
PREMISES/PERSONAL LICENCES SUB-COMMITTEE A

17 JUNE 2016

Present:- Councillor V E Guglielmi (Chairman), Councillor E F Whitmore, Councillor C P Winfield

Stand-by Member:- Councillor R Raby

In Attendance:- Solicitor (Linda Trembath), Head of Environmental Services (John Fox), Licensing Manager (Simon Harvey), Democratic Services Officer (Janey Nice) and Licensing Assistant (Emma King)

Also in Attendance:- Miss Tania Anthonypillai (Applicant), Mr Jeyaseelan Thambithurai Mr Suresh Kanapathi (Consultant – Arka Licensing) and Inspector Julia Finch (Inspector Essex Police)

(10.00 a.m. - 12.43 p.m.)

1. TRIBUTE

In view of the murder of the previous day of Mrs Jo Cox MP, the Chairman announced that she would hold a minute's silence in tribute to the memory of Mrs Cox.

2. WELCOME

The Chairman welcomed all those present to the meeting and explained the procedure that would be followed.

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

4. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Sub-Committee held on 8 April 2015 were approved by Councillor Raby, as a correct record as the only Councillor present who attended the last meeting of the Committee, and signed by the Chairman.

5. DECLARATIONS OF INTEREST

There were none.

6. LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF PREMISES LICENCE - J J SUPERMARKET, 21 - 23 JACKSON ROAD, CLACTON-ON-SEA, ESSEX CO15 1JA

The Sub-Committee had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operational Services), an application for the review of the above Premises Licence currently being held by Miss Tania Anthonypillai.

Mr Harvey added that the responsible authorities, Licensing Authority, Trading Standards and Police and co-applicants had been in discussion and had offered a proposal for the Sub-Committee to consider and agree.

The Council's Licensing Manager (Simon Harvey) briefed the Committee on the review of

the Premises Licence which was submitted by Essex Police and was received by the Licensing Authority on 27 April 2016 on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder and the Protection of Children from Harm had been breached. Copies of the full review application and supporting documentation were attached to the report as Appendices A to E.

Mr Harvey said that as a minimum outcome the police would like Miss Tania Anthonypillai removed as the Designated Premises Supervisor (DPS) for those premises and replaced by an experienced and responsible person who would have a proactive approach to managing the staff and customers of an alcohol off-sale outlet that is in a busy and challenging environment and also which had a history of problems in regards to breaching the Licensing Objectives. The Police and Responsible Authorities parties to the review would require any new DPS to have a regular and significant presence in the store on a daily basis in order to manage and promote the Licensing Objectives positively.

Mr Harvey informed the Sub-Committee that Essex County Council Trading Standards had submitted a representation for the Protection of Children from Harm as this particular Licensing Objective had been breached and full details of this submission was on pages 25 to 27 of the Agenda's supporting papers. He added that the Council's Licensing Authority had also submitted representations on the grounds of Crime and Disorder and the Protection of Children from Harm, full details of this were on pages 32 to 34 of the aforementioned supporting documents.

Mr Harvey advised the Committee that on pages 9 and 10 of their agenda and papers, the relevant parts of the Section 182 Guidance which accompanies the Licensing Act 2003 Sections and the Council's Statement of Licensing Policy with regards to reviewing premises licences could be found. The papers also drew attention to the relevant human rights implications.

Mr Harvey also informed the Sub-Committee that subsequent to the review application being submitted and prior to the agenda being printed, Mr Suresh Kanapathi of ARKA Licensing Consultants had notified the Licensing Manager that he was now acting on behalf of Miss Tania Anthonypillai. On instructions from Miss Anthonypillai he had proposed to the Police, as applicants for the review, and the Licensing Authority and Essex County Council Trading Standards both, as Responsible Authorities supporting the review, that the DPS at the premises should be replaced with her husband, Mr Jeyaseelan Thambithurai. Mr Kanapathi informed the Sub-Committee that Mr Thambithurai had held a personal Licence since 2010 and he had extensive experience in dealing with people who appeared to be drunk and also with under age sales. In addition, he said, Mr Thambithurai would work alongside Mr Rasa Raventheran who had originally been proposed as the replacement DPS for Miss Anthonypillai.

The Sub-Committee and all other parties present at the review and who had an interest in it, were handed an exchange of emails between Mr Harvey and Mr Kanapathi which included copies of Mr Thambithurai's Personal Licence ID. The emails contained an agreement that Mr Thambithurai placed a sign outside the shop informing customers that drinking and congregating on the forecourt of shop was prohibited and that the shop's staff would actively discourage customers from doing so. The email exchange confirmed that consultation had taken place with Essex Police and Essex County Trading Standards who were happy to replace the DPS with Miss Anthonypillai's husband Mr Thambithurai.

The Chairman adjourned the meeting to allow the Sub-Committee to peruse the submitted emails.

When the meeting recommenced Mr Harvey said that further information had come to light which might cause the Police concern under the Licensing Objective of Crime and Disorder and the Sub-Committee might wish to consider this along with their deliberations.

The Police Inspector present, Ms Julia Finch, informed the Sub-Committee that a check had shown that Mr Thumbithurai had a conviction in 2011 under the Road Traffic Act 1988, section 6(6) for failing to supply a specimen of breath in connection with being stopped for, or suspected of, driving while over the legal limit for alcohol in the blood stream when asked for by the Police. Mr Harvey said this matter needed to be clarified before any transfer of the DPS on JJ Supermarket premises licence into Mr Thumbithurai's name as this was what is known as a 'relevant offence' under the Licensing Act 2003 which might prevent a person from applying for, or continuing to hold a Personal Licence. If this was the case, Mr Thumbithurai may not be able to be transferred onto the premises licence as the DPS.

Mr Harvey said that under Section 52 of the Licensing Act 2003, the Sub-Committee had to make a decision that was necessary and proportionate, this could be that they decide to take no action or may wish to send an informal warning letter; all options were relevant in this case.

Inspector Finch informed the Sub-Committee that JJ Supermarket had voluntarily signed up to the 'Reduce the Strength' scheme in 2014 to help reduce the impact on street drinking. However she said the Police were contacted in July 2015 by two Officers from the Council who had supplied witness statements that they had visited the shop and noticed a member of staff selling alcohol to a drunken member of the public. She said that under Section 141 of the Licensing Act 2003 they were asked to investigate and PC Southgate accompanied by two of the Council's Officers attended JJ Supermarket. In August 2015, she said, two Council Officers attended the store and they again witnessed a member of staff selling alcohol to a drunken person. She said that PC Southgate had raised considerable concern and as a result Mr Harvey (Licensing Manager) had also attended the Police station to give Miss Anthonypillai advice on upholding the law.

She said that since then under Operation Benison, Essex Police and the Council's Licensing Enforcement Officers had visited various licensed premises and on subsequent visits in November 2015, December 2015 and January 2016 no issues were identified. However in February 2016 Essex Police and Essex County Trading Standards attended JJ Supermarkets and the DPS was observed selling alcohol to an under-age person despite being part of the Challenge 25 Scheme. She said that the DPS received a caution under the Licensing Act 2003, but she added that Essex Police had concerns that the current DPS does not have full control of the staff and shop which was the reason for the application for the review of the licence.

Councillor Whitmore asked if the staff member selling alcohol to a drunken person had held a personal licence and the Police officer said they had not at that time and that they had recommended all staff should receive the appropriate training, however that particular member of staff was no longer employed by JJ Supermarket and another member of staff did hold a personal licence.

When Councillor Winfield asked about selling alcohol to youngsters he was informed that the store was part of the Challenge 25 Scheme.

The Chairman raised a concern about the conviction Mr Thumbithurai had received in 2011 and asked the rest of the Sub-Committee, the Police and supporting Responsible Authorities represented at the review hearing if they were happy to hear the application that day and if the premises licence holder, their representative and the proposed new DPS wished an adjournment to have a discussion on how they wished to proceed in light of the new information. All sides confirmed that they were happy for the proceedings to continue. The Chairman asked if the information regarding Mr Thumbithurai's conviction for refusing to provide a specimen of breath would make a difference to the transfer of the DPS licence and was informed by Inspector Finch that, on looking further at the conviction,

it was now spent, that it appeared a relatively minor offence for which Mr Thumbithurai was fined, suggesting that no alcohol was involved and therefore should have no negative bearing on the review application.

Mr Harvey confirmed that the applicant should have declared that he was a Personal Licence Holder to the Court who also should have asked him if he was a Personal Licence Holder depending on what he advised the Court his profession was. He also advised that Mr Thumbithurai should have advised the Council who had originally granted his Personal Licence of this conviction. Mr Thumbithurai said that he had not declared it as he did not realise it was relevant as he had only received a fine for refusing to give a specimen of breath when asked by the Police. Mr Harvey informed the Committee that although it had been treated by the Police as a failure to provide a specimen of breath rather than drunk driving it would be treated in the same way, but was happy to accept the information from Inspector Finch that the conviction was spent. Inspector Finch added that if there had been evidence of Mr Thumbithurai consuming alcohol the result would have been more than a fine and the case would have been taken further which meant he could have received a 12 month ban from driving or even imprisonment.

Mr Fox, the Head of Environmental Services said that he had no questions and had nothing to add to his representation and was happy for the application to proceed.

The Chairman asked Mr Thumbithurai why the Sub-Committee should agree to the transfer of the DPS licence to him. Mr Suresh responded on his behalf informing the Sub-Committee that Mr Thumbithurai was a very hard working individual, not only working at JJ Supermarket but also running another store in Great Yarmouth, he and his wife were both committed to running their businesses and had taken to improve matters after being spoken to by the Police. The one member of staff concerned without a personal licence was currently undergoing training for his personal Licence. He also confirmed that the shop now had a sign outside informing customers that alcohol was not allowed to be consumed on the premises or outside and added that there had been no complaints or representations from members of the public.

Mr Thumbithurai, when asked by the Chairman, confirmed that he was reviewing his staff at his other store so that he would be working at JJ Supermarket and would undertake more staff training for the staff at JJ Supermarket and confirmed that he would now be living above the store and that his wife would also be working alongside him in the shop.

Councillors Whitmore and Winfield asked questions about training staff in the Licensing Objectives and Mr Thumbithurai added that the staff were also receiving training in conflict resolution to deal with drunken persons being refused the sale of alcohol. They asked if the store had had any other problems or offences and it was confirmed that there had been no other problems since JJ Supermarket had opened. Miss Anthonypillai confirmed that the Licensing Authority had suggested that all of the staff received personal licence training up to level 2. Mr Thumbithurai also confirmed again when asked, that he would be moving permanently to JJ Supermarket and had a properly qualified Manager to run his other store in Great Yarmouth and there would always be a qualified member at the other store at all times. Mr Harvey suggested to Miss Anthonypillai that if their staff had passed the Level 2 qualification then they should proceed with applying for and being granted a Personal Licence. He could see little point in paying for their Level 2 training but not going ahead to get a Personal Licence. He added that for £37 a person then had a Personal Licence to keep and use indefinitely.

Councillor Whitmore asked if there were any CCTV cameras in the store and Mr Thumbithurai confirmed there were and even pointed them out to drunken customers when they were being difficult. Councillor Whitmore also said that he would like Mr Thumbithurai to be more diligent in his dealings with under-age sales and wanted assurances that this would be the case. Mr Thumbithurai said that until the recent events

he had had no problems with JJ Supermarket, he had signs in the store pointing out that they did not sell to underage customers, and that they asked for ID. Councillor Winfield pointed out to him that if he was in any doubt whatsoever about the age of a customer he should refuse to sell alcohol.

Inspector Finch asked who was living above the supermarket and Miss Anthony Pillai confirmed that her husband lived above the shop as well as another member of staff. She added that although she worked in the shop she did in fact live in Harrow.

Mr Harvey asked about the other store in Great Yarmouth and Mr Thumbithurai gave the Licensing Manager the address and informed Mr Harvey that it was a smaller shop selling food and alcohol.

The Sub-Committee then RESOLVED that the public be excluded from the meeting, pursuant to Section 100A(4) of the Local Government Act 1972, during the period when the Sub-Committee would be deliberating and considering its decision, on the grounds that such deliberations involved the likely disclosure of exempt information, as defined in Paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

Members of the Sub-Committee then withdrew from the meeting to deliberate and consider its decision. The Solicitor and Democratic Services Officer were asked to accompany Members to give advice if any legal points were raised and to record the decision.

Following such deliberations, other Officers, Members and members of the public were readmitted to the meeting. The Solicitor reported that she had not provided the Sub-Committee with any legal advice on this occasion.

It was unanimously RESOLVED that the decision of the Sub-Committee be as follows:

“The Sub-Committee has given careful consideration to this application for a review and to the actual representation(s) received from Essex Police on the grounds that the Licensing Objective(s) in respect of The Prevention of Crime and Disorder and the Protection of children from Harm had been breached for the reasons set out in their representation(s). In making their decision, the Sub-Committee had taken into account:-

- (i) relevant matters set out in the Licensing Authority's own Statement of Licensing Policy;
- (ii) the relevant parts of the Guidance issued by the Secretary of State; and the range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a Review.

The Sub-Committee were also aware that it must act to promote the Licensing Objectives as set out in the Licensing Act 2003 and that any decision it took in determining a Review must be necessary for the promotion of those objectives.

The decision of the Sub-Committee was as follows:-

1. In respect of the application for the Review of a Premises Licence/Club Premises Certificate submitted by Essex Police in respect of the premises known as JJ Supermarket, the Sub-Committee's decision is to uphold the Licensing Authority's previous decision to grant a Licence subject to the modification of the conditions currently attached to that Licence and the imposition of certain additional conditions:-

2. The following additional conditions will accordingly be attached to the Licence:-

That signs are prominently displayed in and outside the shop premises advising customers

that alcohol will not be sold either to those who cannot satisfy a challenge in accordance with the requirements of "Challenge 25", which we are told the business has signed up to, or who appears to be under the influence of alcohol and drunk in accordance with the law, and that signs will also be displayed encouraging customers and others not to congregate outside the shop.

In addition, the Sub-Committee having heard from all interested parties has decided:

3. To remove Miss Tanyia Anthonypillai as the Designated Premises Supervisor, and to approve Mr Jeyaseelan Thambithurai as the new Designated Premises Supervisor subject to a formal application being completed and submitted to the Licensing Authority. The date of removal and approval shall be noted as the date of this Review hearing.

4. And that, in accordance with the proposals made by the current and new Designated Premises Supervisors, all staff working at the premises will be trained, and hold a Personal Licence.

The reasons these conditions are added, and changes have been made, are to promote the Licensing Objectives for the Prevention of Crime and Disorder, and for the Protection of Children from Harm, the issues raised in the application for this review.

Details of the Sub-Committee's decision will be notified to all interested parties in writing.

Finally, I must mention that all parties who are aggrieved at the decision of the Sub-Committee have the right of appeal to the Magistrates' Court."

7. ENFORCEMENT QUARTERLY PERFORMANCE REPORT

The Committee noted the contents of a report (submitted for information only) advising them of the Enforcement Service's performance during the third quarter of 2011.

8. PLANNING APPLICATION 11/00475/FUL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Councillors De-Vaux Balbirnie and Skeels, present in the public area, as Ward Councillors each declared a personal interest in the application and remained in the meeting.

It was moved by Councillor Candy, seconded by Councillor Johnson and:-

RESOLVED – That application 11/00475/DETAIL be deferred to enable further detailed information to be obtained regarding the sizes of the pitches and relevant policy, the information required to enable the conditions to be fully and properly drafted and a further report to be submitted to the Committee setting out recommended conditions in full (with appropriate timescales for compliance) on such terms as the Temporary Head of Planning, in consultation with the Chairman or Vice-Chairman and Planning Portfolio Holder, considers appropriate.

9. ADJOURNMENT

The Chairman adjourned the meeting for a short while to allow members of the public to leave if they wished.

10. PLANNING APPLICATION 11/00958/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal with reasons. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Councillor Mathews, on behalf of Wix Parish Council, spoke in support of the application.

Councillor Patten, as Ward Member, spoke in support of the application.

Edward Gittings, the applicant's agent, spoke in support of the application.

It was moved by Councillor Candy, seconded by Councillor Turner and:-

RESOLVED – That application 11/00958/FUL be approved contrary to the officers' recommendations subject to such conditions as the Temporary Head of Planning considers appropriate in consultation with the Chair or Vice-Chairman and the Planning Portfolio Holder.

Conditions: (decided subsequent to the meeting in accordance with the above resolution)

1. The development hereby permitted shall be begun before the expiration of 12 months from the date of this permission.

Reason - To ensure the timely relocation of the dwelling within the site and to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall take place, including any works of demolition/building relocation, until a Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the period of the building relocation/reconstruction works. The statement shall include detailed provisions regarding the following:

- i) The method to be employed to reposition the dwellinghouse;
- ii) The loading and unloading of plant and materials;
- iii) Storage of plant and materials to be used in the repositioning/rebuilding of the dwellinghouse;
- iv) Parking areas for workers and equipment;
- v) Hours of construction and other works;
- vi) The removal and replacement of any boundary fences and vegetation;
- viii) The breaking up of the existing concrete base of the building and the storage and removal of waste/demolition materials.
- ix) A timetable for the implementation of the works.

Reason: To protect the amenities of nearby residents and in the interests of highway safety

3. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted drawings numbered 1503:02A and 1503:01C.

Reason - For the avoidance of doubt and in the interests of proper planning.

4. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

5. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

6. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the hereby approved dwelling being occupied and thereafter be retained in the approved form.

Reason - The site is publicly visible and therefore quality materials are an essential requirement. Insufficient information has been submitted within the application for full consideration of these details.

7. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A and B of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties and the rural character of the area.

8. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties and the rural character of the area.

9. Prior to the occupation of the proposed dwelling the existing access shall be reconstructed at right angles to the highway and to a width of 5.5 metres for at least the first 6 metres tapering thereafter within the site and provided with a dropped kerb vehicular crossing to the highway verge of Harwich Road in accordance with the Highway Authority's published requirements.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

10. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

11. The dwelling hereby permitted shall not be occupied until such time as the car parking area, indicated on the approved plans has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the dwelling.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

12. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6metres of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

13. Prior to the first occupation of the proposed dwelling, a vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in forward gear, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

14. The proposed new hedge along the highway boundary shall be planted at least 1 metre back from the boundary and the visibility splays required under condition 10 above

Reason: To ensure that the future outward growth of the hedge does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management policies February 2011.

15. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

Reason for approval:

This site lies outside of any defined settlement limits in the Tendring District Local Plan (2007) whereby planning permission for new residential development would not normally be permitted because it is contrary to the guidance in PPS1 (Delivering sustainable Development), PPS3 (Housing), PPS4 (Planning for sustainable economic growth), PPS7 (Sustainable Development in Rural Areas) and Local Plan policies QL1, QL2, HG1, HG3, EN1 and RA4 that seek to secure sustainable development and protect the amenities and character of the countryside. Policy QL9 requires that all new development relates satisfactorily to its surroundings in terms of siting, appearance in the locality and relationship with neighbouring properties.

However, the site lies within a line of loosely spaced residential development along the Harwich Road that runs eastwards from the edge of the defined settlement boundary of Wix beyond the application site. The proposed development, would, therefore, not be isolated from existing residential development. There has previously been residential development on the site.

The Local Planning Authority has also had regard to the provisions of the Localism Bill that will place significantly more influence in the hands of local people and communities on planning issues that affect them which local planning authorities will need to take into account and give appropriate weight to. In this case there is a substantial level of local support for the development which differs materially from that previously refused. These proposals reposition the building towards the centre of the site overcoming previous objections due to the proximity to the neighbouring dwelling. It also sets the building further from the public highway further reducing its visual impact. The proposed development would, therefore now accord with policy QL 9 of the Local Plan.

Regard has also been given to the draft National Planning Policy Framework that states that in rural areas, local planning authorities should be responsive to local circumstances and plan housing development to reflect local requirements. The proposals would meet a recognised local housing need for low cost accommodation. The site, whilst outside defined settlement limits is not remote from local services in the main village and has regular bus services to Colchester and Harwich.

Taking all these factors into account the Local Planning Authority considers that in this case there are very exceptional circumstances which outweigh development plan policies and national planning policy guidance that seek to restrict new residential development in the countryside. Subject to compliance with the conditions attached the proposals are considered, on balance, to be acceptable.

11. PLANNING APPLICATION 11/00117/FUL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

It was moved by Councillor Turner, seconded by Councillor McLeod and:-

RESOLVED – That the Temporary Head of Planning Services (or equivalent authorised officer) be authorised to grant planning permission for the development subject as follows:-

(a) Within 4 months of the date of the Committee's resolution to approve, the completion of a legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the following matters (and any further terms and conditions as the Temporary Head of Planning Services (or the equivalent authorised officer) and/or the Head of Legal Services and Monitoring Officer in his or her discretion consider appropriate.

- To landscape an area of land to the east of the site entrance adjacent to 604 Main Road, Harwich together with a maintenance sum of £5000 or such other amount deemed acceptable by the Temporary Head of Planning Services (or equivalent authorised officer) in consultation with the chairman or in her absence the vice chairman, and to offer the land to the Council at nil cost to replace the village green lost through the development.
- Monitoring Fees
- Legal Fees

(b) Planning conditions in accordance with those set out in (i) below (but with such amendments and additions, if any, to the detailed wording thereof as the Interim Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate) and with the reason for approval set out in (ii) below.

(c) The Interim Head of Planning (or the equivalent authorised officer) be authorised to refuse planning permission in the event that such legal agreement has not been completed within the period of 4 months, as the requirements necessary to make the development acceptable in planning terms has not been secured through S106 planning obligation, contrary to Local Plan policy QL12.

Conditions:

- Time Limit
- No development permitted by this planning permission shall be implemented unless and until planning permission has been granted for the redevelopment of the Delfords site requiring access to the said land edged Blue to be provided in the manner hereby permitted
- Parking for existing businesses to be provided
- Mud/Debris measures
- Landscaping Schemes, including land adjacent to existing site access
- Implementation of Landscaping Schemes
- Approved Plans

Reason for approval:

The proposal, for a new three arm mini roundabout junction on Main Road just to the south west of existing mini roundabout at the junction with Laurel Avenue, thereby creating a 'double mini roundabout', (including change of use from Village Green to highway and vice versa), is considered to be in accordance with the provisions of the Tendring District Local

Plan (2007). The Local Planning Authority, having had regard to all planning considerations material to the determination of this application, including particularly the layout and highway matters of development proposed and all consultations and representations made in connection with the application, conclude that the proposal accords with the provisions of the development plan as applicable to it, including the policies and proposals noted below, and in the absence of any material adverse impact resulting from the development consider that there are no material grounds which justify its refusal.

Informative:

The proposed development affects land that is registered as a village green and public highway. The statutory processes needed to deregister the village green land and remove highway rights will have to be completed prior to any development under this permission being commenced. If required as part of the process for the de-registration of village green the developer will need to make alternative land available to the Council to enable this process to take place. The replacement land may include the land that will be offered to the Council under the S106 agreement as replacement land for recreational use by the public. The registration of this land as village green does not alter the agreement to pay a commuted sum for the maintenance of the offered land.

12. PLANNING APPLICATION 11/00996/FUL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Mr Tim Snow, the applicant's agent, spoke in support of the application.

Councillor P B Honeywood, as Ward Member, spoke against the application.

It was moved by Councillor Candy, seconded by Councillor McLeod and:-

RESOLVED – That application 11/00996/FUL be deferred to enable further detailed information to be obtained and reported to the Committee concerning adaptations to the existing business premises and other works that are necessary to accommodate the proposed development, any relevant proposals regarding trees and parking and any other similar impacts which are material planning considerations.

13. (A) PLANNING APPLICATION 11/00042/FUL AND (B) LISTED BUILDING CONSENT 11/00043/LBC

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions. The recently published update sheet was also considered by the Committee and explained by officers at the meeting.

Mr Anthony Edwards, local resident, spoke against the application.

Councillor J Mathews, on behalf of Wix Parish Council, spoke against the application,

Councillor Patten, as Ward Member, spoke against the application.

Mr Russell Forde, the applicant's agent, spoke in support of the application.

It was moved by Councillor McLeod, seconded by Councillor Simons and:-

RESOLVED – (a) That application 11/00042/FUL be approved subject to an informative being attached to the permission regarding retention of the Cockpit and subject to conditions providing:-

Conditions

- Standard three year time limit
- List of approved plans
- Parking to be provided prior to occupation
- Details of boundary treatments
- Landscaping
- New and replacement window and door details
- Method of reinstatement of rear wall following demolition of rear extension
- Samples of construction materials

Reason for approval

The change of use to a single dwelling, including internal and external alterations, is considered to be in accordance with the development plan policies listed. The public house has been adequately marketed and there is another public house within 800 metres of the site. The proposed alterations blend with the scale, form and design of the listed building, and respect its setting. Furthermore, owing to siting, scale and fenestration layouts, the proposed alterations would not reduce the amenities enjoyed by occupants of neighbouring properties, would not result in the loss of any significant trees and are acceptable in terms of highway safety and convenience.

RESOLVED – (b) That application 11/00043/LBC be approved subject to conditions providing:-

Conditions

- Standard three year time limit
- List of approved plans
- Details of boundary treatments
- Landscaping
- New and replacement window and door details
- Method of reinstatement of rear wall following demolition of rear extension
- Samples of construction materials

Reason for approval

The change of use to a single dwelling, including internal and external alterations, is considered to be in accordance with the development plan policies listed. The proposed alterations blend with and compliment the scale, form and design of the listed building, and respect its setting.

14. PLANNING APPLICATION 11/00984/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal with reasons.

Councillors Candy and G V Guglielmi declared a personal interest in the application as Ward Members and remained in the meeting.

Councillor G V Guglielmi, as Ward Member, spoke in support of the application.

The applicant, Mr Neil Ellis, spoke in support of the application.

It was moved by Councillor Johnson, seconded by Councillor Turner and:-

RESOLVED – That application 11/00984/FUL be approved contrary to the officers' recommendation subject to such conditions as the Temporary Head of Planning considers appropriate in consultation with the Chair or Vice-Chairman and the Planning Portfolio Holder.

Conditions: (decided subsequent to the meeting in accordance with the above resolution)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted drawings numbered NE/002/02 Revised, NE/002/04 Revised and NE/003/05 Revised.

Reason - For the avoidance of doubt and in the interests of proper planning.

3. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (1) to (4) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,

- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(2) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (1), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (2), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (3).

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 2 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy COM10 of the adopted Tendring District Local Plan (2007).

4. Notwithstanding the submitted details, no development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction of the dwellings and garages have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The site is publicly visible and therefore quality materials are an essential requirement. Insufficient information has been submitted within the application for full consideration of these details.

5. No development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

6. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the development compensates visually for the loss of open area and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

7. No development shall take place until precise details of the provision, siting, design and materials of screen walls and fences have been submitted to and approved in writing by the Local Planning Authority. The approved screen walls and fences shall be erected prior to the hereby approved dwelling being occupied and thereafter be retained in the approved form.

Reason - The site is publicly visible and therefore quality materials are an essential requirement. Insufficient information has been submitted within the application for full consideration of these details.

8. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A and B of the

Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties.

9. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no provision of buildings, enclosures, swimming or other pool shall be erected except in accordance with drawings showing the design and siting of such building(s) which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.

Reason - In the interests of the amenities of the occupants of neighbouring properties.

10. Prior to the occupation of the proposed development, the access to the existing and proposed dwelling shall be provided in strict accordance with the details shown in drawing number NE/002/02/REVISED and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge.

Reason: To ensure that all vehicles using the private drive access do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

11. Prior to the proposed access being brought into use, vehicular visibility splays of site maximum by 2.4m by site maximum, as measured along, from and along the nearside edge of the carriageway, shall be provided on both sides of the centre line of the access and shall be maintained in perpetuity free from obstruction clear to ground.

Reason: To ensure adequate intervisibility between drivers of vehicles using the proposed access and those in the adjoining highway, in the interests of highway safety Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

12. The development shall not be occupied until such time as the car parking area, indicated on the approved plans has been hard surfaced. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles related to the use of the development.

Reason: To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety and Policy DM 1 and 8 of the Highway Authority's Development Management Policies February 2011.

13. No unbound materials shall be used in the surface treatment of the proposed vehicular access within 6m. of the highway boundary.

Reason: To ensure that loose materials are not brought out onto the highway, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

14. Prior to commencement of the proposed development, a vehicular turning facility, of a design which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason: To ensure that vehicles using the site access may enter and leave the highway in a forward gear, in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

15. All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.

Reason - In the interests of sustainable development and to ensure that run-off water is avoided to minimise the risk of surface water flooding.

Reason for approval:

This site lies outside of any defined settlement limits in the Tendring District Local Plan (2007) where planning permission for new residential development would not normally be permitted being contrary to the guidance in PPS1 (Delivering sustainable Development), PPS3 (Housing), PPS4 (Planning for sustainable economic growth), PPS7 (Sustainable Development in Rural Areas) and Local Plan policies that seek to secure sustainable development and protect the amenities and character of the countryside. Policy QL9 requires that all new development relates satisfactorily to its surroundings in terms of siting, appearance in the locality and relationship with neighbouring properties.

However, the site lies within a line of loosely spaced residential development along the Clacton Road that forms the hamlet of Horsley Cross Street. The proposed development, would, therefore, not be isolated from existing residential development. The application site comprises the car park of the adjacent public house that has planning permission for conversion to residential use. The proposals would, therefore, bring about material improvements to the street scene and to the environment within the local area. Having regard to this pattern of existing development and the improvements the development would bring about the local planning authority considers that, on balance and subject to compliance with the conditions attached to this permission the development is acceptable. Furthermore, the proposal would not reduce the amenities enjoyed by occupants of neighbouring properties and would not have a materially adverse impact upon the character of the surrounding area or be detrimental to highway safety.

15. PLANNING APPLICATION 11/00628/FUL

The Committee had before it the published Officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval with a summary of recommended conditions.

Councillor Nicholls declared a personal interest in the application as one of the Ward Members and remained in the meeting.

It was moved by Councillor Candy, seconded by Councillor Simons and:-

RESOLVED – That application 11/00628/FUL be approved subject to conditions regarding:-

- Time Limit
- Materials
- Soft Landscaping Scheme Implementation
- Hard Landscaping Submission
- Porous Driveway

- Access Layout
- Pedestrian Visibility Splays
- Unbound Materials
- Siting of Gates
- Front Hedgerow Siting
- Contaminated Land Survey
- Trees Protection Measures
- Protected Species Mitigation Measures
- Approved Plans

Reason for Approval

In approving this application the local planning authority has taken account of the development plan policies and/or proposals listed above. The quality of the design, the enhancement to the setting to the adjacent listed building and the significantly reduced intensive use of the site outweighs the fact the site is located outside of the defined development boundary. Residential development on this plot would not seriously undermine the council's housing settlement policies and would not set a harmful precedent for the surrounding area. Furthermore, neighbouring amenity is not adversely affected and the impact on highway safety is acceptable.

16. PLANNING APPLICATION 11/00823/FUL

The Committee had before it the published officer report containing an appraisal of the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of refusal with reasons.

Councillors Candy and G V Guglielmi declared a personal interest in the application as Ward Members and remained in the meeting.

Mr Tim Snow, the applicant's agent, spoke in support of the application.

It was moved by Councillor McLeod, seconded by Councillor Bragg and:-

RESOLVED – That application 11/00823/FUL be approved contrary to the officers' recommendation subject to such conditions as the Temporary Head of Planning considers appropriate in consultation with the Chair or Vice-Chairman and the Planning Portfolio Holder.

Conditions: (decided subsequent to the meeting in accordance with the above resolution)

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on drawing no. 652/04A and 652/03A.

Reason - For the avoidance of doubt and in the interests of proper planning.

3. The site shall only be open for deliveries or for the movement of goods into and out of storage between the hours of 8:00am and 17:30pm Monday to Saturday and no working on Sundays or Public Holidays. The hereby permitted sales use shall only operate between

the hours of 09:00am and 17:30pm Monday to Saturday and 11:00am to 16:00pm on Sundays and Public Holidays.

Reason - In the interests of neighbouring residential amenity.

4. This permission shall only authorise the use of the premises in the manner described in the application and no sub-division of the premises to form additional units shall be carried out without the express consent of the Local Planning Authority first having been obtained on an application made in that behalf.

Reason - To ensure the development is satisfactory in relation to the premises and its surroundings and neighbouring residential amenity.

5. No floodlighting or external illumination shall be installed unless details of the illumination scheme have been submitted to and approved in writing by the Local Planning Authority. Development shall only be carried out in accordance with the approved details.

Reason - In the interests of amenity to reduce the impact of night-time illumination on the character of the area and upon residents living close to the site.

6. No development shall be commenced until precise details of the manufacturer and types and colours of the external facing and roofing materials to be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.

Reason - The application site is publicly visible and therefore suitable materials are required in order to maintain the character and appearance of the countryside location of the site.

7. Notwithstanding the submitted details, no development shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2005 - Trees in Relation to Construction."

Reason - The site lies in the countryside and it is considered an essential part of the development to retain and reinforce landscaping of the site to safeguard the countryside character.

8. All changes in hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die, are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to a variation of the previously approved details.

Reason - To ensure that the approved landscaping scheme is provided and maintained for an appropriate period in the interests of the visual amenity and character and appearance of the countryside.

9. Prior to the commencement of the proposed development, details of an on site parking facility for construction workers and vehicles, a loading and unloading area for demolition and construction materials and a turning facility suitable for the largest vehicle attracted to

or generated by the sites activities during the demolition and construction phases being provided entirely clear of the limits of the highway, shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure that on-street parking of these vehicles in the adjoining streets does not occur, in the interests of highway safety.

10. Prior to the commencement of the proposed development, details of a wheel and underbody cleaning facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority and that facility shall be maintained during the periods of demolition / construction.

Reason - To ensure that loose materials and spoil are not brought out onto the highway, in the interests of highway safety.

11. Prior to commencement of the proposed development, loading, off-loading and manoeuvring facilities for service and delivery vehicles, the details of which shall be approved in writing by the Local Planning Authority, shall be provided within the site and shall be maintained free from obstruction at all times for that sole purpose.

Reason - To ensure that the adjoining highway is not obstructed by servicing activity, in the interests of highway safety.

12. Prior to commencement of the proposed development, car parking facilities for employees and visitors, in accordance with a scheme to be approved in writing by the Local Planning Authority, shall be provided and maintained for that sole purpose.

Reason - To ensure that on-street parking of vehicles in the adjoining streets does not occur, in the interests of highway safety.

13. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (1) to (4) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (4) has been complied with in relation to that contamination.

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,

- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(2) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(3) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (1), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (2), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (3).

(5) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 2 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy COM10 of the adopted Tendring District Local Plan (2007).

Reason for approval:

This proposal is for a new building to replace existing buildings that have lawful use for business purposes, including retail sales. The main policy considerations are QL9, QL11, ER7 and EN1 of the Tendring District Local Plan (2007) and the guidance in PPS4. The proposed building would have some impact on the locality, but having taken into account the poor condition and appearance of the existing buildings and the lawful use of the site for car breaking and repairs, and the quality and design of the proposed building the Local Planning Authority considers, on balance, that the proposal is acceptable subject to compliance with the conditions attached to this permission. The proposal will protect existing employment and create further employment opportunities in this rural location and would accord with the principles for economic development set out in PPS4. The development would also extinguish an un-neighbourly use that has significantly greater adverse impact on the countryside and is not subject to planning controls over its operation.

17. URGENT ITEM

PLANNING APPLICATION 11/00037/FUL – LAND ADJ. 142 HARWICH ROAD, MISTLEY – CONSTRUCTION OF 15 AFFORDABLE RURAL DWELLINGS WITH ASSOCIATED PARKING, CARPORTS, CYCLE STORES AND NEW VEHICULAR ACCESS

The Committee was informed that a further extension of time for completion of a legal agreement was required until 18 November 2011 (minute 22, 28/6/11 and minute 51, 23/8/11 referred).

It was moved by Councillor Johnson, seconded by Councillor McLeod and:-

RESOLVED – That the time be extended accordingly.

18. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

19. SUB-COMMITTEES OF THE LICENSING AND REGULATORY COMMITTEES AND THEIR CHAIRMEN AND VICE-CHAIRMEN

To avoid the need for formal meetings of the Licensing and Regulatory Committees to be

held to appoint their Sub-Committees and the Chairmen and Vice-Chairmen of those Sub-Committees:-

It was moved by Councillor Stock, duly seconded and:-

RESOLVED – (a) That the Appeals Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Aldis
Councillor Bragg
Councillor S A Honeywood
Councillor Nicholls
Councillor Platt
Councillor Simons

(b) That Councillor S A Honeywood be elected Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(c) That Councillor Platt be appointed Vice-Chairman of the Appeals Sub-Committee for the 2011/2012 Municipal Year.

(d) That the Licensing (General Purposes) Sub-Committee be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor Casey
Councillor De-Vaux Balbirnie
Councillor Downing
Councillor Fawcett
Councillor V E Guglielmi
Councillor Powell
Councillor Pugh
Councillor Skeels

(e) That Councillor Downing be elected Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(f) That Councillor Fawcett be appointed Vice-Chairman of the Licensing (General Purposes) Sub-Committee for the 2011/2012 Municipal Year.

(g) That Premises/Personal Licences Sub-Committee 'A' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows, with the appointment of a third member from the Labour Group, which appointment to be dealt with by the Chief Executive in accordance with the authority delegated to him to appoint a member at the request of the Group Leader:-

Councillor Downing
Councillor Powell

(h) That Councillor Downing be elected Chairman of the Premises/Personal Licences Sub-Committee 'A' for the 2011/2012 Municipal Year.

(i) That Premises/Personal Licences Sub-Committee 'B' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor V E Guglielmi
Councillor G L Mitchell
Councillor Shearing

(j) That Councillor V E Guglielmi be elected Chairman of the Premises/Personal Licences Sub-Committee 'B' for the 2011/2012 Municipal Year.

(k) That Premises/Personal Licences Sub-Committee 'C' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows:-

Councillor De Vaux-Balbirnie
Councillor Fawcett
Councillor Platt

(l) That Councillor Platt be elected Chairman of the Premises/Personal Licences Sub-Committee 'C' for the 2011/2012 Municipal Year.

20. TENDRING DISTRICT LOCAL PLAN PREFERRED OPTIONS CONSULTATION

Council's approval was sought in respect of the Tendring District Local Plan Preferred Options Consultation.

The Local Plan Committee had considered the consultation document at its meeting held on 9 June 2016 and Council had before it the Committee's recommendations.

Council also had before it a report of the Head of Planning Services which informed Members of major as well as minor changes to the consultation documents in order to make the Plan up-to-date prior to public consultation and to be consistent in not allocating sites for housing which had been refused permission. Some of those changes were a result of decisions made by the Planning Committee at its meeting held on 14 June 2016. The changes had been made to the Plan attached as Appendix A to the report of the Head of Planning Services and a schedule of those changes was provided in Appendix C thereto.

Members had had circulated to them prior to the commencement of the meeting amended maps in relation to Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland. Those maps had been altered as a result of the recent refusal of related planning applications.

Councillor Stock, Chairman of the Local Plan Committee, thanked the Members of that Committee and the Officers, particularly the Head of Planning Services (Cath Bicknell) and the Planning & Regulation Manager (Simon Meecham), for their hard work and dedicated effort in getting the Local Plan to its current position. He also thanked the members of the public and representatives of parish councils who had participated in the public speaking scheme at meetings of the Local Plan Committee.

Councillors Stock, Turner, Scott, Winfield, Parsons, Stephenson, Calver, Bray, V E Guglielmi, Howard, G V Guglielmi, Coley, Broderick and M Brown participated in the debate.

It was moved by Councillor Stock, seconded by Councillor Turner and RESOLVED that Council:

(a) approves the content of the Tendring District Local Plan Preferred Options consultation document, attached as Appendix A to the Report of the Head of Planning Services, which incorporates the changes set out in Appendix C thereto and including the amended maps for Great Bentley and Frinton, Walton, Kirby-le-Soken, Kirby Cross and Great Holland, as circulated, for public consultation for a period of eight weeks;

(b) delegates authority to the Head of Planning Services, in consultation with the Chairman

of the Local Plan Committee, to make minor amendments to the text of the Local Plan consultation documents up to the point of publication for consultation purposes. Such amendments are to be circulated to all Members of the Council prior to the commencement of the public consultation; and

(c) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to agree the content of the Sustainability Appraisals for the Local Plan Consultation Documents for public consultation for a period of six weeks. The content of the Sustainability Appraisals are to be circulated to all Members of the Council prior to the commencement of the public consultation.

NOTES: (1) in accordance with the provisions of Council Procedure Rule 18.5, Councillors Bray, Broderick, Parsons and Whitmore each requested that they be recorded in the minutes as having voted against the above decisions; and

(2) in addition, Councillor G V Guglielmi requested that he be recorded in the minutes as having abstained from voting on the above decisions.

21. URGENT MATTERS FOR DEBATE

There were none on this occasion.

22. URGENT MATTERS FOR DEBATE

There were none on this occasion.

Chairman