

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	MP	25/09/24
Team Leader authorisation / sign off:	ML	25/09/2024
Assistant Planner final checks and despatch:	ER	26/09/2024

Application: 23/01788/FUL **Town / Parish:** Harwich Town Council

Applicant: Mr J Singh - Master Plan Group Ltd

Address: 48 Kingsway Dovercourt Harwich

Development: Conversion of existing 3 units into 4 self-contained one bedroom residential units.

1. Town / Parish Council

Harwich Town Council Harwich Town Council objects to this application due to deeming the application to be an inappropriate development, an overdevelopment and a lack of parking.

2. Consultation Responses

ECC Highways Dept
08.01.2024

The information that was submitted in association with the application has been 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 June 2023. It is noted that the proposal is similar to previous planning applications: 21/00805/FUL and more recently application: 22/01797/COUNOT which the Highway Authority did not object to. The area outside the building within Kingsway and Hordle Street has existing parking and limited waiting restrictions. The location is within the town centre which offers a range of amenities within walking distance including public transport facilities including Dovercourt Railway Station to the north; considering these factors, the Highway Authority would not expect the change of use to give rise to a significant increase in vehicle movements to and from the site or result in a material change in the character of the traffic in the vicinity of the site.

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 powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times.

Reason: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Policy DM8.

2. Prior to occupation of the proposed dwellings, 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 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.

3. 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.

4. A financial contribution of £3,000 (index linked) towards the introduction of any future residents parking or waiting restriction scheme for the surrounding roads subject to any scheme being put forward by the North Essex Parking Partnership. The contribution (£3,000) will be returned to the applicant if a scheme is not forthcoming at the end of the 4-year period, from the date of first occupation.

Reason: To control and manage the location of on street parking for the area to minimize inconsiderate parking in the interests of highway safety and Policy DM1.

Note: the financial contribution will form part of a Section 106 contribution which will be for the North Essex Parking Partnership.

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: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: 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

3: 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
16.01.2024

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

The proposal site is a non-designated heritage asset and occupies a prominent position within the Conservation Area.

The proposed internal alterations are not considered to have any additional impact on the significance of the non-designated heritage asset than the scheme already approved under reference 21/00805/FUL, providing that any surviving feature of historic or architectural interest is retained and sympathetically repaired where required.

There are concerns regarding the proposal to enlarge the existing window to the rear elevation as this would result in the loss of the original proportions and of historic fabric and in unnecessary harm to the heritage asset which is not supported by clear and convincing justifications as set out in Paragraph 206 of the NPPF.

Given the proposal would have a detrimental impact upon the significance of a non-designated heritage asset, the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset as per Paragraph 209 of the NPPF.

The replacement of existing windows on a like for like basis may be acceptable if they are assessed to be beyond practical repair. At this stage, insufficient information has been submitted on the significance and condition of the existing ground floor windows, with the exception of the window where the ATM was previously installed. It is therefore not possible to assess whether these are original or a later replacements and if they are capable of repair and retention.

As per the Historic England Guidance Traditional Windows, Their Care, Repair and Upgrading, "An assessment of the significance of a window or windows and the contribution they make to the overall significance of a building is the key first step in deciding the right course of action. Surviving historic fenestration is an irreplaceable resource which should be conserved and repaired whenever possible." A condition survey of the windows, including photographs, is required to show how they could be repaired or to clearly demonstrate where they are in need of replacement.

Notwithstanding the lack of information on the existing windows and their condition, there are in principle concerns regarding the replacement of the existing timber frame ground floor windows with the proposed uPVC windows. Moreover, the proposed windows do not match the historic windows in details and style and are considerable unsuitable to be fitted within the non-designated heritage asset and in Conservation Area.

Generally, the different appearance and character of uPVC windows makes them unsuitable for historic buildings and buildings in Conservation Area as their overall quality and detail does not uphold the quality of the historic environment. While more recent uPVC

windows try to replicate the design, detailing and operation of traditional timber windows, these are still recognisable as they cannot match the sections and proportions of historic joinery and are often fitted with non traditional features like trickle vents and false 'glazing bars'. Moreover, uPVC windows are subject to discolouration from dirt and ultra violet light over time and components tend to easily deteriorate and loose quality.

The loss of traditional timber windows and their replacement with uPVC would seriously undermine the character and appearance of the Conservation Area. Overall the proposal would fail to preserve the character or appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (December 2023), the level of harm is considered to be 'less than substantial' due to the loss of historic fabric and the installation of incongruous features which would detract from the character and appearance of the Conservation Area. Paragraph 208 is therefore relevant. Paragraph 206 which requires clear and convincing justification for any harm and paragraph 205 which attributes great weight to the conservation of a heritage asset are also relevant.

Environmental Protection
08.01.2024

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 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.

REASON: 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).

Internal Noise: No information relating to the means of ventilation in the building; should a mechanical ventilation system be required, further information in relation to predicted noise levels and relevant mitigation techniques, in order to comply with the relevant guideline values, such as those outlined in BS8233:2014 - Guidance on sound insulation and noise reduction for buildings, and any relevant mitigation techniques, will be required to ensure the proposal can meet relevant criteria in respect of internal noise levels.

REASON: to protect the amenity of future residents

Should you have any queries concerning this, please do not hesitate to contact me.

UU Open Spaces
08.01.2024

Public Realm Assessment

Play Space - current deficit:

- Deficit of 12.67 hectares of equipped play in Harwich & Dovercourt

Formal Play - current deficit:

- Adequate formal open space in the area to cope with some future development

Settlement provision:

- Cliff Park Open Space and LEAP located 0.5 miles from the development

Officer Conclusions and Recommendations

Contribution necessary,
related, and reasonable?
to comply with CIL Regs*

- No contribution is being requested on this occasion.

Identified project*:

(In consultation with Town / Parish Council on upcoming projects or needs for maintenance)

- None

Essex County Council
Heritage
20.02.2024 (revised
comments following
amended plans)

The application is for conversion of existing 3 units into 4 self-contained one bedroom residential units, including retention of the upvc double glazed sash windows. this should be read as an addendum to my previous letter dated 16th January 2024, following the submission of revised windows details and specifications.

The proposal site is a non-designated heritage asset and occupies a prominent position within the Conservation Area.

The proposed timber frame window details are considered acceptable providing that these are fitted with integral glazing bars.

3. Planning History

00/01037/ADV	Fascia signage and projection sign	Refused	23.08.2000
00/01100/FUL	Replacement of cash machine in existing aperture with a minor adjustment to cill level to comply with DDA requirements	Approved	08.09.2000
07/01802/ADV	Erection of 2 no. illuminated fascia signs and 1 no. illuminated projecting sign.	Approved	17.01.2008
07/01936/FUL	Change of use of first floor to two flats.	Approved	13.02.2008
20/00595/COUNO T	Proposed change of use from commercial to residential.	Prior Approval required.	14.08.2020
21/00044/COUNO T	Proposed change of use to residential to accommodate four self-contained flats.	Prior Approval required.	17.03.2021

21/00805/FUL	Proposed change of use of existing ground floor bank to 3 no. self-contained residential units.	Approved	01.02.2022
22/01797/COUNO T	Prior Approval Application under Part 3, Class MA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) for the change of use of the existing ground floor former Barclays bank (Previous Use Class A2, Current Use Class E) and ground floor side extension for the provision of 4no. self-contained residential 1bed units (Use Class C3).	Prior Approval required.	15.12.2022

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 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.

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 force for this location

6. Relevant Policies / Government Guidance

National:

NPPF National Planning Policy Framework 2023
National Planning Practice Guidance

Local:

Tendring District Local Plan 2013-2033 and Beyond Section 1 (adopted January 2021):
SP1 Presumption in Favour of Sustainable Development
SP2 Recreational disturbance Avoidance and Mitigation Strategy (RAMS)
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
LP4 Housing Layout
PP5 Town Centre Uses
PP14 Priority Areas for Regeneration
PPL5 Water Conservation, Drainage and Sewerage
PPL8 Conservation Areas
PPL9 Listed Buildings
PPL10 Renewable Energy Generation
CP1 Sustainable Transport and Accessibility

Supplementary Planning Guidance:

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD 2020 (RAMS)
Essex County Council Parking Standards Design and Good Practice Guide 2009

7. Officer Appraisal

Site Description

The application site is located on the south-western side of Kingsway, at the junction with Hordle Street, and is within the Dovercourt town centre primary shopping area. The site comprises of a two-storey building with flats at first floor. The ground floor is vacant and formerly traded as Barclays Bank. The site is located within the Dovercourt Conservation Area however the building the subject of this application is not statutorily listed.

The surrounding area consists of a mix of retail and other commercial uses fronting Kingsway with Kingsway Hall (Grade II Listed Building) and Harwich Library opposite the site. Hordle Street is residential in nature, comprising of a row of small two storey terrace dwellings on each side. Parking restrictions are in place along Hordle Street and to the front of the site, on Kingsway, preventing parking from 9am-6pm Monday to Saturdays. Short term parking bays are located further along Kingsway on both sides of the main highway.

The site is located within the Settlement Development Boundary of Harwich and Dovercourt within the adopted Local Plan 2013-2033, with Dovercourt Town Centre identified as a priority area for regeneration. The site is also located Flood Zone 1 which has a low risk of flooding.

Site History

Under reference 21/00805/FUL, planning permission was granted in February 2022 for the conversion of the ground floor into three flats, as follows:

1 no. 1 bed 2 person flat - 54.67sqm
1 no. 1 bed 2 person flat - 51.86sqm
1 no. 3 bed 6 person flat - 106.60sqm

Whilst no evidence has been provided to demonstrate this permission has been implemented, it is noted the consent remains alive until 1st February 2025.

Description of Proposal

This application seeks planning permission for the conversion of the building from the three units granted consent under reference 21/00805/FUL, into four residential units as follows:

2 x 1 bed 1 person flats - 50.30sqm and 51.01sqm
2 x 1 bed 2 person flats - 50.90sqm and 54.27sqm

In addition, the initial plans sought the retention of UPVC double glazed sash windows, however following concerns raised by ECC Heritage (as discussed in more detail below), these have since been amended to timber windows.

Assessment

1. Principle of Development

The application site is located within the settlement development boundary of Harwich and Dovercourt in the adopted Local Plan 2013-2033. Policy SPL2 states that within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local plan policies.

Within the earlier planning permission granted on this site, marketing information was provided to demonstrate the site had been vacant for four years since its closure in September 2017. Given this, that the site was within an area prioritised for regeneration and that the site was also within an important location within a Conservation Area and opposite a Grade II Listed Building, the renovation of the site was considered acceptable.

Given the above, and that the site has an extant planning permission to convert the ground floor into residential use until February 2025 regardless of the determination of this current planning application, it would not be reasonable for Officers to object on the principle of development.

2. Heritage Impacts

Paragraph 205 of the NPPF (2023) 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, and Paragraph 208 confirms 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.

Adopted Policy PPL8 states 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.

Adopted Policy PPL9 states 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.

The application site lies within the Dovercourt Conservation Area and also within the setting of a Grade II Listed Building. Accordingly, ECC Place Services (Heritage) have been consulted, and initially provided the following comments:

"The proposal site is a non-designated heritage asset and occupies a prominent position within the Conservation Area.

The proposed internal alterations are not considered to have any additional impact on the significance of the non-designated heritage asset than the scheme already approved under reference 21/00805/FUL, providing that any surviving feature of historic or architectural interest is retained and sympathetically repaired where required.

There are concerns regarding the proposal to enlarge the existing window to the rear elevation as this would result in the loss of the original proportions and of historic fabric and in unnecessary harm to the heritage asset which is not supported by clear and convincing justifications as set out in Paragraph 206 of the NPPF.

Given the proposal would have a detrimental impact upon the significance of a non-designated heritage asset, the local planning authority should take a balanced judgement, having regard for the scale of harm identified and the significance of the heritage asset as per Paragraph 209 of the NPPF.

The replacement of existing windows on a like for like basis may be acceptable if they are assessed to be beyond practical repair. At this stage, insufficient information has been submitted on the

significance and condition of the existing ground floor windows, with the exception of the window where the ATM was previously installed. It is therefore not possible to assess whether these are original or a later replacements and if they are capable of repair and retention.

As per the Historic England Guidance Traditional Windows, Their Care, Repair and Upgrading, "An assessment of the significance of a window or windows and the contribution they make to the overall significance of a building is the key first step in deciding the right course of action. Surviving historic fenestration is an irreplaceable resource which should be conserved and repaired whenever possible." A condition survey of the windows, including photographs, is required to show how they could be repaired or to clearly demonstrate where they are in need of replacement.

Notwithstanding the lack of information on the existing windows and their condition, there are in principle concerns regarding the replacement of the existing timber frame ground floor windows with the proposed uPVC windows. Moreover, the proposed windows do not match the historic windows in details and style and are considerable unsuitable to be fitted within the non-designated heritage asset and in Conservation Area.

Generally, the different appearance and character of uPVC windows makes them unsuitable for historic buildings and buildings in Conservation Area as their overall quality and detail does not uphold the quality of the historic environment. While more recent uPVC windows try to replicate the design, detailing and operation of traditional timber windows, these are still recognisable as they cannot match the sections and proportions of historic joinery and are often fitted with non traditional features like trickle vents and false 'glazing bars'. Moreover, uPVC windows are subject to discolouration from dirt and ultra violet light over time and components tend to easily deteriorate and loose quality.

The loss of traditional timber windows and their replacement with uPVC would seriously undermine the character and appearance of the Conservation Area. Overall the proposal would fail to preserve the character or appearance of the Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (December 2023), the level of harm is considered to be 'less than substantial' due to the loss of historic fabric and the installation of incongruous features which would detract from the character and appearance of the Conservation Area. Paragraph 208 is therefore relevant. Paragraph 206 which requires clear and convincing justification for any harm and paragraph 205 which attributes great weight to the conservation of a heritage asset are also relevant."

Therefore, a level of less than substantial harm has been identified due to the loss of traditional timber windows to be replaced with uPVC windows. In order to address this, the agent for the application has since provided amended drawings showing timber windows and following this ECC Heritage have confirmed that these are acceptable. Accordingly, no objections are raised with regards to the heritage impacts of the proposed works.

3. Highway Safety

Paragraph 114 of the National Planning Policy Framework 2023 seeks to ensure that safe and suitable access to a development site can be achieved for all users. Policy SPL3 (Part B) of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond 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.

ECC Highways have been consulted and within their initial comments they stated that from a highway and transportation perspective the impact of the proposal is acceptable subject to conditions and mitigation regarding provision of cycle parking, Residential Travel Information Pack provision, storage of building materials off the highway and a financial contribution for residential parking schemes the proposal is considered to be acceptable by the Highway Authority.

In addition, Essex Parking Standards (2009) state that for dwellings with one bedroom there should be a minimum of one parking space required. Parking spaces should measure 5.5m x 2.9m and garages, if being relied on to provide a parking space, should measure 7m x 3m internally. The

submitted plans do not include for any parking provision, however on this occasion Officers note that the site is within a highly sustainable location within good walking distance to a host of facilities and services. Given this, and that no objections were raised in this regard within the determination of 21/00805/FUL, it would not be reasonable to object on these grounds on this occasion.

With regard to the financial contribution of £3,000 which has been requested, paragraph 57 of the NPPF states that:

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development

The proposal is considered to be acceptable in planning terms given that the site is in close proximity to a wide range of facilities within walking distance and a number of public transport opportunities. It is not considered that the financial contribution would be directly related to the development as it is for a possible introduction of any future residents parking scheme for the surrounding roads and is subject to any scheme being put forward by the North Essex Parking Partnership. Furthermore, the contribution would be returned to the applicant if a scheme is not forthcoming at the end of the 4-year period, from the date of first occupation.

As the proposal is for the conversion of an existing building to four flats in a central town centre area, where provision of off-street parking is not provided for the majority of the surrounding dwellings and flats, the financial contribution is not considered to be fairly and reasonably related to the scale and kind of development proposed. Therefore, it is considered by Officers that this request for a contribution would not meet these three tests and this financial contribution is therefore not being requested.

4. Impact to Neighbouring Amenities

Paragraph 135 of the National Planning Policy Framework (2023) confirms planning policies and decisions 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 Section 1 of the 2013-33 Local Plan requires that the amenity of existing and future residents is protected. Section 2 Policy SPL 3 (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.

No adverse residential amenity impacts are considered to arise from the conversion of the building. The additional windows and doors are to the rear and are at ground floor level only, being of a very similar amount and nature to those allowed within 21/00805/FUL. The layout of the proposed dwelling is such that all habitable rooms are served by adequate daylight and outlook. Therefore, no objections are raised in this regard.

5. Functional Layout

Paragraph 135 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.

Adopted Policy SPL3 (Part B)(f) seeks to ensure that provision is made for adequate private amenity space, waste storage and recycling facilities, vehicle and cycle parking.

There is a small rear yard area which is enclosed by a gate accessed from Hordle Street which is of an adequate size for refuse and cycle storage. Whilst this is the only area of outside amenity space, given the central location of the building and the close proximity to the coast and open green space, the lack of amenity space is not considered to be a robust reason for refusal, given the existing flattened uses at the site and in the immediate vicinity.

Further, the Technical Housing Standards state that for a one bedroom property for one person on a single floor there should be a minimum of 39sqm floorspace, and for a one bedroom property for two persons a minimum of 50sqm floorspace. The submitted plans demonstrate that the properties measure between 50.30sqm and 54.27sqm and therefore meet the Standards.

6. Drainage

Paragraph 180 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 185 of the Framework states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects of pollution on the natural environment.

Policy PPL5 of Section 2 of the adopted Local Plan states that all new development must make adequate provision for drainage and sewerage. Private sewage treatment facilities will not be permitted if there is an accessible public foul sewer. Where private sewage treatment facilities are the only practical option for sewage disposal, they will only be permitted where there would be no harm to the environment, having regard to preventing pollution of groundwater and any watercourses and odour.

The agent for the application has confirmed on the application form that the development would be connected to the existing public foul sewer. This is in accordance with the above policy requirements and is therefore considered to be acceptable in the event of an approval.

7. Financial Contributions - Open Space and RAMS

(i) Open Space

Paragraph 55 of the National Planning Policy Framework (2021) states Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 57 of the NPPF states planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and fairly and reasonably relate in scale and kind to the development.

Section 2 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. Financial contributions will also be sought through s106 legal agreements (or an appropriate alternative mechanism) towards ongoing maintenance.

In line with the requirements of Section 2 Policy HP5 the Council's Open Space Team have been consulted on the application to determine if the proposal would generate the requirement for a financial contribution toward public open or play space. The outcome of the consultation is that there is a deficit of 12.67 hectares of equipped play in the Harwich and Dovercourt area, however no contribution is being requested on this occasion.

(ii) Habitat Regulations Assessment

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.

The application scheme proposes a residential on a site that lies within the Zone of Influence (Zoi) but is approximately 300 metres away from Stour and Orwell Estuaries RAMSAR and SPA. New housing development within the Zoi would be likely to increase the number of recreational visitors to these sites and in combination with other developments it is likely that the proposal would have

significant effects on the designated site. Mitigation measures must therefore be secured prior to occupation.

A unilateral undertaking has been prepared to secure this legal obligation. This will 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.

9. Renewable Energy

Paragraph 116 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.

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.

The proposal includes for a development that has the potential to incorporate renewable energy features. There are no details that accompany the planning application that demonstrate the water, energy and resource efficiency measures that the scheme will incorporate, however given the low key nature of the proposal as well as the extant permission that can be implemented regardless of how this application is determined, on balance it would not be reasonable to include a condition requesting such details on this occasion.

10. Ecology and Biodiversity

Paragraph 186 of the NPPF states that, when making planning decisions local planning authorities need to assess whether significant harm to biodiversity could result from the development. The NPPF goes on to state the hierarchy that should be applied to mitigate any harm to ecology that is identified. Paragraph 180 of the NPPF requires that Local Planning Authorities contribute to and enhance sites of biodiversity or geological value. TDLP Policy PPL4 states that proposals for new development should be supported by appropriate ecological assessments and, where relevant, provide appropriate mitigation and biodiversity enhancements to ensure a net gain.

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 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." Section 40 states authorities must consider what actions they can take to further the general biodiversity objective and determine policies and specific objectives to achieve this goal. The actions mentioned include conserving, restoring, or enhancing populations of particular species and habitats. In conclusion for decision making, it is considered that the Local Planning Authority must be satisfied that the development would conserve and enhance.

This development is subject to the general duty outlined above. The proposal is largely for the conversion of an existing building, with minor external alterations in the form of revised fenestration to the rear elevation, inclusion of a balustrade and removal of the existing external stairwell. On this occasion it is not considered necessary or reasonable to include a condition to secure soft landscaping details, however an informative recommending the applicant is strongly encouraged to improve the biodiversity of the site through appropriate additional planting and wildlife friendly features is included.

Therefore, the development 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. The application was submitted prior to the introduction of this requirement and is not therefore applicable for Biodiversity Net Gain.

Protected Species

In accordance with Natural England's standing advice the application site and surrounding habitat have been assessed for potential impacts on protected species. The proposal is predominantly the conversion of an existing building and includes only minor external alterations. It is considered that the proposal is unlikely to adversely impact upon protected species or habitats.

Conclusion

In accordance with the overarching duty outlined above, this development is considered to accord to best practice, policy, and legislation requirements in consideration of the impacts on ecology interests.

Other Considerations

Harwich Town Council objects to this application due to it being overdevelopment and having a lack of parking.

In answer to this, these points are addressed within the main body of the report above.

There have been no other letters of representation received.

Conclusion

The application site falls within the Settlement Development Boundary for Harwich and Dovercourt and has previously been granted consent for residential use. Given this, despite it being within a primary shopping area, the principle of development is accepted. Following the submission of amended drawings to amend the windows from uPVC to timber, ECC Heritage have no objections, and there is not considered to be harm to neighbouring amenities.

There is a lack of private amenity space and parking provision, however Officers appreciate the sites highly sustainable location in close proximity to a range of services and facilities, and therefore do not object on these grounds.

The application is therefore considered to comply with local and national planning policies and is recommended for approval.

8. Recommendation

Approval.

9. Conditions

1 COMPLIANCE REQUIRED: COMMENCEMENT TIME LIMIT

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 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). 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 documents titled 'Proposed Window Details' Revision R01 received 6th February 2024, 'Existing and Proposed Block Plans', 'Proposed Elevations', 'Proposed Ground Floor Plan', and the untitled Site Location Plan received 21st December 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: Prior to the commencement of development details of the construction methodology 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 portaloos.
- 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).

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.

NOTE/S FOR CONDITION:

You are strongly advised to discuss this condition with the Local Planning Authority and if possible/available local residents likely to be affected by this development prior to submission of details.

- 4 **CONDITION:** Within three months of the date of this permission, the windows as detailed on the document titled 'Proposed Window Details' Revision R01 (received 6th February 2024) and drawing no. 20220601-PL04 R00 shall be installed in full and retained in perpetuity thereafter.

REASON: In the interests of visual amenity and the character and appearance of the area.

- 5 **CONDITION:** Prior to occupation of the hereby approved development, details of the powered two-wheeler/cycle parking facilities shall be submitted to, and agreed in writing by, the Local Planning Authority. These approved details shall then be retained thereafter.

REASON: To ensure appropriate powered two-wheeler and bicycle parking is provided.

- 6 **CONDITION:** Prior to first occupation of each dwelling, a Residential Travel Information Pack (travel pack) shall be provided to each dwelling for use of its first occupiers. The travel pack shall be agreed, in writing, by the Local planning authority prior to provision and shall include a minimum of six one day travel vouchers for use with a local transport operator.

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

10. 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.

Highways Informatives:

1: In main urban areas with frequent and extensive public transport, cycling and walking links, the EPOA Parking Standards recommend that a reduced parking standard provision may be applied to residential developments. A reduced parking standard provision level can be applied to this proposal as it is located very close to regular public transport services and public car parking facilities.

2: 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

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

3: The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

Legal Agreement Informative - Recreational Impact Mitigation

This application is the subject of a legal agreement and this decision should only be read in conjunction with this agreement. The agreement addresses the following issues: mitigation against any recreational impact from residential developments in accordance with Regulation 63 of the Conservation of Habitat and Species Regulations 2017. Please note that any subsequent variation / removal of condition applications (s73 applications) will require a new legal agreement to secure this obligation unless the development has commenced (subject to all necessary condition discharges) and the contribution has already been paid.

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.

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 (As known with application)
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