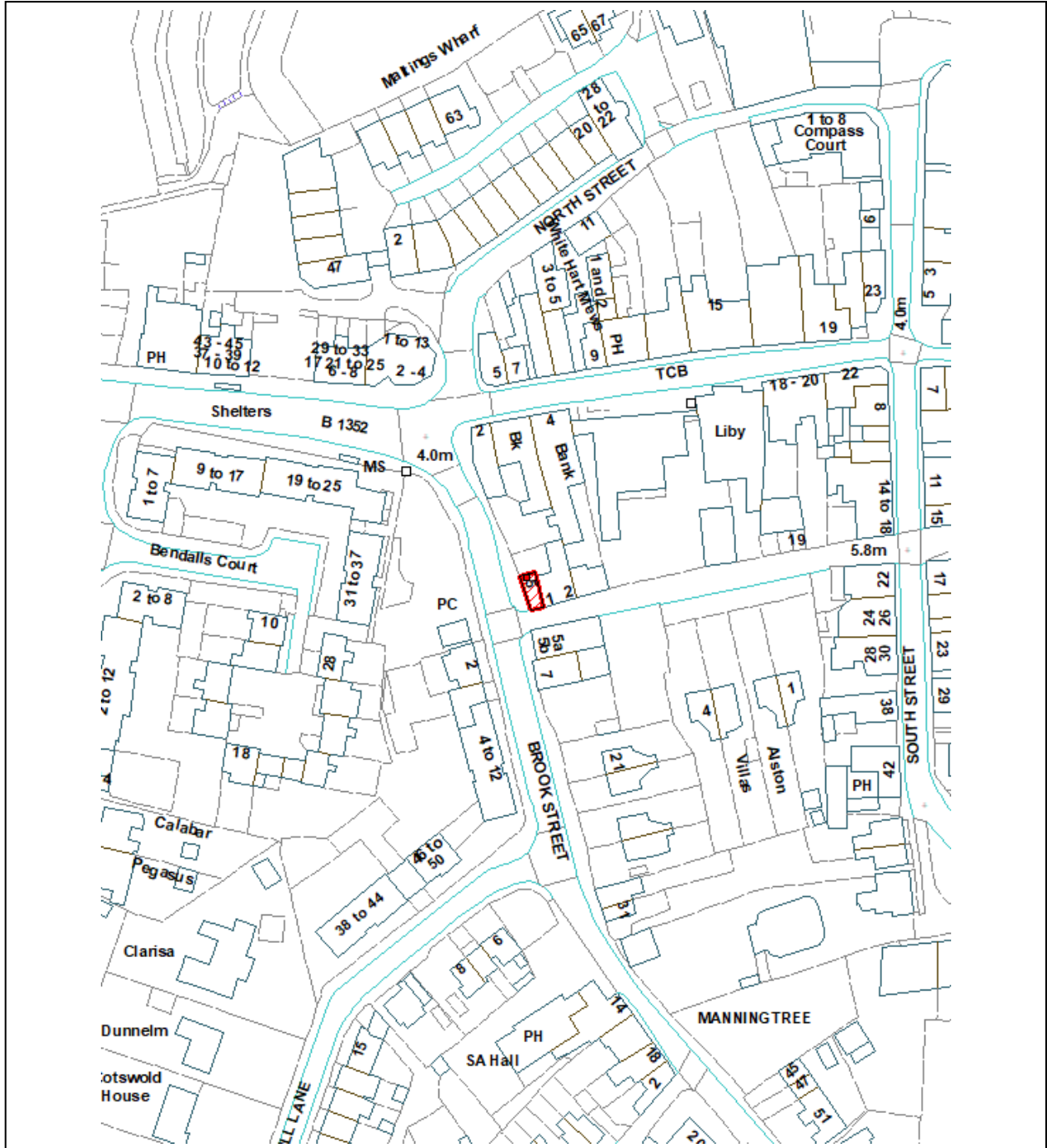


PLANNING COMMITTEE

19 DECEMBER 2023

REPORT OF THE DIRECTOR OF PLANNING

A.2. PLANNING APPLICATION – 23/01514/FUL – 5 BROOK STREET MANNINGTREE CO11 1DJ



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Application:	23/01514/FUL	Expiry Date:	9th January 2024
Case Officer:	Michael Pingram		
Town/ Parish:	Manningtree Town Council		
Applicant:	Mr Matthew Bensilum		
Address:	5 Brook Street, Manningtree, CO11 1DJ		
Development:	Change of use from residential to office with no alterations.		

1. Executive Summary

- 1.1 This application is before the Planning Committee owing to the fact that the application is an elected Member of the Council and the application is being recommended for approval.
- 1.2 The proposal is for the change of use of a residential dwelling into office use, and given the site falls within the Manningtree Town Centre such a use is supported in this location.
- 1.3 While the building is Grade II Listed and located within the Mistley and Manningtree Conservation Area, it is concluded that there is no harm to these heritage assets, given no alterations are proposed and the nature of the use. Furthermore, there will be no harmful impacts to neighbouring amenities sufficient to warrant refusal.
- 1.4 Officers note, there is no proposal to include parking provision, however also acknowledge the sites highly sustainable location within the Manningtree Town Centre and therefore do not consider this matter to be significantly harmful to result in a refusal.

Recommendation: Approval

- 1) That the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 1) The informative notes as may be deemed necessary.

2. Planning Policy

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

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
SP7 Place Shaping Principles

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

SPL1 Managing Growth
SPL3 Sustainable Design
PP3 Village and Neighbourhood Centres
PPL8 Conservation Areas
PPL9 Listed Buildings
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Local Planning Guidance:

Essex County Council Car Parking Standards - Design and Good Practice
Essex Design Guide

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), 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.

3. Relevant Planning History

99/01087/FUL	Demolish existing extension. Rebuild new extension	Current	26.07.1999
99/01088/LBC	Demolish existing extension and rebuild new extension	Refused	24.11.1999
10/01003/LBC	Construction of an external plastic boiler flue.	Approved	07.12.2010

4. Consultations

Below is a summary of the comments received from consultees relevant to this application proposal. Where amendments have been made to the application, or additional information has been submitted to address previous issues, only the latest comments are included below.

All consultation responses are available to view, in full (including all recommended conditions and informatives), on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.

Essex County Council Heritage 04.12.2023

The proposal site is part of a group of three 19th century Grade II listed cottages (List Entry Number:

1254251) within the Mistley and Manningtree Conservation Area.

The proposal is overall considered to preserve the special interest of the listed building and the character and appearance of the Conservation Area as the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF 2023, providing that no works affecting the historic fabric would be required to allow for the proposed change of use.

ECC Highways Dept

29.11.2023

The information that was submitted in association with the application has been fully considered by the Highway Authority. 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 and google earth image.

Having considered the information submitted with the planning application, the Highway Authority has no comments to make on this proposal.

5. Representations

- 5.1 Lawford Parish Council have raised no objections.
- 5.2 There have been no other letters of representation received.

6. Assessment

Site Description

- 6.1 The application site is 5 Brook Street, which is located on the corner of Brook Street and Stour Street, within the parish of Manningtree. The building is currently a two storey property in residential use and is accessed via Brook Street.
- 6.2 The property is a Grade II Listed Building and sited within the Manningtree and Mistley Conservation Area. In addition, the site falls within the Settlement Development Boundary for Manningtree within the adopted Local Plan 2013-2033, and is also within Manningtree Town Centre boundary.
- 6.3 The character of the area is heavily urbanised, with commercial and residential built form to all sides, including the main hub of Manningtree Town Centre which is approximately 50 metres to the north.

Description of Proposal

- 6.4 This application seeks full planning permission for the change of use of the property from Class C3 (dwellinghouse) to Class E(g)(i) (Office) use.
- 6.5 The application involves no internal or external alterations, and purely seeks to convert the existing living room and two bedrooms into three offices, with the existing kitchen to convert into a small reception area.
- 6.6 The application form confirms there will be two full time employees and one part time, with the opening hours to be 9am to 5pm Monday to Friday only, and no opening hours on Saturdays, Sundays or Bank Holidays.

Principle of Development

- 6.7 Adopted Policy PP3 states that the Council will work with its partners, including local businesses, to protect and enhance the village and local neighbourhood centres.

- 6.8 The application proposes the conversion of an existing residential property into a Class E(g)(i) use that will allow for a total of three offices, with an ancillary reception area. Given the site is located within the Manningtree Town Centre, and the proposed use is what is defined within the National Planning Policy Framework (2023) as a main town centre use, the principle of such a use in this location is acceptable in principle.

Heritage Impacts

- 6.9 Adopted Policy PPL8 highlights that new development within a designated Conservation Area, or which affects its setting, will only be permitted where it has regard to the desirability of preserving or enhancing the special character and appearance of the area. Furthermore, Policy PPL9 adds that proposals for new development affecting a listed building, or its setting will only be permitted where they will protect its special architectural or historic interest, its character, appearance and fabric.
- 6.10 The application site is a Grade II Listed Building and also falls within the Mistley and Manningtree Conservation Area. As such, ECC Place Services (Heritage) have been consulted on the application, and they have provided the following comments:

“The proposal site is part of a group of three 19th century Grade II listed cottages (List Entry Number: 1254251) within the Mistley and Manningtree Conservation Area.

The proposal is overall considered to preserve the special interest of the listed building and the character and appearance of the Conservation Area as the Planning (Listed Buildings and Conservation Areas) Act 1990 and the NPPF 2023, providing that no works affecting the historic fabric would be required to allow for the proposed change of use.”

- 6.11 Given the above comments, it is clear that given there are no internal or external alterations proposed and with consideration of the proposed use, there is no harm to the heritage assets, and therefore Officers are not minded to object on these grounds.

Highway Safety

- 6.12 Policy SPL3 (Part B) of the Adopted 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. Adopted Local Plan Policy CP2 states proposals will not be granted planning permission if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
- 6.13 ECC Highways have been consulted on the application and have confirmed they wish to make no comments.
- 6.14 Furthermore, Essex Parking Standards (2009) guidance states that for an Office use there should be provision for one parking space per 20 square metres of floor space. Officers note that there will be a total of 50 square metres of Office space and therefore a guidance for three spaces, however no parking spaces are provided. On this occasion, consideration is also given to the sites highly sustainable location within the Manningtree Town Centre, access to a host of public transport options, and acknowledgement that the existing residential use of the building also has no parking provision. The combination of these factors lead Officers to conclude that the provision of no associated parking provision is not likely to be harmful given the surrounding uses and parking available, and a refusal on this point alone would be unlikely to be defensible at appeal.

Impact to Neighbouring Amenities

- 6.15 The NPPF, at paragraph 130 states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy SP7 of the Tendring District Local Plan 2013-2033 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.
- 6.16 It is acknowledged that there are a number of residential properties located either immediately adjacent or within proximity to the application site. However, Officers note the opening hours of 9am to 5pm Mondays to Fridays only, and also acknowledge the overall proposal is a low-key use that does not have the potential to generate noise disturbances. Furthermore, no external alterations are proposed.
- 6.17 Given the above, there is not considered to be any harmful impacts to the amenities of neighbouring residents as a result of the proposed change of use.

Renewable and Energy Conservation Measures

- 6.18 Paragraph 112 of the Framework states that applications for development should be designed to enable charging of plug-in and other ultra-low emission vehicles (ULEV) in safe, accessible and convenient locations. However, recent UK Government announcements that ULEV charging points will become mandatory for new development have yet to be published.
- 6.19 Policies PPL10 and SPL3, together, require consideration be given to renewable energy generation and conservation measures. Proposals for new development of any type should consider the potential for a range of renewable energy generation solutions, appropriate to the building(s), site and its location, and be designed to facilitate the retro-fitting of renewable energy installations.
- 6.20 The proposal has the potential to incorporate renewable energy features, but Officers note that the development is purely a change of use with no external alterations proposed. Furthermore, some concerns would be raised that such features could result in a negative impact to the Grade II Listed Building. Taking the above into account, Officers conclude that on this occasion it would not be necessary to include a condition recommending water, energy and resource efficiency measures.

7. Conclusion

- 7.1 The application proposed an office use within the Manningtree Town Centre, and is supported in principle. Whilst the building is Grade II Listed and located within the Mistley and Manningtree Conservation Area, there is no impact to these heritage assets given no alterations are proposed and the nature of the use. Furthermore, despite a lack of parking provision, Officers note the sites highly sustainable location within the Manningtree Town Centre and therefore do not consider this to be significantly harmful, whilst there will also be a no negative impacts to the amenities of neighbouring residents.
- 7.2 Taking the above into consideration, the application is considered to comply with local and national planning policies and is therefore recommended for approval.

8. Recommendation

- 8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions and informatives.

8.2 Conditions and Reasons

- 1 CONDITION: The development hereby permitted shall be begun not later 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 Section 51 of the Planning and Compulsory Purchase Act 2004.

NOTE/S FOR CONDITION:

The development needs to commence within the timeframe provided. Failure to comply with this condition will result in the permission becoming lapsed and unable to be carried out. If commencement takes place after the time lapses this may result in unlawful works at risk Enforcement Action proceedings. You should only commence works when all other conditions requiring agreement prior to commencement have been complied with.

- 2 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). Such development hereby permitted shall be carried out in accordance with any Phasing Plan approved, or as necessary in accordance with any successive Phasing Plan as may subsequently be approved in writing by the Local Planning Authority prior to the commencement of development pursuant to this condition.

The untitled Site Location Plan received 14th November 2023, the untitled Block Plan received 14th November 2023, the untitled existing/proposed elevation drawings received 14th November 2023 and the untitled existing/proposed floor plan drawings received 14th November 2023.

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 **CONDITION:** The hereby permitted use shall only operate between the hours of 9am to 5pm Mondays to Saturdays. There shall be no working and/or use operated on Sundays and Bank Holidays. There shall be no deliveries to the development/use arranged for outside of these approved hours.

REASON: To enable the Local Planning Authority to retain control over the development in the interests of residential amenity within close proximity.

NOTE/S FOR CONDITION:

1) This condition shall engage and restricts the operation of the development from the first commencement of the use. This condition is imposed to ensure the development avoid unreasonable impact on the residential amenity of neighbouring dwellings, especially given the location of the development with considerations to the prevailing character and amenity currently enjoyed in this location. Without the imposing of this condition, the development would be refused due to the risk of harm and this condition is considered necessary, enforceable and reasonable in all other respects. This condition as detailed will apply to the development at all times unless varied or removed legally.

2) If the development operates outside of the hours stated this may result in unlawful development/use at risk of Enforcement Action. You are encouraged to discuss any concerns with this condition with the Local Planning Authority.

8.3 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.

Listed Building Consent:

Please note that while the application submission is clear that the proposal is purely for a change of use, with no internal or external works, should any works be required at a later stage there would be a requirement to submit a Listed Building Consent application.

Additional Considerations

Public Sector Equality Duty (PSED)

- 8.4 In making your decision you must have regard to the PSED under section 149 of the Equality Act 2010 (as amended). This means that the Council must have due regard to the need in discharging its functions to:
- 8.5 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- 8.6 B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging

participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s); and

- 8.7 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 8.8 It is vital to note that the PSED and associated legislation are a significant consideration and material planning consideration in the decision-making process. This is applicable to all planning decisions including prior approvals, outline, full, adverts, listed buildings etc. It does not impose an obligation to achieve the outcomes outlined in Section 149. Section 149 represents just one of several factors to be weighed against other pertinent considerations.
- 8.9 In the present context, it has been carefully evaluated that the recommendation articulated in this report and the consequent decision are not expected to disproportionately affect any protected characteristic* adversely. The PSED has been duly considered and given the necessary regard, as expounded below.

Protected Characteristics *	Analysis	Impact
Age	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Disability	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Gender Reassignment	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Marriage or Civil Partnership	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Pregnancy and Maternity	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Race (Including colour, nationality and ethnic or national origin)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sexual Orientation	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Sex (gender)	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral
Religion or Belief	The proposal put forward will not likely have direct equality impacts on this target group.	Neutral

- 8.10 The proposal overall shall have a neutral impact.
- 8.11 Consultations undertaken with the affected communities or groups have not been required in this case.
- 8.12 No mitigation measures required.

Human Rights

- 8.13 In making your decision, you should be aware of and take into account any implications that may arise from the Human Rights Act 1998 (as amended). Under the Act, it is unlawful for a public authority such as the Tendring District Council to act in a manner that is incompatible with the European Convention on Human Rights.
- 8.14 You are referred specifically to Article 8 (right to respect for private and family life), Article 1 of the First Protocol (protection of property) and Article 14 (right to freedom from discrimination).
- 8.15 It is not considered that the recommendation to grant permission in this case interferes with local residents' right to respect for their private and family life, home and correspondence or freedom from discrimination except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Finance Implications

- 8.16 Local finance considerations are a matter to which local planning authorities are to have regard in determining planning applications, as far as they are material to the application.
- 8.17 The New Homes Bonus (NHB) is one local finance consideration capable of being a material consideration to which the weight given shall be determined by the decision maker. The NHB is a payment to local authorities to match the Council Tax of net new dwellings built, paid by Central Government over six consecutive years. In this instance, it is not considered to have any significant weight attached to it that would outweigh the other considerations.

9. Background Papers

- 9.1 In making this recommendation, officers have considered all plans, documents, reports and supporting information submitted with the application together with any amended documentation. Additional information considered relevant to the assessment of the application (as referenced within the report) also form background papers. All such information is available to view on the planning file using the application reference number via the Council's Public Access system by following this link <https://idox.tendringdc.gov.uk/online-applications/>.