

DELEGATED DECISION OFFICER REPORT

AUTHORISATION	INITIALS	DATE
Planning Officer recommendation:	AP	22/01/2025
EIA Development - Notify Planning Casework Unit of Decision	NO	
Team Leader authorisation / sign off:	ML	22/01/2025
Assistant Planner final checks and despatch:	ER	22/01/2025

Application: 24/01536/FUL **Town / Parish:** Harwich Town Council

Applicant: Clearwater Care (Hackney) Ltd

Address: 92 Lee Road Dovercourt Harwich

Development: Planning Application - Change of use from C2 (Residential institution) to C3 (Dwelling house).

1. Town / Parish Council

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

2. Consultation Responses

ECC Highways Dept
04.12.2024

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.

From a highway and transportation perspective the impact of the proposal is acceptable to Highway Authority.

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.

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

Environmental Protection
18.12.2024

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

3. **Planning History**

94/00209/FUL	Proposed Detached Garage	Approved	07.04.1994
07/01755/FUL	Change of use from residential (Use Class C3) to residential respite care home for children with special needs (Use Class C2).	Approved	17.01.2008

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. Paragraph 78 states that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan period) of 5% to ensure choice and competition in the market for land, unless the Housing Delivery Test (HDT) demonstrates significant under delivery of housing over the previous 3 years - in which case a higher buffer is required.

On 12th December 2024 the Government published the Housing Delivery Test: 2023 measurement. Against a requirement for 1,466 homes for 2020-2023, the total number of homes delivered was 2,343. The Council's HDT 2023 measurement was therefore 160%, and a buffer of 5% is to be used when calculating the Council's five year land supply position.

The Council demonstrates its supply of specific deliverable sites within the Strategic Housing Land Availability Assessment (SHLAA), which is published annually. The most recent SHLAA was published by the Council in July 2024, and demonstrates a 6.26-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. The SHLAA can be viewed on the Council's website: <https://www.tendringdc.gov.uk/content/monitoring-and-shlaa>

As a result, the 'titled 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>

At the time of writing, there are no draft or adopted neighbourhood plans relevant to this site.

6. **Relevant Policies / Government Guidance**

National:

National Planning Policy Framework December 2024 ([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
- LP4 Housing Layout
- LP10 Care, Independent Assisted Living
- PPL4 Biodiversity and Geodiversity
- PPL5 Water Conservation, Drainage and Sewerage
- CP1 Sustainable Transport and Accessibility
- DI1 Infrastructure Delivery and Impact Mitigation

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)

Local Planning Guidance

Essex County Council Car Parking Standards - Design and Good Practice

7. **Officer Appraisal**

Proposal

The application seeks full planning permission to change the existing detached two bedroom residential building and curtilage of 92 Lee Road from a C2 use to a C3 use. The two bedrooms were previously used for young residents with learning disabilities needing 24 hour, one to one care

provided by carers that visited working shifts. The use of the residential property as a dwellinghouse provides for two off road car parking spaces and private amenity space.

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

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

There are no proposed changes to the dwelling itself, therefore there will be no material harm to visual amenity.

Impact to Residential Amenities

The building will remain in residential use which will not result in any significant impact to neighbouring amenities. It is likely that there will be less pedestrian and vehicle movements associated with the use of the building as a single residential dwelling compared to the use as a care home. The dwelling also benefits from adequate private amenity space.

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. A 2 bedroom, four person single 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 details 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.

The Council's Environmental Protection team recommends planning conditions are imposed to manage and control constructions activities. It is not considered reasonable and necessary to impose these conditions as there are no construction works taking place.

Access, Parking and Highway Safety

The dwelling benefits from two off road car parking spaces and this will remain unchanged.

Essex County Council as the Highway Authority were consulted on the application and confirmed that the proposal is acceptable from a highway and transportation perspective.

Drainage and Sewerage

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

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

The site does not fall within a critical drainage area or a flood risk area and there is a low chance of surface water flooding.

Ecology and Biodiversity

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. An informative has been imposed strongly encouraging the applicant to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Therefore, the development on balance, with consideration of the impact of the development and baseline situation on site, is considered likely to 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. This excludes applications for Listed Building Consent, Advert Consent, Reserved Matters, Prior Approvals, Lawful Development 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 change of use proposal is below the threshold impacts in that it does not impact a priority habitat and impacts less than 25 sq.m of habitat, or 5m of linear habitats therefore this development is not applicable for Biodiversity Net Gain.

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.

Protected Species

In accordance with Natural England's standing advice the proposed development site and surrounding habitat have been assessed for potential impacts on protected species. 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 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

Policy LP10 of the Local Plan states that:

Development that would result in the loss of all, or part, of an existing care home will not be permitted unless the applicants can demonstrate, with evidence, that the site or premises are no longer economically viable. The approach used to demonstrate that the requirements of this policy have been met may vary from site to site and so must be agreed between the Council and the applicant in advance of any planning application being submitted.

In this case the care home consisted of two bedrooms and therefore two to three young residents could be looked after. The building was not purpose built as a care home and prior to 2007 it was a single two bedroom residential dwelling where the immediate area is also made up of individual residential dwellings. It is acknowledged that the change of use would result in the loss of two bedrooms providing care however due to the low impact of this loss it is not sufficient to warrant refusal. It is considered unreasonable to expect the applicants to demonstrate such a minimal use is no longer economically viable and the provision of one family home contributes to addressing local housing need. The change of use in this case is considered acceptable taking into account the policy position and historic use of the building as a single dwelling.

Harwich Town Council makes no objections to this application.

No other letters of representation have been received.

8. Recommendation

Approval - Full

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 approved red line plan drawing is Ordnance Survey site plan 1:1250 received 27 November 2024
Block Plan 1:500

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

NOTE/S FOR CONDITION:

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

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

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

3 FURTHER APPROVAL: MITIGATION TO BE AGREED - RAMS

CONDITION: The hereby approved development shall not be first occupied/used until detailed proposals addressing the mitigation of the development's impact on protected Essex Habitats Sites have been submitted to and received written approval from the Local Planning Authority. Such proposals must provide and secure mitigation in accordance with the joint Habitats Regulations Assessment Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) or demonstrate mitigation measures of an equivalent effectiveness to the satisfactory of the Local Planning Authority. For any on site mitigation proposals approved, it shall be carried out in full prior to first occupation, and thereafter shall be maintained as approved.

REASON: In order to safeguard protected wildlife species and their habitats in accordance with the NPPF and Habitats Regulations. Failure to achieve satisfactory mitigation would result in harm by new residents due to the development's impact on protected sites meaning the development must mitigate the burden of development regardless of scale of impact.

NOTE/S FOR CONDITION:

This condition establishes the necessity to ensure the implementation of appropriate mitigation measures due to the impact of the approved development. Such mitigation may be required on-site, off-site, or a combination of both.

Typically, a contribution towards visitor management measures at the protected Habitats Site(s) may be the preferred and simplest approach to fulfil the requirements of this condition. To fulfil this requirement, you can contribute funds towards a range of mitigation projects in the protected areas. It is essential to secure this provision through a legal agreement between

the District Council, Developer/Applicant, and site owners before occupation. If this is the approach to fulfilling this condition you wish to take, you are strongly advised to finalise the legal agreement with the District Council before submitting any request to discharge this condition. Should this be the route chosen, failure to conclude the agreement within the discharge of condition application timeframe may lead to the refusal to discharge the condition. Please note if there are other obligations needed for this development, for example to secure monitoring and maintenance of a Biodiversity Net Gain Plan, you may wish to combine these together as one agreement. Furthermore, please also note a legal agreement will include legal fees and may require obligations to secure monitoring and associated fees.

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 Informative

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

Biodiversity Enhancements Informative

In accordance with the Council's general duty to conserve and enhance biodiversity, you are strongly encouraged to improve the biodiversity of the application site through appropriate additional planting and wildlife friendly features. Suggested enhancements could include:

<https://www.rhs.org.uk/wildlife/in-the-garden/encourage-wildlife-to-your-garden>

Recreational Impact Mitigation Condition

As per the relevant condition above, this application requires mitigation against recreational impact in accordance with The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and Regulation 63 of the Conservation of Habitat and Species Regulations 2017. The current RAMS tariff is £163.86 per new dwelling (from the 1st April 2024). If you wish to use a financial contribution to satisfy the RAMS condition, a completed UU must be submitted with a Discharge of Condition application.

Prior to the submission of the Discharge of Condition application, we can prepare the UU for you (to be reviewed by your solicitor) or we can review a draft UU you have provided (drafted by your solicitor). Both services will incur a charge.

Please see the 'Preparation of a UU' guidance on our website at: <https://www.tendringdc.gov.uk/content/the-s-106-process>

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:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO
Has there been a declaration of interest made on this application?	YES	NO