building is Grade II Listed (List Entry ID: 1111399) and located in the Brightlingsea Conservation Area.

This letter should be read in addendum to my previous consultation.

The revisions to the scheme have overcome the concerns pertaining to the roof and infill panels.

My previous letter can be consulted for recommended conditions.

3. **Planning History**

None.

4. **Relevant Policies / Government Guidance**

The following Local and National Planning Policies are relevant to this planning application:

National:

National Planning Policy Framework 2023 (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
HP2 Community Facilities
HP5 Open Space, Sports and Recreation Facilities
LP1 Housing Supply
LP2 Housing Choice
LP3 Housing Density and Standards

LP4 Housing Layout
PPL4 Biodiversity and Geodiversity
PPL5 Water Conservation, Drainage and Sewerage
PPL7 Archaeology
PPL8 Conservation Areas
PPL9 Listed Buildings
PPL10 Renewable Energy Generation and Energy Efficiency Measures
CP1 Sustainable Transport and Accessibility
DI1 Infrastructure Delivery and Impact Mitigation

Supplementary Planning Guidance

Essex Design Guide

Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038 (RAMS)

Local Planning Guidance

Essex County Council Parking Standards Design/Good Practice Guide 2009

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), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) 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.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

The weight that can be attributed to a neighbourhood plan depends on its progress. The stages of the process can be summarised as follows:

- Stage 1: Designated neighbourhood area (Limited Weight)
- Stage 2: Preparing a draft neighbourhood plan (Limited Weight)
- Stage 3: Pre-submission publicity and consultation (Limited Weight)
- Stage 4: Submission of a neighbourhood plan (Limited Weight)
- Stage 5: Independent Examination (Limited/Significant Weight)
- Stage 6: Referendum (Significant Weight)
- Stage 7: Adoption by LPA (Full Weight)

Brightlingsea Town Council submitted an area application to the District Council to begin their Neighbourhood Plan on 28 May 2021. The Area Application indicated that the Town Council intended to designate the entire Brightlingsea Parish as their Neighbourhood Plan Area. The designation of Neighbourhood Plan Areas (the first stage in preparing a Neighbourhood Development Plan) is a decision delegated to the Acting Director for Planning, in consultation with the Portfolio Holder for Planning. Officers considered that the submitted information was sufficient to satisfy the 2012 Regulations and be made as an application. The Plan Area was agreed by the Acting Director for Planning in consultation with the Portfolio Holder for Planning on the 24 June 2021.

Whilst preliminary work has started on the Plan itself, the Plan can be understood as being at Stages 1 and 2 and therefore only very limited weight can be attributed at this stage.

5. Officer Appraisal (including Site Description and Proposal)

Site Description and Context

The application relates to Brightlingsea Church listed as 'New Church of Jerusalem', a Grade II listed Victorian building some 150 years old, with a later 1970's addition to the rear. The church is located on the eastern side of Queen Street, in the centre of Brightlingsea, a short distance from the western end of the High Street.

The application site extends approximately 0.08 hectares with the footprint of the building almost filling the plot, with the exception of the vehicular access and tandem parking area to the side of the building and a small area of amenity space to the south east corner, resulting in an 'L' shaped site area overall.

Queen Street is predominately residential with the Royal Mail Delivery Office on its southern boundary with a Tesco Express beyond. A residential dwelling – No.6 Queen Street – stands to the north of the site. To the rear of the site lies the rear amenity for two large detached dwellings – 'Church View' and 'The Vicarage' – both built as part of a small residential development involving demolition of St James' Church Hall (13/01324/FUL).

The application site is located within the Brightlingsea Settlement Development Boundary and Brightlingsea Conservation Area.

Description of Proposal

The application was originally submitted as a change of use only application with no internal or external alterations. However, due to the historic importance of the building, it was not possible to establish if the use of the church building is suitable as a dwelling without first knowing all the necessary alterations required to convert the building into a functioning, liveable dwellinghouse.

The application has been amended and now seeks full permission for the change of use from F1 f) Place of worship to C3 (residential) including the addition of a mezzanine floor and other alterations to the building.

A concurrent listed building consent application for the physical alterations to the building is also being considered under reference 22/01717/LBC.

Assessment

The main considerations in this instance are:

1. Principle of Residential Development;
2. Loss of a Community Facility;
3. Design, Appearance and Impact on Designated Heritage Assets;
4. Archaeology;
5. Residential Amenities;
6. Access and Parking;
7. Cycle & Refuse Store;
8. Environmental Protection;
9. Drainage;
10. Planning Obligation – Recreational Disturbance Financial Contribution;
11. Planning Obligation – Open Space and Play Space Financial Contribution;
12. Renewable Energy;
13. Representations;
14. Other Matters; and,
15. Overall Planning Balance and Conclusions.

1. Principle of Residential Development

The site lies within the Brightlingsea Settlement Development Boundary as defined within adopted Tendring District Local Plan 2013-2033 and Beyond where the principle of residential development is acceptable subject to consideration of all other relevant national and local plan policies and material considerations as addressed below.

2. Loss of a Community Facility

Community facilities provide for health and wellbeing, recreational and leisure and education and culture. They can include for example, community halls, libraries, museums, arts venues, post offices, public houses, places of worship, sports halls, health and fitness facilities, swimming pools and other facilities of community value. They are a key part of sustainable communities and contribute to their self-reliance. The loss of community facilities can have a substantial impact on people's quality of life, wellbeing and overall viability of the local area. The viability of community facilities is an important consideration for a sustained local area.

Policy HP 2 of the adopted Tendring District Local Plan 2013-2033 and Beyond Section 2 (TDLPS2) states that the loss or change of use of existing community or cultural facilities will be resisted unless replacement facilities are provided within the vicinity, or it has been demonstrated that there is no longer a need or demand for another community use on site.

The Design and Access Statement accompanying the application provides details of other places of worship available within Brightlingsea. These include:

- The United Church (Methodist URC) on Chapel Road;
- St Sabina's Roman Catholic Church on Richard Avenue;
- St James' Church on Victoria Place
- All Saints Church on Moverons Lane
- The Oasis Community Church who meet at Brightlingsea Community Centre, and
- The Salvation Army building on the High Street.

The application is also accompanied by a viability statement setting out the marketing history for the church, including consideration of alternative community uses and potential occupants, such as Brightlingsea Museum. Preceding the application, the building had been on the market twice in a 5-year period. A copy of the Estate Agents listing from 2016 has been provided. This identified the property as a 'Community Building with development potential STPP'. The existing use was identified as D1 and offers in excess of £200,000 were sought. Whilst the listing did not state that the building was only available for use as a community building in this case it is accepted that had a community

organisation been interested in acquiring the building at the time they would have been alerted to the opportunity by the listing. The Viability Statement accompanying the application states only 8 prospective buyers expressed an interest, all of which were interested in converting the building into apartments. The applicants were the only buyers who were planning a self-build project for a family home for their own use. Overall, the building has remained vacant for more than 10 years.

Officers consider that the applicant has demonstrated that the proposal complies with the provisions of TDLP2 Policy HP2, as there are other, alternative / replacement Place of Worship facilities available to the community, within the vicinity of the site, which meet the need of the local population. The marketing and the fact that the building has stood empty for so long has demonstrated that there are no viable alternative community uses that have come forward to make use of the site. Consequently there is no objection to the loss of this former community facility.

3. Design, Appearance and Impact on Designated Heritage Assets

Section 16 (paragraphs 189 - 208) of the NPPF (Conserving and enhancing the historic environment) outlines policies relating to the historic environment and the key role it plays in the Government's definition of sustainable development, the principle which underpins the document. It requires that local planning authorities 'should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment', recognising that 'heritage assets are an irreplaceable resource' and should be conserved 'in a manner appropriate to their significance'. The NPPF also requires that applicants should 'describe the significance of any heritage assets affected' by their application, 'including any contribution made by their setting'.

Specifically, Paragraph 197 states that when determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Furthermore, Paragraph 199 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

In addition, Paragraph 202 states 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, where appropriate, securing its optimum viable use.

TDLP2 Policy PPL9 states that proposals for new development affecting a listed building will only be permitted where the development will protect the buildings special architectural or historic interest, its character, appearance and fabric. Where a proposal will cause harm to a listed building, the relevant paragraphs of the NPPF should be applied dependent on the level of harm caused. Furthermore, Policy PPL 8 states that new development within a designated Conservation Area will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area.

More generally, TDLP1 Policy SP7 seeks to ensure that new development responds positively to local character and context to preserve and enhance the quality of existing places and their environs, including the protection and enhancement of assets of historical value. TDLP2 Policy SPL3 Part A states that all new development (including changes of use) should make a positive contribution to the quality of the local environment. Alterations should be well designed and maintain or enhance local character, and important features of heritage value.

The Council's historic buildings advisers, the Place Services Heritage Team, have been consulted on the planning application. The Place Services consultant has confirmed that the optimum viable use of the heritage asset is as a place of worship/church, this being the most compatible with the building's conservation.

However, as set out above the church building has been vacant for over a decade. There are alternative places of worship within Brightlingsea and there is therefore considered to be no harm to public amenity because of its loss. The accompanying statements and supporting evidence satisfactorily demonstrate that the church use, or an alternative community or commercial use is not viable in this instance. The size of the building and the amount of work required to provide a modern and accessible community, or commercial space, both being issues in terms of the practicality of conversion.

The limited interest that the marketing of the site elicited from potential investors has been for residential use only, and specifically to convert the building into apartments. This option has been considered by officers at pre-application stage. Due to the resultant harm to the listed building from the physical alterations needed to deliver a conversion to apartments, such as the excessive division on the main, open church hall area, officers have confirmed that a change of use to apartments would not be supported. The applicant has subsequently submitted a separate application for Listed Building Consent. The applicant has submitted an application to convert the building into a single dwellinghouse and will allow for repairs and improvement works to the main building and the unsympathetic 1970s rear addition.

Initially the application simply sought planning permission for the change of use of the building, with the intention that the details of the works to convert the building would follow through a subsequent application for listed building consent. The Council's Historic Buildings Consultants and Officers considered that it would be necessary to understand how the applicant intends to convert the building to ensure that the necessary works to convert the building would not be harmful to the listed building.

The Officer report for the listed building consent application sets out a more detailed consideration of the proposed works, but in principle Officers are now satisfied that by allowing this new use, the historic fabric of the building can be preserved and enhanced along with the overall appearance of the building, to the benefit of the character of the immediate street scene and the overall area. The principle of a change of use of this historic church to a residential dwelling is therefore considered acceptable. The development would ensure the retention and preservation of a locally and historically important building. Other than the intended use as a church, the use of the building as a single dwelling is considered an appropriate and sympathetic alternative use, in a highly sustainable location. Given the above, Officers are content that the proposal represents the optimum viable use for the building.

Notwithstanding the above, the Council's Historic Buildings Consultant considers that the proposed change of use and associated works would result in less than substantial harm to the significance of the listed building. Where harm to a heritage asset is identified the NPPF requires that the local planning authority weigh the public benefits of the proposal against the harm identified. In this case Officers have identified a number of public benefits arising from the scheme, including economic, social and environmental. The benefits include; bringing a redundant building back in to use, resulting in a more efficient use of land and preventing the condition of a listed building from deteriorating; the creation of an additional dwelling which will make a small contribution towards meeting the districts housing need and provide a household with the ability to build their own home. There will be economic benefits during construction and future occupants will support local services and businesses. Collectively these public benefits are considered to outweigh the lower level of less than substantial harm that has been identified.

4. Archaeology

Paragraph 194 of the NPPF states that, where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

TDLPS2 Policy PPL 7 states that any new development which would affect, or might affect, designated or non-designated archaeological remains will only be considered where accompanied by an appropriate desk-based assessment. Where identified as necessary within that desk-based assessment, a written scheme of investigation including excavation, recording or protection and deposition of archaeological records in a public archive will be required to be submitted to, and approved by, the Local Planning Authority.

The Tendring Historic Environment Characterisation project and Essex HER show that the proposed development is located within an area with potential for below ground archaeological deposits. The Council's Historic Environment Adviser has raised no objection to the application subject to planning conditions to ensure that a scheme of archaeological investigation and recording is completed prior to the works commencing. Archaeological matters can satisfactorily be addressed by conditions.

5. Residential Amenities

Paragraph 130 f) of the NPPF states that planning decisions should ensure that developments create places that are safe with a high standard of amenity for existing and future users.

The Tendring District Local Plan contains a number of policies concerned with protecting the amenities of existing residents and ensuring a high standard of amenity for the occupants of new dwellings. TDLPS1 Policy SP7 requires that all new development protects the amenity of existing and future residents and users with regard to noise, vibration, smell, loss of light, overbearing and overlooking. In Section 2 of the TDLP Policy SPL3 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. Furthermore, TDLPS2 Policy LP4 states that new housing should provide for private amenity space of a size and configuration that meets the needs and expectations of residents and which is commensurate to the size of dwelling and the character of the area.

The application site is approximately 50 metres from Brightlingsea Town Centre and the area has a mixed commercial and residential character. Immediately to the south of the church is a Royal Mail Delivery office, whilst the proposed garden area abuts a car park which serves commercial properties that stand on Victoria Place.

Immediately to the north of the site is a detached dwelling - no.6 Queen Street. The northern elevation of the church building has large windows at ground and first floor level, but currently the building only has a small first floor gallery at the front of the church. The application proposes the insertion of an enlarged mezzanine floor, incorporating the existing gallery, The first floor would provide two bedrooms, a bathroom and an open viewing gallery. The new first floor structure would introduce new activity immediately adjacent to the side elevation of the neighbouring dwelling on Queen Street. However, there are no windows on the side elevation of No.6 (PV panels on side facing roof slope) and no harmful overlooking to the rear private garden area of no. 6 will be possible.

For future residents of the new dwelling, the building will provide spacious internal living accommodation and a private amenity area at the rear of the site that is shown to provide a garden area of 146sq.m. This level of private outdoor amenity space is considered to be appropriate for a dwelling of this size and in this location.

It is however noted that the Royal Mail Delivery Office operates from the site immediately to the south of the site. Currently the Delivery Office and car park is only separated from the Church by a chain link fence. Aside the issue of residential amenity the Council's Conservation Area Appraisal states 'The Chain Link fence between it [Brightlingsea New Church] and the delivery office is disappointing'. Future occupants of the proposed dwelling should be protected against disturbance caused by vehicles and associated activity by the erection of a screen wall to act as a barrier against light and noise. This will also be consistent with the policy requirement to preserve and enhance the Conservation Area. A condition is recommended in this respect.

6. Access and Vehicle Parking

Paragraph 110 of the NPPF states that when assessing specific applications for development, it should be ensured that safe and suitable access to the site can be achieved and that the design of parking areas reflects current national guidance.

TDLPS2 Policy SPL3 Part B of the Local Plan 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.

The Essex Parking Standards (2009) set out the parking requirements for new development. The standards specify a minimum of 2 spaces for a dwelling with 2 bedrooms or more, with parking spaces measuring 5.5 metres by 2.9 metres. TDLPS2 Policy LP4 sets out the Council's expectations for the layout of new housing and encourages on-plot parking either at the front or side of dwellings. The block plans show sufficient space already hard surfaced on the southern side of the church which can provide the two off-street parking spaces required to serve the dwelling.

7. Cycle & Refuse Store

The parking standards also specify that one secure, covered parking space for bicycles is required per dwelling. Refuse and recycling areas / stores should also be provided.

The application indicates this could be within existing outbuildings, but the condition and useability of these structures is unclear and insufficient information has been provided with the application to consider this matter fully. Moreover, any new outbuildings will need planning permission due to their position within the curtilage of a listed building.

Due to insufficient information supporting the application, conditions will be added where necessary to seek further approval, as required.

8. Environmental Protection

The Council's Environmental Protection team have been consulted on the application. They have raised no objection to the application but have recommended conditions to control the hours that construction work is permitted and prohibition of burning materials on the site.

9. Foul Water and Surface Water Drainage

Paragraph 170 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 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.

TDLPS2 Policy PPL5 requires that all new development must make adequate provision for drainage and sewage treatment and should include sustainable drainage systems (SuDS).

The accompanying planning application confirms that surface water drainage will be by means of soakaways and that the foul drainage will be via connection to the mains, and the application is therefore considered compliant with the aims and objectives of the above policies and guidance.

10. Planning Obligation – Recreational Disturbance Financial Contribution

Under the Habitats Regulations, a development which is likely to have a significant effect or an adverse effect (alone or in combination) on a European designated site must provide mitigation or otherwise must satisfy the tests of demonstrating 'no alternatives' and 'reasons of overriding public interest'. There is no precedent for a residential development meeting those tests, which means that all residential development must provide mitigation. This application seeks permission to create a new residential dwelling and the development is located within the Zone of Influence of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), being approximately 525 metres from the Colne Estuary Ramsar and Special Character Area (SPA). Being located within the zone there is the potential for future occupants to regularly visit relevant designated sites for

recreation. In order to avoid a likely significant effect in terms of increased recreational disturbance to coastal European designated sites (Habitats sites) mitigation measures will need to be in place prior to occupation.

The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Strategy Document was adopted in 2019. The Essex Coast RAMS aims to deliver the mitigation necessary to avoid adverse effects on integrity from the in-combination impacts of residential development in Essex. The Essex Coast RAMS identifies a detailed programme of strategic avoidance and mitigation measures which are to be funded by developer contributions from all residential development within the Zones of Influence.

In order to ensure that the development would not adversely affect the integrity of Habitats sites in line with TDLPS1 Policy SP 2, TDLPS2 Policy PPL4 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017 a proportionate financial contribution in accordance with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) is required.

The applicant has entered into a Unilateral Undertaking with Tendring District Council wherein the applicant has agreed to make the necessary financial contributions for RAMS.

11. Planning Obligation – Open Space and Play Space Financial Contribution

TDLPS2 Policy HP5 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. TDLPS2 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. Section 106 will remain the appropriate mechanism for securing financial contributions. The contribution would be used towards the delivery of improvements, expansion or new open spaces and/or sports facilities.

The Council's Public Realm Team have been consulted on the application and they have reported that there is currently a deficit of 13.68 hectares of play and formal open space in Brightlingsea. Any additional residential development in the Brightlingsea area will increase demand on already stretched play facilities and formal open space. The Public Realm team recommend a contribution towards improvements of open space and or play is relevant and justified to the planning application. Any contribution would be used to make improvements Western Promenade Way.

The applicant has entered into a Unilateral Undertaking with Tendring District Council wherein the applicant has agreed to make the necessary financial contributions for Open Space improvements.

12. Renewable Energy

TDLPS2 Policy PPL10 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.

The applicant has proposed that the southern roof slope and the flat roof side projection on the southern side of the former Church Hall have photovoltaic panels installed. An indicative arrangement of 37 panels is shown on the submitted plans, although the annotation indicates that the installation would be subject to detailed design.

Alongside this policy encouraging the use of renewable energy, the Council has a statutory duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest, TDLPS2 Policy PPL9 requires the use of building materials, finishes and building techniques that respect the listed building and its setting.

Photovoltaic panels are not considered to be traditional materials, or have a traditional appearance, but the requirement of Policy PPL9 is to respect the listed building and its setting. It is proposed that panels are installed on parts of the roof of the 1970's Church Hall which is attached to the main church building. The hall is located at the rear of the church but it is wider than the church building so the entrance projects out beyond the side of the church under a roof with a flat roof.

There are some limited views of the Church Hall from the street, through the Royal Mail yard and the hardstanding at the side of the church. This is an unattractive area of hardstanding with a dwarf brick wall and 2m chain link fence with barbed wire – a feature that was identified as a detrimental feature in the Brightlingsea Conservation Area Appraisal. To protect future occupants' amenity a new brick wall along this boundary is required by condition. A new boundary wall would reduce views of the Church Hall from the street and this would reduce the visibility of the proposed PV panels. Subject to the erection of a suitably designed and detailed wall, and on balance, Officers consider that the addition of the panels would be acceptable. The photovoltaic panels would not impact the front elevation of the Church, or detract from the original fabric or the overall setting of the Listed Building. A condition is recommended requiring submission and approval of the detailed design of the panels.

Under Policy PPL10 measures to be considered include the provision of electric vehicle charging points. 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. In accordance with the above policies the use of a planning condition to require the provision an electric vehicle charging point is reasonable and necessary.

13. Representations

The planning application was publicised in the usual manner and the Council received four written representations, all of which supported the proposed development. A summary of main reasons given for supporting the scheme are set out below.

It has become apparent that the church was being used less & less for many years and has now been empty for almost 10 years. Nationally congregations are declining and it is unrealistic to expect that such a large building would ever be viable again as a place of worship.

The empty building has been used for a rave, which was unacceptable to local residents, and proposals to use a nightclub were equally unacceptable. The proposed development would sympathetically create family living space within the church, which would be better than a development of flats given the lack of parking.

There are already parking problems in the area and an alternative business or light industrial use would be likely to add to problems. The two parking spaces available on site mean the occupants of the proposed single dwelling would be able to park off the street.

14. Other matters

The application is described within the supporting application form as being a 'self-build' project. It is understood that the applicant's intention is to occupy the church hall and then convert what was the church. All recommended conditions have been adjusted to account for the appropriate trigger to ensure the conditions are precise.

15. Overall Planning Balance and Conclusions

As set out above there is no objection to the principle of the change of use of the building and whilst the use as a single dwelling may not be its optimal use in heritage terms it is considered that it has been proven that it is the optimal viable use of the building. Great weight is given to the listed building and the conservation areas' conservation. However it is judged that there will be less than substantial harm to the listed building, however for the reasons set out in the relevant part of the report the public benefits of the scheme would outweigh that harm.

The application is therefore recommended for approval subject to necessary conditions.

6. Recommendation

Approval – Full (subject to conditions and legal agreement)

7. Conditions

1. COMPLIANCE: COMMENCEMENT TIME LIMIT

CONDITION: 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. COMPLIANCE: APPROVED PLANS & DOCUMENTS

CONDITION: The development hereby permitted shall be carried out in accordance with the drawings/documents listed below 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 subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard (except for Listed Building Consents).

- 3562-PA-LOC Location Plan
- PA-05-A Site Plans Existing & Proposed
- PA-10-B Proposed Floor Plans General Arrangement
- PA-11-B Church Plans and Sections Proposed
- PA-12-B Proposed Church Long Sections
- PA-13-C Proposed Church Short Sections CC & DD
- PA-14 North Elevation Proposed
- PA-20-A Proposed Church Hall Floor Plans & Elevations
- PA-30-A Historic Fabric Diagram
- PA-32-A Diagrammatic MVHR Layout

REASON: For the avoidance of doubt and in the interests of proper phased planning of the development.

NOTE/S FOR CONDITION:

The primary role of this condition is to confirm the approved plans and documents that form the planning decision. Any document or plan not listed in this condition is not approved, unless otherwise separately referenced in other conditions that also form this decision. The second role of this condition is to allow the potential process of Non Material Amendment if found necessary and such future applications shall be considered on their merits. Lastly, this condition also allows for a phasing plan to be submitted for consideration as a discharge of condition application should phasing be needed by the developer/s if not otherwise already approved as part of this permission.

A phasing plan submission via this condition is optional and not a requirement.

Please note in the latest revision of the National Planning Policy Framework (NPPF) it provides that Local Planning Authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used). Accordingly, any future amendment of any kind will be considered in line with this paragraph, alongside the Development Plan and all other material considerations.

Any indication found on the approved plans and documents to describe the plans as approximate

and/or not to be scaled and/or measurements to be checked on site or similar, will not be considered applicable and the scale and measurements shown shall be the approved details and used as necessary for compliance purposes and/or enforcement action.

3. FURTHER APPROVAL: HERITAGE RECORD

CONDITION: No physical alterations to the building shall take place until the applicant or developer has secured the implementation of a programme of historic building recording and associated analysis work in accordance with a written scheme of investigation which have been first submitted to and approved, in writing, by the Local Planning Authority.

The applicant or developer shall submit the local planning authority an approved historic building report (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority).

REASON: To allow proper investigation and recording of the building/s of potential archaeological and historic significance. This condition is required to be agreed prior to the commencement of works to the building to ensure matters of archaeological importance are preserved and secured early to ensure avoidance of damage or loss due to the development and/or its construction. If agreement was sought at any later stage there is an unacceptable risk of loss or damage to archaeological and historic assets.

NOTE/S FOR CONDITION:

This condition engages prior to any works/development taking place that affects the building/s the subject of this decision.

4. FURTHER APPROVAL: CONSTRUCTION MANAGEMENT TO BE AGREED

CONDITION: Prior to the commencement of any physical alterations to the building, details of the construction methodology, layout plan and timetable shall be submitted to and approved, in writing, by the Local Planning Authority. This shall incorporate the following information:-

- a) Details of the hours of work/construction of the development within which such operations shall take place and the hours within which delivery/collection of materials for the said construction shall take place at the site.
- b) Details of the loading/unloading/storage of construction materials on site, including details of their siting and maximum storage height.
- c) Details of how construction and worker traffic and parking shall be managed. This shall include routing of all traffic and any directional signs to be installed and where.
- d) Details of any protection measures for footpaths and trees surrounding the site.
- e) Details of any means of access to the site during construction.
- f) Details of the scheduled timing/phasing of development for the overall construction period.
- g) Details of measures to control the emission of dust and dirt during construction and including details of any wheel washing to be undertaken, management and location it is intended to take place.
- h) Details of the siting of any on site compounds and portalos.
- i) Details of the method of any demolition to take place, including the recycling and disposal of said materials resulting from demolition.
- j) Site waste management plan (that shall include reuse and recycling of materials).
- k) Scheme for sustainable construction management to ensure effective water and energy use.
- l) Scheme of review of complaints from neighbours.
- m) Registration and details of a Considerate Constructors Scheme.
- n) Details on the provision, location and management of any show home/s or reception, including opening times, parking and advertisements (including flags and directional signs for the development and details of times for removal when not required).

The said methodology as may be approved shall be implemented in its entirety and shall operate as may be approved at all times during construction.

REASON: To minimise detriment to nearby residential and general amenity by controlling the construction process to achieve the approved development. This condition is required to be agreed prior to the commencement of any development as any construction process, including site preparation, by reason of the location and scale of development may result adverse harm on amenity.

REASON: To minimise detriment to nearby residential and general amenity by ensuring that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety. This condition is required to be agreed prior to the commencement of any works as suitable details need to be agreed before works commence and materials start being delivered to the site.

5. FURTHER APPROVAL: PHOTOVOLTAIC PANELS

CONDITION: Prior to installation of any photovoltaic panels, additional section and elevation plans at appropriate scales showing the details of any proposed new photovoltaic panels, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be implemented in accordance with the approved details.

REASON: To ensure the proposed works do not prejudice the architectural or historic merits of the listed building and to ensure that the choice of materials will harmonise with the character of the surrounding development.

6. FURTHER APPROVAL: ELECTRIC VEHICLE CHARGING

CONDITION: Prior to installation of any electric vehicle charging facilities, details of electric vehicle charging facilities for the new dwelling hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be installed in a working order prior to first occupation of the converted church building and retained in working order thereafter.

REASON: In order to promote more sustainable forms of transport.

7. FURTHER APPROVAL: HARD AND SOFT LANDSCAPING SCHEME

CONDITION: Prior to the commencement of any physical alterations to the building, a scheme of hard and soft landscaping shall be submitted to and approved, in writing, by the local Planning Authority. The scheme shall include any proposed changes in ground levels, accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in relation to design, demolition and construction".

REASON: In the interests of visual amenity and to enhance the character and appearance of the conservation area and the setting of the listed building.

NOTE FOR CONDITION: As part of the soft landscaping scheme required the established hedgerows on the south western and south eastern boundaries of the application site shall be retained (except for achieving the development access) and individual specimen trees should be planted in the grassed areas in the front garden of each new dwelling.

8. COMPLIANCE: IMPLEMENTATION OF LANDSCAPING SCHEME

CONDITION: All changes in ground levels, soft/hard landscaping shown on the approved landscaping details shall be carried out in full 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 approved, in writing, by the local planning authority up to the first

use/first occupation of the development. Any trees, hedges, shrubs or turf identified within the approved landscaping details (both proposed planting and existing) which die, are removed, seriously damaged or seriously diseased, within a period of 10 years of being planted, or in the case of existing planting within a period of 5 years from the commencement of development, shall be replaced in the next planting season with others of similar size and same species unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the approved landscaping scheme has sufficient time to establish, in the interests of visual amenity and to enhance the character and appearance of the conservation area and the setting of the listed building.

9. ONGOING REQUIREMENT: HIGHWAYS RETENTION OF PARKING SPACES

CONDITION: The tandem vehicular parking space shown on the approved plans shall be retained as parking spaces for vehicles only and have minimum dimensions of 2.9 metres x 11 metres to accommodate two vehicles.

REASON: In the interests of highway safety and to ensure adequate parking provision within the site is provided and maintained.

10. APPROVAL REQUIRED: DETAILS OF SCREEN WALLS AND FENCES

CONDITION: Prior to the first occupation of the converted church building, details of the provision, siting, design and materials of all screen walls and fences shall be submitted to and approved, in writing, by the Local Planning Authority, which include a new brick boundary wall on the southern boundary between the site and the Royal Mail Delivery Office. The screen walls and fences as may be approved shall be erected prior to the converted church building being first occupied and thereafter be retained in the approved form.

REASON: In the interests of residential and visual amenity and to preserve and enhance the character and appearance of the conservation area and the setting of the listed building.

11. FURTHER APPROVAL: REFUSE BINS AND COLLECTION AREAS

CONDITION: Prior to the first occupation of the converted church building, details of the storage for refuse/recycling bins and any collection areas shall be submitted to and approved, in writing, by the Local Planning Authority. The approved areas shall be provided prior to first occupation and thereafter retained as approved.

REASON: In the interest of highway safety to ensure that refuse/recycling bins do not cause any obstruction or danger on the highway, and in the interests of an attractive well-designed development that is not detrimental to visual amenity, the character and appearance of the conservation area or the setting of the listed building, as insufficient information has been provided with the application.

12. FURTHER APPROVAL: CYCLE PARKING

CONDITION: Prior to the first occupation of the converted church building, details of the parking facility for bicycles shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be provided prior to occupation and retained at all times for that purpose.

REASON: To ensure appropriate cycle parking is provided in the interests of highway safety and residential amenity, and the character and appearance of the conservation area and the setting of the listed building, as insufficient information has been provided with the application.

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.

Highways Informatives

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.

Historic Building Record

A professional historic building specialist should undertake any fieldwork. A brief detailing the requirements can be produced from this office. The District Council should inform the applicant of the recommendation and its financial implications.

Planning Permission Required for Outbuildings

Please note, should new or replacement outbuildings be required to provide the cycle parking and bin storage, an application for planning permission will be required due to the siting of any proposed new building within the curtilage of a listed building.

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