

# TILLINGHAM PARISH COUNCIL

Minutes of an extraordinary meeting of the Parish Council held in Tillingham  
Village Hall on Tuesday 15 June 2010.

**PRESENT:** Cllrs Harvey, Bryant, Mee, Reeds, Hammond and Potten.  
Guest Speakers: Jennifer Candler – MDC Head of Planning Department  
and Jackie Longman – MDC Conservation Officer.  
Members of the public: 6  
Press: None

**CHAIRMAN:** Cllr Harvey

## 10/179 APOLOGIES FOR ABSENCE

District Councillor Richard Dewick

## 10/180 CHAIRMAN'S WELCOME TO GUEST SPEAKERS

Cllr Harvey welcomed the guests:

JENNIFER CANDLER – Head of Planning Department at Maldon District Council.

JACKIE LONGMAN – Conservation Officer at Maldon District Council

## 10/181 GUEST SPEAKERS

The guest speakers had been sent a list of questions from the Parish Council and they had prepared their responses as detailed below.

## 10/182 DISCUSSION AND QUESTIONS FROM THE PARISH COUNCIL

1. Planning is not consistent:

2 Marlborough Avenue which fronts South Street and is in the Conservation area was built to look traditional with white weather boarding, wooden windows and a grey slate roof.

58 South Street also in the Conservation area has used cement boarding.

Both houses are recent new builds. **Why** one set of rules for one and another for the other house?

Maintenance of 2 Marlborough Avenue is likely to be higher than 58 South Street – This appears to be financial discrimination against the owners of 2 Marlborough Avenue.

[44 South St FUL/MAL/02/00819 \(pp for 2 Marlborough Ave\)](#)

[58 South St FUL/MAL/01/00151](#)

The Council as LPA approved the external materials submitted in relation to both properties. In the case of 58 South St, it was stated that the dwelling would be finished with weatherboarding, the use of cement boarding was not authorised, however via the passage of time (over 4 years ago - 2004) it would now be immune from enforcement action.

The developer for No 44 South submitted details for timber weather boarding and implemented the development in accordance with the approved details – no records on file of seeking alternative external materials.

2. **Why** penalise residents who have not changed over to plastic windows or doors when others already have?

The service of an Article 4(2) Direction was not intended to penalise residents in the conservation area but rather to halt the identified erosion of character and appearance

that plastic windows and doors have caused (see 7.2 Additional planning controls Tillingham CARA page 38). The Article 4(2) Direction was served to maintain the character and appearance of the conservation area in the public interest.

3. There have been changes to two houses in recent days where planning permission should have been gained due to being in the Conservation area. No applications were made. **Who checks and who enforces?**

Enforcement investigations are generally reactive due to the nature of activities being undertaken without notice/consent. The staff resources in the Planning Department are not at a sufficient level to allow staff to 'police' the District. Where complaints are received (in writing, email or in person – no anonymous) we action them and carry out investigations to ascertain whether there is a breach of planning control, the nature of the breach and whether it is in the public interest to taken formal action.

4. It is a known fact that if work takes place it is unlikely to be reversed in a retrospective planning application. **Why?**

The same planning considerations (i.e. policies, central Government advice) are applied to proposed development as well as development for which retrospective consent is sought. (I.e. Tillingham Primary School had 1<sup>st</sup> application to retain canopy refused but subsequent pp approved subject to new slate roof being installed). If a development is considered unacceptable, planning permission is refused. The only difference with retrospective developments is the subsequent need to take enforcement action against the unacceptable development.

5. A new building is going up soon in another village. No planning application will be made due to others doing the same and getting away with it. This person applied and was given permission a few years ago for another building but was inconvenienced by the bureaucracy involved. If you correctly apply, the bureaucratic machine weighs down heavily on you. If you don't apply you get away with it! This is becoming a serious problem across the district. **Why?**

It is difficult to comment in detail without specifics but the same weight applies to all applications/developments of a similar type. If unauthorised development takes place, the Council relies on local residents & PCs to be its 'eyes and ears' and advise the Council, who will then investigate and take action where appropriate.

6. Affordable homes in the conservation area are becoming unaffordable to locals (perhaps on a lower wage than some) due to the higher costs of maintenance with the traditional materials needed. **Are you aware?**

These may also be listed buildings where traditional materials are only appropriate. The energy embodied in historic buildings from the materials used to construct them and the labour to build them is very high and in most cases therefore, the maintenance of them is low because the materials are good. To maintain historic buildings, traditional materials should be used that are compatible with their construction and therefore their performance. In most cases where sash windows exist they are at least 100 years old, weatherboarding survives for similar lengths of time, slates last, peg tiles last – it is the routine maintenance that is key to this. We have grant schemes for listed buildings and historic buildings in conservation areas to assist where traditional repairs are required.

7. Residents who have lived here for years are just as much part of the heritage of this village as the buildings etc. **Do not** force these people from this village by putting buildings and the insistence of traditional materials in front of the human element.

Planning is land use based discipline and does not discriminate on the basis of individual circumstances, that being said it is not the Council's intention to penalise applicants by forcing them to use prohibitively expensive materials and will always endeavour to work with applicants to find an acceptable solution both in terms of initial outlay and subsequent maintenance costs.

8. The two contributors to the much quoted 'Conservation Area Review and Character Appraisal' although academically highly qualified do not have the qualification of living in this village!!

But they do have a huge appreciation of it being heritage professionals. The review and appraisal is an important document as it safeguards the future of the conservation area not just for those living there today but also for future generations. We have to produce these documents as an LPA under Section 71 of the principle Act.

9. **Why** are planning notices put up on poles in our village – illegal and never taken down? These notices are an eyesore, bright pink or orange and yet if a satellite dish goes up MDC is soon in contact with the owners. One rule for one and another for everyone else.

The Council as LPA have a duty to advertise the submission of an application by way of a site notice. The site notice has to be in a publicly accessible/viewable location, in some instance that requires the erection of site notices on telegraph poles or even stakes within the applicant's property in the event of no other means to erect the notice. In most instances Officers do remove notices on subsequent site visits if they have not already been removed by the applicant once the date on the notice has expired.

10. **Why** is the planning dept unable to stop known development or changes that need planning permission when they are fully aware that these changes are being made before planning permission has been gained? The application then becomes retrospective and again unlikely to be turned down. **What** is going on?

If the Council is advised of an authorised development at its commencement steps would be taken to prevent further development without the benefit of planning permission. It is not a criminal offence to carry out development without planning permission so if a developer chooses to continue they are advised it is at their own risk. In some extreme circumstances the Council can serve a Stop Notice or Temporary Stop Notice but this is not used in every case because of the risk of compensation claims by the developer if it is likely that pp may be granted. Unauthorised works to a listed building is a criminal offence and could be subject of a Stop Notice or injunction if considered appropriate.

11. **Why** are public buildings and business premises exempt from certain planning regulations in the conservation area. Surely if this conservation area is that important the same rules should apply to all and MDC should be pushing for legislation to cover this inconsistency.

Permitted Development rights exist for industrial premises, retail premises and works undertaken by a local authority.

In terms of industrial premises there are restrictions over extensions and alterations in

conservation areas and any alterations or extensions to existing buildings must “have a similar external appearance to those used for the building being extended or altered.” In terms of retail premises alterations and extensions in conservation areas would require planning permission.

Local Authorities can undertake works without requiring planning permission but they can be reasonably expected to be mindful of the location of the proposed development.

**12. Why** is MDC no longer extending the dates (time) for comments to be made by TPC on planning applications? Are MDC officers aware that TPC and other councils plan meetings a year ahead? To have a separate committee to deal with planning as it comes in is I believe wrong – we at parish councils are elected partly to give our views on local planning issues. A smaller committee is unlikely to give the same broader input.

MDC is under an obligation to deal with applications within certain deadlines, usually 8 weeks. As part of the consultation process associated with applications, PCs are consulted. Deadlines are imposed to ensure that responses are received in a timely fashion. MDC’s own Councillors are also only allowed a certain period to call in applications and generally no extensions to time limits are given. It is not appropriate to unnecessarily delay the determination of applications; therefore it is not possible to extend consultation periods beyond the stated dates. However, if an application has not yet been determined when the PC response is received, any comments will be fully taken into account in the determination process.

**13.** Many councillors and councils struggle when planning applications come in with the Maldon District Replacement Local Plan. The indexing system is appalling with 13 page ones. It is difficult and time consuming to find your way around. We are volunteers and many of us have full time jobs – we need an easier version to be made available that is less time consuming.

Agreed – unwieldy. Will be addressed in the new LDF!

**14.** What size structure can be put in a garden without planning permission?

Permitted development rights exist for householders, allowing them to construct outbuildings within their garden areas provided that they do not exceed certain thresholds. Development is not permitted (i.e. requires a planning application) if:

- The total area of ground covered by buildings, enclosures and containers within the curtilage (other than the original dwelling house) would exceed 50% of the total area of the curtilage;
- Any part of the building, enclosure, pool or container would be situated on land forward of a wall forming the principal elevation of the dwelling house;
- The building would have more than 1 storey;
- The building, enclosure or container would exceed 4 metres in height with a dual-pitched roof; 2.5 metres in height where the proposal would be within 2 metres of the boundary of the curtilage; or 3 metres in any other case;
- The height of the eaves of the building would exceed 2.5 metres;
- The building, enclosure, pool or container would be situated in the curtilage of a Listed Building;
- It would include the provision of a veranda, balcony or raised platform;
- The capacity of a container would exceed 3,500 litres

These are the standard criteria by which such householder proposals are assessed. A further criterion applies however if these householders are located within the

Conservation Area. Development is not permitted if: 'Any part of the building, enclosure, pool or container would be situated on land between a wall forming a side elevation of the dwelling house and the boundary of the curtilage of the dwelling house.'

Householders within the Conservation Area may also have their property allocated as part of the recently served Article 4 direction. This removes the right for those householders to make changes to their windows, doors and appearances on the front / principal elevations of their properties. Not all of the residential properties are included, only those that were assessed as being of positive merit and contribution to the Conservation Area and in need of protection and preservation.

Business / commercial / retail premises do not benefit from the Permitted Development Rights detailed above. Furthermore these premises are not controlled by the Article 4 direction.

#### **15. Do installations of solar panels require planning permission in a conservation area?**

Permitted development rights exist for householders that allow them to install solar panels without the need for planning permission. However, development is not permitted if:

- The solar panel would protrude more than 200mm beyond the plane of the wall or roof slope when measured from the perpendicular with the external surface of the wall or roof slope.
- It would result in the solar equipment beyond higher than the highest part of the roof (excluding any chimney).
- Within a conservation and (a) on a wall forming the principal or side elevation of the dwelling house and visible from a highway or b) on wall of a building within the curtilage of the dwelling house and would be visible from the highway.
- The solar equipment would be installed on a building within the curtilage of a dwelling house if the dwelling house is a listed building.

This is subject to caveats that the solar panels and equipment is sited as to minimise its effect on the external appearance of the building and to minimise its effect on the amenities of the area.

#### **16. Please define 'curtilage'.**

Curtilage is usually referred to in relation to residential properties although can relate to any property as it relates to the extent of the land associated with a particular premises. There is no absolute definition in the planning legislation and it has been the subject of much case law on the matter. In one Court of Appeal case dealing with a residential property the Oxford English Dictionary definition was considered to be useful and appropriate - *A small court, yard, garth or piece of land attached to a dwelling house, and forming one enclosure with it, or so regarded by the law: the area attached to and containing a dwelling house and its outbuildings.* It is an issue that often has to be dealt with on a case by case basis until a formal definition is introduced into legislation.

In relation to listed buildings, curtilage refers to any object or structure within the curtilage of the listed building which, although not fixed to the building, forms part of the land and has done so since before 1<sup>st</sup> July 1948...shall be treated as part of the building.' (Planning Listed Buildings and Conservation Areas Act 1990 Section 1(5)(b).

**10/183 PUBLIC FORUM**

Mr Lawrence questioned if the village envelope would be extended for the housing needs of the potential new power station workers and affordable housing.

Jennifer Candler stated affordable housing is built on exceptional sites –sites adjacent to the development boundary. With regard to the new power station it was understood that Hinckley Point was the favourite option and therefore there was not at this time a need for houses for power station workers.

**10/184 CLOSURE**

There being no further business the meeting closed at 9.05p

Sheila Welham  
Clerk to the Council