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Planning Committee

21 November 2023

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 21ST NOVEMBER, 2023 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

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| Present: | Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, Everett, Placey, Sudra and Wiggins |
| In Attendance: | Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Michael Pingram (Planning Officer), Naomi Hart (Planning Officer)(except item 57), Charlotte Cooper (Planning Officer)(except items 55-57), Bethany Jones (Committee Services Officer), Emma Haward (Leadership Support Assistant) and Hattie Dawson-Dragisic (Performance and Business Support Officer) |
| Also in attendance: | Keith Simmons (Head of Democratic Services and Elections)(except item 57) |

49. PLANNING COMMITTEE MEMBERSHIP

The Chairman of the Planning Committee (Councillor Fowler) read out the following statement:-

"I have been made aware that during the course of yesterday, Councillors Jeff Bray and Peter Harris, our colleagues on this Committee, informed the Chief Executive by formal notices to that effect, that they were resigning from the Conservative political group on Tendring District Council and that they were forming a new political group, namely the Tendring Residents' Alliance Group.

One of the consequences of those actions is that Councillors Bray and Harris have ceased to be members of this Committee and this is why they are absent this evening. The Leader of the Conservative Group, Councillor Carlo Guglielmi, will notify the Chief Executive, as soon as he is able, of the names of their replacements and I look forward to welcoming those Councillors to the Planning Committee in due course. Thank you."

50. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were no apologies for absence or substitutions submitted on this occasion.

51. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the last meeting of the Committee, held on Tuesday 24 October 2023, be approved as a correct record and signed by the Chairman.

52. DECLARATIONS OF INTEREST

There were no declarations of interest submitted by Councillors.

53. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

54. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 22.02072.FULHH - 3 DE VERE ESTATE, GREAT BENTLEY, CO7 8QB

The Committee heard that the application involved the installation of a lowered curb providing vehicular access and a driveway that included a parking space in front of the property. The Officers' opinion was that the proposed development, subject to certain conditions, met acceptable standards in terms of design and aesthetics and was not expected to have any major adverse effects on residential amenities. Essex County Council Highways had been consulted regarding the application and had indicated that it complied with highway safety requirements, subject to the conditions as included in paragraph 8.2 of the officer report.

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 (CC) in respect of the application.

There were no updates circulated to Members on this application.

Steve McClaine, on behalf of the applicant, spoke in support of this application.

| Matters raised by Members of the Committee:- | Officer's response thereto:- |
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| <i>What is the view in the terms of the visibility splay and safety?</i> | <i>With the layby in the diagram, the Highways Authority have raised no objections, they have argued that the verge coming out of the property is wide enough for a clear view behind any vehicles that are parked in the layby. They have also said that if this application is approved then the next stage would be that the applicants apply for a Vehicle Crossing Application and then the layby is further assessed at that point and if it needs to be shortened for any reason then it will be assessed at that point.</i> |
| <i>Could you give us more information about the telegraph pole and if there is a clear vision when a car is coming out?</i> | <i>Again, the Highways Authority have not raised any objections to the telegraph pole and have said it will be further assessed at the Vehicle Crossing Application stage. There is a possibility that the applicant may be required to remove the pole which will be at the applicant's own expense and that will also be dealt with at the Vehicle Crossing Application stage but at the</i> |

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| | <i>moment there have been no objections raised.</i> |
| <i>What is the latest stage for this application?</i> | <i>This is the application in planning terms to be considered but also the Highways Authority have their own application to consider later because they have to expressly consent to any new access joining their road. So that is separate and not a material consideration to us. The Highways Authority in their consideration will need to be assured of the safety aspects. So even if you do approve this application, they have to be assured themselves that there is a safe access, but safe access is also one of TDC's material considerations too. In respect to the conditions in the report, there are a number of conditions that we can control and one of them is the removal of the hedgerow in order to allow the visibility as the car is coming out of the driveway, the applicant will have a rolling vision and it will vary as there may be cars in the layby or not. Unfortunately, that is a risk here that on occasion the applicant's view is going to be blocked by the cars in the layby.</i> |
| <i>With regards to Condition 4 in the report, does that mean you can't park there?</i> | <i>The problem with a car is that it is not a permanent object so Officers would suggest that Condition be found fault with in respect of the layby. It's not a permanent feature that can be controlled and say it will be in breach of that. It will be a changeable obstruction that can change minute to minute so Officers don't think it is possible to enforce that in respect of parking but in respect of anything else like telegraph poles and other matters we would.</i> |
| <i>Can we condition that there is no parking on that new build and dropped kerb?</i> | <i>No one can park there by default as it is not their land, that is Highway land.</i> |
| <i>Who does the greensward belong to?</i> | <i>The pavement and the greensward are Tendring District Council land but in Highway terms you have the public right of way in any event. So, the control is TDC's and essentially Officers would not allow a car to park there as it would obstruct the public right of way.</i> |
| <i>Is there any condition that TDC can put on which says you can't park on that greensward or the pavement?</i> | <i>Officers would say it is unlikely, but you can put a condition on that for avoidance of doubt. To clarify,</i> |

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| | <i>Councillors may want to consider the condition would be to ensure no parking at any time on the access to the driveway leading to the parking area.</i> |
| <i>Is the area in front of the property a permeable surface?</i> | <i>The material of the parking area and it assumed it continues through to the driveway is regarded as block paved and there are two types of that, and some are permeable, and some are not but Officers can condition to that affect that it has to be agreed if you wish.</i> |

Following discussion by the Committee, it was moved by Councillor Alexander, seconded by Councillor Everett and unanimously:-

RESOLVED that:

- 1) the Head of Planning and Building Control be authorised to grant application 22/02072/FULHH planning permission subject to the conditions as stated at paragraph 8.2 of the Officer report and as added to at the meeting in relation to ensure no parking at any time on the access and driveway leading to the parking area and for its surface material to be permeable, with details to be agreed, 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 of any informative notes to the applicant as may be deemed necessary.

55. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23.01448.FULHH - 42 ELM GROVE, CLACTON-ON-SEA, CO15 4DH

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

The Committee heard that the application sought retrospective planning permission for the erection of a single storey rear extension measuring 3.8m in depth and 3.1m in height.

Members were made aware that the extension was sited to the rear of the house and 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.

Officers also told the Committee that the single storey nature of the extension meant 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 were so significant 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 Head of Planning and Building Control (JP-G) in respect of the application.

There were no updates circulated to Members for this application.

There were no public speakers for this application.

| Matters raised by Members of the Committee:- | Officer’s response thereto:- |
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| <i>Is this application before us because Tendring District Council own the property?</i> | <i>Yes, that is correct. Under TDC’s constitutional arrangements the application has to come to Committee.</i> |
| <i>Under normal circumstances, not being TDC property, would this application be dealt with by Officers?</i> | <i>Had this not come to Committee, Officers would have delegated powers to approve the application.</i> |
| <i>How does a building get built at this stage if the property is TDC’s?</i> | <i>Ultimately, there are two different regimes, and they have to deal with their applications on two different systems and not share information to a degree. Officers also have approved inspectors that don’t have to tell TDC what they’re doing, and they deal with a lot of sites as well. Arguably, because it is TDC land there is a third department involved as well but Officers can only deal with what is presented to them in a planning application.</i> |
| <i>Would this application be passed under permitted development had it not been TDC property?</i> | <i>No, given the height of the flat roof against the boundary within 2 metres of that boundary it is higher than 2.5 metres. There might be another reason but that is the most obvious reason that Officers can see so it needs planning permission. However, some instances, people are not clear on what is permitted development and what isn’t and have made a natural mistake and that is why retrospective applications come to Committee.</i> |
| <i>What is the danger of us causing a precedent here?</i> | <i>Unfortunately, the perception of the public of what they can and can’t do is a continuous challenge for the Authority and expressly telling them what is permitted development and what is not allowed and, in some cases, TDC have removed the permitted development rights away from some estates – that is a matter of education and to get the message out in an effective way. There is no punishment for retrospective applications, there are ideas around increased fees but ultimately this applicant has realised they needed planning permission and have put the application in to rectify their mistake and it can serve as a good example to realising what they needed to do for</i> |

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| | <i>TDC to determine. This must be determined on its own individual merits.</i> |
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Following discussion by the Committee, it was moved by Councillor White, seconded by Councillor Placey and:-

RESOLVED that:

- 1) the Head of Planning and Building Control be authorised to grant planning permission subject to the conditions as stated at paragraph 8.2 of the Officer report, and with the removal of condition 1, 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 of any informative notes to the applicant as may be deemed necessary.

56. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 23.00697.FUL - LAND AT 5 HUNTERS CHASE, ARDLEIGH, CO7 7LW

It was reported that the application had been referred to the Planning Committee as the proposed development would conflict with the requirements of the Development Plan, principally Policy SPL2 (Settlement Development Boundaries) of the Tendring District Local Plan 2013 – 2033 and Beyond Section 2 (adopted January 2022) being located outside of any defined settlement boundary and had an Officer recommendation of approval.

Members heard that, although the proposed dwelling would see an increase in height and slight increase in footprint in comparison to the development approved under prior approval 21/00360/COUNOT, due to its location and the existing vegetation and proposed landscaping, it was not considered to cause any harm to the visual or neighbouring amenities.

The Committee was informed that the Council's Tree and Landscape Officer had raised no concerns, whilst sufficient parking and private space was provided, and Officers felt that there would not be significant harm to existing neighbouring amenities or ecology impacts. Essex Highways Authority had also 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 subject to Unilateral Undertaking and Conditions.

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

An update sheet had been circulated to the Committee prior to the meeting with details on the rewording of the recommendation and replacement of the comparison table which is as follows:

"Recommendation under the Executive Summary

Part 2 of the recommendation should refer to the conditions which are 8.2 of the Officers report. The recommendation should read as follows:

Recommendation: Approval subject to Unilateral Undertaking and Conditions, as follows:

That the Head of Planning and Building Control be authorised to grant planning permission subject to:

- 1) A completed Unilateral Undertaking securing;
 - Financial contribution of £156.76 (index linked) towards RAMS.
- 2) The conditions stated at paragraph 8.2, 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,
- 3) The informative notes as may be deemed necessary.

Comparison Table

The comparison table below is to replace the comparison table under 6.17 of the Officers report. The changes are to the ridge and eaves height of the prior approval application and the eaves height of the current application. The changes are considered to be minor and do not alter the Officers assessment or recommendation. The table should read as follows:

| | 22/00360/COUNOT Approval) | (Prior | 23/00697/FUL | (Current |
|-------------------------------|---|---------------|--|-----------------|
| | | | application) | |
| Siting | To the rear of 5 Hunters Chase, in the northern corner. | | To the rear of 5 Hunters Chase, in the northern corner, relocated slightly to the south west. | |
| Access | Via the existing access serving number 5 Hunters Chase. | | Creation of a new access, driveway and parking areas through adjacent field with access from Coggeshall Road. | |
| Appearance | Minimal changes / no materials details provided. | | Single storey barn like appearance constructed from clad the building in natural larch wood with a Marley Eternit slate roof | |
| Ridge Height | 4 metres (Single Storey) | | 4.9 metres (Single Storey) | |
| Eaves Height | 2.1 metres | | 2.1 metres | |
| Identified site / site | 239m2 / 0.02ha (Limited amenity) | | 1864m2 / 0.19ha (Garden area included) | |

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| area | | |
| Floor Area / footprint | 114sqm | 120sqm |
| Bedrooms | 3 bedroom | 3 bedroom |

Recommendation

The recommendation under section 8 of the Officer report should refer to a completed legal agreement. 8.1 should read as follows:

8.1 The Planning Committee is recommended to grant planning permission subject to the following conditions, informatives and the completed S106 legal agreement accompanying this application with the agreed Heads of Terms, as set out in the table below:

| CATEGORY | TERMS |
|--------------------------------------|-------------------------------------|
| Financial contribution towards RAMS. | £156.76 x 1 dwelling (index linked) |

Mollie Foley, on behalf of the applicant, spoke in support of the application.

| Matters raised by Members of the Committee:- | Officer's response thereto:- |
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| Where is the nearest mains drainage to this property? | Officers don't exactly know where the nearest main sewer is as the property is in a rural location. The next best option on the list is the package treatment plant which is what the applicant has gone for and under question 11 of the application form it says it is not intended to connect to a main sewer instead the foul sewage will be disposed in a way of the package treatment plant as the main sewer connection is not possible. |
| How close are the electric vehicle charging spaces to the charging point? | It can depend on the cable size. However, the applicant could put an underground cable in. For clarity, there is a condition on broadband that can clarify that point as part of that condition to adjust the wording accordingly. |
| Is number 5 on foul drainage and if so, why are they not connecting to it? | You are right. The priority of PPL5 is to connect to a mains drainage wherever possible. In a location such as this application, the agent has not provided the FDA form so therefore, Officers have to assess the application based on the information provided. A location like this, it is unlikely that there is going to be a mains drainage, but Officers |

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| | <i>cannot guarantee that. In paragraph 6.56 of the Officer report, it outlines why the package plant treatment is the second-best option and that is why Officers have concluded that it is acceptable.</i> |
| <i>Can we condition that there is no lighting rather than sensitive lighting?</i> | <i>That would be a matter of debate that is necessary to require that. Ultimately, the existing building could have external lighting on it now and TDC have no control over that. Also, this is a residential use that may have night-time activity and therefore control of lighting, such as lighting for a driveway, is hard. A more restrictive condition could be possible such as no external lighting unless agreed and then any scheme that comes forward would be something for Officers to consider as and when.</i> |
| <i>Are there going to be solar panels put on the roof?</i> | <i>No, they are not going to be put on the roof.</i> |
| <i>Should there not be solar panels on the roof?</i> | <i>There are air source heat pumps that are part of this proposal, but there are no solar panels</i> |
| <i>Should solar panels not go on all new properties?</i> | <i>No, there is no requirement for solar panels to be put on new properties.</i> |
| <i>What are the proposals for that hedgerow and how much would be cut back?</i> | <i>There will be some loss of the hedgerow but there is a condition on the permission to allow for a replacement hedging for the element that is going to be lost so that will come as a discharge condition application. The size of the access is now going to be 6 metres roughly.</i> |
| <i>What is the driveway going to be made of?</i> | <i>There is a condition for it to be permeable.</i> |
| <i>Is there any way that we can condition something about the access without having to go through the Highways Authority?</i> | <i>At the moment there is an existing access, it is unlimited in the respect of traffic and can be used 24/7. Unfortunately for TDC that is our starting baseline position that Officers have to then look at materially. If Officers switched this to a residential use, they would ask if there was an improvement to that situation or not. Also, they will use the existing access which is already there and therefore the residential use could be less than what the agricultural state could be. Officers then will look at the improvement of this access and the widening of the access which means that it might be better through use and better through improvement that is being shown on the plan. Further conditions could be argued as being unreasonable as TDC is already gaining a position that is better than what is there already. Another problem is that the hedgerow would then need to be cut off even more.</i> |

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| <p><i>Is it Clause 10 and 6 to the conditions that is being amended? Also, can we condition that the property be connected to a main sewer?</i></p> | <p><i>In terms of condition 10, Officers are asking that we adjust the broadband condition to clarify the points of connection and where they will be on the site. Condition 6 will be changed so that it is no external lighting unless agreed in writing as opposed to the current wording. In respect of the sewer, Officers cannot word a condition that says if it is possible because it is not precise or accurate that would pass the test of conditions and could be unreasonable and would not recommend putting a condition in about the sewer.</i></p> |
| <p><i>The foul drainage assessment and the binding rules state how many metres away if the mains drainage is within a certain number of metres, then it must be connected to, could we put an informative saying something along those lines?</i></p> | <p><i>Ultimately, the Councillor is correct in respect of the policy. Officers should have made more endeavours to pursue that point and Officers offer their apologies. Officers have assessed that the package sewage treatment is acceptable and planning harm is the key point. You could have an informative put in, but these are not required by the applicant to be done.</i></p> |

Following discussion by the Committee, it was moved by Councillor White, seconded by Councillor Alexander and unanimously:-

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

- 1) a completed Unilateral Undertaking securing;
 - financial contribution of £156.76 (index linked) towards RAMS
- 2) the conditions stated at paragraph 8.2 of the Officer report with Condition 10 being altered to agree charging point positions and Condition 6 to be replaced with a lighting condition that requires no external lighting unless agreed in writing by the LPA, 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,
- 3) the sending out of informative notes, including the addition to ask the applicant to explore the main sewer connection, as may be deemed necessary.

57. REPORT OF THE DIRECTOR (PLANNING) - A.4 - 21.00386.FUL - 121-123 HIGH STREET, HARWICH, CO12 3AP

It was reported that this application was before the Planning Committee as it had been called in by Councillor I Henderson.

The Committee heard that the proposal was for the construction of a new part two/part three storey building to provide 8 units of residential accommodation and 1 additional commercial unit (ground floor commercial unit as well as the existing shopfront to be

retained). The site was located within the settlement development boundary of Harwich and Dovercourt and the Dovercourt Conservation Area.

Members were told that the proposed scheme had been amended in line with extensive consultation with ECC Place Services Heritage Officers and was considered by Officers to be of a size, scale and design in keeping with the Conservation Area. Subject to conditions and mitigation there were no Officer concerns raised regarding the impact on the environment, neighbouring residential properties, the recently approved car park, area and the proposal was acceptable to Officers in regard to Highways and Parking impacts.

Members were reminded that the application had been previously before the Planning Committee in April 2022, for the same scheme. The Committee had approved the granting of planning permission subject to the completion of a legal agreement within six months relating to the following matters:

- Financial Contribution towards RAMS
- Open Space
- Highway Contribution towards residents parking

The Committee was told that while the legal agreement had now been completed, the time period had exceeded the six-month deadline, and therefore the application had been returned before Members to renew the authority to issue planning permission. In addition, while the previous recommendation had secured a financial contribution towards Open Space this had since been reviewed and the Council's Open Space team no longer required any such contribution given the local need and available facilities.

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.

An update sheet had been circulated to the Committee prior to the meeting to show the correct front page which the location of the application A.4 which was as follows:-



There were no public speakers on this application.

| Matters raised by Members of the Committee:- | Officer's response thereto:- |
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| <i>Are the self-contained flats self-contained with their own ensuite bathroom, kitchen, etc?</i> | <i>Officers can confirm that this is not an HMO application. These are simply just one-bedroom flats. One studio, then 7 one-bedroom flats.</i> |
| <i>With condition 3, are there any outside amenities?</i> | <i>We are happy to amend that condition to reflect that.</i> |
| <i>Could someone who owns a car that lives in one of the flats park their car at the back in the TDC</i> | <i>Officers have assessed the lack of parking provisions, and it is mentioned in the Officer report. If someone did have a car, then there</i> |

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| <p><i>car park or will be there be regulations?</i></p> | <p><i>is no provision on site for it. In terms of the car park next door, Officers understand that there is a permit for all Tendring residents to use in TDC car parks, but this would fall outside of the Planning system.</i></p> |
| <p><i>Open Spaces are not going to pay any contributions, is that correct?</i></p> | <p><i>Originally on the first time this application was dealt with in April 2022, it was part of the recommendation. However, the Council's Open Space Team did not request a contribution, so it is not reasonable for TDC to request it.</i></p> |

It was moved by Councillor White, seconded by Councillor Alexander and unanimously:-

RESOLVED that:-

- 1) the Head of Planning and Building Control be authorised to grant planning permission subject to the legal agreement now complete and conditions as stated at paragraph 8.2 of the Officer report, with the removal of Condition 3, 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 of any informative notes to the applicant as may be deemed necessary.

The meeting was declared closed at 6.44 pm

Chairman

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