

DELEGATED DECISION OFFICER REPORT

AUTHORISATION		INITIALS	DATE
Planning Officer recommendation:		AP	26/6/2024
EIA Development - Notify Planning Casework Unit of Decision:	NO		
Team Leader authorisation / sign off:		ML	27/06/2024
Assistant Planner final checks and despatch:		JJ	27/06/2024

Application: 24/00302/FUL **Town / Parish:** Harwich Town Council

Applicant: Mr Michael Newman

Address: 26 Victoria Street Dovercourt Essex

Development: Planning Application - Conversion of dwelling to 2no. flats.

1. Town / Parish Council

Harwich Town Council Harwich Town Council makes no objections to this application.

2. Consultation Responses

Environmental Protection
15.05.2024 With reference to the above application, please see below for comments from the EP Team:

Construction Activities: In order to minimise potential nuisance caused by demolition/construction works, Environmental Protection recommend that the following hours and actions be adhered to, should the application be approved;

- 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.

Waste Management
22.05.2024 Bin storage area to be of sufficient size to accommodate 180 litre wheeled bin for residual waste, 2 sets of 55 litre kerbside boxes for dry recycling and 23 Litre food caddy for food waste recycling for each individual flat.

ECC Highways Dept
29.05.2024 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.

Given the central location with good access to frequent and extensive public transport, the proposal is acceptable to the Highway Authority, subject to the following requirements;

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

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

Informative:

i. All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works, including any traffic management, road closures or licensing.

The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

ii. On the completion of the Development, all roads, footways/paths, cycle ways, covers, gratings, fences, barriers, grass verges, trees, and any other street furniture within the Site and in the area, it covers, and any neighbouring areas affected by it, must be left in a fully functional repaired/renovated state to a standard accepted by the appropriate statutory authority.

Environment Agency
18.06.2024

Flood Risk

The application site lies within Flood Zone 3 and 2, which is land defined by the planning practice guidance as having a high probability of flooding. The National Planning Policy Framework (paragraph 167, footnote 55) states that an FRA must be submitted when development is proposed in such locations.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown. This is sufficient reason for refusing planning permission.

Overcoming our objection

To overcome our objection, the application should submit an FRA which demonstrates that the development is safe without increasing risk elsewhere. Where possible, it should reduce flood risk overall.

If this cannot be achieved, we are likely to maintain our objection. Please re-consult us on any revised FRA submitted and we'll respond within 21 days of receiving it.

Guidance on how to prepare a flood risk assessment can be found at <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>.

3. **Planning History**

24/00302/FUL Planning Application - Conversion of Current dwelling to 2no. flats.

4. **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 Local Plan 2013-33 and Beyond (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 made and the Minerals and Waste Local Plans adopted by Essex County Council.

In relation to housing supply:

The Framework requires Councils to significantly boost the supply of homes to meet the District's housing need. However, the revised Framework, published on 19th December 2023, sets out in Paragraph 76 that (for applications made on or after the date of publication of this version of the Framework) local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met:

- their adopted plan is less than five years old; and
- that adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded.

The adopted Local Plan meets these criteria.

Notwithstanding this updated provision, the Council will continue to demonstrate an updated supply of specific deliverable sites within its Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in November 2023 and demonstrates a 6.44-year supply of deliverable housing sites against the annual requirement of 550 dwellings per annum set out within the adopted Local Plan, plus a 5% buffer to ensure choice and competition in the market. (The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>)

On 19th December 2023 the Government published the Housing Delivery Test (HDT) 2022 measurement. Against a requirement for 1,420 homes for 2019-2022, the total number of homes delivered was 2,207. The Council's HDT 2022 measurement was therefore 155%. As a result, the 'tilted balance' at paragraph 11 d) of the Framework does not apply to decisions relating to new housing development.

5. **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>

There are no neighbourhood plans in place for this location.

6. Relevant Policies / Government Guidance

National:

National Planning Policy Framework December 2023 ([NPPF](#))

National Planning Practice Guidance ([NPPG](#))

Local:

Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 (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
- LP1 Housing Supply
- LP2 Housing Choice
- LP3 Housing Density and Standards
- PPL1 Development and Flood Risk
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- PPL8 Conservation Areas
- PPL9 Listed Buildings
- PPL10 Renewable Energy Generation and Energy efficiency Measures
- CP1 Sustainable Transport and Accessibility

Supplementary Planning Documents

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)

[Technical housing standards](#): nationally described space standard Published 27 March 2015

Biodiversity Net Gain Supplementary Planning Document June 2023 (DRAFT)

Dovercourt Conservation Area Appraisal

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

7. Officer Appraisal

Proposal

The application seeks full planning permission for the subdivision of the single dwelling of 26 Victoria Street into two self-contained flats. Flat 1 would be located on the lower ground and ground floor levels with the entrance at lower ground. Flat 2 would be located on the first floor and second floor/loft levels with the entrance at ground floor. No off road car parking is provided. Existing amenity space at the rear will be divided for bin/recycling and bicycle storage.

The site falls within the Settlement Development Boundary of Harwich, Dovercourt, Parkeston and Little Oakley, as defined in the Local Plan and lies within the Dovercourt Conservation Area.

Principle of Development

The site lies within the settlement development boundary. Policy SPL2 states that within the settlement development boundary there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies. Policy SP3 states that existing settlements will be the principal focus for additional growth across the North Essex

Authorities area within the Local Plan period. The principle of the addition of a new dwelling is therefore accepted subject to the detailed considerations below.

It is noted there are no neighbourhood plans to consider.

Design and Appearance

The proposal does not comprise any changes to the exterior of the building and there are very limited opportunities for landscaping given the fine urban grain in the immediate area. The only external changes is the division of the rear yard and insertion of an additional gate and therefore there will be no material harm to visual amenity and there will be no significant harm to the conservation area.

Impact to Residential Amenities

The use of the existing dwelling as two flats will remain in residential use which will not result in any significant impact to neighbouring amenities.

Policy LP3 requires compliance with the nationally described space standards. This standard deals with internal space within new dwellings and is suitable for applications across all tenures. It sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height. Flat 1 is a 2 bedroom, four person two storey dwelling requiring a minimum of 79 square metres of gross internal floor space which includes built in storage of 2.0 square metres. Flat 2 is considered a 2 bedroom, three person two storey dwelling requiring a minimum of 70 square metres of gross internal floor space which includes built in storage of 2.0 square metres. From the plans submitted the proposal meets the requirements of the space standards. It is also considered that the internal layout is appropriate, with all habitable rooms having adequate natural light.

Local Plan Policy SPL3, Part B states that, new development must meet practical requirements, including provision for waste storage and recycling facilities, vehicle and cycle parking.

The rear yard of the existing dwelling is small and will be divided to create a yard for each dwelling which will serve for bin/recycling and bicycle storage and is considered to provide sufficient space for these purposes.

Flat 2 however has no direct access from the flat to the yard at the rear of 26 Victoria Street. To access their own yard, the occupiers of Flat 2 would need to come out of their front door, walk northwards to the end of Victoria Street, turn right and right again into East Street where they could access their rear yard via the yard gate, a distance of approximately 80 metres. This arrangement is problematic and impractical if needing to take recycling or refuse to the appropriate bins at the rear thus failing to comply with Policy SPL3, Part B.

The poorly designed layout will not provide a high standard of living for future occupants, contrary to the aims and objectives of national and local plan policy.

Access, Parking and Highway Safety

The host dwelling, 26 Victoria Street does not benefit from off street car parking and therefore this will not change as a result of the proposal with both flats able to park roadside in Victoria Street where there are no parking restrictions. The central location with good access to frequent and extensive public transport means the proposal is acceptable to the Highway Authority subject to a condition for the provision of a residential travel pack for each dwelling.

Renewable Energy

Chapter 14 of the National Planning Policy Framework supports the transition to a low carbon future in a changing climate while Policy PPL10 of the Local Plan supports renewable energy generation and energy efficiency measures for residential development.

No energy efficiency measures have been submitted with the planning application and therefore a condition to secure minimum measures of a scheme for water conservation including greywater recycling and rainwater capture/re-use, a scheme to achieve as far as possible a water consumption rate of not more than 110 litres, per person, per day, agreement of heating for the both dwellings,

agreement of a scheme for waste reduction and provision of a fibre optic broadband connection will be secured on the grant of planning permission to reduce the demand for fossil fuels which are a finite resource and release carbon into the atmosphere and accelerate global warming contributing to climate change.

Flood Risk

Paragraph 165 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Paragraph 173 of the NPPF states: When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA).

Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments (FRA)

Footnote 59 of the NPPF and Policy PPL1 of the Local Plan confirms that a site-specific FRA should be provided for all development in Flood Zones 2 and 3. Footnote 60 of the NPPF states that the Sequential and [Exception Tests](#) do not need to be applied to [minor developments](#) and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.

Local Plan Policy PPL1 states: All development proposals should include appropriate measures to respond to the risk of flooding on and/or off site to ensure the development is resilient in the event of a flood.

The application site lies within Flood Zones 2 and 3 which is land defined by the planning practice guidance as having a high probability of flooding.

Buildings used for dwellinghouses are classified in Annex 3: Flood risk vulnerability classification of the NPPF as 'more vulnerable'.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown and therefore the Local Planning Authority does not have a suitable basis for assessment to be made of the flood risks arising from the proposed development.

The proposed development is therefore contrary to Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond, the National Planning Policy Framework and Planning Policy Guidance.

Drainage and Sewerage

Policy PPL5 states that all new development must make adequate provision for drainage and sewerage.

The sewerage from the proposed dwelling will be connected to the mains sewer which is considered the preferred approach and acceptable.

The site does not fall within a critical drainage area however there is a high risk of surface water flooding. No additional floor area is being created outside of the existing building which may have increased the risk of surface water flooding elsewhere.

Ecology and Biodiversity

This report addresses the distinct legal requirements, ensuring a comprehensive analysis of the ecology and biodiversity impacts of the proposal in line with regulatory standards.

General duty on all authorities

The preamble to Policy PPL4 states that where a development might harm biodiversity an ecological appraisal will be required to be undertaken, and the potential for harm should be considered and

addressed in any application. Policy SPL3, Part A criterion d), requires that the design and layout of development maintains or enhances site features, including ecological value.

The application site does not benefit from any green outdoor space as a result of the concrete steps from the pavement up to the front door and down to the basement. Likewise, to the rear a small yard is evident.

The Natural Environment and Rural Communities Act 2006 amended by the Environment Act 2021 provides under Section 40 the general duty to conserve and enhance biodiversity: "For the purposes of this section "the general biodiversity objective" is the conservation and enhancement of biodiversity in England through the exercise of functions in relation to England." This includes local authorities, which encompass local planning authorities (LPAs). Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and, after consideration, determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. While the Section doesn't explicitly state that planning decisions must contribute to biodiversity conservation, it's essential to consider the broader context of planning functions within the authority. Typically, LPAs play a crucial role in land use/development decisions, and these can have significant implications for biodiversity. In conclusion for decision making, it is considered that the LPA must be satisfied that the development would conserve and enhance. This development is subject to the general duty outlined above. On that basis a biodiversity enhancement strategy will be secured via condition. Such a strategy may look to include native planting strategies and insect friendly planting, wildlife-friendly infrastructure i.e. nesting boxes, bee bricks and habitat structures.

Therefore, the development with the inclusion of this condition, on balance, and with consideration of the impact of the development and baseline situation on site, does conserve and enhance biodiversity interests.

Biodiversity net gain

Biodiversity net gain (BNG) is an approach that aims to leave the natural environment in a measurably better state than it was beforehand. The minimum requirement is for a 10% net gain in biodiversity value achieved on a range of development proposals (excluding Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Certificates, householders, self builds, and other types of application which are below the threshold i.e. does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats such as hedgerow).

This development is not applicable for Biodiversity Net Gain. Development which is not defined as major development under [Article 2 Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) is exempt until 2 April 2024. This planning application is considered a minor development.

Protected Designated Habitats

The site falls within the recreational Zone of Influence (ZOI) of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). 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.

A Habitat Regulations Assessment has been completed for the proposal. The new development would be likely to increase the number of recreational visitors to the designated area and, in combination with other developments, it is likely that the proposal would have significant effects on the designated site. Prior to any approval, a S106 Legal Agreement/Unilateral Undertaking will be sought to secure the necessary financial contributions for RAMS to ensure that the development would not adversely affect the integrity of European Designated Sites in accordance with Section 1 Policy SP2 and Section 2 Policy PPL4 of the Tendring District Local Plan 2013-2033 and Regulation 63 of the Conservation of Habitat and Species Regulations 2017.

Conclusion

In accordance with the overarching duty outlined above, this development is committed to actively contributing to the conservation and enhancement of biodiversity as set out above and within the planning conditions. In conclusion, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other considerations

The Council's Waste Management team have confirmed that sufficient space should be made available to accommodate 180 litre wheeled bin for residual waste, 2 sets of 55 litre kerbside boxes for dry recycling and 23 Litre food caddy for food waste recycling for each individual flat.

The Council's Environmental Protection team recommends planning conditions are imposed to manage and control constructions activities. It is considered reasonable and necessary to impose these conditions on the grant of planning permission given the proximity of neighbouring dwellings.

Harwich Town Council makes no objections to this application.

No other letters of representation have been received.

8. Recommendation

Refusal - Full

9. Reasons for Refusal

- 1 Paragraph 173 of the NPPF states: When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment (FRA).

Paragraph 174 of the NPPF states that applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments (FRA)

Footnote 59 of the NPPF and Policy PPL1 of the Local Plan confirms that a site-specific FRA should be provided for all development in Flood Zones 2 and 3. Footnote 60 of the NPPF states that the Sequential and [Exception Tests](#) do not need to be applied to [minor developments](#) and changes of use, except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site.

The application site lies within Flood Zones 2 and 3 which is land defined by the planning practice guidance as having a high probability of flooding.

An FRA is vital to making informed planning decisions. In its absence, the flood risks posed by the development are unknown and therefore, due to the lack of an FRA being submitted, the Local Planning Authority does not have a suitable basis for assessment to be made of the flood risks arising from the proposed development.

The proposed development is therefore contrary to Policy PPL1 of the Tendring District Local Plan 2013-2033 and Beyond, the National Planning Policy Framework and Planning Policy Guidance.

- 2 Local Plan Policy SPL3, Part B states that, new development must meet practical requirements, including provision for waste storage and recycling facilities, vehicle and cycle parking.

The rear yard of the existing dwelling is small and will be divided to create a yard for each dwelling which will serve for bin/recycling and bicycle storage and is considered to provide sufficient space for these purposes.

Flat 2 however has no direct access from the flat to the yard at the rear of 26 Victoria Street. To access their own yard, the occupiers of Flat 2 would need to come out of their front door, walk northwards to the end of Victoria Street, turn right and right again into East Street where they could access their rear yard via the yard gate, a distance of approximately 80 metres. This arrangement is problematic and impractical if needing to take recycling or refuse to the appropriate bins at the rear thus failing to comply with Policy SPL3, Part B.

The poorly designed layout will not provide a high standard of living for future occupants, contrary to the aims and objectives of national and local plan policy.

10. Informatives

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

Plans and Supporting Documents

The Local Planning Authority has resolved to refuse the application for the reason(s) set out above. For clarity, the refusal is based upon the consideration of the plans and supporting documents accompanying the application as follows, (accounting for any updated or amended documents):

Drawing No. 01 Revision V2

Drawing No. 03 Revision V2

Drawing No. 05 Revision V2

Drawing No. 07 Revision V2

Letter dated 10 April 2024 received 2 May 2024 confirming superfast broadband connection is available

Contamination statement received 2 May 2024

Design and Access Statement received 27 February 2024

11. Equality Impact Assessment

In making this recommendation/decision regard must be had to the public sector equality duty (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 that in summary include A) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; B. Advance equality of opportunity between people who share a protected characteristic* (See Table) and those who do not; C. Foster good relations between people who share a protected characteristic* and those who do not, including tackling prejudice and promoting understanding.

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.

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

12. Notification of Decision

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