
PREMISES/PERSONAL LICENCES SUB-COMMITTEE C

20 JUNE 2016

Present:- Councillor M A Cossens (Chairman), Councillor R Bucke, Councillor J Henderson,

Stand-by Member:- Councillor K Watson

Substitute Members:- Councillor R Bucke

In Attendance:- Head of Governance & Legal Services (Lisa Hastings), Head of Customer & Commercial Services (Mark Westall) Licensing Manager (Simon Harvey) Democratic Services Officers (Janey Nice and Katie Sullivan), Environmental Protection Officer (Andy Rutson-Edwards) and Licensing Assistant (Emma King)

(2.00 p.m. - 3.21 p.m.)

1. WELCOME

The Chairman (Councillor Cossens) informed the Committee that the applicant Mr Radek Pompa was not present and had asked if the Committee could change the timing of the meeting in order for him to attend, but as this was not possible, it had been decided that the hearing would go ahead without him.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology was submitted from Councillor M J Skeels (Jnr) (with Councillor Bucke substituting).

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 29 September 2015 were signed as a correct record.

4. DECLARATIONS OF INTEREST

There were none.

5. LICENSING ACT 2003 - APPLICATION NO. 16/00249/PREMGR - APPLICATION FOR THE GRANT OF A PREMISES LICENCE - GOSSIP COFFEE LOUNGE, 78 STATION ROAD, CLACTON-ON-SEA

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

The Licensing Manager (Simon Harvey) advised the Chairman and meeting that the applicant Mr Pompa was not in attendance and that it was his understanding that Mr Pompa had indicated in a phone call to the Democratic Services Officer Janey Nice that he was not intending to be at the hearing. Mrs Nice confirmed that this was the case. Mr Harvey asked the Chairman if he would like to temporarily adjourn the meeting to allow him to contact Mr Pompa to see if he was going to attend the hearing to present his application. The Chairman and Members agreed that they wished to temporarily adjourn so that Mr Pompa could be contacted and advised that it was in his best interest to attend the hearing so that he could present his own application. Mr Harvey advised that Mr Pompa had been

fully informed of the meeting and its date, time and location in accordance with the Licensing Act 2003 hearing regulations, but that he would make contact again to confirm whether or not he would be attending that day. The meeting was adjourned at 2.10 p.m.

The Licensing Officer (Emma King) left the meeting and phoned Mr Pompa. On her return she advised that Mr Pompa had said that he was too busy to attend the hearing and had a café full of customers that he needed to serve. Mrs King advised that she had asked Mr Pompa if he was happy for the application to be considered in his absence. He confirmed that he was but that his preference would be to attend on another day. Mr Pompa confirmed that he was fully aware that the meeting had been arranged for Monday 20 June 2016 at 2.00 p.m. in the Council Chamber at Weeley but again said that he was too busy to attend the meeting.

After a brief discussion on whether to proceed with the hearing the Chairman and Members decided that they would continue and the Chairman reopened the proceedings at 2.30 p.m.

The Licensing Manager informed the Sub-Committee that it had before it for its consideration, as set out in item A.1 of the Report of the Corporate Director Operational Services), an application that had been submitted by Mr Radek Pompa (trading as Radek Contractor Limited) for the grant of a new Premises Licence in respect of the above premises under the Licensing Act 2003, this was to allow for the performance of plays, films, live music, recorded music, performance of dance as regulated entertainment and provision of late night refreshment. Mr Harvey added that there had been no application for the sale of alcohol and the applicant described the premises as a Coffee Shop.

In his original application Mr Pompa had asked for the opening hours of Mondays to Sundays as 0800 to 0100 hours. However after discussions between Essex Police who were a Responsible Authority and Mr Pompa, the applicant agreed to revise his application's opening hours from Mondays to Sundays 0600 to 2300 hours as Essex Police had no objection to the change in opening hours.

Mr Harvey further informed the Committee that as Mr Pompa had agreed to amend his application for opening hours permissions for Late Night Refreshment would no longer be needed now that he was intending to close at 2300 hours. Mr Harvey added that Members would be aware that a premises would only require a licence for Late Night Refreshment if hot food and or hot drink were sold after 2300 hours.

Mr Harvey said that there had been one representation which had been received from the Council's Environmental Services Noise Team who had raised concerns that the application for regulated entertainment was likely to undermine the Prevention of Public Nuisance Licensing Objective as the Coffee shop was located close to residential properties in the immediate vicinity. He said that Environmental Services had asked Mr Pompa what measures he had intended to put into place to prevent the breakout of amplified music at the premises from live and recorded music, however, he added, that the applicant had not provided an answer to that question to the satisfaction of the Environmental Service Noise Team at the time of the meeting.

Mr Harvey said that all of the relevant human rights information, Section 182 Guidance and extracts from the Council's Statement of Licensing Policy were detailed in the report attached to the Agenda.

Councillor Bucke asked for clarification over the revisions to the application that Mr Pompa had submitted after his discussion with Essex Police. Mr Harvey informed the Member that the application for a premises licence was as a brand new application and it was open to the applicant to revise the application to take into account any concerns or representations that had been made, which in this case had come from Essex Police who did not wish to see Late Night Refreshment as part of the application until 0100 hours. As

a result of these concerns raised with him by the Police, Mr Pompa had revised his application and now would not be selling hot food and/or hot drink after 2300 hours. Mr Harvey advised that permission to allow Late Night Refreshment as a licensable activity was only needed if hot food and/or hot drink were being sold between the hours of 2300 to 0500 hours. He added that if the café was not carrying out any other form of licensable activity at the premises such as live or recorded music then it would only require the relevant Planning permission and a food hygiene licence in order to operate but as Mr Pompa was wanting to have permission for licensable activities he needed to apply for a premises licence. When Councillor Bucke asked about the forecourt Mr Harvey informed him that the applicant wanted permission for activities both indoors and outdoors and it was clearly apparent that permission for outside activities was also required.

When asked, Mr Harvey confirmed that the applicant was a limited company. The Head of Governance and Legal Services also confirmed this as on Page 11 of the report of the Corporate Director (Operational Services) the relevant box had been ticked by the applicant. Mrs Hastings added that it was probably an error that Mr Pompa had included his name on the application form and it was fair to assume the application had been made by the company and the Licensing Manager agreed this was indeed the case. Councillor Bucke asked whether it was fair to assume that the Directors of the company could change at any time and did not necessarily own the company or actual premises. Mr Harvey said he had no information on that but suspected that Mr Pompa could be a leaseholder given the location of the premises.

Councillor J Henderson asked whether customers could take their own alcohol into the coffee shop and was informed by Mr Harvey that he could not answer this in Mr Pompa's absence but informed the Member that Mr Pompa could not sell alcohol and would be responsible if any alcohol related anti social behaviour took place on the premises. He added that Mr Pompa was aware of that and did not want alcohol on the premises.

Councillor J Henderson also raised concern about the timings for music on the application and Mr Harvey said that whilst specific times had been applied for this did not mean that the applicant would have to actually follow those times each day, it gave the applicant the flexibility to have live music so he did not have to apply for a licence each time he wanted live music.

The Chairman asked the Council's Responsible Authority, the Environmental Protection Officer (Andy Rutson-Edwards) if he had any concerns as he was worried about public nuisance, particularly to the residential properties above the premises and also above other shops and also The Grove. Mr Rutson-Edwards informed the Chairman that he had spoken to Mr Pompa the previous week and had been informed by Mr Pompa that he was planning to have music every Sunday on the forecourt to the Coffee Shop. Mr Rutson-Edwards further informed the Committee that The Environmental Protection Act 1990 and The Noise Act 1996 gave the Council powers to take any action against public nuisance. He said he had asked Mr Pompa what measures he was going to take to control the level of noise from the music at the nearest residential premises from both indoor and outside events. Mr Pompa said he was just going to let the residents know when he planned to have live events on the forecourt. To date, he said he had had no response from Mr Pompa and he, as the Responsible Authority, objected to live music outside of the Coffee Shop.

The Chairman noted the layout of the building from the map on page 26 of the report attached to the aforesaid agenda and said he was not sure if the 3 metres marked on the map included the forecourt and was informed that it was the forecourt for the whole length of the building.

Councillor Bucke said he was not sure what the decibel levels would be for the property and Mr Rutson-Edwards said that there were no set levels but there were guidelines and

codes of conduct for public houses etc. However, he said, 35db would be a recommended level to be attained in all living room areas of the existing dwellings arising from external noise sources (recommended by the World Health Organisation) but that different premises would have different levels of noise and explained to the Committee of how the decibel levels work. Councillor Bucke asked if it could be as high as 65db and was told it would again depend on the type of noise. Councillor Bucke commented that outside music would be a nuisance to neighbours whenever held and the Chairman said the nuisance would be worse if every day of the week and the application seemed to imply live music would be played seven days a week.

Councillor Bucke asked the Licensing Manager if it was unusual for a limited company to apply for a premises licence and was informed that in fact it was not unusual. Councillor Bucke worried in case a company could find a loophole to get around the live music issue.

The Head of Governance and Legal Services informed the Committee that the grant of a premises Licence would be issued in the name of the applicant, i.e. as this application was in the name of a company any concern of noise nuisance would be against the limited company who would be responsible for any individual running or occupying the premises on behalf of the applicant and that person would be held responsible for any noise nuisance..

There were no further questions from members of the Sub-Committee.

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 Head of Governance and Legal Services and Democratic Services Officers 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 re-admitted to the meeting. The Head of Governance and Legal Services reported that whilst the Sub-Committee were considering various options available to it, the legal advice provided related to reasonableness of any decision related to the facts.

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

“1. The Sub-Committee has given careful consideration to this application. In reaching our decision, we have taken into account the representation received from Tendring District Council Environmental Services along with the Guidance issued by the Secretary of State and others matters as set out in the Licensing Authority’s own Statement of Licensing Policy.

2. The Sub-Committee DOES NOT AGREE to grant this application. The reasons are as follows:

On the grounds of the Prevention of Public Nuisance and the objections raised and presented to the Committee by the Responsible Authority, in this case Environmental Services, that the applicant has not indicated any measures they proposed to prevent a noise nuisance from the playing of amplified sounds and the proposed recorded and live music.

Unfortunately, as the Applicant neither attended the hearing nor provided any evidence or

other information which the Committee could take into account to alleviate the concerns raised, which could apply to all of the regulated activity. The Committee considered that without any information it would be unreasonable to make any other decision than to refuse the application for any of the regulated activity, whilst the objection remained outstanding with no measures of mitigation being received from the Applicant.

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.

This Decision was made on Monday 20 June 2015 and will be confirmed in writing to all parties"

6. LICENSING ACT 2003 - APPLICATION FOR THE JOINT REVIEW OF A PREMISES LICENCE

The Sub-Committee had before it for its consideration, applications that had been submitted by Mr Gary Cox, Mr Roger Frith and Mr Kevin Frith, being members of the public, for the joint review of the Premises Licence in respect of the premises at and forming S & R's Social Club, 32 to 34 Kingsway, Dovercourt. An application had also been submitted by Mr Roger Frith and Mr Kevin Frith for a review of the Premises Licence in respect of the premises at and forming The Basement Nightclub/Al Fresco's at 32 Kingsway, Dovercourt. The reviews had been requested on the grounds that the Licensing Objectives in respect of the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm had been breached.

Members were made aware of the details of the current licences, the subjects of the reviews and of the applications for review as set out in the applications, and as summarised in Sections 2.0 and 3.0 respectively, of item A.1 to the Report of the Head of Public Experience. The Sub-Committee was also made aware of the Secretary of State's Guidance with regard to review hearings, as attached as Appendix 'C' to the report and as summarised in Section 4.0 of the report.

Members were also told that, since the application had been received on 29 August 2012 to transfer the Premises Licences for S & R's Social Club and Alfresco's and The Basement, into the name of Marcel Pontius, further applications had been received to transfer the Premises Licence for S & R's Social Club into the names of Gemma Harris and Amy Brunsdon. Additionally, Miss Emma Michelle Ives formally notified the Authority of her consent to transfer the Premises Licence for The Basement Night Club/Al Fresco's into the name of Mr Michael Gibbons. Both Ms Sanden and Ms Ives had stated that they no longer had an interest in either premises.

With regard to the Licensing Objective for the Prevention of Public Nuisance, the Head of Public Experience (Food, Health and Safety), being the Responsible Authority, had confirmed its support of the application for the Review of the Premises Licence.

The Sub-Committee was informed that the review of applications had been advertised by the display of a notice on the premises concerned, at the Council's Offices and on the Council's website.

Mr Gary Cox and Mr Kevin Frith, applicants, addressed the Sub-Committee in support of their applications and answered questions from members of the Sub-Committee and the Solicitor (Mrs Louise Bland) acting on behalf of the Licence holder.

Mrs Bland and Mr Michael Gibbons, a Licence holder then addressed the Sub-Committee and answered questions from members of the Sub-Committee and the applicants.

THE MEETING STOOD ADJOURNED FROM 11.55 A.M. - 12.10 P.M.

The Legal Services Manager (Michael Gibson-Davies) then outlined the procedure for the next part of the meeting.

After clarification from the Legal Services Manager and with the agreement of the Solicitor for the Licence holder, Mr Roger Frith, an applicant, then made a statement in support of his application and answered questions from Members and the Licence holder's Solicitor.

Mrs Bland and Ms Gemma Harris, the Designated Premises Supervisor, then addressed the Sub-Committee and answered questions from Members and the applicants.

The Essex Police Licensing Officer (Mr David Appleby) was called to address the Sub-Committee and answered questions from Members and the applicants.

THE MEETING STOOD ADJOURNED FROM 1.20 P.M. - 1.50 P.M. IN ORDER FOR ALL PRESENT TO TAKE LUNCH

The Environmental Health Officer (Mr Ian Willkins) then addressed the Sub-Committee and answered questions from Members and the applicants.

Mr Kevin Frith, on behalf of the applicants, made a closing statement. Mrs Bland, on behalf of the Licence holder, also made a closing statement.

EXCLUSION OF THE PRESS AND PUBLIC

It was moved by Councillor Platt, seconded by Councillor Powell and:

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

Members, the Legal Services Manager and the Clerk retired to deliberate and consider their decision.

Following such deliberations the meeting was reopened to the public. The Legal Services Manager confirmed that he and Members had taken part in a conference call to the Solicitor who normally attended meetings of Premises/Personal Licences Sub-Committees and had had a detailed discussion and that legal advice had been obtained on whether the current Licences could be suspended.

The Chairman addressed the meeting and informed all present that a decision had been made only on The Basement/Al Fresco's and that the Committee had decided to defer its decision on S & R's Social Club to a date to be decided as it had considered there had been insufficient information and it required more evidence from the Licence holder. The deferred meeting of the Sub-Committee would have the same Members to attend since they had been involved in the original consideration of this matter.

It was moved by Councillor Platt, seconded by Councillor Powell and:

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

The Sub-Committee had given careful consideration to this application for a review and to the actual representations received from Mr Kevin Frith and Mr Roger Frith on the grounds

that the Licensing Objectives in respect of Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm had been breached for the reasons set out in their representations. In making its decision, the Sub-Committee had taken into account:-

- (i) relevant matters set out in the Licensing Authority's own Statement of Licensing Policy;
- (ii) the relevant parts of the Guidance issued by the Secretary of State;
- (iii) the range of powers provided to Licensing Authorities by the Licensing Act 2003 in determining a Review; and
- (iv) any legal advice given by the Council's Legal Services Manager and Solicitor.

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

The decision was as follows:-

In respect of the application for the Review of a Premises Licence/Club Premises Certificate submitted by Mr Kevin Frith and Mr Roger Frith in respect of the premises known as The Basement/Al Fresco's, the Sub-Committee's decision was that the following additional fifteen conditions be attached to the Licence to meet the Licensing Objectives for the Prevention of Crime and Disorder, Promotion of Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm.

In addition to any Mandatory Conditions and any conditions that were consistent with the Operating Schedule, the following conditions would apply in order to satisfy the relevant Licensing Objective.

1. By no later than 9 November 2012 and at all times thereafter, all staff working at the premises shall be and continue to be fully trained and familiarised with a comprehensive plan for all relevant issues relating to the entry, exit, smoking area and noise control measures for the use of the premises. The Designated Premises Supervisor and/or Manager shall ensure compliance by all staff with this plan at all times.
2. All customers seeking to gain entry to The Basement area shall, so far as practicable, queue solely within the Al Fresco's area and the noise and number of customers waiting outside the premises to gain entry shall be kept to a minimum. A Door Supervisor shall be present at all times to give proper effect to these requirements.
3. No customer leaving the premises will be allowed re-entry other than those using the smoking area outside, which shall be used by no more than 20 customers at any one time. A Door Supervisor shall be present at all times to ensure that noise from customers in the smoking area is kept to a minimum.
4. By no later than 9 November 2012, clear and proper signs shall be displayed by all exit and entry points to the premises reminding customers to be quiet and behave in an orderly fashion when leaving the premises.
5. At least two Door Supervisors and the Duty Manager shall remain on duty at the premises until all customers have left the premises, the immediate vicinity and the surrounding area, in order to encourage customers to disperse quickly and quietly.
6. All cigarette ends and other rubbish in the immediate vicinity of the premises and

other adjacent properties, whether or not deposited by customers of the premises, shall be properly removed and disposed of at the end of each night and no drinks, bottles, glasses or similar containers shall be taken outside the premises by any person.

7. All external doors and windows of the premises shall be kept closed except for access and egress.

8. Rubbish and bottles shall not be removed from the premises between the hours of 9.00 p.m. and 8.00 a.m.

9. No recorded or live music shall be played outside The Basement area of the premises.

10. By no later than 9 November 2012, two doors each with noise reduction performance of not less than 15dB shall be installed, one just inside the entrance of the Al Fresco's area and the other at the far end of the disabled access ramp by the entrance to The Basement area and both doors shall be kept in place and kept closed except for access and egress at all times thereafter.

11. By no later than 9 November 2012, noise limiters for the club sound system shall be installed and shall be kept properly working at all times thereafter.

12. By no later than 9 November 2012 the beer coolers at the premises shall be moved and/or properly acoustically shielded and shall be retained where moved and/or as so acoustically shielded at all times thereafter.

13. The internal staircase between The Basement area and S & R's Social Club at 32-34 Kingsway, Dovercourt shall be unavailable except to staff working at the premises. Proper measures shall be kept in place at all times to ensure compliance with this requirement except in the case of fire or other emergency.

14. A fire safety certificate be produced and re-submitted annually to the Licensing Authority.

15. That an electrical safety certificate be produced and resubmitted annually to the Licensing Authority.

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.

The meeting was declared closed at 5.55 p.m.

7. ANY OTHER ITEMS THAT THE CHAIRMAN DECIDES ARE URGENT

There were none.

8. PLANNING APPLICATION 11/00475/FUL

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

Councillors De-Vaux Balbirnie and Skeels, present in the public area, as Ward Councillors

each declared a personal interest in the application and remained in the meeting.

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

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

9. ADJOURNMENT

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

10. PLANNING APPLICATION 11/00958/FUL

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

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

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

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

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

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

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

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

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

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

i) The method to be employed to reposition the dwellinghouse;

ii) The loading and unloading of plant and materials;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason for approval:

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

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

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

Regard has also been given to the draft National Planning Policy Framework that states

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

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

11. PLANNING APPLICATION 11/00117/FUL

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

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

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

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

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

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

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

Conditions:

- Time Limit
- No development permitted by this planning permission shall be implemented unless and until planning permission has been granted for the redevelopment of the Delfords site requiring access to the said land edged Blue to be provided in the manner hereby

permitted

- Parking for existing businesses to be provided
- Mud/Debris measures
- Landscaping Schemes, including land adjacent to existing site access
- Implementation of Landscaping Schemes
- Approved Plans

Reason for approval:

The proposal, for a new three arm mini roundabout junction on Main Road just to the south west of existing mini roundabout at the junction with Laurel Avenue, thereby creating a 'double mini roundabout', (including change of use from Village Green to highway and vice versa), is considered to be in accordance with the provisions of the Tendring District Local Plan (2007). The Local Planning Authority, having had regard to all planning considerations material to the determination of this application, including particularly the layout and highway matters of development proposed and all consultations and representations made in connection with the application, conclude that the proposal accords with the provisions of the development plan as applicable to it, including the policies and proposals noted below, and in the absence of any material adverse impact resulting from the development consider that there are no material grounds which justify its refusal.

Informative:

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

12. PLANNING APPLICATION 11/00996/FUL

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

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

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

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

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

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

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

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

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

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

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

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

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

Conditions

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

Reason for approval

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

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

Conditions

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

Reason for approval

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

14. PLANNING APPLICATION 11/00984/FUL

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

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

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

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

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

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

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

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

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

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

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

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

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The

contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

(2) Submission of Remediation Scheme

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

(3) Implementation of Approved Remediation Scheme

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

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

(4) Reporting of Unexpected Contamination

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

Following completion of measures identified in the approved remediation scheme a

verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (3).

(5) Long Term Monitoring and Maintenance

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

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

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

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

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

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

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

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

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

Reason - To ensure that the development compensates visually for the loss of open area

and soft landscaping and to ensure that the site has a satisfactory appearance in the interest of visual amenity, in accordance with Policies QL9 and QL11 of the Tendring District Local Plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason for approval:

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

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

15. PLANNING APPLICATION 11/00628/FUL

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

summary of recommended conditions.

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

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

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

- Time Limit
- Materials
- Soft Landscaping Scheme Implementation
- Hard Landscaping Submission
- Porous Driveway
- Access Layout
- Pedestrian Visibility Splays
- Unbound Materials
- Siting of Gates
- Front Hedgerow Siting
- Contaminated Land Survey
- Trees Protection Measures
- Protected Species Mitigation Measures
- Approved Plans

Reason for Approval

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

16. PLANNING APPLICATION 11/00823/FUL

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

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

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

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

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

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

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

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

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

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

3. The site shall only be open for deliveries or for the movement of goods into and out of storage between the hours of 8:00am and 17:30pm Monday to Saturday and no working on Sundays or Public Holidays. The hereby permitted sales use shall only operate between the hours of 09:00am and 17:30pm Monday to Saturday and 11:00am to 16:00pm on Sundays and Public Holidays.

Reason - In the interests of neighbouring residential amenity.

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

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

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

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

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

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

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

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

8. All changes in hard landscaping, planting, seeding or turfing shown on the approved

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

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

9. Prior to the commencement of the proposed development, details of an on site parking facility for construction workers and vehicles, a loading and unloading area for demolition and construction materials and a turning facility suitable for the largest vehicle attracted to or generated by the sites activities during the demolition and construction phases being provided entirely clear of the limits of the highway, shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

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

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

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

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

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

(1) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

(2) Submission of Remediation Scheme

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

(3) Implementation of Approved Remediation Scheme

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

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

(4) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to

the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (1), and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition (2), which is subject to the approval in writing of the Local Planning Authority.

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

(5) Long Term Monitoring and Maintenance

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

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

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

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

Reason for approval:

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

17. URGENT ITEM

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

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

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

RESOLVED – That the time be extended accordingly.

18. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

There were none.

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

To avoid the need for formal meetings of the Licensing and Regulatory Committees to be held to appoint their Sub-Committees and the Chairmen and Vice-Chairmen of those Sub-Committees:-

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

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

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

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

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

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

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

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

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

(g) That Premises/Personal Licences Sub-Committee 'A' be, and is, hereby appointed and that the members thereof for the 2011/2012 Municipal Year be as follows, with the appointment of a third member from the Labour Group, which appointment to be dealt with

by the Chief Executive in accordance with the authority delegated to him to appoint a member at the request of the Group Leader:-

Councillor Downing
Councillor Powell

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

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

Councillor V E Guglielmi
Councillor G L Mitchell
Councillor Shearing

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

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

Councillor De Vaux-Balbirnie
Councillor Fawcett
Councillor Platt

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

20. TENDRING DISTRICT LOCAL PLAN PREFERRED OPTIONS CONSULTATION

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

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

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

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

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

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

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

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

(b) delegates authority to the Head of Planning Services, in consultation with the Chairman of the Local Plan Committee, to make minor amendments to the text of the Local Plan consultation documents up to the point of publication for consultation purposes. Such amendments are to be circulated to all Members of the Council prior to the commencement of the public consultation; and

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

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

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

21. URGENT MATTERS FOR DEBATE

There were none on this occasion.

22. URGENT MATTERS FOR DEBATE

There were none on this occasion.

Chairman