

**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE,
HELD ON TUESDAY, 19TH DECEMBER, 2023 AT 5.00 PM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Fowler (Chairman), White (Vice-Chairman), Alexander, M Cossens, Everett, McWilliams, Placey, Sudra and Wiggins
In Attendance:	Gary Guiver (Director (Planning)), John Pateman-Gee (Head of Planning & Building Control), Joanne Fisher (Planning Solicitor), Jacob Jaarsma (Planning Team Leader)(except item 69), Michael Pingram (Planning Officer), Madeline Adger (Leadership Support Manager), Bethany Jones (Committee Services Officer) and Hattie Dawson-Dragisic (Performance and Business Support Officer)

62. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

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

63. MINUTES OF THE LAST MEETING

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

RESOLVED that the minutes of the meeting of the Committee, held on Tuesday 21 November 2023 be approved as a correct record and signed by the Chairman.

It was moved by Councillor McWilliams, seconded by Councillor Sudra and:-

RESOLVED that the minutes of the special meeting of the Committee, held on Monday 27 November 2023, be approved as a correct record and signed by the Chairman.

64. DECLARATIONS OF INTEREST

Councillor McWilliams declared for the public record in relation to report **A.3 – 23/01312/FUL – Fir Tree House, Plough Road, Great Bentley, CO7 8NA** that she was the Ward Member. She advised the meeting that therefore she would not participate in the Committee's deliberations and decision making for this application and that she would leave the room.

65. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

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

**66. REPORT OF THE DIRECTOR (PLANNING) - A.1 - 23/01145/FUL - 87
HUNGERDOWN LANE, LAWFORD, CO11 2LY**

Committee members were told that this application had been referred to the Planning Committee as the proposed development would conflict 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 development boundary and had an Officer recommendation of approval.

Members were told that the proposed dwelling was sited in a different location being further along the east adjacent to the prior approval building, but it was of a very similar small size, design, and it also retained the same number of bedrooms. Officers were content that the proposal would not be harmful to the character and appearance of the surrounding area, and that, in part, it was a desirable improvement over the prior approval 23/00739/COUNOT as the new siting reduced the impact on neighbouring amenity.

Committee members heard that there were no significant issues in respect to neighbouring amenities or harm to trees. Essex Highway Authority had raised no objections and there was sufficient space for parking.

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 an Officer recommendation of approval.

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

An update sheet had been circulated to the Committee prior to the meeting with details of an additional proposed condition which was as follows:

“CONDITION: Prior to the first occupation of the hereby approved dwellinghouse, the existing agricultural building (subject of 23/00739/COUNOT and shown as being demolished on drawing P01c) on the site must be completely demolished and all materials resulting therefrom shall be cleared from the site.

REASON - The development hereby permitted has only been supported on the basis that the existing agricultural building be removed from the site to justify their replacement with a single dwelling which ordinarily would be contrary to the development plan which directs new development to sites within settlement development boundaries.”

There were no Public Speakers on this occasion.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Have we moved the new proposed building away from the pylon?</i>	<i>The new proposed building has moved slightly closer to the line but is still a significant way apart and Officers have no reservations for this application.</i>
<i>Is pylon close but on a new site?</i>	<i>Yes, it is approximately 20 metres away – this is not exact. An extra condition has been added to avoid both buildings being built out.</i>
<i>Could Officers expand on the point 6.34 of the Officer report?</i>	<i>6.33 of the Officer report is the consultee comments that Officers received from the Tendring District Council Tree & Landscape Officer, so Officers have to take their comments</i>

	<p><i>into account to work out the overall impact to the development. Paragraph 6.34 of the Officer report is an Officer summary of the position, taking into account those comments but the reasons that are listed with that paragraph, Officers have concluded that there will not be significant harm to the character. The comments from TDC Tree & Landscape Officer were received prior to the amended drawings that had a different design before. Given that there is Prior Approval consent, even with the 20-metre distance away, Officers do not consider that there will be a significant harm to the character of the area that would warrant recommending refusal.</i></p>
<p><i>Where is the nearest sewer to these properties and are the properties serviced by main sewage?</i></p>	<p><i>In terms of whether the other properties are serviced by main sewage, Officers cannot confirm that but can confirm that the nearest mains runs along Hungerdown Lane but it is an excess of 30 metres apart which is the threshold for one dwelling, it is approximately 50-60 metres away so, therefore there is no requirement to connect to the mains and then Officers move to the next stage in terms of Private Treatment Facilities, a Package Treatment Plant is at the top of hierarchy that is outlined by the Environment Agency.</i></p>
<p><i>Can you explain the conflict between TDC policy and FDA?</i></p>	<p><i>The policy PPL5 refers to Private Sewage Treatment Facilities which will not be permitted if there is an accessible public foul water sewer, then you have to question what is accessible. There is no position in the policy in respect of distance in that regard of what is deemed as accessible. Accessible could be what is reasonably accessible, it could be about finance or distance. It is not defined by policy. The policy then goes on to talk about 'Practical Option', ultimately, Officers have to take a balance and Officers have taken a position of Building Regulations do help Officers to a degree to consider the 30 metre distance – that is a reasonable position to take in that lack of definition but, ultimately, that is a judgement Councillors may want to take further in their debate. However, Officers would question that, if Councillors do want to discuss this then they might also want to discuss harm in terms of demonstrable harm to the environment and the ground water and so on so Officers can readily prove that position if they had to.</i></p>
<p><i>In terms of balancing and harms, do we need to take that</i></p>	<p><i>Yes, that is correct. Councillors need to take all of that into account as a whole.</i></p>

<i>into account as a whole?</i>	
<i>Is there a conflict at any point about enlarging the site to be whatever size the applicant wants it to be?</i>	<i>In terms of the “site”, Officers believe that the application refers to a sufficient plan to identify the site but does not necessarily mean it has to be a redline boundary. What Councillors have in front of them is not an extension, it is a separate full application to be determined on its merits. Officers are saying that the Class Q notification, be it a different site, is a material consideration for which Officers could have a net gain of 1 house there but Officers are saying they are shifting the house across slightly, is there no material in the balance to make a massive difference in terms of harm and impact, and therefore Officers are balancing that and are controlling it and there will still only be 1 house. Officers are comfortable that that is a reasonable and defensible position to have. There is no policy that says that you can’t move away by a certain amount of distance.</i>
<i>In terms of the fallback position, Councillors have to weight that fallback position because the site is only a 20th of the new site that we have got, do we give it 20th of the weight, how do we square that?</i>	<i>Officers have not come across that sort of question in the context of an argument. It’ll be breaking new ground with an argument of weight application depending on distance from the original Class Q building. Officers’ opinion would be that in your debate, it is seen as relatively close in proximity to give it significant weight as Officers would do as if it was overlapping the site. If it was moved further away, Councillors can start getting into argument, but Officers opinion would be that at this moment, given its proximity and relationship with the surrounding existing buildings and neighbouring businesses etc, that it would be difficult to put such a mathematical approach to that.</i>

It was moved by Councillor White, seconded by Councillor McWilliams, 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 the amendment to Condition 9 to read: *“prior to demolition of the existing building”* and the added Condition from the Officer Update Sheet which will itself be amended to be *“prior to commencement of the occupation of the dwelling”*, 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 informative notes to the applicant as may be deemed necessary.

67. REPORT OF THE DIRECTOR (PLANNING) - A.2 - 23/01514/FUL - 5 BROOK STREET, MANNINGTREE, CO11 1DJ

Members were told that this application was before the Planning Committee owing to the fact that the applicant was an elected Member of the Council, and the application was being recommended by Officers for approval.

The Committee heard that the proposal was for the change of use of a residential dwelling into office use and given that the site fell within the Manningtree Town Centre such a use was supported in this location.

Members were informed that whilst the building was Grade II Listed and located within the Mistley and Manningtree Conservation Area, it was concluded by Officers that there was no harm to those heritage assets, given that no alterations were proposed and nature of the use. Furthermore, there would be no harmful impacts to neighbouring amenities to warrant refusal.

Members also heard that the Officers noted that there was no proposal to include parking provision, however, they had also acknowledged the site's highly sustainable location within the Manningtree Town Centre and that therefore they had not considered that matter to be significantly harmful to result in a refusal.

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 (MP) 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:-
<i>Can Officers confirm that this application is only before Members because the applicant is an elected Member?</i>	<i>Yes, that is correct.</i>
<i>Is there going to be any physical changes to the building apart from its use?</i>	<i>That is correct. There are no external or internal alterations. There is an informative for clarity, section 8.3 of the Officer report, to outline that if the applicant were to make any internal alterations after this application is approved then they would need Listed Building consent.</i>
<i>Is parking applicable at the moment?</i>	<i>In terms of the parking, there is no parking provided and Essex Parking Standards state that for an office use of</i>

	<i>this size there should be up to 3 parking spaces but given the sites location, it is in of walking distance to amenity areas and facilities and Officers have fallen on the judgement that the lack on parking is acceptable on this occasion. Also, the existing residential has no parking either.</i>
<i>What is the use of the building?</i>	<i>The offices are to be, according to the heritage statement submitted, used for CDC advise and TDC Officers do not know anymore than that.</i>

It was moved by Councillor Everett, 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 conditions 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 conditions as referenced is retained; and,
- 2) the sending of any informative notes to the applicant, as may be deemed necessary.

68. REPORT OF THE DIRECTOR (PLANNING) - A.3 - 23/01312/FUL - FIR TREE HOUSE, PLOUGH ROAD, GREAT BENTLEY, CO7 8NA

Earlier on in the meeting as reported under Minute 64 above, Councillor McWilliams had declared that she was the Ward Member. She 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 Members as Officers were recommending approval for a proposal that represented a departure from the Local Plan. The application sought planning permission for a new residential development outside of the Great Bentley Settlement Development Boundary (SDB) as defined currently within the adopted Tendring District Local Plan 2013 to 2033 and Beyond.

The Committee was told that the application site served a vacant piece of land, currently in use as part of the side garden for Fir Tree House, located amongst established residential development to the eastern side of Plough Road.

Officers informed Members that the application sought full planning permission for the erection of a detached two-storey dwelling with vehicular access from Plough Road.

The Committee was made aware that the site currently benefited from a previous, and currently still extant, planning approval 20/01618/FUL for the erection of a detached dwelling with new vehicular access. This approval was extant and would expire on 23 February 2024. It was important to note that this approval had been granted under a previous Tendring District Local Plan (2007), whereby the site had been included in the

settlement development boundary of Aingers Green. The current application was essentially looking to extend the timeframe of that approval.

Members were further informed that the site lay approximately 0.63km (629.5 metres) outside of the settlement development boundary of Great Bentley and was therefore contrary to the spatial strategy set out within the Tendring District Local Plan Policy SP3 and Policy SPL2. Whilst Policy SPL2 did not explicitly preclude residential development outside of the defined boundary, it nevertheless required decision makers to carefully consider the scale of development in relation to the settlement hierarchy category, site-specific characteristics, and sustainability of the site.

Officers told Members that the site benefited from a bus stop directly to its front for services to nearby Great Bentley and Colchester. The site was therefore considered by Officers to be reasonably accessible to a range of services and facilities.

Furthermore, Members were finally told that, as briefly mentioned before, another key material consideration lay in the existence of an extant planning permission for the construction of a detached dwelling with vehicular access at the site. Officers believed that this significantly tipped the planning balance in favour of approval despite the high-level policy conflict in regard to the location of the site outside of the defined settlement boundary. Moreover, the development would not result in the opinion of Officers in any material harm in terms of design, impact, residential amenities, or highway safety over and above the extant approval, and it was also considered to be acceptable in all other regards.

An Officer Update Sheet had been circulated to Members prior to the meeting with information about a Discharge of Conditions Application, it was as follows:

“In relation to the extant planning permission at this site, 20/01618/FUL, a Discharge of Conditions Application has been submitted for the only pre-commencement condition relating to this application (Condition 13 – Landscaping) under application reference 23/01687/DISCON. This application was approved by the local planning authority on 08.12.2023. The submission and approval of this application shows clear intent from the applicants to carry out the previously permitted development under application reference 20/01618/FUL, giving significant weight to the extant permission which serves as a material planning consideration of some weight.”

There were no public speakers for this application.

Matters raised by Members of the Committee:-	Officer’s response thereto:-
<i>Have we got the distances between the 2 trees and the suggested property?</i>	<i>Yes, there are 2 trees and the distance from the rear elevation to the trunk of the cedar tree is approximately 2.7 metres and the distance to the cherry tree from that corner is approximately 2.6 metres. It is important to recognise that Officers have discussed the issues of trees and the contribution that these trees make to the area with the Council’s Tree and Landscape Officers and the position is that these trees fail</i>

	<p><i>to meet the threshold for formal legal protection. So, they fail to be on the bar for high public amenity value for it to be protected under the Tree Preservation Order and in addition to that, Officers have that extant permission of significant weight in the same location and same dwelling which can be implemented tomorrow or within the next month and a half.</i></p>
<p><i>Does fulfilling a pre-commencement condition constitute starting the development?</i></p>	<p><i>No, it does not but, for decision makers it changes the weight because it changes the way it moves the developer closer to that point where they can just move in with the builders, diggers or whatever the case may be.</i></p>
<p><i>Can the Council put a condition in the report that if the trees were to be taken out, they are to be replaced?</i></p>	<p><i>That can happen in one format or another, that can be debated, and Officers are adding a landscaping condition which is because of the details of the site and its uniqueness. Officers would like to see some landscaping there.</i></p>
<p><i>Did you say it was 2.71 metres from the rear of the property?</i></p>	<p><i>Yes, the distance from the rear elevation of the proposed dwelling to the tree trunk will be approximately 2.7 metres.</i></p>
<p><i>Is there no scope to control root growth rather than remove it?</i></p>	<p><i>The honest answer is that Officers do not know. There is an extant planning permission that they can implement as soon as tomorrow, and these trees are not protected. This is an odd application because Councillors have already approved this house and everything that goes with it including accepting the trees at the back. The applicants can go ahead with exactly what was on the screen until 23 February 2024. The only thing this application represents is an extension of time and Officers have said that they do not want to keep extending the application for 3 years each time, so Officers have now recommended 1 year to allow the applicants that time. With the extant permission, Officers have a discharging condition for landscaping and the landscaping scheme shows the 2 trees being retained so therefore, the condition, if that proposal was to go ahead, kicks in. Which means that if those 2 trees were damaged and removed, then they would have to be</i></p>

	<p><i>replaced within 5 years. Could have a variant tree on the location. With the scheme before Members, it has the same conditions as before and Officers would seek to retain those trees. Should there be a proposal for these trees to be removed, Officers have not recognised them to be of value to be retained so there is that consideration.</i></p>
<p><i>What would the trees be replaced with if they were to be removed?</i></p>	<p><i>Officers' professional opinion must consider the material consideration that Councillors have before them which is the application that can go ahead. In respect of the trees, they are not up for being replaced and Officers have a condition that has been secured for one application and Officers would seek to secure it again to retain these trees. If a replacement was proposed, it is at that point that Officers consider what the replacement should be. The replacement should be the equivalent but there is an option within the wording of the condition to allow Officers to consider the alternatives but that is not before Officers now.</i></p>
<p><i>What would the amenity area for a 4-bedroom house be and does it still meet it on its new footprint?</i></p>	<p><i>With the adoption of the Council's new Local Plan, Officers do not have specific allocated private amenity areas attached to different dwelling size. The policy talks about private amenities space and gardens need to meet the expectations of occupiers. Officers have looked at that and consider that the proposal, subdivision element, will not result in a substandard amenity space or a garden that will fail to meet the needs and expectations of the existing occupiers and in addition to that, there is an extant permission in place that could be implemented at any time.</i></p>

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

RESOLVED that:-

- 1) on appropriate terms as summarised below and those as may be deemed necessary to the satisfaction of the Head of Planning and Building Control, and subject to Unilateral Undertaking securing:
 - a financial contribution of £156.76 towards RAMS

- 2) the Head of Planning and Building Control be authorised to grant planning permission subject to the Unilateral Undertaking and conditions 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 conditions as referenced is retained; and,
- 3) the sending of any informative notes to the applicant as may be deemed necessary.

69. REPORT OF THE DIRECTOR (PLANNING) - A.4 - ENFORCEMENT REPORT, NOVEMBER 2023

The Committee was given an updated report on the following areas, in accordance with the Council's approved planning policy:-

- number of complaints received/registered in the quarter;
- number of cases closed in the quarter;
- number of acknowledgments within 3 working days;
- number of harm assessment completions within 20 days of complaint receipt;
- number of site visits within the 20 day complaint receipt period;
- number of update letters provided on/by day 21;
- number of live cases presented by category, electoral ward and time period since receipt;
- enforcement-related appeal decisions.

At the meeting, an oral presentation was made by the Council's Head of Planning and Building Control (J-PG) in respect of the report.

Matters raised by Members of the Committee:-	Officer's response thereto:-
<i>In terms of Wards, what number of enforcement cases are in the Frinton Ward?</i>	<i>22, it is on page 87 of the Agenda.</i>
<i>That number is for the Frinton and Walton Town Council area, what are Officers going to do to fix this data?</i>	<i>On examination of the data, it is noted that the Parish data for Frinton and Ward that includes Frinton are the same and that could be misleading. Officers can only produce Parish information currently and it is grouped later to form Wards. The easiest solution would be to remove the Ward information and keep Parish only information in order to be clear. If Officers had to go into Wards, then they would need to remap the software.</i>
<i>Could the Council commission anyone to do it?</i>	<i>In Tendring, Parishes can be split by the Ward, so unfortunately because the information is recorded by Parish – the software doesn't take into account that split when it then translates into what Ward to allocate to. Ward only would be a manual exercise of going through all of the cases Planning have currently got and having to find</i>

	<p><i>a place to put that information into the software which is not controlled by this Council as it is fixed and a national software. Therefore, Officers would have to work out how to manually drive this particular point. Officers will try and provide more accurate Ward information on the next report.</i></p>
<p><i>Is there a specific site in St Osyth for this high figure?</i></p>	<p><i>In St Osyth, the main driver for the majority of those cases is occupation of particular units whether they should be occupied all year round or not and those are historical cases. The Council have been concentrating on Bel-Air and issues around that area. Officers have put a recommendation to Management Team on Bel-Air that Officers are now taking a little bit further time to look at.</i></p> <p><i>Officers can move onto reviewing Point Clear in the new year which is a separate matter. Officers suspect by April 2024 that figure will drop dramatically as we review those cases in the next 3-4 months.</i></p>
<p><i>When are we going to see some action for Bel-Air?</i></p>	<p><i>There is a report that recommending action, there are at least 2 options that have been presented to Management Team. They have not been agreed currently as further information for one recommendation is needed, Officers shouldn't discuss this matter further in this forum at this stage. However, it is being actively pursued. It had taken time as there are over 300 plots, each one has a planning history that has to be understood and correct information obtained to avoid risk to the Council for any action intended.</i></p>

[NOTE: Following the meeting, Officers have since found a solution to the problem above in Minute 69 and will be able to provide Ward data direct once the Access Report is updated to include this additional data]

RESOLVED that the contents of this report be noted.

The meeting was declared closed at 6.49 pm

Chairman