

Planning Committee

Item
9

30 May 2019

Report of	Assistant Director Policy and Corporate	Author	Sue Jackson 01206 282450
Title	Application to discharge or revoke an existing Section 106 Agreement		
Wards affected	Mersea & Pyefleet		

This report concerns an application reference 190821 to discharge or revoke an existing Section 106 Agreement

1.0 Decision(s) Required

1.1 Members need to agree to revoke an existing section 106 agreement.

2.0 Reasons for Decision

2.1 This report is in respect of a section 106 agreement for the Peldon Rose PH and Rose Barn.

2.2 The section 106 agreement applies to two planning applications;

1. Application COL/90/0331 to erect management accommodation at the Peldon Rose PH (the accommodation is known as Rose Barn) and
2. Application COL/91/0174 change of use of agricultural land to use ancillary to the Peldon Rose PH

2.3 The section 106 has four provisions:

1. Relinquish permitted development rights;
2. Not to permit separate occupation of Rose Barn from the Peldon Rose PH;
3. Not to create any further building at the site;
4. Not to permit a separate access to the public highway other than at the public house.

2.4 A certificate of lawfulness application to allow Rose Barn to be occupied separately was allowed at appeal in June 2005. The second clause of the agreement is therefore no longer relevant.

2.5 Earlier this year planning permission and listed building consent (application reference numbers 182030 and 182031) was granted for a new vehicular access to Rose Barn. The fourth clause of the agreement is therefore no longer relevant.

- 2.6 The remaining two clauses remove permitted development rights. As the Peldon Rose PH is a listed building extensions and alterations require listed building consent and these clauses are not necessary, therefore, to control works to the Peldon Rose PH. The dwelling, Rose Barn, is detached, set in a sizeable curtilage and separated from the nearest dwelling by substantial landscaping. Government advice is that permitted development rights should only be removed in exceptional circumstances. The removal of these rights for Rose Barn is not considered reasonable or necessary.

3.0 Alternative Options

- 3.1 The Committee could resolve not to revoke the section 106 Agreement .

4.0 Supporting Information

- 4.1 The planning agent confirms he act for Mrs Everett the owner of Rose Barn and the Peldon Rose Public House which adjoin each other. His client is seeking to sell Rose Barn to enable funds to be reinvested in the Peldon Rose Public House. To do this she needs to discharge or revoke the existing section106 agreement which covers both properties. Land Registry Titles for each property has been submitted.

5.0 Proposals

- 5.1 N/A

6.0 Strategic Plan 2018-21

- 6.1 There are no Strategic Plan references of direct relevance. The Strategic Plan sets out four themes under the acronym of 'Grow'. These include:

Responsibility:

Encouraging everyone to do their bit to making our borough even better

- Increase the supply of good quality homes by using legal powers to reduce the number of empty homes and improve standards in the private rented sector

Opportunity:

Promoting and improving Colchester and its environment

- Promote and enhance Colchester borough's heritage and visitor attractions to increase visitor numbers and to support job creation
- Ensure a good supply of land available for new homes through our Local Plan

7.0 Consultation

- 7.1 The application has been advertised and a notice displayed on site. Neighbouring properties and the parish council have been notified. The only representation received is from the Parish Council confirming they have no objection to the application.

8.0 Publicity Considerations

8.1 N/A

9.0 Financial Implications

9.1 N/A

10.0 Equality, Diversity and Human Rights Implications

10.1 There are no Equality, Diversity and Human Rights Implications

11.0 Community Safety Implications

11. There are no Community Safety Implications

12.0 Health and Safety Implications

12.1 There are no Health and Safety Implications

13.0 Risk Management Implications

13.1 There are no Risk Management Implications

14.0 Background Papers

14.1 Application references COL/90/0331 and COL/91/0174. Legal agreement dated 16 August 1991.