

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 19TH JANUARY, 2021 AT 6.00 PM
THE MEETING WAS HELD PURSUANT TO THE PROVISIONS OF STATUTORY
INSTRUMENT 2020/392.**

Present:	Councillors White (Chairman), Bray (Vice-Chairman)(except item 93), Alexander, Cawthron, Casey (except item 93), Fowler (except item 93), V E Guglielmi (except item 93), Harris and Placey
Also Present:	Councillors Coley (items 85 - 89 only) and G V Guglielmi (except item 93)
In Attendance:	Ian Davidson (Chief Executive), Paul Price (Deputy Chief Executive & Corporate Director (Place and Economy)), Graham Nourse (Assistant Director (Planning)), Lisa Hastings (Assistant Director (Governance) & Monitoring Officer), Andy White (Assistant Director (Building and Public Realm))(except item 93), Trevor Faulkner (Planning Manager), Ian Ford (Committee Services Manager), Joanne Fisher (Planning Solicitor), Karen Harges (IT Training Officer), Debbie Bunce (Legal and Governance Administration Officer) and Matt Cattermole (Communications Assistant)

85. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none on this occasion.

86. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the last meeting of the Committee, held on 15 December 2020, be approved as a correct record.

87. DECLARATIONS OF INTEREST

Councillors Bray, Casey and Fowler each declared that they would take no part in the consideration and determination of item B.1 of the Report of the Assistant Director (Planning) in relation to the forthcoming planning appeal for Oakleigh Residential Park, Clacton Road, Weeley insofar as they each considered themselves to be pre-determined on this matter.

Councillor Harris, as a point of information, declared for the public record that he was the local Ward Member for Oakleigh Residential Park.

88. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

There were none on this occasion.

89. A.1 - PLANNING APPLICATION – 20/00662/FUL – ANCHOR INN, HARWICH ROAD, MISTLEY, MANNINGTREE, CO11 1ND

Members were informed that the application had been referred to the Planning Committee by Councillor Coley, due to, in his opinion:

“the negative impact upon the neighbours, and as the Anchor Inn is the last remaining Public House in the centre of the Parish and served the immediate surrounding community. The Anchor Inn is integral to the Parish and has a historical and cultural benefit. The Councillor has great sympathy for the situation the licensee finds himself in during the depth of the Coronavirus Pandemic. Operating a public house in these circumstances is extremely challenging. However, everything possible must be done to retain this facility within the community. Before the Anchor is lost to the community and replaced with two dwellings there must be clear evidence that this business is no longer viable. Before this application is approved the owner must provide evidence that it has been offered for sale as a going-concern and that a sale as a Public House has been impossible.”

It was reported that this application sought planning permission for the change of use of the premises from a public house and residential unit to two residential units with the associated demolition and removal of the single storey attached outbuildings.

The Committee was made aware that the application site was located within the defined Settlement Development Boundary for Mistley, as defined by the Saved Tendring District Local Plan 2007 and the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017).

It was considered by Officers that sufficient marketing information had been provided by the applicant to demonstrate that a sustained marketing campaign had been undertaken since July 2018. Supporting information demonstrated that the Anchor Inn had experienced an extended period of declining trade and had been vacant for a number of months. It was for this reason that the applicant had explored other uses for the property. The applicant had demonstrated that the proposed development complied with Policy COM3 of the Tendring District Local Plan, as the applicant had demonstrated that there was an alternative facility within walking distance and that the Anchor Inn was no longer viable and that reasonable attempts had been made to sell or let the premises for continued operation in its existing or last use without success.

Therefore it was the view of Officers that the principle of residential development in this location was acceptable and subject to conditions there was not considered to be any material visual harm, harm to neighbouring amenities, harm to highway safety and parking provision or harm to the Conservation Area. A completed unilateral undertaking had secured a financial contribution towards RAMs.

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 Manager in respect of the application.

The Chairman of Mistley Parish Council, Charlotte Howell, spoke against the application.

Councillor Coley, a local Ward Member, spoke against the application.

During the Committee's debate on this application, Members discussed and asked questions on the following matters:-

Matters raised by a Committee Member:-	Officer's response thereto:-
<p>The effect of a community run public house on the local area and the progress made with any bid.</p> <p>Would the loss of the public house be a gain or a loss for the local community?</p> <p>Benefit versus Harm</p>	<p>The Anchor Inn has been added to the Council's List of Assets of Community Value (ACV). This would now require the Applicant to inform TDC that they were in the process of selling the property. This would then trigger a six week period for Mistley PC or a community group to formally register its intention to submit a bid. This would then trigger a period of six months for the full bid to be submitted. However, the applicant would not be obliged to accept that bid.</p> <p>Property has been on the market since July 2018.</p> <p>Accepted that it would be a shame to lose the public house from the local community but the application had to be considered on its planning merits against relevant policies such as COM3 and HP2. Site is within the defined settlement area of Mistley. No objections had been received on heritage or archaeological grounds.</p> <p>Accepted that The Mistley Thorn is a more formal setting and therefore not a like-for-like comparison.</p>
<p>Was application contrary to paragraph 85 of NPPF? Has the rise in population expected from the building of approximately 1,000 new homes in eastern Mistley and the potential for an increased custom at the Anchor Inn been taken into account?</p>	<p>Yes – that had been taken into account.</p>
<p>Could the application be deferred until such time as a community bid had been submitted?</p>	<p>Application had been submitted and must be duly considered now on its planning merits. There was a risk that the Applicant would appeal on the grounds of non-determination.</p> <p>Granting planning permission would not override the requirements of the ACV legislation.</p>
<p>Can the Committee take into account that the Council has a five year plus supply of housing land into consideration in determining</p>	<p>Yes – in view of the fact that Section 1 was at the point of imminent formal adoption this could be given significant material weight. Planning Inquiry</p>

<p>applications even though Section 1 of the Local Plan has not yet been adopted?</p>	<p>Inspectors had already used this aspect in determining recent appeals in the Council’s favour. However, this site lay within the defined settlement area of Mistley and was not therefore contrary to policy.</p>
<p>Are the Officers satisfied that there has been a sustained adequate marketing campaign for the public house to continue as a going concern?</p> <p>When did the public house close?</p> <p>What price is the public house being advertised at and is it being advertised as a business premises?</p> <p>Is it reasonable to still market as a business given the current circumstances of an ongoing pandemic?</p> <p>Could the Committee determine that the asking price was unrealistic in the current circumstances?</p>	<p>Yes – on the basis of the evidentiary material provided by the applicant.</p> <p>The public house closed in and around March 2020 at the time of the first Covid-19 related ‘lockdown’.</p> <p>£425,000. It was being marketed as a going concern complete with fixtures & fittings and a residential flat above.</p> <p>Yes – the property remains as a public house (albeit closed at present). It had been on the market since July 2018 and had had quite a lot of initial interest. Submitted documentation had shown that in eight of the ten years prior to May 2020 the public house had operated at a loss and had been de-registered for VAT purposes in December 2019.</p> <p>Yes, on balance, the Committee’s judgement was final. Officers could only operate on the basis of the evidence provided.</p>

Following discussion by the Committee, it was moved by Councillor Fowler and seconded by Councillor Cawthron that planning application 20/00662/FUL be approved, subject to conditions, which motion on being put to the vote was declared **LOST**.

After further discussion around the planning reasons to support refusal, it was then moved by Councillor Harris, seconded by Councillor Bray and:-

RESOLVED that, contrary to the Officer’s recommendation of approval, the Assistant Director (Planning) (or equivalent authorised officer) be authorised to refuse planning permission for the development due to the following reasons:-

“Section 8 of the National Planning Policy Framework 2019 relates to ‘Promoting healthy and safe communities’ and, at paragraph 92, states that:

‘To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should [amongst other items] ...(c) guard against

the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; [and] (d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community...'

Policy COM3 of the Tendring District Local Plan 2007 states that in order to ensure that basic community facilities and local services are retained, redevelopment that would result in their loss will not be permitted unless [amongst other items]; that:

'(b) : there is adequate provision of similar facilities within reasonable walking distance (800m); or

(c) it has been demonstrated that there is no longer a local need for the facility or it is no longer viable...."

Policy HP2 of the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) states that the Council will work with the development industry and key partners to deliver and maintain a range of new community facilities. This policy includes the following provisions:

'The loss or change of use of existing community or cultural facilities will be resisted unless:

(b) replacement facilities are provided on site, or within the vicinity, which meet the need of the local population, or necessary services can be delivered from other facilities without leading to, or increasing, any shortfall in provision; or

(c) it has been demonstrated that there is no longer a community need for the facility or demand for another community use on site.'

Insufficient evidence has been submitted to demonstrate that there is an adequate provision of similar facilities within reasonable walking distance of the Anchor Inn. Furthermore, it has not been demonstrated that due to the loss of the facility, any replacement facilities will be provided on site or within the vicinity; or that there is no longer a community need for the facility given that an application for the registering of the public house as an 'Asset of Community Value' (ACV) was submitted in August 2020 and agreed to be added to the Council's ACV List in October 2020. The development would result in the loss of a community facility and is therefore contrary to Paragraph 92 of the National Planning Policy Framework; Policy COM3 of the Tendring District Local Plan 2007; and Policy HP2 of the Emerging Tendring District Local Plan 2013 - 2033."

90. A.2 - PLANNING APPLICATION – 20/01409/FUL – LAND ADJACENT 2 WIVENHOE ROAD, ALRESFORD, CO7 8AD

Members were informed that this application was to be determined by the Planning Committee as one of the applicants was employed by Tendring District Council within the Planning Department.

The Committee was made aware that the application site was located within the defined Settlement Development Boundary for Alresford, as defined by the Emerging Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017). The principle for residential development is therefore acceptable.

It was reported that the proposal was for a variation to the approved planning permission for this site, which had recently been allowed on appeal. The proposal was for erection of three dwellings on this site.

Members were advised that the submitted plans showed a reconfiguration to the approved turning head and changes to Plot 1 in terms of the rear elevation including the introduction of a rear gabled section along with new solar panels to the rear and side roof slopes.

Officers considered that the proposed variation would not represent a significant departure from the approved scheme. It would not result in harm to the existing trees or to neighbouring amenities. County Highways supported the application subject to conditions. A legal agreement to cover financial contributions towards Open Space and RAMS had been completed as part of the approved application. Therefore, subject to a number of conditions, 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**.

At the meeting, an oral presentation was made by the Council's Planning Manager in respect of the application.

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

- (i) Corrections to Paragraphs 1.4, 6.4, 6.7, 6.8 and 6.9 of the Officer report i.e. they should have referred to solar panels rather than roof lights; and
- (ii) Amended wording for proposed Planning Condition No.2.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor V E Guglielmi and unanimously:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions (and reasons):-

- 1 The development hereby permitted shall begin no later than 14 August 2023.

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 be carried out in accordance with the following approved plans: 40 Rev B, 41 Rev B, 42 Rev B, 43 Rev B, 44 Rev A, 45 Rev A, 46 Rev A, 47 Rev A 48 Rev B and 49 Rev B.

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

- 3 Prior to any equipment, machinery or materials being brought onto the site for the purposes of the development hereby approved, details of tree protection measures shall be submitted to and approved in writing by the local planning authority (LPA).

Development shall be carried out in accordance with such measures, which shall be installed prior to development commencing.

Reason - To ensure the protection of the retained trees on site.

- 4 Prior to the first occupation of the dwellings hereby permitted, a Landscaping Plan, including details of boundary treatments, hard surfacing, ground levels and the species and size of any trees and hedges to be planted, shall be submitted to and approved in writing by the LPA. Development shall be carried out in accordance with the approved details prior to occupation or, for any new trees or hedges, within the first available planting season.

Reason - In the interests of protecting the semi-rural landscape and in the interests of visual amenity.

- 5 If, within a period of 5 years from the date of planting, any new tree or hedge is removed, uprooted, destroyed or dies or becomes, in the opinion of the LPA, seriously damaged or defective, another tree or hedge of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree or hedge.

Reason - To ensure and maintain the enhance enhancement of the site.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement of the dwelling houses, additions to their roofs or the construction of buildings incidental to their enjoyment, as permitted by Classes A, B and E of Part 1 of Schedule 2 of that order, shall take place.

Reason - To protect the semi-rural landscape and in the interests of visual amenity.

- 7 Prior to the first occupation of the dwellings hereby approved, the vehicular access and off street parking and turning facilities as shown on approved drawing 41 Rev B, and an appropriate dropped kerb vehicular crossing of the footway/highway verge to the specifications of the Highway Authority, shall be provided.

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.

- 8 No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the LPA. The Statement shall provide for; the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials and wheel washing facilities. The approved CMS shall be adhered to throughout the construction period for the development.

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

- 9 No unbound materials shall be used in the surface treatment of the 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.

91. A.3 - PLANNING APPLICATION – 19/01910/LBC – TENDRING DISTRICT COUNCIL, CLACTON TOWN HALL, STATION ROAD, CLACTON-ON-SEA, C015 1SE

Members recalled that this Listed Building Consent application had been previously considered by the Planning Committee at its meeting held on 10 March 2020.

The application had been put before the Committee as Tendring District Council was the applicant. The application sought permission for internal changes to Clacton Town Hall Committee Room including:

- Refurbishment and restoration of the plasterwork to both the walls and the ceilings and coving;
- Restoration of the windows to insert new mullions;
- Covering of the original glazing panels to the rooflight in Black Perspex;
- Forming a new entrance into the committee room within the existing larger opening incorporating new entrance doors from the corridor;
- Restoration of wall panelling around the new door opening;
- Restoration of the timber parquet flooring;
- Installation of speakers to the walls and ceiling suspended lighting scheme;
- New service installations and fire protection; and
- Existing original features including moulded architraves, cornices, skirting and picture rails to be repaired and where required replicated.

Officers had felt that, having regard to the supporting documents and the submitted heritage statement it was evident that the works did not harm the special character, fabric and appearance of the listed building and in several cases represented an enhancement as original features were to be restored.

The proposed alterations were therefore considered to meet the requirements of the Council's saved and draft planning policies relating to the protection of listed buildings and the relevant paragraphs of the National Planning Policy Framework (2019).

After discussion at its meeting held on 10 March 2020 the Committee had decided to defer its decision for the following reasons:

- *Scheme refinement and better drawings to be provided.*
- *Further thought to be given to the form and detailing of the roof light as the Committee do not consider the black perspex panels proposed within the roof light to be sensitive to the heritage asset; and*
- *Further consideration to be given to lighting and ability to introduce natural light.*

Further matters discussed by the Committee at that meeting had included the need to maintain a very traditional feel to the room and its size and capability to host large meetings.

It was reported that, following the March 2020 meeting, further information had now been provided in the form of updated drawings and a statement addressing each of the above issues raised by Members. A summary of the additional information submitted was as follows:-

Scheme refinement and more detailed drawings

All internal elevations and cross sections including matters such as the colour scheme and heater boxing that were previously to be secured via condition were now provided. The proposed work was to remove late twentieth century internal partitioning and to repair and restore the built form as it was constructed.

Form and detailing of the roof light

It was proposed that the form of the roof light will remain as it was in the 1930s. Further modification of the structure would not be optimal. The roof light could not be returned to lighting/ventilation use because office accommodation had been built above it.

The advice of the historic building specialist at Essex County Council Heritage had been sought and the consensus of officers was that it would not be proportionate to remove the office accommodation above and that the re-glazing of the roof light with opaque material (Perspex – Light Grey) was the most appropriate compromise in the circumstances.

Room colour scheme

Officers had researched past paint colours in the room. It appeared that those colours had been:

- White (original)
- Pine effect wood graining
- Cream
- Mixed by later subdivisions: magnolia, blue and white

Officers had agreed with the historic building advisor that the most sympathetic colour scheme would be a white palette referencing the original scheme. Building Regulations required a tonal contrast between walls and doors to make the building accessible for users with impaired vision. Therefore the proposed colour scheme was as follows:-

Element	Colour	Finish
Ceilings and cornice	Lime Wash White	Flat Matt
Walls and columns	Aged White	Diamond Matt
Skirtings frames and architraves	Lime Wash White	Gloss paint
Rooflight Framing	Lime Wash White	Gloss paint
Rooflight glazing	Grey 9981	Gloss
High level window glazing	Grey 9981	Gloss
Doors	Grey 91 YY 31/059	Gloss paint
Flooring	Self-colour – mid oak	Satin polish

Further consideration to be given to lighting and ability to introduce natural light

As indicated in the submitted cross-sections and elevations drawings all of the former high level windows and the bulk of the roof light were now covered by later first floor additions. The roof light was covered by the floor of an office and the side windows adjoined voids between levels of the building. The result was that none of those could be used to introduce natural light.

Accordingly it was not feasible to introduce natural light. Officers had considered the potential to add artificial lighting to the roof light but had found that this would be out of keeping with the likely use of the room at night and produce an uneven distribution of light in the room.

It was unlikely that pendant fittings as seen in historical photographs would provide adequate intensity and distribution of illumination for modern use. The proposed lighting design by manufacturers, Ansell, was intended to compliment the rectilinear form of the ceiling beams and distribute light appropriately over the working areas. Modern materials provided clear legibility to distinguish historical and modern references.

Restoration of traditional feel to the room

The proposal was to return the room essentially to its 1930s original form and colour scheme. The room had a clear architectural form with strong articulation of the panelling and ceilings.

The proposed colour scheme respected the original vision for the room while meeting modern requirements.

Size of room for meeting requirements

Whilst not relevant to the determination of this Listed Building Consent application, for some years the Full Council and larger Planning Committees had been held in the Princes Theatre. It was proposed that this was continued in the future. The proposed Committee Room was around 20m² smaller than the Council Chamber at Weeley. However, it was more conveniently shaped for a range of uses and would accommodate the furniture required for such meetings/committees.

Additionally, the Town Hall had a number of rooms for overspill if required. Officers were in the process of procuring new audio and visual systems that would be able to broadcast proceedings to other rooms and to the web as desired.

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 Manager in respect of the application.

The Assistant Director (Building & Public Realm) (Andy White), acting on behalf of the Council as the applicant, spoke in support of the application.

During the Committee's debate on this application, Members discussed and asked questions on the following matters:-

Matters raised by a Committee Member:-	Officer's response thereto:-
Will Councillors enter/leave the committee room by the same entrance/exit as the public?	Separate entrance/exit will be available.
Will wall panelling be as provided in the illustration?	No – the wall panelling will be as near the original features as possible.
When will the committee room be available?	It was hoped that all building work at the Town Hall will be completed by the Summer of 2021.

Following discussion by the Committee, it was moved by Councillor Bray, seconded by Councillor Casey and unanimously:-

RESOLVED that the Assistant Director (Planning) (or equivalent authorised officer) be authorised to grant planning permission for the development, subject to the following conditions (and reasons):-

1. The works hereby permitted shall begin before the expiration of three years from the date of this consent.

Reason - To comply with the requirements of Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- 52310/B/TDCrev – 1 Revision B
- 52310/B/TDCrev – 3 Revision B
- 52310/B/TDCrev – 2
- 52310/B/TDCrev – 4
- 52310/B/TDCrev – 5
- 52310/B/TDCrev – 6
- 52310/B/TDCrev – 7
- Schedule of Works Document (as prepared by Richard Jackson Building Consultants)
- Document Titled – ‘The design & installation of a Sound and Video system’
- Document Titled – ‘Proposed New Lighting’ (as prepared by Ansell Lighting – dated 17.07.19)
- Audio Specification Details (as prepared by EVID)
- Daikin Concealed Floor Standing Unit Specification
- Daikin Ventilation Technical Data Sheet

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

92. EXCLUSION OF PRESS AND PUBLIC

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

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during the consideration of Agenda Item 9 on

the grounds that it involves the likely disclosure of exempt information as defined in paragraph 5 of Part 1 of Schedule 12A, as amended, of the Act.

93. REPORT OF ASSISTANT DIRECTOR (PLANNING) - B.1 - PLANNING APPEAL REFERENCE 20/00089/REFUSE - OAKLEIGH RESIDENTIAL PARK, CLACTON ROAD, WEELEY

The Chairman informed Members that he had agreed that this matter could be brought before the Planning Committee, as an urgent item, in order to meet the Planning Appeal timetable relating to the current Public Inquiry pertaining to the refusal of application 20/00119/FUL – Oakleigh Residential Park, Clacton Road, Weeley.

RESOLVED that –

1. the summary legal advice received from external Counsel be noted;
2. in the light of the clear legal advice the Planning Committee confirms that it does not wish to continue defending ground 3;
3. the Assistant Director (Planning), in consultation with the Chairman of the Committee, be authorised to work with Counsel to decide the affordable housing offer that would be acceptable to the Council in defending ground 5;
4. should the Appellant agree to accept the amount of Affordable Housing contribution, the Committee approves that the reasons for refusal on ground 5 will no longer be progressed; and
5. Officers be instructed to work with Counsel to defend the planning appeal on the grounds of reasons 1, 2 and 4 (and 5, subject to the above).

The meeting was declared closed at 9.54 pm

Chairman