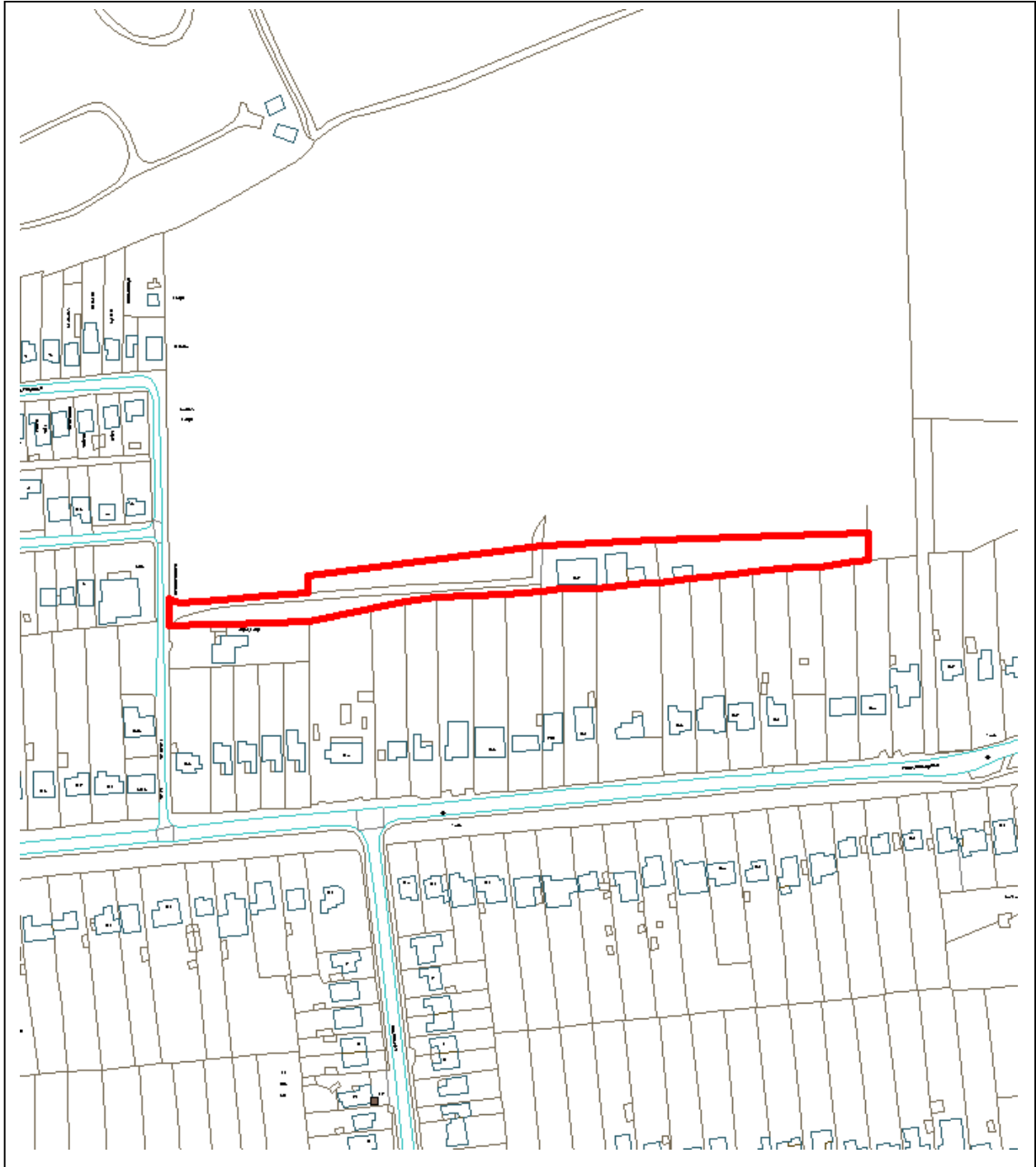


DEVELOPMENT CONTROL COMMITTEE

25 JANUARY 2011

REPORT OF THE INTERIM HEAD OF PLANNING

A.4 PLANNING APPLICATION – 10/00933/FUL – ANNEXE AT 262 POINT CLEAR ROAD, ST OSYTH



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Application:	10/00933/FUL	Town / Parish:	St Osyth Parish Council
Applicant:	Mr William Parsons		
Address:	Annexe at 262 Point Clear Road St Osyth		
Development:	Change of use of swimming pool conversion for residential use.		

1. Executive Summary

- 1.1 This proposal to create a dwelling outside of the settlement limits is contrary to the Development Plan, erodes the countryside and is harmful to its appearance. This is of particular concern in view of the site's location within the defined Coastal Protection Belt. Occupiers would be dependant on private motor vehicle to access essential shops and services and as such, the site is in an unsustainable location for a dwelling house.
- 1.2 Three previous planning applications to retain the use of this building as a dwelling have been refused by the Council. An enforcement notice has been served and an appeal against both the imposition of the enforcement notice and against the refusal of planning applications was dismissed. The appellant's continued failure to comply with the requirements of the enforcement notice has resulted in legal action being taken by the Council. This planning history is a material consideration that must be given significant weight. There is no material change in the planning context that would cause a different decision to be taken than that which has previously been taken. As such, it is recommended that Members refuse this application.

Recommendation: Refuse

Reason for refusal:

It is the policy of the Local Planning Authority, as contained within Policies QL1 and HG1 of the Tendring District Local Plan (2007), that proposals for new residential development outside the defined housing settlement limits will not normally be permitted. Policies QL9 and EN1 seek to ensure that development is appropriate to its locality and does not harm the appearance of the landscape. Policy EN3 requires that new development in the Coastal Protection belt that does not have a compelling functional need to be located there will not be permitted. Policy QL2 states that permission will not be granted for development if it is not accessible by a choice of means of transport. This approach to countryside protection and sustainability is carried through into policies CP1, CP2, CP4, DP1 and DP5 of the Local Development Framework Core Strategy And Development Policies Proposed Submission Document (October 2010) and is further supported by government guidance in PPS1, PPS3 and PPS7.

This proposal presents an unjustified departure from the Development Plan policies restricting residential development to within the defined settlement limits. It erodes the countryside's open character and rural appearance and is harmful to the appearance of the site and to the Coastal Protection Belt. It results in increased dependence on the private motor car and as such is harmful to the interests of sustainability. For these reasons, the proposal conflicts with the requirements of all the afore-mentioned policies.

2. Planning Policy

National Policy:

PPS1	Delivering Sustainable Development
PPS3	Housing
PPS7	Sustainable Development in Rural Areas

Regional Planning Policy:

East of England Plan (2008)

ENV7	Quality in the Built Environment
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Local Plan Policy:

Tendring District Local Plan 2007

QL1	Spatial Strategy
HG4	Affordable Housing in New Developments
QL9	Design of New Development
EN1	Landscape Character
EN3	Coastal Protection Belt
QL2	Promoting Transport Choice

Core Strategy and Development Policies Proposed Submission Draft

CP10	The Countryside Landscape
CP20	Community Facilities
CP4	Transport and Accessibility
CP10	The Countryside Landscape
DP5	Landscape Impacts

3. Assessment

The main planning considerations are:

- Background and planning history;
- The Principle of Residential Development;
- Objections and Parish Comments; and,
- Applicant's arguments in support of the application.

Background and planning history.

- 3.1 No. 262 is a small-detached bungalow located about 100 metres north of Point Clear Road and behind the rear gardens of the properties that front the road. The site is outside the settlement limits and within an area defined by the Local Plan as Coastal Protection Belt. Open ground to the north slopes down to the creek. The property is accessed via a long concrete track from Oakmead Road, an unmade road off Point Clear Road.
- 3.2 262 Point Clear Road is occupied by the applicant, Mr Parsons. Approximately 5 metres behind 262 Point Clear road is a second building that is rented out by the applicant as a dwelling house. It is the use of this building that is the subject of this planning application. The building is single-storey and measures 13 metres by 8 metres with a double garage attached. It was built in 1991 as a swimming pool ancillary to the bungalow, however, the swimming pool was later filled in and the building used as residential accommodation.
- 3.3 The planning history affecting this building is extensive and complicated, but is relevant to this application. Planning application 99/01883/FUL applied for the '*Conversion of swimming pool building to form annexe for use as disabled persons accommodation*'. The Council had decided that planning permission could be granted subject to a Section 106 agreement requiring that only Mr John Parsons (the disabled person in question) and his carer could live at the unit and that upon the cessation of occupancy by those persons, the unit would revert to use as ancillary accommodation to the detached bungalow. The draft Section 106 agreement did not find favour with Mr Parsons who found it too restrictive. Consequently the application was refused. A subsequent application (01/01680/FUL) for '*Swimming pool conversion, annexe for use as disabled accommodation*' was also refused.
- 3.4 The Council issued an enforcement notice on 4/3/2002 requiring that Mr Parsons 'stop using the swimming pool building as a dwelling'. This enforcement notice together with the two planning application decisions was appealed in 2002. All three appeals were dismissed on 1/7/2002 on the grounds of harm to the appearance of the countryside and conflict with Council's policies that sought to safeguard coastal land and direct new residential development to settlements.
- 3.5 Despite this decision, the applicant made a further planning application (03/01751/FUL) for the '*Use of annexe for occupation of Mr J Parsons (disabled) and carer*'. Development Control Committee resolved to approve this application subject to the satisfactory completion of a legal agreement. As was the case in the 2001 application, that agreement was never completed and the application consequently remains undetermined.
- 3.6 In early 2010, The Council commenced the prosecution of Mr Parsons for his failure to comply with the requirements of the enforcement notice. This prompted further attempts by Mr Parsons to regularise the planning situation. Planning application 10/00233/FUL for the '*Conversion of swimming pool building to 2 bed bungalow*' was refused on 5/5/10 and the current application (10/00933/FUL) for '*Change of use of swimming pool conversion for residential use*' was made on 11/8/10, although the applicant did not submit the fee required to make the application valid until 17/12/10.
- 3.7 Although each of these previous planning applications has a different application description, each application has sought to retain the use of the former outbuilding as an independent two-bedroom dwelling house. Although the term annexe has been used by the applicant on occasions, this is not an annexe as it can and does function independently of 262 Point Clear Road.

- 3.8 An additional building is situated still further into the site. This has the appearance of a summer house but has also been occupied unlawfully as a dwelling. An enforcement notice seeking to prevent this came into effect on 12/1/11 and is currently the subject of an appeal.

The Principle of Residential Development.

- 3.9 In dismissing the applicant's appeal against the enforcement notice and planning applications in 2002, the inspector noted that two households would double the amount of parked vehicles, garden paraphernalia and domestic activity on the site. He determined that the continued use of the swimming pool building as a dwelling meant the site would be less open and the rural character of the site would be more urban. Consequently it would not protect the attractive rural appearance and quiet character of the area and would run counter to the Council's policies that seek to safeguard coastal land and direct new residential development to settlements. The Inspector also noted that no exceptional need had been demonstrated that would override such concerns.
- 3.10 Such concerns as expressed by the Appeal Inspector are at least as valid today as they were then. A raft of Local, Regional and National Policies continue to direct new dwellings (either new build or conversions) to be within the settlement limits. Policy EN3 of the Local Plan places a particular requirement for development to be located away from the Coastal Protection Belt, stating "New development which does not have a compelling functional need to be located in the Coastal Protection Belt, as defined on the Proposals Map, will not be permitted."
- 3.11 Since 2002 when the Inspector's decision was taken, the significant rise of the sustainability agenda has, if anything, added weight to the importance of resisting dwellings outside the settlement limits. Whereas previously, the primary purpose of the settlement limits was to avoid the erosion of the countryside, the current development plan ensures that settlement limits are at least as important for ensuring that residents of new dwellings have access to local services and are not dependant on cars. In this case, Point Clear itself is a settlement that is poorly equipped with local services, although it does have a bus service connecting it with St. Osyth village and Clacton-on-Sea. Locating a dwelling outside a poorly served settlement would be contrary to the interests of sustainability. To access even basic services such as schools and doctors would require a 330 metre walk to the nearest bus stop before the bus journey to access such services could even begin. Such inaccessibility would make the occupants of this dwelling dependant on private motor transport, contrary to the interests of sustainability.

Objections and Parish Comments.

- 3.12 One objection has been received. The representation claims that the development results in increased vehicular traffic along Oakmead Road. Whilst officers accept this will be the case, it is not considered that such intensification would amount to a material loss of amenity or harm to the interests of highway safety. The representation also states that the house may have been built on a site of wildlife and nature importance but does not clarify what this is. The site is not designated for such purposes and the use of the building does not in any case have the potential to cause material harm to protected species.
- 3.14 St. Osyth Parish Council have commented as follows; "The Parish Council is aware of the long and extensive history. It is believed there may have been mistakes made on procedure previously by both applicant and TDC. As a result no comment is therefore made."

- 3.14 Councillor Ron Walker has written requesting that this application is considered by the Development Control Committee and this is the reason that the application is before Members. The letter states “Please accept this as my formal application for Mr Parsons and myself to attend and address the meeting with particular regard to the questionable manner this application has progressed.”

Applicant’s arguments in support of the application.

- 3.15 Accompanying the application is a letter of support from the applicant, Mr Parsons. This letter states that “The building is legal and the conversion of the building is also legal so I just want now to obtain a change of use to be able to use the building other than ancillary. I realise that this issue has been contentious in the past but I am willing to sign an agreement to the effect that the building will always be part of the title deed of the main house and will never be able to be sold separately”.
- 3.16 The Council does not dispute the lawfulness of the original swimming pool building, nor the use of that building for purposes ancillary to 262 Point Clear Road. The previous planning applications and appeal were all refused because the building was used as a dwelling. Whether or not the title deed is changed is irrelevant. The nature of ownership does not affect the planning issues that are, and have always been, that the dwelling is outside the settlement limits and fundamentally in conflict with national and local policy. Therefore an agreement serves no planning purpose as it relates to ownership and does not address the planning issues.

Background Papers

None.

Copies of all written observations on the application before you for determination are available for inspection up to and including the date of the meeting during normal office hours at the Council Offices, Weeley. Please advise Planning Reception if you wish to see them to ensure the file is available. The file containing the observations will be available in the Council Chamber half an hour before the commencement of the meeting.