
PREMISES/PERSONAL LICENCES SUB-COMMITTEE B

9 MARCH 2011

Present:- Councillor A J Mitchell (Chairman), Councillor D J Casey, Councillor D Oxley

Stand-by Member:- Councillor Powell

Also Present:- Councillor De-Vaux Balbirnie (except item 4 part))

In Attendance:- Assistant Head of Technical and Procurement Services (Parking Services), Solicitor (WRR), Licensing Officer, Senior Democratic Services Officer, Assistant Licensing Officer.

10.00 a.m. - 12.40 p.m.

3.. MINUTES OF THE MEETING OF THE SUB-COMMITTEE HELD ON 27 SEPTEMBER 2010 (PREVIOUSLY DISTRIBUTED)

The minutes of the meeting of the Sub-Committee held on 27 September 2010 were approved as a correct record and signed by the Chairman.

4. LICENSING ACT 2003 - APPLICATION NO. 11/00024/PREMGR - GRANT OF A PREMISES LICENCE - FEISTY FLANAGAN'S, 65 WEST STREET, HARWICH

The Sub-Committee had before them for their consideration an application that had been submitted by Whitewebs UK Limited for the grant of a Premises Licence in respect of the above premises.

The Chairman welcomed all those persons present to the meeting and outlined the procedure that would be followed during the hearing.

Members were made aware of the details of the licensable activities applied for and the steps that the applicant proposed to take to promote the licensing objectives, as set out in the application and as summarised in Sections 4.0 and 5.0, respectively, of item A.1 of the Report of the Head of Legal Services and Monitoring Officer.

The Sub-Committee were informed that the application had been advertised by the display of a notice on the premises and in the local press. It was formerly reported that a representation had been received from the Acting Head of Environmental Services on the grounds that the licensing objectives in respect of the promotion of public safety and the prevention of public nuisance had not been satisfied. However, after discussions the Acting Head of Environmental Services had submitted four proposed conditions to the applicant for agreement which the Acting Head of Environmental Services felt would satisfy the requirements of the afore-mentioned licensing objectives. Two of those proposed conditions had been accepted by the applicant and would therefore be imposed on the Premises Licence should the application be granted by the Sub-Committee. The two conditions in question were as follows:-

1. There shall be no provision of boxing or wrestling entertainment as regulated entertainment on the premises.
2. The provision of live music, dancing and anything of a similar description as regulated entertainment shall start at 10.00 hours.

The other two proposed conditions had not been accepted by the applicant and therefore the representation from the Acting Head of Environmental Service remained valid.

It was further reported that nine letters of representation had been received from local residents on the grounds that the licensing objective for the prevention of public nuisance had not been satisfied.

The Sub-Committee were advised that the applicant, the Acting Head of Environmental Services and the objectors had been invited to attend the meeting to put their respective cases.

Members were made aware that Mr Flack and Mr Webb were present at the meeting to speak in support of the application and that Mr Wilkins was present at the meeting to speak on behalf of the Acting Head of Environmental Services.

The Sub-Committee were informed that several objectors were present at the meeting and that some objectors had been unable to attend.

In the light of the above it was thereupon:-

RESOLVED – That the case be heard in the absence of Mr Yates, Mr Haddow and Mr Fulger but that their representations be considered in accordance with Section 20(3) of the Licensing Act 2003 (Hearings) Regulations 2005.

Mr Flack addressed the Sub-Committee in support of the application and answered questions raised by Mr Dale, Mrs Dale, Mrs Goodall and Mrs Yates and by members of the Sub-Committee.

Mr Dale then addressed the Sub-Committee as a spokesperson on behalf of the members of the public who had raised representations on the application and he answered questions raised by members of the Sub-Committee.

Mr Wilkins, on behalf of the Acting Head of Environmental Services, then addressed the Sub-Committee in respect of his Department's representation on the application and answered questions raised by members of the Sub-Committee.

Following closing statements by Mr Dale and Mr Flack it was:-

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 will be deliberating and considering its decision on the grounds that such deliberations involve the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A of the Act.

Members thereupon retired to deliberate and consider their decision. The Solicitor was asked to retire with them to advise on the legal position.

Following such deliberations the meeting was re-opened to the public. The Solicitor confirmed to all parties present that he had given no specific legal advice to members during their retirement.

It was thereupon moved by Councillor Casey, seconded by Councillor D Oxley and:-

RESOLVED – That the decision of the Sub-Committee is as follows:-

The Sub-Committee has given careful consideration to this application. In reaching our decision we have taken into account the views expressed by the applicants, the

representations received from local residents and the Council's Acting Head of Environmental Services along with the guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

The Sub-Committee does not agree to grant all the hours for licensable activities applied for. The hours for licensable activities that are not agreed are as follows:-

(a) The opening hours of the premises shall be 08.00 – 0030 hours on Monday to Sunday and not as applied for.

(b) All licensable activities applied for shall cease at 00.00 hours on Monday to Sunday and not as applied for.

(c) The non-standard timings applied for shall remain unchanged.

Reason – The Sub-Committee has not granted the applied for hours in respect of the opening hours of the premises on Friday and Saturday and in respect of the finishing time for all licensable activities on Friday and Saturday in the interests of the prevention of public nuisance. The Sub-Committee believed that these changes will reduce noise and disturbance and the loss of public amenity for the residents living in the vicinity of the premises.

However, subject to the above, the Sub-Committee has decided to grant the remainder of this application. In addition to any mandatory conditions and any conditions that are consistent with the operating schedule the following conditions will be imposed in order to satisfy the relevant licensing objective:-

In respect of the licensing objective for the prevention of public nuisance:-

(1) There shall be no provision of late night refreshment or the consumption of alcohol in the rear courtyard after 23.00 hours.

Reason – There are concerns that if patrons used the rear courtyard, other than for the purpose of smoking after 23.00 hours it could impact on the noise nuisance suffered by residents.

(2) The holder of the Premises Licence and staff shall ensure that all persons departing from the premises shall conduct themselves in such a manner to avoid causing nuisance and disturbance to occupiers of properties and residents in the vicinity during times that the Licence is in use.

Reason – The Sub-Committee have imposed this condition to try and lessen noise and disturbance and the loss of public amenity for the residents living in the vicinity of the premises.

In respect of the licensing objective for the protection of children from harm:-

(3) The premises will adopt the "Challenge 25" Policy and adhere strictly to this policy at all times that the Licence is in use.

Reason – The Sub-Committee had imposed this condition in order to minimise the risk of underage sales of alcohol to children.

The decision will be confirmed in writing to all parties and they will also be informed that they will have the right of appeal to the Magistrates' Court within a period of 21 days beginning with the day the applicant is notified of the decision by notice.

5. DECLARATIONS OF INTEREST

There were none.

6. LICENSING ACT 2003 - APPLICATION NO: 15/00293/PREMGR - APPLICATION FOR THE GRANT OF A PREMISES LICENCE - NEWSTREND, COLCHESTER ROAD, ARDLEIGH, COLCHESTER, ESSEX CO17 7NP

The Chairman welcomed all those persons present to the meeting, introduced the Sub-Committee members and outlined the procedure that would be followed.

The Sub-Committee had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director (Public Experience), an application that had been submitted by Mr Huseyin Dogus for the grant of a new Premises Licence in respect of the above premises.

The Council's Licensing Manager (Simon Harvey) briefed the Sub-Committee on the application being considered and summarised the salient points of the application including, principally, that the Applicant was applying for a Premises Licence to include the sale of alcohol off the premises only from Monday to Sunday, between the hours of 8.00am and 11.00pm.

He advised Members that eleven letters of representation in total had been received from residents and that Ardleigh Parish Council had also objected to the application submitted. Mr Harvey said the representations predominantly expressed concerns about the potential for disturbance and public nuisance that may arise from the proposed opening hours of the premises and also the sale of alcohol, both of which would terminate at 23.00 hours (11.00 p.m.).

Mr Harvey added that the representations expressed concerns about noise, disturbance and antisocial behaviour from customer car doors slamming, car parking and road safety issues and form litter and youths congregating outside the shop or in that locality late at night. A number of objectors also wished to see a reduction in the closing time of the shop from anywhere between the hours of 7.00pm to 9.00pm and earlier on a Sunday and amending its opening time from 6.00am to 7.00am.

In addition, he informed the hearing that Essex Police had advised that it had no objection to the application and there had been no representations received from any other Responsible Authority entitled to make a representation under the Licensing Act 2003.

The applicant's agent, Mr Mahir Kilic, spoke on behalf of the applicant and said that Mr Dogus was prepared to amend his application of opening hours Monday to Saturday, 0600 to 2100 and Sunday 0600 to 1900, with the sale of alcohol from Monday to Saturday 0800 to 2100 and Sunday 0800 to 1900. Mr Kilic said that the shop needed to open at 0600 as the shop sold newspapers. He also advised that the applicant had emailed the residents who had expressed their concern over the opening hours to advise them of the agreement to reduce the hours of opening. Mr Kilic further informed the Sub-Committee that Mr Dogus' home address was now in Mistley and not as stated on the application which meant he only lived four miles from the shop. He added that Mr Dogus was experienced in the sale of alcohol for a number of years and his business partner, who was also experienced in the sale of alcohol, was willing to work with Mr Dogus to ensure that the concerns of local residents were met.

Councillor Platt asked if there had been any representations from the Ward Member, Mr

Harvey said he had received none. He also asked if the applicant had advised the objectors of the change of hours and was informed by Mr Kilic that he had spoken to one who had been satisfied with the offer of reduced hours. Councillor Platt asked about the proposal in the application to only have six people in the shop at any one time, and Mr Kilic said it was a condition he would rather have not made but he felt it would help the application if it was offered.

Councillor White asked if Mr Dogus' business partner had a licence to sell alcohol and was informed that he did.

The Chairman then invited the objectors' representatives to make their representations to the Sub-Committee. Mr and Mrs Pugh informed the Sub-Committee that they lived adjacent to the shop with a driveway that was used by drivers of seven cars and they had experienced problems with delivery lorries and customer vehicles blocking the drive, this prevented access and egress to the residents' properties. Mrs Pugh said that they were happy with the applicant's offer of reduced hours.

Mr Tim Barrett, on behalf of Ardleigh Parish Council, spoke in favour of the offer of reduced hours and informed the Sub-Committee he had yet to receive official notification of the reduced opening hours of the shop. He added that he was more than happy to welcome Mr Dogus to the village.

Councillor Winfield asked the objectors if they had tried having a notice informing delivery lorries and customers of the need not to block the driveway and was informed that notices had been tried over the last five years, but ignored and he had himself been unable to get off his drive with vehicles blocking his driveway. Councillor Winfield suggested it might be appropriate for the shop owner to have a word with his delivery drivers.

Councillor White looked at map of the location of the shop and commented that he could see how there could be a problem with parking.

Mr Kilic then summed up the application on behalf of Mr Dogus by informing the Sub-Committee that there would be two members of staff in the shop at all times with a third member of staff to be employed. He agreed that Mr Dogus would speak to delivery drivers to ensure that the driveway was not blocked to avoid any disturbance to neighbours.

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 Democratic Services Officers were asked to accompany Members to record the decision.

Following such deliberations, other Officers and members of the public were readmitted to the meeting.

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

"The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the views expressed by the applicant, the representations received from concerned residents along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

The decision of the Sub-Committee is to grant this application in full, subject to the imposition of certain conditions.

In addition to any Mandatory conditions; any conditions that are consistent with the Operating Schedule the following conditions will apply in order to satisfy the relevant Licensing Objective:

- In respect of the Licensing Objective for The Prevention of Crime and Disorder it was agreed that the condition of limiting six people in the shop at any one time be amended to read "limiting six members of the public in the shop at any one time in addition to three members of staff".

- In respect of the Licensing Objective for The Prevention of Public Nuisance:

1. The Sub-Committee welcomed the reduction of shop opening hours and the reduction of hours for the off-sales of alcohol; and

2. The Sub-Committee noted the willingness of the applicant to listen to local residents and to work with them to minimise the nuisance of parking across the driveway access.

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 within a period of 21 days beginning with the date the Applicant is notified of the decision by notice."

In addition, the Chairman said that the Sub-Committee welcomed Mr Dogus to Tendring to become part of the local community.

7. LICENSING ACT 2003 – APPLICATION NO: 15/ 00078/PREMVA – APPLICATION FOR THE GRANT OF A PREMISES LICENCE – THE PINK PALACE HOTEL, 11-13 MARINE PARADE EAST, CLACTON-ON-SEA, CO15 1PS

The Sub-Committee had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director (Public Experience), an application that had been submitted by the Pink Palace Hotel Ltd, for the grant of a Premises Licence in respect of the above premises.

The Council's Licensing Manager briefed the Sub-Committee on the application being considered, summarised the salient points of the application including, principally, that it sought permission to allow the sale of alcohol, the provision of late night refreshment and the provision of regulated entertainment, as detailed in Section 3.0 of item A.1 to the report. Mr Harvey informed all parties present that the application, operating schedule and the location plan were set out in full on pages 16 to 33 of the report and that the premises was described in the report as: "a hotel with nine holiday letting apartments and eight bed and breakfast rooms. They have a small residential bar for customers staying at the hotel and would like to sell alcohol inside the premises and music being played for entertainment background noise (amplified)."

The Applicant had also put that they would like to open all year round and did not want to be classified as a pub as they will be having a tearoom, restaurant and bar."

He also advised the Sub-Committee that seven letters of representation had been received from local residents, which objected to the application and which were set out in full on pages 34 to 40 of the report. The Licensing Manager felt that it would be reasonable and proportionate to sum up that all seven letters had expressed concerns about the potential noise from customers using the small patio area late at night and the potential for noise escape from music and customer noise from inside the hotel if the patio doors were left open. A number of the representations sought a reduction in the hours that the patio area

could be used from 23.00 to 22.00 hours, or that the patio area should not be allowed to be used. Concerns had also been expressed about the terminal hour for regulated entertainments of recorded and live music.

Mr Harvey informed all parties present that Essex Police and Essex County Council's Safeguarding Service had each advised that they had no objections to the application and that there had been no other representations received from any other Responsible Authority entitled to make representation under the Licensing Act 2003, including the Planning Authority, the Environmental Health Authority and the Fire and Rescue Service.

The Licensing Manager also drew the Sub-Committee's attention to the relevant parts of the Council's Statement of Licensing Policy and Home Office Section 182 Guidance in respect of the application, which were set out in the Officers' written report on pages 13 and 14.

Mrs Charmaine Gibson, the Manager of the Hotel, her father, Mr Gibson and Ms Louise Moore, the Designated Premises Supervisor, spoke in support of the application with opening remarks, referring to the application and variously stated in general terms that:

- (i) The garden area would not be used after 23.00 hours when the patio doors would be closed and smokers would be requested to go outside the front of the premises;
- (ii) The premises would be run as a family-friendly hotel and would not be open to non-residents, with the exception of occasional privately-booked parties such as weddings; and
- (iii) Mrs Gibson lived on the ground floor of the premises with two young children and shared the representatives' concerns about noise.

Mr Brian Crooks, Mr Chris Greenslade and Mrs Edmonds, representatives, asked questions of the Applicants in respect of: (1) why had the garden area been included in the application; (2) how would the level of live music be kept under control; and (3) why were there extra permissions on the Licence and, if they were not needed, could these be excluded.

In response, the Applicants said that: (1) the garden area had been included for the benefit of hotel patrons who may wish to take alcohol out into the garden during the daytime. The doors to the patio area would be kept closed at night though it was a designated fire escape route; (2) Live music would only be used on infrequent occasions, such as weddings; and (3) The extra permissions were required for special occasions, such as weddings and New Year's Eve celebrations. Neighbours would be informed in advance when a special event was to take place.

Councillor Casey asked questions of the applicants in respect of: (1) what security was there in place to prevent the public (who may be inebriated) from entering the Hotel in the evenings; and (2) what was there in place to prevent noise pollution from live music events.

In response, the Applicants said that: (1) the Hotel would not be open to the general public, that friends and family of hotel guests would be signed in and recorded in a Visitors' Book and would be required to leave if they caused a problem; and (2) the building was insulated and there was double-glazing installed and the sound levels would be kept low as part of the Hotel's family-friendly policy.

Councillor Pugh asked the Applicants about amplified music at the premises, to which, the response was that there were only two speakers in the premises and the sound level would be kept down as the Applicants shared residents' concerns about loud noise and antisocial behaviour arising from other local premises.

Councillor Powell asked questions of the Applicants in respect of: (1) who would use the garden area; (2) would noise emanate from the premises; (3) were the staff appropriately trained; (4) what ventilation was there in the premises; (5) how many people could use the garden area at any one time; (6) why had the Applicants applied for so much on the Licence; (7) why were the Applicants applying to sell alcohol off the premises; and (8) what provision was there for parking cars.

In response, the Applicants said that: (1) Guests who chose to smoke, and only in the evenings. If they created too much noise then they would be required to go outside the front of the Hotel; (2) only whilst the patio doors were open for ingress and egress; otherwise the doors would be kept closed; (3) Yes; (4) air vents, ceiling mounted extractor fans and extractor fans on lights; (5) Not many, as the garden area was small; (6) they had followed the advice given by the Licensing Authority to submit the application so that they did not have to submit Premises Licence Variation Applications or Temporary Event Notices every time the Hotel held a private event, which would be an extra expense; (7) No intention to sell to the general public and only needed in order to sell alcohol to a guest who, for example, may have chosen to go out for the day; and (8) Nine spaces at the front of the building.

In response to question (6) above, the Licensing Manager reminded Members that the ethos of the Licensing Act 2003 was that it was permissive and that guidance encouraged applicants to apply for what they might conceivably want on the Licence and not necessarily what they would use and avoid the need for an extra expense of Premises Licence Variation Applications.

Councillor Pugh and Councillor Casey asked questions of the Licensing Manager in respect of: (1) why the supplier of the fruit machine also supplied the licence; and (2) did the public have a general right to enter a hotel.

In response, the Licensing Manager said that: (1) this was standard practice; and (2) this was down to the policy of the individual hotel.

Mr Brian Crooks, Mr Chris Greenslade and Mrs Edmonds then spoke in respect of their representations on the application, which included the following concerns:

- (i) That the front of the Hotel was not so good for people wishing to smoke, due to the cars being parked there;
- (ii) The rear garden area being used at night and the potential for noise;
- (iii) That any general public were allowed in;
- (iv) That if the current owners of the Hotel left and sold-up; would any new owner automatically be granted the licence with all its permissions?;
- (v) If it was the case that no review process could be initiated until a licence condition was breached;
- (vi) That making a noise complaint to Environmental Services was a long-winded process; and
- (vii) That, other local hotels could be disturbed by noise arising from The Pink Palace.

In response to some of the issues raised above, the Licensing Manager informed all parties present that:

- (i) The transfer of a Premises Licence was a simple process, whereby all existing

permissions and restrictions were automatically transferred and that only Essex Police could object to a Transfer application;

(ii) The review process was in place as a safeguarding mechanism, which could be initiated by the Licensing Authority, the Responsible Authorities and the public. An alleged breach of a licence condition or alcohol related anti-social behaviour or crime and disorder emanating from a licensed premises could trigger a review but also so could a complaint about ongoing noise issues for example. Noise complaints to the Council's Environmental Services required evidence to back-up the complaint such as through the keeping of a diary of the dates and times of the disturbance. In respect of the review process, this was a publicly advertised process to enable other interested parties to be part of the review if they had also been affected by noise or crime, for example; it was a shorter procedure than making a statutory noise complaint but also required evidence to support it; and

(iii) There had been no objections received to the application from the neighbouring Hotels.

The Chairman then asked the Applicants if they wished to sum up their application by way of a closing statement. They stated that they were happy for residents to contact them to discuss any issues and would be happy to provide a contact telephone number to the residents so that they could do so easily and directly. The Chairman then stated that if there were no other points and all parties were happy that they had said what they wanted to say, then Members would now leave the room whilst they considered their decision. All parties indicated that they had said all they wanted to say.

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 Senior Democratic Services Officer were asked to accompany Members to give advice on any legal points 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. In reaching our decision, we have taken into account the views expressed by the Applicant, the representations received from concerned residents along with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy.

The decision of the Sub-Committee is to grant this application, subject to the imposition of certain conditions.

In addition to any mandatory conditions and any conditions that are consistent with the Operating Schedule, the following conditions will apply in order to satisfy the relevant Licensing Objective.

In respect of the Licensing Objective for the Prevention of Public Nuisance, the rear garden area shall not be used by patrons of the premises, or their guests, after 22.30 hours, at which time the patio doors will be kept closed.

Reason:

This condition has been imposed in order to help protect the amenities of local residents and prevent public nuisance. The decision will be confirmed in writing to all parties and they will also be informed that they have a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the Applicant is notified of the decision by notice."

8. LICENSING ACT 2003 - APPLICATION NO: 12/00481/PREMVA APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - HARRY'S BAR, HIGH STREET, THORPE-LE-SOKEN, ESSEX

The Sub-Committee had before it for consideration, an application that had been submitted by Mr Raymond Dowsett, for the variation of the current Premises Licence held in respect of the above premises.

The Chairman welcomed all those persons present to the meeting and outlined the procedure that would be followed during the hearing.

Members were made aware of the details of the variation applied for and the steps that the Applicant proposed to take to promote the Licensing Objectives, as set out in the application, and as summarised in Sections 4.0 and 5.0, respectively, of item A.1 to the Report of the Head of Public Experience.

It was reported that the Department of Public Experience (Food, Health & Safety) had expressed the opinion that there was the potential for the Licensing Objective in respect of the Prevention of Public Nuisance not being met. Therefore a representation had been received regarding concerns of possible noise nuisance to residents in the vicinity of the licensed premises.

However, following discussions with the Applicant, this representation had been withdrawn, subject to the following conditions being attached to the Licence insofar as these related to the prevention of public nuisance:-

1. The provision of live music as regulated entertainment shall start at 12.00 hours.
2. The provision of recorded music as regulated entertainment shall finish at 01.00 hours.
3. The performance of dance as regulated entertainment shall start at 12.00 hours and finish at 01.00 hours.
4. The provision of late night refreshment shall finish at 01.00 hours.
5. The hours the premises are open to the public shall finish at 01.00 hours.
6. The consumption of alcohol within the rear patio area shall finish at 23.30 hours.
7. There shall be no provision of live music as regulated entertainment outdoors.

Fourteen letters of representation on the grounds of public nuisance had been received from local residents and six letters from local residents had been received in support of the application.

The Applicant's agent, Mr Jonathan Smith, spoke in support of the application

Mr Steve Overy and Mrs Stephanie Durrant spoke on behalf of the objectors with opening remarks, and a number of objectors also raised their concerns and asked questions.

Mr Smith then responded to the questions raised by the objectors.

Witnesses for the Applicant also spoke with regard to the application.

Mr Ian Wilkins, Environmental Health Officer, spoke on behalf of the Council's Public Experience Department.

Mrs Durrant summed up on behalf of the objectors.

Mr Smith summed up on behalf of the Applicant.

EXCLUSION OF PRESS AND PUBLIC

The Sub-Committee:

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 of the Act.

Members withdrew from the meeting to deliberate and consider their decision. The Solicitor and the Clerk were asked to accompany them to advise on any legal points raised and to record the decision.

Following the deliberations the public were re-admitted to the meeting. The Chairman advised that the Solicitor had given no specific legal advice to Members during their deliberations.

It was moved by Councillor Colbourne, seconded by Councillor Caines and:

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

Having given careful consideration to the application and having had regard to the views expressed on behalf of the Applicant and the representations made, together with the Guidance issued by the Secretary of State and other matters set out in the Licensing Authority's own Statement of Licensing Policy, the decision of the Sub-Committee was to grant the application in full with the following conditions attached to the Licence:-

1. The provision of live music as regulated entertainment shall start at 12.00 hours, being a condition relating to the prevention of public nuisance.
2. The provision of recorded music as regulated entertainment shall finish at 01.00 hours, being a condition relating to the prevention of public nuisance.
3. The performance of dance as regulated entertainment shall start at 12.00 hours and finish at 01.00 hours, being a condition relating to the prevention of public nuisance.
4. The provision of late night refreshment shall finish at 01.00 hours, being a condition relating to the prevention of public nuisance.
5. The hours the premises are open to the public shall finish at 01.00 hours, being a condition relating to the prevention of public nuisance.
6. The consumption of alcohol within the rear patio area shall finish at 23.30 hours, being a condition relating to the prevention of public nuisance.

7. There shall be no provision of live music as regulated entertainment outdoors, being a condition relating to the prevention of public nuisance.

The Chairman advised that the Sub-Committee appreciated that Condition 7 would no longer be effective from 1 October 2012, following which it was noted that the applicant had agreed to limit such events to no more than 12 per annum.

The decision would be confirmed in writing to all parties and they would also be informed that they had a right of appeal to the Magistrates' Court within a period of 21 days beginning with the date the Applicant was notified of the decision by notice.

9. ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT

There were none.

10. 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.

11. ADJOURNMENT

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

12. 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.

13. 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.

14. 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.

15. (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.

16. 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.

17. 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.

18. 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.

19. 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.

20. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

21. 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.

22. 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.

23. URGENT MATTERS FOR DEBATE

There were none on this occasion.

24. URGENT MATTERS FOR DEBATE

There were none on this occasion.

Chairman