

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON THURSDAY, 31ST AUGUST, 2023 AT 6.00 PM
IN THE COMMITTEE ROOM, AT THE TOWN HALL, STATION ROAD, CLACTON-
ON-SEA, CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander (except item 30), Bray, Harris, Placey, Sudra and Wiggins
Also Present:	Councillor McWilliams (except items 31 and 32)
In Attendance:	John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Ian Ford (Committee Services Manager), Madeline Adger (Leadership Support Manager), Amy Lang (Senior Planning Officer), Michael Pingram (Planning Officer)(except items 31 and 32), Bethany Jones (Committee Services Officer) and Emma Haward (Leadership Support Assistant)

26. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Councillor Everett (with no substitution).

27. MINUTES OF THE LAST MEETING

It was moved by Councillor Harris, seconded by Councillor White and:-

RESOLVED that the minutes of the last meeting of the Committee, held on Tuesday 1 August 2023, be approved as a correct record and signed by the Chairman.

28. DECLARATIONS OF INTEREST

Councillor Alexander declared for the public record in relation to report **A.1 – Planning Application 23/00746/FUL – Grange Farm Barn, Heckfords Road, Great Bentley, Colchester, Essex, CO7 8RR** that he was pre-determined and that therefore he would not participate in the Committee’s deliberations and decision making for this application.

Councillor Wiggins declared for the public record in relation to report **A.2 – Planning Application 23/00794/FUL – Land to South East of ‘Forres’, Clacton Road, Elmstead, Colchester, Essex, CO7 7DD** that she was a Ward Member. She advised that she was not pre-determined, and that therefore she would participate in the Committee’s deliberations and decision making for this application.

29. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were no such Questions on Notice submitted by Councillors on this occasion.

30. REPORT OF DIRECTOR (PLANNING) - A.1 - 23/00746/FUL - GRANGE FARM BARN, HECKFORDS ROAD, GREAT BENTLEY, COLCHESTER, ESSEX, CO7 8RR

Earlier on in the meeting as reported under Minute 28 above, Councillor Alexander had declared that he was pre-determined on this application. He therefore withdrew from the meeting and took no part whilst the Committee deliberated and made its decision on this application.

Members were told that this application was before the Planning Committee following a recent decision by the Committee to refuse a similar scheme on the site in February 2023 (reference 22/01601/FUL).

The proposal related to a retrospective planning application for a building that was initially approved under planning reference 19/01462/FUL in February 2020, but which had not been built in accordance with the previous approved plans. The main alterations saw an increase in the size and height of the building, which was to be utilised for ancillary storage and domestic leisure uses.

The Committee was reminded that the same scheme had been refused by the Planning Committee under 22/01601/FUL (against the Officers' recommendation for approval) as it was not considered to make a positive contribution to the quality of the local environment and character and failed to relate to the site and surroundings, including other buildings, by reason of its excessive height, massing, scale and design, and it did not respect the local landscape views.

The Committee was told that the only difference between 22/01601/FUL and the current application was that a Landscape Appraisal had been provided to address the points raised within the previous refusal reason. Following a review of the Landscape Appraisal, as well as a review of comments provided by the Council's Tree and Landscape Officer, Officers had concluded that the building was of a size, scale and form that was in keeping with the broadly agricultural character of the area and would not significantly alter views across the local setting and wider countryside.

Members heard that the increased size of the building would not detrimentally impact the setting on the nearby listed buildings and would result in a neutral impact to existing neighbouring amenities. In addition, Essex Highways had raised no objections.

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

At the meeting, an oral presentation was made by the Council's Planning Officer (MP) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of the wording of proposed planning condition no. 3, which was recommended by Officers to be amended to read as follows:-

“CONDITION: Within three months of the date of this planning permission a scheme of hard, soft and boundary treatment landscaping works for the site, which shall include any proposed changes in ground levels, shall be submitted to and approved, in writing, by the Local Planning Authority.

REASON: In the interests of visual amenity and the character and appearance of the area.

NOTE/S FOR CONDITION:

Slab level normally refers to the concrete slab supported on foundations or directly on the subsoil and is used to construct the ground floor of the development. In any other

case, please assume slab level to be the point before any walls and/or development can be visually above ground level or seek confirmation from the Local Planning Authority for your development.

Should the landscape works include any new hedgerow, please consider the following planting for a native hedge. Native hedge: 50% hawthorn, 25% blackthorn (but beware – this can spread into adjacent fields), 15% field maple, 2% holly, 2% wild privet, 2% guelder rose, 2% dog rose, 2% buckthorn.”

Parish Councillor Peter Harry, on behalf of Great Bentley Parish Council, spoke against the application.

Councillor Lynda McWilliams, the Ward Member, spoke against the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>What is different in this application from the refused application before?</i>	<i>The building is exactly the same. The only material change is the submission of a landscape appraisal.</i>
<i>Is the distance between this building and the Listed Building acceptable?</i>	<i>Yes. The Essex County Council Place Services were consulted and have raised no objections.</i>
<i>Would conditions as to ‘use’ apply to any future owners/occupiers?</i>	<i>This is covered in condition 2, which would preclude use for business purposes. A business use would need planning permission.</i>
<i>Can “ancillary use” be used to permit business use?</i>	<i>A matter of fact and degree is the judgement call. Can be used by owner/occupier to work (work from home), conduct business but if they had customers visiting and/or employed others at the site this would be a material change of use requiring planning permission.</i>
<i>Is the main point of ancillary use whether it attracts a lot of vehicle movements?</i>	<i>If a lot of people outside of friends and family, were visiting regularly for a community activity this would stray into grounds of an un-incidental change of use. Condition 2 is a standard condition that is adequate for case law.</i>
<i>If the building became used as a commercial storage site, could there be a limit on vehicle movements to the site?</i>	<i>It is unreasonable and unnecessary to impose such a condition given its proposed ancillary domestic/leisure use. Also, unreasonable to extend it to the domestic dwelling outside the scope of the ‘red line’.</i>
<i>Can we have an assurance that this is not creating a precedent for the future given the substantial increase to this building?</i>	<i>Officers have followed this up as an enforcement case. The applicant has given a lot of time and money. Every application has to be considered on its own merits. There is nothing to stop it</i>

	<i>under planning law but Officers would not recommend it as an approval route given the ultimate risk that it might have to be removed if permission was not forthcoming.</i>
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It was moved by Councillor Placey, seconded by Councillor Fowler and:-

RESOLVED that:

- 1) the Head of Planning & Building Control be authorised to grant planning permission, subject to the conditions as stated at paragraph 8.2 of the Officer report (with the exception of condition 3 which will be amended to reflect the changes set out in the Update Sheet), or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained; and,
- 2) the sending to the applicant of informative notes, as may be deemed necessary.

31. REPORT OF DIRECTOR (PLANNING) - A.2 - 23/00794/FUL - LAND TO SOUTH EAST OF 'FORRES', CLACTON ROAD, ELMSTEAD, COLCHESTER, ESSEX, CO7 7DD

Earlier on in the meeting, as reported under Minute 28 above, Councillor Wiggins had stated for the public record that she was a Ward Member for Elmstead. However, as she was not pre-determined on this matter, Councillor Wiggins remained in the meeting and participated as the Committee deliberated and made its decision on this application.

The Committee was told that the application was before Members as the proposal represented a departure from the Local Plan, proposing new residential development outside of the Elmstead Settlement Development Boundary (SDB) as defined within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.

Members heard that the application site was located on the southern side of Clacton Road (A133), on the outskirts of Elmstead Market, on land currently serving the garden area to the rear of the existing dwelling known as 'Forres'.

The Committee heard that the application sought full planning permission for the subdivision of the rear garden serving Forres and the erection of 1 no. detached single storey dwelling. The property would front Oak Tree Place, be served by a detached double gauge and approximately 535 sqm of garden space.

Members heard that to the rear of Forres and the application site was a development of 8 bungalows. The bungalows were served by a new access road, Oak Tree Place, between Forres and Lanswood Business Centre.

The Committee was reminded that the site lay outside of the defined SDB of Elmstead and was therefore contrary to the spatial strategy set out within adopted Local Plan Section 1 Policy SP7 and Section 2 Policy SPL2. Local Plan policy SPL2 does not preclude residential development outside of the defined boundary, but rather requires careful consideration of the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.

Members were informed that the adjacent development was originally approved for 9 dwellings (ref. 19/01211/DETAIL), superseded by the full permission for 8 bungalows now under construction (ref. 20/01840/FUL, varied by 21/00908/FUL). The application site itself broadly encompassed a portion of the land previously approved as part of the wider development. Had the previously approved scheme been built out, this would have accommodated a total of 9 detached dwellings. The current proposal would result in a total of 9 dwellings on the overall site. The development would essentially appear as an infill plot, would appear as part of the existing adjacent development, and not result in any harm to the character of the area or wider street scene.

Officers told the Committee that Elmstead Market was identified as a 'rural service centre' with a reasonably good range of services and facilities. The site laid approximately 0.22 miles (353 metres) from the edge of the defined settlement and 0.65 miles (1.05km) from the village centre. The site benefited from a pedestrian crossing and footpath link along Clacton Road. Furthermore, there were bus stops almost directly to the front of the site.

Members were also told that the Officers were satisfied that existing services and facilities within the settlement would be capable of supporting the development of 1 dwelling, and that these were accessible within safe walking distance of the site.

The Committee was informed that, other than the high-level policy conflict regarding the location of the site outside the defined settlement development boundary, in the opinion of Officers the development would not result in any material harm in terms of design, impact, residential amenities or highway safety, and was acceptable in all other regards. For those reasons, the application was recommended by Officers for approval.

The Committee had before it the published Officer report containing the key planning issues, relevant planning policies, planning history, any response from consultees, written representations received and a recommendation of approval subject to a Unilateral Undertaking.

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (AL) in respect of the application.

An update sheet had been circulated to the Committee prior to the meeting with details of:-

(1) an addition to Section 6 (Consultations) of the Officer report:-

Tree & Landscape Officer No objection subject to conditions
28.06.2023

"Application is accompanied by a Tree Survey Report in accordance with BS5837 2012 Trees in relation to design demolition and construction. Recommendations. The report provides an accurate description of the condition and amenity value of the trees on the land.

No objections subject to conditions retaining the Oak tree (T13) and a landscaping scheme."

(2) Correction (shown in bold) to tree number within Paragraph 8.39 of the Officer report, as follows:

“8.39 Information contained in the tree survey shows the retention of an Oak (T13), the Corylus (T15) and an Arbutus (T16). The Oak has moderate amenity value and will be retained, contributing positively to the site. The Tree Survey Report identifies the need for the removal of a Pine (~~T15~~) (T14). The Pine has significant defects, and its removal is considered acceptable.”

Bill Marshall, member of the public, spoke in favour of the application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>What happens to the Oak Tree (T13) in, say, 35 years’ time if its roots start affecting this new property? What can be done to protect this tree in perpetuity?</i>	<i>Officers have tried previously to go beyond a 10 year ecological protection period in planning conditions but have faced opposition from the Planning Inspectorate as they have deemed it to be unreasonable to go beyond the average life span of plants which is calculated to be 10 years. Officers have also considered whether this tree is deemed worthy of protection. The Council’s Tree Officer has stated that this tree does not qualify for a Tree Preservation Order and that it would be unlikely to do so in the future. Therefore, ensuring the preservation of this tree is not sufficient grounds to justify a recommendation of refusal by the Officers.</i>
<i>Can we stipulate in the design of property a way to pre-empt any problems with this tree and its root system in the future</i>	<i>In terms of the construction of this proposed dwelling Officers are reliant on the current Building Regulations. They have improved recently in terms of the protection of plants and tree root systems but they are not perfect so Officers cannot say that there is no risk to the tree.</i>
<i>Can you confirm that the original planning application was for a development of 9 houses though in the end it was reduced and only 8 are being built so that in effect this current application is merely returning it to the original 9?</i>	<i>Yes, that is correct though this application does take some of the garden from the property ‘Forres’ that would not have been part of the original application.</i>
<i>Given that Tree T14 is to be removed, can a request be added that the developer replaces this tree somewhere else within the extended development</i>	<i>A provision could be added within the landscaping scheme to require a replacement of that tree (T14).</i>

<i>site?</i>	
<i>Can Officers confirm that part of the long, close boarded fence in Oak Tree Close will be removed to facilitate access to the garage, a dropped kerb and the front entrance to this new dwelling?</i>	<i>Yes that is correct and this was explained in the Officer report and earlier presentation.</i>
<i>Is it correct that this new development will take land that is currently occupied by the developer's construction storage containers?</i>	<i>Yes, that is correct. Once the current development of 8 bungalows is completed then those storage containers will be removed to facilitate this proposed development. A Construction Management Scheme would need to be agreed and this is set out in proposed planning condition number 8.</i>
<i>For the 8 bungalows under construction the developer will be using a package treatment scheme for sewerage disposal. Will this new proposed dwelling go on the 'Mains' scheme or will it also be on a package treatment scheme?</i>	<i>The Agent has confirmed that there is no connection to the 'Mains' and that therefore this proposed new dwelling will be connected to the same package treatment scheme being provided for the other 8 bungalows. This has been deemed to be acceptable.</i>
<i>Has this application already been approved by Building Control or will it go to them after it has been approved by this Planning Committee?</i>	<i>The building control stage always follows the planning application approval stage. The building regulations stage will require much more detailed plans from the applicant.</i>
<i>Could we include within the conditions a requirement that Tree T13 is pollarded and/or copped?</i>	<i>A 'management' condition could be added stipulating how the plants and trees will be protected and maintained. It's possibly excessive to impose this just for one tree but if Members were so minded an extra condition could be added to run alongside the landscape scheme.</i>
<i>The veracity was questioned of a statement within the Officer report that indicated that you could get directly to Alresford and Brightlingsea by bus from Elmstead.</i>	<i>Officers reviewed the current bus provision available, apologised for the error in the Officer report and withdrew that point.</i>

It was moved by Councillor Bray, seconded by Councillor Alexander and:-

RESOLVED unanimously that the Head of Planning and Building Control be authorised to grant planning permission subject to:-

- (a) on appropriate terms, as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control to secure the completion of an unilateral undertaking legal agreement under the provisions of section 106 of the Town and Country Planning Act 1990 dealing with the financial contribution in accordance with the Essex Coast Recreational disturbance

Avoidance and Mitigation Strategy (RAMS) totalling £156.76 per dwelling (index linked);

- (b) the planning conditions, as stated at paragraph 10.2 of the Officer report, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the conditions as referenced is retained and further subject to:-
 - (i) a landscape scheme to include the replacement of Tree T14 within the site as a new tree to be planted; and
 - (ii) a further condition alongside the landscape scheme stating that, prior to the construction of the dwelling, a management scheme and methodology for Tree T13 shall be agreed and thereafter maintained as agreed unless otherwise agreed in writing by the local planning authority.
- (c) the sending to the applicant of any informative notes as may be deemed necessary; or
- (d) that, in the event of the requirements of the legal agreement referred to in resolution (a) above not being secured within 12 months of the date of this meeting, the Head of Planning and Building Control is hereby authorised to refuse the application, on appropriate grounds, at their sole discretion.

32. REPORT OF DIRECTOR (PLANNING) - A.3 - 23/00376/FULHH - 78 NORTH ROAD, CLACTON-ON-SEA, ESSEX, CO15 4DF

Members were told that the application had been referred to the Planning Committee as the land was owned by Tendring District Council.

The Committee heard that the application sought retrospective permission for the erection of a conservatory. Whilst the footprint of the conservatory met the permitted development criteria, the overall height measured 3.5 metres and fell within 2 metres of the boundary, so planning permission was therefore required.

Officers informed the Committee that the conservatory was a single storey feature, measuring 3.15 metres deep by 4.75 metres wide. The eaves height was 2.5 metres and overall ridge height measured 3.5 metres. The conservatory was deemed by Officers to be of an acceptable size, scale and appearance with no significant adverse effects on the visual amenities of the area.

The Committee was also told that the single storey nature of the conservatory meant that it posed no significant threat to overlooking or loss of privacy to the adjacent neighbouring dwellings. It had no significant impacts on the loss of light, which, in the opinion of Officers, would be significant enough as to justify refusing planning permission.

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

At the meeting, an oral presentation was made by the Council's Senior Planning Officer (AL) in respect of the application.

There were no matters raised on the Planning Officers' Update Sheet in respect of this application.

There were no public speakers on this application.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<p>Could you please clarify why Members could not attend this site as part of the Committee's site visits today?</p>	<p>This is a site owned by the Council but it has tenants in situ. Officers did not receive in time the required permission from the tenants to access the site. Therefore, it would have been a breach of their privacy for the Committee to progress through the house in order to view the conservatory in the back garden [there being no side access available]. Officers were also not aware of any public vantage point that would have enabled Members to view this application site. Officers did not have any other valid reason to, otherwise delay the determination of this application.</p>
<p>Can you confirm that this application is only before the Committee because the Council is the landowner otherwise it would have been dealt with by Officers under their delegated powers?</p>	<p>Yes, that is correct.</p>

It was moved by Councillor Bray, seconded by Councillor Placey and:-

RESOLVED unanimously that the Head of Planning & Building Control be authorised to grant planning permission, subject to:-

- (a) the condition as stated at paragraph 8.2 of the Officer report, or varied as is necessary to ensure the wording is enforceable, precise, and reasonable in all other respects, including appropriate updates, so long as the principle of the condition as referenced is retained; and
- (b) the sending to the applicant of any informative notes as may be deemed necessary.

The meeting was declared closed at 8.25 pm

Chairman