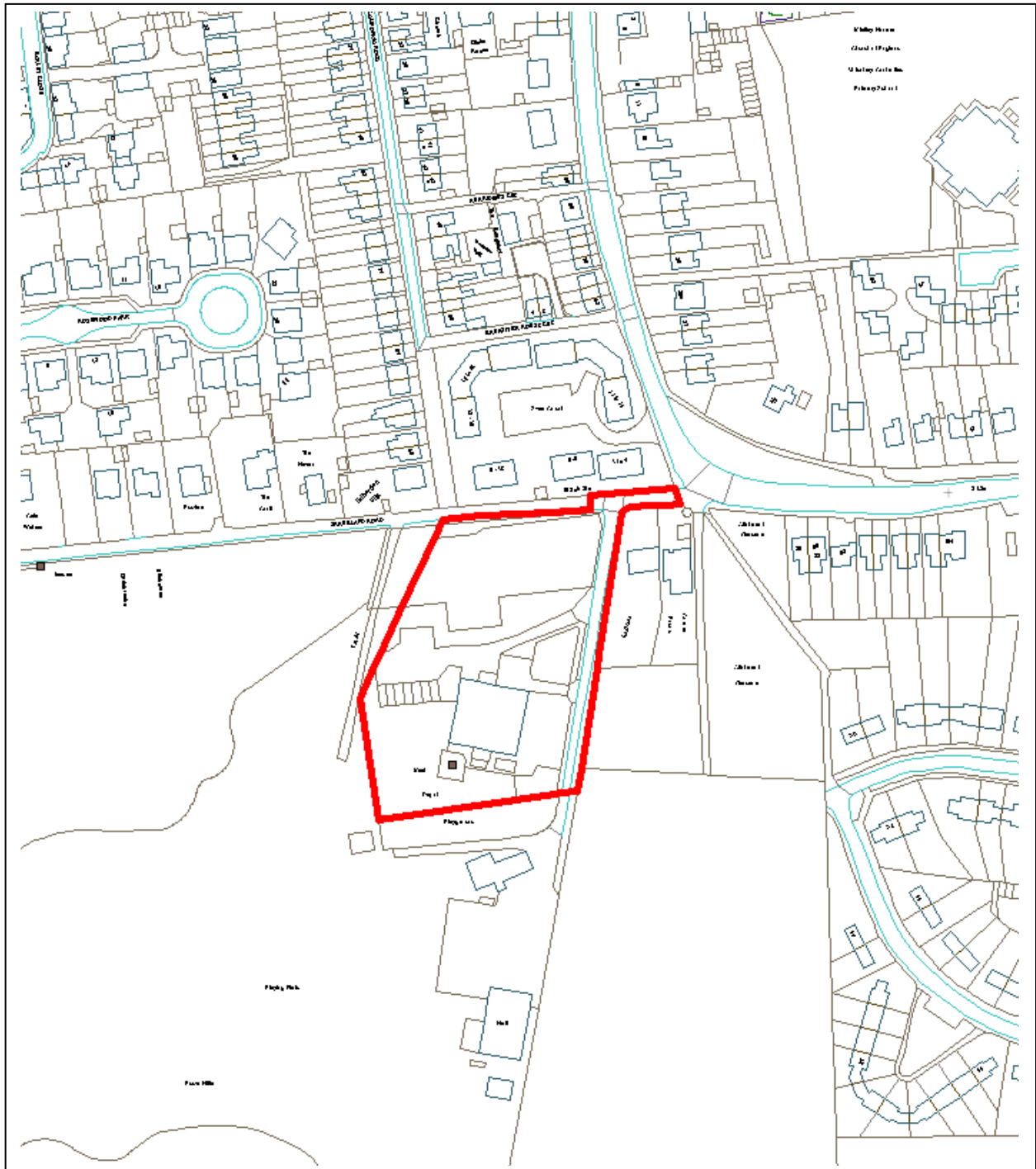


PLANNING COMMITTEE

29 JANUARY 2013

REPORT OF THE HEAD OF PLANNING

**A.5 PLANNING APPLICATION - 12/00109/FUL & 12/00110/LBC - CROWN BUILDING
FORMER SECRET BUNKER, SHRUBLAND ROAD, MISTLEY, CO11 1HS**



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Application:	1) 12/00109/FUL 2) 12/00110/LBC	Town / Parish: Mistley Parish Council
Applicant:	Reliant Building Contractors Ltd - Mr M Shibl	
Address:	Crown Building Former Secret Bunker, Shrubland Road, Mistley, CO11 1HS	
Development:	1) Conversion of the former nuclear bunker into 3 dwellings and erection of 28 dwellings in the grounds. 2) Conversion of the former nuclear bunker into 3 dwellings	

Update

Members will recollect that this application was deferred from the Planning Committee on 2 October 2012. The relevant minute of that meeting reads as follows:

"RESOLVED that Planning Applications 12/00109/FUL and 12/00110/LBC be deferred to allow further discussions/negotiations by the Head (or Acting Head) of Planning, in consultation with the Chairman, Vice Chairman, Portfolio Holder for Planning and the Ward Members, of the following, and subsequent reference back to the Planning Committee:

- The quantity of new build in relation to enabling development costs;
- The design of the curved roof on the new build;
- The management and future liabilities for the upkeep of the access road and communal areas;
- The initial upgrade of the access road;
- The management and upkeep and protection of the features of the bunker;
- Car parking provision;
- The provision of an information board; and
- The suitability of amenity areas for the new build properties and private amenity areas for the bunker."

A meeting with the named Members and officers took place on 20 November 2012. The following additional information has been received.

- A letter from the surveyor, Morley Riches and Ablewhite, setting out details of the enabling development assessment and the maintenance agreement. This includes the access road from Shrublands Road. In terms of the amount of enabling development the information confirms that the expenditure to preserve the bunker and to establish a sinking fund for future maintenance results in a conservation deficit. The sales revenue, minus the construction costs and the reduction of the sinking fund by passing on future maintenance to a management company results in a surplus taking into account the developer's profit that equates to a similar sum to that required to mothball the bunker. Additional costs also arise due to the design changes requested by English Heritage, the information board and larger parking spaces which are off set by a slight increase in predicted revenue sales. In total, the scheme is judged to remain viable and to accord with the enabling development guidance published by English Heritage.
- The applicant has decided not to alter the design of the curved roof and has provided further details to explain why the design is considered appropriate. The letter from the

architect advises that the design of the new houses has been influenced by post war architecture with particular reference to the curved roofs of nissen huts. the reference relates only to the curved roof but modern construction methods and detailing will produce a development that reflects on the past but also looks to the future with a sustainable design and build quality. The layout of the site is deliberately inward looking to respect the setting of the listed building, for this reason a more traditional suburban layout and roof form is not considered appropriate and may even conflict with the architecture of the bunker. Members are also advised of the similar approach taken by RIBA award winning schemes.

- The future management of the bunker/mast; access road and external areas will be placed in the hands of separate management companies. A company will exist for the occupants of the bunker (including the mast) and a separate company for the external areas, roads footpaths and communal grounds. The companies will operate in much the same way as a block of flats where expenditure that cannot be attributed to any one unit will jointly fund any maintenance or improvements. The owners will be required to top up this fund to ensure future liabilities can be met and would be expected to appoint Directors and a management agent.
- The initial upgrade of Shrubland Road will be undertaken by the applicant. The applicant is not aware of any formal arrangement for the maintenance of the road. However, it is understood that the Parish Council have, in recent times resurfaced this area. The applicant has corresponded with the Parish Council Chairman on the matter of future maintenance of this part of the road, the ownership of which it has not been possible to establish, to see if a joint maintenance arrangement can be agreed with the Parish. In the interim the land will be included in the Management Plan and the maintenance plan will be adjusted to reflect this. In terms of car parking provision this has been reassessed with spaces enlarged and five visitor spaces now included. There is a revised drawing to show this.
- An information board is now proposed detailing the history of the bunker. The requirement to provide and exact location could be addressed by a condition.
- The amenity areas for the bunker properties are currently shown as being a shared open area to help maintain the open setting of the listed building, especially when viewed from the south. However, a condition could be imposed to require enclosed gardens should the committee consider this a preferable option. The proposed 12 flats would either have a balcony or garden area. The 16 town houses would have a balcony, small garden area and communal open space.

Officers are satisfied that due consideration has been given to the concerns and comments raised by Members of the Planning Committee at its meeting on 2 October 2012 and the recommendation remains to be one of approval as set out in the original report attached as Appendix A.

1. **Executive Summary**

- 1.1 This report concerns enabling development relating to the former cold war bunker at Mistley that was Grade II listed in 2007. There are two applications; one for planning permission for enabling development comprising 28 new dwellings in the grounds and for three dwellings within the converted bunker, and a listed building application for the works to the bunker itself. The site lies within the Manningtree and Mistley Conservation Area.
- 1.2 The bunker was constructed in 1951 as part of the anti-aircraft defence network built to protect the country from nuclear attack. It became obsolete by the mid-50s and in 1963 was acquired by the County Council for use as one of its control centres. It was decommissioned in 1993 and opened as a museum between 1996 and 2002. Since then the bunker has been unused.
- 1.3 The bunker site is outside of the designated development boundary where new residential development would normally be unacceptable. Enabling development seeks to secure the future of heritage assets in circumstances where planning permission would normally be unacceptable. Members will need to judge whether the benefits for the bunker that would be secured by the development outweigh the disbenefits of departing from Local Plan policies and the guidance in the National Planning Policy Framework. As part of this judgement members will also need to assess whether the criteria for enabling development have been fully met, in particular whether the development proposed is the minimum necessary to secure the future of the bunker and whether the restoration works can be linked to the development in an enforceable way through a Section 106 agreement.
- 1.4 The planning application also needs to be considered against other Local Plan policies and the Framework in relation to access, design and layout, and whether the development would materially affect the setting of the listed building or the character and appearance of the conservation area.
- 1.5 Judged against relevant Local Plan policies, the Framework and the English Heritage guidance officers consider that, on balance the development is acceptable subject to the prior completion of a S106 and other agreements to link the restoration works to the development. Financial information submitted in support of the enabling development case has been independently assessed and found to be acceptable.

Recommendation: 1) 12/00109/FUL – approve; 2) 12/00110/LBC – approve

That the Acting Head of Planning Services (or equivalent authorised officer) be authorised to:

1) Grant planning permission (12/00109/FUL) for the development subject to:-

- a) Within 6 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 Acting Head of Planning Services (or the equivalent authorised officer) and/or the Legal Services Manager in his or her discretion consider appropriate.
- 'Mothballing' works to the bunker prior to the sale or occupation of any unit of the enabling development;
 - Specification of 'mothballing' works;
 - Works to convert the bunker into residential use to be completed prior to sale or occupation of last unit of enabling development;

- Maintenance agreement for bunker and surrounding land, including most following ‘mothballing’ works;
- Maintenance of area around the bunker following sale of last unit of converted bunker;
- Financial monitoring and clawback arrangements

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 Acting Head of Planning (or the equivalent authorised officer) in their discretion considers appropriate) and with the reason for approval set out in (ii) below.

(i) **Conditions:**

1. Three year time limit for commencement
2. List of approved plans
3. Highway works and car parking to be provided prior to occupation
4. Details of boundary treatments and fencing within the site
5. Landscaping provision and maintenance
6. Samples of construction materials, including paths and roadways
7. Prior Approval of details of bat and reptile mitigation scheme
8. Contamination assessment
9. Construction method statement
10. Car parking layout
11. Provision of cycle storage
12. Surface water drainage
13. Archaeological assessment
14. Highway visibility splays
15. Agreement of traffic calming measures

(ii) **Reason for granting planning permission:**

The conversion and change of use of the bunker into three dwelling units, including internal and external alterations, is considered to be in accordance with the development plan policies EN22 and EN27, the guidance in the National Planning Policy Framework and English Heritage guidance: Enabling development and the conservation of significant places (2008).

The proposed development of 28 dwellings is considered to comply with the relevant policies of the Tendring District Local Plan as listed above, having regard to the guidance in the National Planning Policy Framework and the English Heritage guidance; Enabling development and the conservation of significant places (2008). Account has been taken of the scale and nature of development proposed and its impact on the setting of the listed bunker and the character and appearance of the conservation area. The enabling development would respect the setting of the listed building and would maintain the character of the conservation area.

The proposed development would not significantly reduce the amenities enjoyed by occupants of nearby properties or users of the village hall and recreation area. There would be no loss of any significant trees and the proposal is acceptable in terms of highway safety and convenience. It would make a valuable contribution to the District’s housing supply and in turn would reduce the need for further greenfield land allocations

It is concluded that the proposal accords with the provisions of the development plan as applicable to it, in particular those relating to enabling development and the guidance in the Framework and the English Heritage Guidance noted above, and in the absence of any material adverse impact resulting from the development that would override these matters it is considered that there are no material grounds which justify its refusal.

c) The Acting 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 six 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 and paragraph 140 of the National Planning Policy Framework.

2): Grant listed building consent (12/00110/LBC) for the conversion of the bunker subject to the following conditions:-

1. Three year time limit for commencement
2. List of approved plans
3. Schedule of repair works prior to conversion
4. Heritage assessment of proposed conversion works
5. Details of roof opening, skylights, light wells
6. Schedule of internal works and finishes
7. Scheme for the protection and maintenance of existing internal floor coverings
8. Samples of construction materials
9. Monitoring schedule

Reason for granting listed building consent:

The conversion and change of use of the bunker into three dwelling units, including internal and external alterations, is considered to be in accordance with the development plan policies EN22 and EN27, the guidance in the National Planning Policy Framework and English Heritage guidance: Enabling development and the conservation of significant places (2008). The proposed repair works and conversion works would maintain the integrity of the heritage asset and secure its future condition and maintenance.

2. Planning Policy

National Policy:

National Planning Policy Framework (2012)

Local Plan Policy:

Tendring District Local Plan (2007)

QL1 Spatial Strategy

QL6 Urban Regeneration Areas

QL9 Design of New Development

QL10 Designing New Development to Meet Functional Needs

QL11 Environmental Impacts and Compatibility of Uses

QL12 Planning Obligations

HG6 Dwelling Size and Type

HG7 Residential Densities

HG9 Private Amenity Space

TR7 Vehicle Parking at New Development

EN22 Extensions or Alterations to a Listed Building

EN23 Development within the Proximity of a Listed Building

EN27 Enabling Development

LMM1 Mistley Urban Regeneration Area

Other guidance:

English Heritage - Enabling development and the conservation of significant places (2008)

Essex Design Guide

Essex County Council Car Parking Standards - Design and Good Practice

Manningtree and Mistley Conservation Area Management Plan

3. Relevant Planning History

02/01559/FUL	Change of use from Museum to secure storage and management of electronic data -approved
95/01131/FUL	Change of use of premises from County Emergency Control to Cold War Museum - approved
12/00105/CON	Demolition of block of seven garages - approved

4. Consultations

English Heritage:

- 4.1 English Heritage originally objected to the proposed alterations to the bunker, in particular the changes to the former control room. The opening up of the roof above the control room and providing an amenity area open to the elements would have seriously affected important elements of the control room that are fundamental to the listing of the bunker. If such works were allowed English Heritage has questioned the continued listing of the building.
- 4.2 In response revisions have been made to the proposal that protect the internal finishes that reflect the historic character of the building. The principle of glazing over the central opening is welcomed and no objections are raised to other glazed openings to provide light. The main concerns about any conversion to residential is that the central control room, the ventilation and generation systems should be retained. These are fundamental to the continued listing of the building. English Heritage now welcomes the commitment from the developer to retain all finishes to floor, walls and ceilings in the control room space as original. The finishes proposed in other rooms and corridors are also acceptable.
- 4.3 The adopted contemporary design approach to the enabling development has the potential to produce a distinctive scheme that would accord with the mid-twentieth century character of the listed building and this edge of conservation area context. However, there is concern about the block of flats and impact on open landscape to the west. Following on-site

discussion it was decided not to re-orientate the block due to the limited benefit and views of the listed building that would result from primary windows

Essex County Council (Highway Authority):

4.4 Objects on grounds that proposed layout fail to provide:

- Adequate car parking in accordance with current standards;
- Adequate pedestrian and vehicular visibility splays commensurate with current standards; and,
- Adequate turning areas in accordance with current design dimensions.

These inadequacies would lead to the parking of cars in the adjacent access roads and highway causing conditions of danger, obstruction and congestion contrary to the highway authority's development management policies. At the time of writing there are ongoing discussions and consultation with the Highway Authority to seek to address these concerns. An update will be given at the meeting.

Essex County Council (Education):

4.5 There is forecast to be a deficit of secondary school places by 2016 to which this development would add. A contribution of £55,944 is requested.

Natural England:

4.6 The site has the potential habitats for bats and for reptiles, but is not a protected site. The proposal falls to be considered in accordance with standing advice.

Essex County Council (Archaeology):

4.7 Recommends an archaeological condition.

Anglian Water:

4.8 There is available capacity for waste water treatment at the Manningtree STW. There is available capacity at present in the foul sewerage network. Request a condition to deal with surface water disposal.

Mistley Parish Council:

4.9 The Council neither supports nor objects to this application, but raises the following points for consideration:

- Enabling development;
- Design controversial;
- The conversion of the bunker, although keeping the external appearance largely unchanged, would render it unrecognisable as a cold war building;
- Is such a level of development necessary to preserve the bunker?
- It is essential that the footpath on the eastern side of the access road be widened and carried through to Harwich Road otherwise the increased traffic will pose a danger to the many elderly and young people using the Village Hall, often at peak times;
- The development should result in increased use of the Village Hall;
- The development will clean up a derelict site and improve views from Shrubland Road;

- The improvement of Shrubland Road should continue up to the entrance to the overflow car park;
- Traffic calming measures, such as table top platforms, should be placed in the access road to ensure that the speed of traffic does not endanger pedestrians; and
- There should be more visitor parking spaces.

5. Representations

5.1 There are been five letters of representation raising the following points;

- Increased urbanisation – impact on quiet countryside location;
- Increase in traffic;
- Impact on residential amenity;
- Design not in keeping with area;
- Development too dense; and,
- Access will need widening.

6. Assessment

6.1 The main issues for consideration are:

- Context and background;
- Proposal details;
- Policy issues in particular:
- Enabling development principles;
- Heritage issues;
- S106 matters;
- Re-use of bunker; and,
- Design and layout issues.

Context and background

6.2 The application site amounts to 0.85 hectares and lies to the south of the existing built up area of Mistley. Existing vehicular access to the site is along Shrubland Road via a priority junction onto the B3152 Harwich Road. Shrubland Road is not an adopted public highway but is a public right of way, which passes along the northern boundary of the site. From Shrubland Road there is shared access link with the Mistley Village Hall and the associated sports and recreation facilities.

6.3 The proposed development site currently accommodates the former anti-aircraft operations bunker constructed in 1951, a block of 7 no. garages constructed in the late 1950's as part of a highway depot use, a telecommunications mast and a number of small outbuildings. There are two access points into the site, one serving the former bunker use and the other the former highway depot. There are a number of trees and hedgerows on the boundary of the site, which has now become generally overgrown. As the site has been previously developed land it is a brownfield land.

6.4 The site lies within the Manningtree and Mistley Conservation Area, which was extended to include the bunker and the open areas around it in 2010. The site also lies outside of the defined development boundary for Mistley where new residential development would normally be considered unacceptable.

6.5 The bunker at Furze Hill, Mistley, Essex, was built in 1951 as an Anti-Aircraft Operations Room. Its purpose was to receive information about the approach of hostile aircraft and allocate targets to the gun batteries in the area. It became redundant to its original role in

1956 when Anti-Aircraft Command was abolished, and the bunker was sold to Essex County Council in 1963. In 1966, it became the County Emergency HQ until 1984 when it became the County stand-by. The bunker was decommissioned in 1995 and leased to the Bunker Preservation Trust who refurbished it and ran it as a museum until 2002. Following the closure of the museum all equipment (apart from generator and filtration plant), furniture, exhibits and displays etc were removed. A change of use for secure storage was granted planning permission but this was not implemented. The bunker was then sold to the current developer.

- 6.6 The bunker was listed as Grade II in 2007. The citation refers to it as being 2-storey semi-sunken building of reinforced concrete construction, square in plan with a central operations/plotting room surrounded by circulating passages, offices, plant room and control cabins. The bunker is a rare example of its type and one of the best preserved remaining examples surviving in England. Its intact exterior is complemented by the relatively unaltered interior, which retains its original configuration of rooms, notably the central operations room with its first floor viewing platforms, as well as the original air filtration plant and numerous original fittings. The importance of the structure is recognised at international level. There are other small buildings within the curtilage which do not form part of the listing. The telecommunications aerial adjacent to the bunker is included in the listing.

Proposal Details

- 6.7 The proposed development is in two parts: - 28 new dwellings as enabling development for the safeguarding of the bunker; and the conversion of the bunker into three dwelling units. There is a separate listed building application that addresses the works to the bunker itself. The garages are not part of the listing description and are not curtilage listed. Conservation area consent has already been given for the demolition of the block of garages. The proposals were subject to local consultation through a public exhibition prior to the submission of the applications.
- 6.8 The new development consists of three terraces:
- i) A two-storey terrace of eight one-bed flats on a similar footprint to the existing garages to the west of the bunker. The building has been designed to reflect post war architecture in keeping with the character of the bunker. It would be of plain design in concrete with vertical glass blocks. It would have a flat roof that would incorporate a green roof and sustainable drainage system. Car parking would be provided at the front with communal amenity areas to the rear.
 - ii) A two and a half storey terrace to the north of the bunker fronting onto the main access road containing ten three-bed houses. The main feature of the blocks is the semi-circular roof, design to reflect the 20th century heritage of the site. The roofs would be of zinc with dormers facing over a central communal green space. The elevations would be finished in concrete panels and timber cladding. Access to integral garages would be from the main access road.
 - iii) A two-storey terrace parallel to the other main block containing six two-bed houses and four two-bed flats. The block would overlook the central open space with access to integral garages and car parking on the western side. The design would be similar to the other parallel block.
- 6.9 The design approach to the enabling development has been influenced by the award winning Accordia scheme in Cambridge, which also has a listed cold-war bunker within its site. The design takes references from the construction of the bunker and to 1950's architecture in general. The overall palette comprises concrete, timber, steel and zinc. That

gives a robust, almost industrial appearance. This is intended to compliment the bunker rather than compete with it. The curved roof design is influenced by the previous military base at Mistley to the south of the site. The buildings have been located on the site so as to retain principle views of the bunker from the south and west and also from the north between the parallel blocks.

- 6.10 The area around the bunker would be left mainly open, as would the area behind the block of eight one-bed flats. These areas would provide further communal amenity space.
- 6.11 The site contains a number of trees and hedgerows. Those on the northern boundary and western boundary would be retained. The eastern hedgerow would be removed to secure access to the three-bed terrace of housing. Further landscaping is proposed both between the block and around the edges of the site.
- 6.12 The underlying principle of enabling development is that development that is otherwise unacceptable in planning policy terms is allowed because it secures the future of a heritage asset. Without restoration works, the building will continue to deteriorate and the integrity of the interior will gradually be lost. The site is subject to some damp and vandalism and without a new use would be subject to further deterioration, although any major structural failure is not imminent. However, as the building continues to deteriorate the costs of repair and maintenance would increase. The site would also remain overgrown and it would become increasingly difficult to view the bunker.
- 6.13 The benefits for the asset through the repairs need to outweigh the harm caused by allowing development contrary to policy. This is dealt with in more detail later in the report. In this case given the particularly unusual structure and nature of the previous uses the bunker does not lend itself to easy conversion to other uses. The initial assessment looked at repairing and maintaining the bunker and leaving in a 'mothballed' condition as no alternative use could be found, following a period of marketing, in its current configuration. However, the difference between the cost of the repairs and future maintenance (conservation deficit) is far in excess of what could be generated from the 28 dwellings alone. Therefore, the option of generating value from the bunker itself was proposed to seek to address the difference. Without restoration, works the building will continue to deteriorate and the integrity of the interior will gradually be lost.
- 6.14 It is proposed to convert the bunker into three four-bed maisonettes, which need both planning permission and listed building consent. In order to provide natural lighting to internal areas it is proposed to provide glazed roof openings, the largest of which would be over the central control area. Some limited openings would also be provided within the walls, including light wells at ground level. The entrances to the new units would be through the existing main doors protected by the blast walls, which would remain. Small openings would be made in some internal walls and there would be some new partitions, but the main internal layout would remain unaltered. The existing generator and ventilation plant would be retained within their rooms which would remain intact and not subject to any conversion. The maisonettes would share amenity space to the rear and side of the bunker. Car parking would be provided adjacent to the access road to the village hall.

Policy Issues

- 6.15 There are two sets of issues that need to be considered in relation to the planning application.
- Whether the guidance on enabling development can be satisfied in principle, including the means of securing the future of the heritage asset linked to stages of the development through a S106 agreement ;

- As the site is outside of the development boundary defined in the Local Plan, whether it would it be otherwise acceptable but for that constraint.
- 6.16 If the development can satisfy these requirements, a judgement needs to be made. Do the benefits of securing the future of the heritage sufficiently outweigh the harm caused, in planning terms of breaching some policies of the Local Plan and the Framework?
- 6.17 The issues are different for the listed building consent application as this is only concerned with the works to the bunker itself. Is the future of the bunker secured by these proposals in an acceptable way that does not harm the significance of the asset? If planning permission is not granted for the enabling works the repair and conversion of the bunker would not take place, as there would insufficient funding to do so. However, in theory listed building consent could still be granted for the conversion works, although there would be no planning permission for the change of use.
- 6.18 The main policy considerations are Local Plan policies QL6, QL9, QL10, QL12, LMM1 EN20, EN22 and EN27, the National Planning Policy Framework (Framework) and the English Heritage guidance on enabling development.
- 6.19 The new Framework seeks to ensure that the planning system delivers sustainable development. There are three dimensions to sustainable development set out in the Framework: – economic, social and environmental. These three roles are mutually dependent and should not be taken in isolation. In relation to these proposals the roles identified in the Framework that are particularly relevant include supporting growth, providing new housing development; creating a high quality built environment and protecting and enhancing the historic environment.
- 6.20 In relation to enabling development the Framework advises that *“Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies”*. However, there are no further details or specific reference to the English Heritage guidance on enabling development.
- 6.21 Decisions on applications need to be taken in accordance with the provisions of the development plan, the main policies being EN22 and EN27. EN22 relates to alterations to listed buildings and requires that special features should not be damaged or lost and that the character and appearance should be preserved or enhanced. EN27 is based upon the first edition of the English Heritage guidance which was updated in 2008. The Council adopted the later version as supplementary guidance in 2009. This guidance is a material consideration as it explains how enabling development should be assessed. The newer version uses different terms to those used in the policy but as it is more recent reference in this report will be to the 2008 version which updates policy EN27.

Enabling development

- 6.22 The general principle to be followed to establish the need for and the scale of any enabling development is that if the cost to restore the Heritage Asset (the bunker) is greater than its Market Value on completion then there is a Conservation Deficit which needs to be addressed by the enabling development. Enabling Development is a development proposal that would not normally be permitted under planning policies but would release only enough additional value in order to overcome the Conservation Deficit. In this case the proposed new residential development would not produce sufficient value to meet the conservation deficit. For this reason the proposal also includes the conversion of the bunker itself. Together these developments would address the conservation deficit. It is

somewhat unusual for the heritage asset to be treated in this way, but this reflects the nature of the bunker.

6.23 The 2008 guidance advises that enabling development should be considered unacceptable unless;

- it will not materially harm the heritage values of the place or its setting;
- it avoids detrimental fragmentation of management of the place;
- it will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose;
- it is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
- sufficient subsidy is not available from any other source;
- it is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests;
- the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

These criteria cover the matters set out in Part 1 of EN27.

6.24 If these criteria can be met planning permission should only be granted where:

- the development is precisely defined, normally through the grant of a full planning permission;
- the heritage objectives are secured through a S106 agreement;
- the asset is repaired to an agreed standard, or the funds to do so are made available, as early as possible in the course of the enabling development, ideally at the outset and certainly before completion or occupation;
- the planning authority closely monitors implementation.

These criteria cover the matters set out in Part 2 of EN27.

6.25 The important point arising from this is that any decision will be a matter of judgement for the decision taker weighing up all the relevant factors. What is important is that the development and the agreements attached to it secure the future of the asset. The asset does not need to be in a poor state of repair, although often is or on the published heritage at risk register. Overall there must be public benefits that could not otherwise be achieved. The vast majority of listed buildings survive because they are capable of beneficial use. However, in this case, because of its unusual nature the bunker does not easily lend itself to use for other purposes. The lower floor of the building is underground and none of the interior is naturally lit. The interior is also as important to the listing as the exterior.

6.26 The views of English Heritage are of paramount importance to the enabling development process and there has been a significant input from its staff on the matter. This is

discussed in more detail below. The historic integrity of the asset must be secured otherwise there can be no justification for any enabling development. The future of the bunker would be secured through the S106 agreement.

Heritage issues

- 6.27 There have been detailed discussions with English Heritage on the nature of both internal and external alterations to the listed building resulting in a number of changes to the proposals for the listed building since the applications were submitted. The current layout around the building helps to maintain the openness of the immediate surroundings and maintains existing views of the bunker from the south, southwest and southeast. Views from the north would be partially interrupted by the new development, but the placing of the main blocks on a north-south axis with amenity space in between provides views of the bunker and an appreciation of its setting.
- 6.28 The scale and nature of the enabling development is considered appropriate for the listed building. The works that need to be done to the bunker to a condition that will secure its future for the next 30 years or so have been assessed by surveyors and agreed on behalf of the Council by independent advisors. Therefore, the scale of the development can be considered the minimum necessary to secure the future of the asset based upon current market conditions and house values. Following lengthy negotiations English Heritage has agreed that the bunker would not be harmed by the development subject to appropriate conditions on a planning permission and listed building consent. Of particular importance is retaining as much of the internal layout as possible especially the former control room. Any openings in the roof and the walls of the building would be glazed so no parts of the bunker would be open to the weather as originally proposed. The retention of internal features has been agreed in principle with the developer, the details of which would be secured by condition.
- 6.29 Whilst the ownership of the bunker would eventually be fragmented, the responsibility for future maintenance/upkeep would be secured through a S106 agreement. The new owners would either be jointly responsible or the developer would retain responsibility until the three maisonettes had all been sold. It is clear that the bunker was bought on a speculative basis but this was prior to it being listed. Independent assessments carried out for the council have established that the scale of works proposed is necessary to secure the future of the bunker. Whilst subsidies are available from various sources the bunker is unlikely to qualify as it is not in immediate danger of deterioration and is not currently on the buildings at risk register, although it is now being considered by Essex County Council for inclusion. English Heritage has confirmed that no grant is currently available and that the bunker is unlikely to qualify.
- 6.30 Whether or not the public benefit of securing the future of the bunker outweighs the disbenefits of breaching local plan policies is a matter for members to judge. This is a fundamental part of the whole enabling development process. Officers consider that on balance the benefits do outweigh the disbenefits of allowing development in this location.
- 6.31 In terms of the other criteria in the guidance, the planning permission and listed building consent would define the scale of the works and the S106 as described below would ensure that the heritage objectives are secured prior to the completion of a significant proportion of the enabling development. The standard of the works and their monitoring would also be secured through the permission and consent.

Section 106 issues

- 6.32 As the development proposed is enabling development none of the normal S106 requirements, such as affordable housing and education contribution apply otherwise there

would need to be further development to fund the additional contributions. The quantity of development would, therefore not be the minimum necessary to secure the future of the heritage asset. However, a S106 agreement is required to secure the works to the heritage asset and linking them to the phasing of the enabling development.

6.33 The heads of terms for the S106 agreement have been agreed in principle with the developer and would cover the following:

- 'Mothballing' works to the bunker prior to the sale or occupation of any unit of the enabling development. The scope of the mothballing works needs to be clearly defined in the S106 agreement;
- The works to convert the bunker into residential use to be completed prior to the sale or occupation of the last unit of the enabling development;
- Following the 'mothballing' works the developer must covenant to maintain the bunker to the standard of the completed mothballing works, maintain the surrounding area and maintain the mast. The obligation remains in place until the units in the bunker are fully occupied, thereupon the new occupiers become responsible for the bunker structure;
- Once the bunker units are sold a management company must be set up to maintain the surrounding area and the mast. The developer would make an agreed payment to the management company to enable it to carry out the maintenance in perpetuity. Contributions towards maintenance may be sought from occupiers of the enabling development but this will be a matter for the developer to secure upon the sale of the properties;
- Monitoring agreement, including financial monitoring and provision for clawback arrangements.

6.34 These terms are considered necessary to make the development acceptable in planning terms without which the development would be unacceptable and should be refused.

Re-use of bunker

6.35 The bunker and the area around it was left outside of the Mistley settlement development boundary defined in the Local Plan because of its predominantly open nature and because it does not form part of the continuous built up area. Therefore, in principle, it is not considered suitable for housing development. However, the possibility of introducing housing as enabling development has been recognised as an option to secure the restoration and repair of this important site (draft Mistley Village and Waterfront Urban Regeneration Area SPD). The boundary of the Urban Regeneration Area was drawn to include the bunker site because its future had not been resolved and there was potential to provide new jobs if leisure or community uses could be found. Housing development around the bunker was not envisaged when the urban regeneration boundary was drawn.

6.36 Policy QL6 and LMM1 seek to secure the regeneration of the area and to protect and enhance the historic environment. A number of potential uses are identified, including housing, employment, tourism, leisure and recreation. However, this is a general policy and as it is outside of the defined development boundary the policies do not indicate that the site is suitable for housing. LMM1 also requires that the regard is had to the potential for port uses before allowing a change of use. Given the location of the building away from the port and the nature of the building there is considered be no potential for port use and none has been expressed by the port operator.

- 6.37 The bunker, by its nature is isolated and unobtrusive and an alternative use that would secure its future has proved difficult to find. It is difficult to provide an economic future for the building in its original state and attempts to make it a visitor attraction have not proved self-sustaining. Planning permission has also been granted for a storage use but this was not implemented. The location and layout of the building, including the access into the building itself does not facilitate the easy re-use of the building. The building was constructed for a specific purpose with 50% of the floor area below ground. There is very little natural lighting to any of the rooms within the bunker. Given the construction of the building the cost of repair and maintenance are likely to be high.
- 6.38 In these circumstances officers consider that the conversion of the bunker to residential use is an appropriate way of securing its future subject to the safeguards described earlier. Whilst the conversion of the bunker is unlikely to take place independently of any enabling development for financial reasons, there are no planning reasons why this could not happen.

Design and layout, including impact on setting

- 6.39 The development of the area around the bunker for residential purposes will only be acceptable if this secures the future of the heritage asset and meets the policy requirements of EN27 and the English Heritage's guidance. The development will also need to meet other Local Plan policies, in particular QL9, QL10 and TR7.
- 6.40 The design and layout of the new development has been informed by the cold war past of the area and is considered to be of architectural merit in the context of the listed building. However, the development is of a scale that is very different from adjoining residential areas. It is isolated from these areas and would be read as a separate development. Therefore, the impact on the character of those areas would be limited. The development would enhance the character and appearance of the conservation area which currently has a derelict and unmanaged appearance. The scale of the development necessary to provide sufficient value to meet the conservation deficit has led to some urban design deficiencies. The development is of a much higher density than might otherwise be considered acceptable for new development of this number of dwellings. However, in order to preserve the setting of the listed building open areas have been retained around it that might otherwise have been available for the enabling development. It has been necessary to balance these factors and officers consider that the layout achieves an acceptable compromise.
- 6.41 The layout is considered to be tight in terms of providing appropriate vehicular access and parking. Parking spaces and garage sizes are below the optimum when assessed against the adopted standards. However, spaces would meet the minimum bay size which the guidance suggests can be used in exceptional circumstances. Enlarging the development to provide improved highway access and car parking would result in there being a greater impact on the setting of the listed building and the character and appearance of the conservation area. Whilst the standards can be applied flexibly, the Highway Authority has raised concerns about the workability of the layout and members will note the current objection set out earlier in the report. Amendments are being made to seek to address some of these deficiencies and at the time of writing had not been resolved. A further update will be given at the meeting.
- 6.42 Officers consider that in order to achieve a satisfactory scale of development to secure the future of the bunker the standards should be applied flexibly. However, the development must be acceptable in planning terms if it is to meet the overall enabling development criteria. Development that is unacceptable in terms of its design, layout and highway impact would not meet the criteria even if it did secure the future of the heritage asset.

- 6.43 It will be a matter for members to judge whether the scale and layout of the proposed development is acceptable given the deficiencies identified. Members will also need to consider whether the development is sustainable in terms of the guidance in the Framework. It would support growth by providing new housing development and protect and enhance the historic environment. However, it would also need to create a high quality built environment and it will be a matter for members to judge whether this would be the case.
- 6.44 The main considerations for members are whether the scale and nature of the proposed development is acceptable when assessed against Local Plan policies and if so whether the public benefit of securing the future of the bunker would outweigh the harm in planning terms of new development outside of the development boundary. Overall officers consider that whilst the issues are finely balanced the decision should be in favour of the development and recommend that planning permission is granted subject to the prior completion of a S106 agreement as outlined in the report.

Background Papers

None.