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Item No: 7.2

Application: 182038

Applicant: Mrs Julia Sawyer

Agent: Mr Robert Pomery

Proposal: Change of use of annex to single dwellinghouse.

Location: Langham Cottage, 9 High Street, Langham, Colchester, CO4 5NT

Ward: Rural North

Officer: Simon Cairns

Recommendation: Approval subject to conditions

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because the site is outside the adopted settlement boundary for Langham in an area shown as countryside.

2.0 Synopsis

- 2.1 The key issue for consideration is the principle of development; in particular the location of the site outside the settlement boundary. Other issues covered in the report include impact on the character of the area; impact on residential amenity and parking provision.
- 2.2 The report describes the site and its setting, the proposal itself, and the consultation responses received. Material planning matters are then considered together with issues raised in representations.
- 2.3 The planning merits of the case are assessed leading to the conclusion that the proposal is acceptable and that approval is recommended.

3.0 Site Description and Context

- 3.1 The site lies in the countryside just outside the Langham Settlement limits, the boundary of which runs along the Eastern boundary of the site. The annexe that is currently on site is a one and half storey, pitched roof building and is located approximately 25 metres outside the settlement limits and around 30 metres from the associated dwelling. The associated dwelling itself lies just within the settlement limits. The site forms part of the garden of the dwelling and annexe. Vehicular access is taken from the High Street.

4.0 Description of the Proposal

- 4.1 The proposal is to change the use of the annexe to a single, independent dwellinghouse. A parking area is shown in front of the annexe that would provide a shared parking area to serve both Langham Cottage and the proposal (two car parking spaces for the new dwelling and two for the existing dwelling). The new dwelling would have 2 bedrooms and further bedroom/study, a sitting room, conservatory, kitchen and bathroom. No external alterations are proposed.

5.0 Land Use Allocation

- 5.1 Countryside and Domestic curtilage.

6.0 Relevant Planning History

- 6.1 95/0846
11/07/1995 - Full
9 Langham Cottage, High Street, Langham, Essex, CO4 5NT
Proposed workshop
Approve Conditional - 24/08/1995

Condition: *The Use of the workshop accommodation hereby permitted shall be restricted to a use incidental to the enjoyment of the dwelling house, Langham Cottage, and not for any commercial purposes whatsoever, and shall at no time be used for any form of residential accommodation. Reason: For the avoidance of doubt as to the scope of the permission and to comply with the established planning policies for the area which seek to resist new dwellings in the countryside.*

- 6.2 O/COL/04/0206
06/02/2004 - Outline
9 Langham Cottage, High Street, Langham Colchester CO4 5NT
Outline application for the demolition of two existing dwellings and replace with a 4 bedroom detached dwelling
Refuse - 02/04/2004
- 6.3 090135
12/03/2009 - Full (8 Week Determination)
9 Langham Cottage, High Street, Langham Colchester CO4 5NT
Erection of 4 single storey detached properties and garages served by a private drive off of High Street within the curtilage of Langham Cottage including demolition of existing annex/workshop building
Refuse - 07/05/2009 (Outside settlement limits, design, no affordable housing, highway safety access.)
- 6.4 Enforcement History: An Enforcement Notice was served in May 1996:

Alleged use of garage/workshop as separate residential unit and in order to comply with the notice: "Restrict use of the garage/workshop unit solely to a use incidental to the enjoyment of the dwellinghouse and ensure that the said unit is not let out sold or otherwise occupied as a separate unit of residential accommodation."

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
H1 - Housing Delivery
H2 - Housing Density
UR2 - Built Design and Character
TA5 - Parking

ENV1 - Environment
ENV2 - Rural Communities

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity
DP12 Dwelling Standards
DP13 Dwelling Alterations, Extensions and Replacement Dwellings
DP16 Private Amenity Space and Open Space Provision for New Residential Development
DP17 Accessibility and Access
DP19 Parking Standards

7.4 Site Allocation Policies

N/A

7.5 Neighbourhood Plans

N/A

7.6 Adopted SPD

N/A

8.0 Consultations

- 8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

The Highway Authority does not object to the proposals as submitted.

Informative1: All work within or affecting the highway is to be laid out and constructed by prior arrangement with and to the requirements and specifications of the Highway Authority; all details shall be agreed before the commencement of works.

9.0 Parish Council Response

- 9.1 The Parish Council have stated the following:

The notification was received by the Parish Council over one month after the application was received by the Borough Council. It wishes to register a strong formal objection to this application for the following reasons:

1. We are advised that there is an enforcement notice from 1996 and the effect of the enforcement notice is that this property cannot gain immunity from enforcement.

2. The decisions of 2004 (0/COL/04/0206) and 2009 (090135) refusing both applications cite the location outside the settlement boundary. Since 2009 the settlement boundary has not changed, nor has the property moved.
3. This building was originally a garage and then converted to a studio. At some time accommodation was created both above and within the building. Village informants, including the late local district councillor, were not aware of any planning applications to convert this building for occupation. The late district councillor was Chairman of Colchester Borough Council (CBC) planning committee, so was therefore in an excellent position to ascertain this.
4. The present building was extensively renovated in the last several years, a high boundary fence erected along High Street and an entry keypad installed. Access to this building described as an “annexe” is entirely separate from that to Langham Cottage.
5. We are unclear as to whether these works were checked by CBC building control to the standards for human habitation or whether any checks had taken place previously.
6. The Parish Council put some of these points to CBC planners and Planning Enforcement. We consider the enquiry undertaken was cursory, over-reliant on verbal assurances and should have included an extensive search of available records, including any payment of taxes due on this building.
7. We understand that Langham Cottage is not featured in the Electoral Roll 2016.
8. As part of the CBC Local Plan 2017-2033 the Parish Council has had extensive discussions with CBC Planning Policy. Exception sites were agreed and this property was not included. We have a real concern that, if this application is approved, it will open the flood gates for further applications by developers in Langham.
9. The present application may be preparatory to further requests for development on the site.
10. Any access and parking in this narrow country lane is inadequate.
11. Has the subject of the present application had the required building control approval and necessary connection for utilities? Langham is currently over-capacity for sewage and cannot accept new connections to the foul water system.

This case has been a cause célèbre in Langham for over twenty years. The Parish Council and members of the public would welcome reassurances, with accompanying documentation, on the above points from CBC. With regard to the above, the Parish Council would welcome the regularisation of these matters after such a long period of time.

10.0 Representations from Notified Parties

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties.

10.2 Two representations were received from the occupiers of The Old Post Office, Moor Road, Langham which are available to view in full on the Council's website. However, a summary of the response is given below;

- The building has been altered and extended without permission and consultation
- Site is outside village envelope
- No details of boundary treatment between site and Langham Cottage
- Inadequate access and parking
- Application should not be compared to a scheme in West Bergholt which the applicants rely on
- The application is seeking to get the plot included in the village envelope to facilitate further housing development.
- Extensive history to the site including refusal of planning permission in 2009 for 4 new dwellings
- If approved it could set a precedent.

11.0 Parking Provision

11.1 Two spaces are provided for the existing property and two for the converted building the subject of this application.

12.0 Open Space Provisions

12.1 Both properties will be provided with extensive private amenity space to the rear.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

14.1 This application is not classed as a "Major" application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (s.106) of the Town and Country Planning Act 1990.

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Impacts on the Countryside
- Parking Provision.

- 15.2 The main issue in terms of the principle of the proposal is that the site is located immediately outside the settlement boundary. Whilst development is acceptable in principle within the settlement boundary (Core Strategy Policy SD1), development outside settlement boundaries is strictly controlled in order to protect and enhance the character of the countryside, as well as safeguard the biodiversity, geology, history, and archaeology of undeveloped sites (Core Strategy Policy ENV1). Accordingly, the application has been advertised as a Departure to the Local Plan as it involves the provision of a new, independent residential unit in the countryside. It is important to note, however, that planning policy does not rule out development in the countryside altogether, but there are tighter controls to development in these locations. The main planning considerations for the principle of development in these cases are: whether the proposal represents sustainable development, having either a positive or negligible impact upon economic, social, and environmental factors; and its impact upon the character of the countryside.
- 15.3 The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 15.4 The NPPF goes on to state that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area. It also states that to ensure sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).

- 15.5 Whilst the village of Langham is not specifically identified in the Adopted Core Strategy as a key settlement or development area, it is considered to be a sustainable location for development. The village has a number of facilities, including a primary school, village hall, playing fields, a community shop and pub. All of these facilities are within walking distance of the application site. There is also a bus service to Colchester, Manningtree and Dedham. Therefore, residents in Langham have access to a range of facilities and services that do not require the use of private transport.
- 15.6 Both the use of the building as an annexe and as a private dwelling would support these facilities, as occupants would be likely to use them. The proposal is therefore likely to have a positive economic impact, as well as a social one, by helping to ensure the continued availability of these facilities and services. There would also be an environmental benefit as the services are within easy walking distance from the site and there is access to a wider range of facilities and job opportunities by means other than private car, which would reduce pollution from regular private car use. If the building remained empty because there was no one to occupy it because of the restriction, there would be a negative impact on the social and economic benefits.
- 15.7 The context of the site is relevant in determining the likely impacts upon the character of the countryside. In the first instance the building is in existence and appears to have been since the 1960's. The site is very secluded and not visually part of the open countryside, it being located between longstanding residential development in the High Street and Whitehouse Close. The surrounding area is well planted and screened and there is a strong boundary to the surrounding countryside. The frontage of the site where the building is located already reads more as part of the settlement than it does as part of the countryside. The building already exists and it is considered the development would not be harmful to the character or appearance of the wider countryside.
- 15.8 In assessing the acceptability of the proposal, the planning history of the site has been considered. The 2009 application is considered to be of relevance by the objectors (who incorrectly refer to it being an appeal), but that was for a completely different scheme (4 new build units occupying a larger site) and there have been significant changes to planning policy since the application was determined. Mention is also made of the unauthorised use and work carried out to the building but correspondence from Council Officers in 2004 and 2016 confirm that the building was being used as an annexe or ancillary to the main dwelling.
- 15.9 The building itself comprises a 1.5 storey brick-built annex/outbuilding. The interior of the building incorporates a kitchen, living room, conservatory and WC, together with master bedroom suite with dressing area and en-suite to the ground floor. To the first floor is a further bedroom and a study. The building is already in residential use, albeit ancillary to the main dwelling. No physical works are required to the building to allow the use to operate and there will be no change to the appearance of the site or surrounding area.

- 15.10 The site is located just outside the Langham Village Settlement Boundary as shown in the 2010 Proposals Map. Langham Cottage is within the Settlement Boundary. The emerging Local Plan shows the boundary line being in the same place for this part of Langham.
- 15.11 There is local concern that this application is an attempt to get the site included in the village envelope in preparation to develop the land for housing. The determination of this application relates solely to the occupation of an existing building. The building already exists and the approval of this application would not alter the Settlement Boundary for Langham. The boundary line already includes buildings/houses but not their entire curtilage and there is no reason whatsoever to alter this well-established approach.
- 15.12 The applicant has submitted a representation on the emerging Local Plan which does seek to vary the village envelope in this area. Whilst this is the appropriate route to consider any such change it is not a modification supported by Officers. Approval of this application would not alter that view and would not weaken the approach adopted by the Council to date.
- 15.13 As stated above, applications should be determined in accordance with the development plan unless material considerations indicate otherwise. One such consideration is the expression of Government policy. Paragraph 79 of the updated Framework, states that isolated new homes in the countryside should be avoided unless, amongst other things, the development would involve the subdivision of an existing residential dwelling. This exception is a recent addition to the framework following its revision in July 2018. By explicitly setting out this exception, national policy is acknowledging that there will be some circumstances where rural development will be acceptable despite non-compliance with the general aspiration to locate housing within settlement boundaries. In this instance it has been demonstrated that the building is not isolated, it is well located in relation to the built form of the village and close to community facilities. The proposal would however divide the existing residential unit into two houses, which if considered acceptable in an isolated location should also be approved in more suitable places such as the edge of a village.
- 15.14 A recent appeal decision (28/9/18) at Winslade Manor, Exmouth Road, Cyst St Mary Exeter (APP/U1105/W/17/3191044) has some parallels with this case albeit in a more isolated location than the current proposal in Langham village. That appeal related to the occupation of an annex without complying with the condition that stated "The dwelling hereby permitted includes accommodation which may be used as an annex to the main dwelling but shall not be used as an independent unit of residential accommodation separate from that house." The Inspector allowed the appeal and concluded the following:

"Para 16. The appeal proposal would divide the existing residential unit into two houses. There is therefore, no doubt that the proposal before me would involve the subdivision of an existing dwelling. Consequently, it is my view that the exception contained in Paragraph 79 (d) of the Framework, namely

that the subdivision of an existing dwelling is acceptable in isolated locations, applies in this case.

Para 19. The Framework sets out a clear and recent statement of the Government's policy in respect of the acceptability of residential subdivisions in isolated rural locations. As such, it is a material consideration that carries substantial weight in my decision and, in the particular circumstances of this case, outweighs the conflict with the development plan."

- 15.15 The objector to the application does not consider that a recent appeal decision in West Bergholt is relevant to the consideration of this scheme. Officers however disagree; the proposal related to the change of use of an outbuilding to a single dwelling house, in a location on the edge of the village, just outside the settlement boundary. The Inspector in that case concluded the following;

"The proposed development would be physically well related to West Bergholt and to the surrounding housing, and its occupiers would have good access to facilities and services. There would be no harm to the character or to the appearance of the village or the countryside. Having regard to this and the modest benefit to housing supply and to the economy, I conclude that the proposal would be a sustainable form of development which outweighs any conflict with the development plan which arises from the site's location outside the settlement boundary. For the above reasons and having had regard to all other matters raised, the appeal is allowed."

- 15.16 The local objections also refer to parking arrangements for the 2 units and the applicant has been asked to clarify the situation. There is plenty of space within the residential curtilage to provide adequate parking for both properties and a condition will be imposed to ensure the parking is available from first occupation of the unit as an independent dwelling and at all times thereafter. Essex County Council as the Local Highway Authority do not object to the proposal. It should be noted that regardless of whether the building is occupied as an annexe or as a separate unit, the occupiers are likely to own cars.

- 15.17 Given the specific, physical circumstances of the proposal described above, and the lack of harm to the character and appearance of the area, the proposed development would not conflict with Core Strategy Policy ENV1 which aims to conserve and enhance Colchester's countryside. Overall it would achieve the three dimensions of sustainable development sought by Core Strategy Policies SD1 and H1, and which the Framework promotes, and which justify the allowing of the appeal.

16.0 Conclusion

- 16.1 Whilst the proposal is contrary to planning policy in terms of its location outside the village settlement boundary, planning approval is justified due to the particular site circumstances which would enable a change of use to take place without any negative impacts. The environmental aspects of the application are considered to be neutral but the proposal will provide limited social and economic benefits by affording a permanent new home for a family. The views of local residents and the Parish Council have been taken into account but are not considered to outweigh the benefits. Although such benefits would be small, nevertheless, it would fulfil the social and economic dimensions of sustainable development as set out in Paragraph 8 of the Framework which is a material consideration which outweighs the minor harm and conflict with the development plan. A conditional approval is recommended.

17.0 Recommendation to the Committee

- 17.1 The Officer recommendation to the Committee is for:

APPROVAL of planning permission subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

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

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

2. ZAM- Development To Accord with Approved Plans

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers: Floor plans received 18/9/18, site plan received 22/11/18, SK001 received 29/11/18.

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZDC-Removal of PD for All Residential Extensions & Outbuildings

Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or the equivalent provisions of any order revoking and re-enacting that Order), no extensions, ancillary buildings or structures shall be erected unless otherwise subsequently approved, in writing, by the Local Planning Authority.

Reason: In the interest of visual amenity and to ensure the development avoids an overdeveloped or cluttered appearance.

4. Non Standard Condition – Parking arrangements

The parking arrangements shown on the submitted site plan SK001 shall be provided prior to occupation of the dwelling as a separate unrelated unit. This shall include at least 2 spaces for the existing dwelling and two for the unit hereby approved (each space to be a minimum of 5.5 m x 2.9 m) and the spaces shall thereafter be retained as such.

Reason: To ensure there is adequate off street parking available for both dwellings in the interest of highway safety.

18.0 Informatives

1. ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.