

Report Item No: 1

APPLICATION No:	EPF/1558/09
SITE ADDRESS:	North Barn New Farm Drive Abridge Essex RM4 1BU
PARISH:	Lambourne
WARD:	Lambourne
DESCRIPTION OF PROPOSAL:	Conversion of agricultural barn to a single dwelling with associated external alterations principally to create window and door openings (Resubmitted application)
DECISION:	Refused Permission

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=503931

REASON FOR REFUSAL

- 1 Due to the proximity of the proposed use to active kennel and farming uses, future occupants are likely to be subject to unacceptable levels of noise and disturbance and potential odour nuisance. The proposal is therefore contrary to policy RP5A of the Adopted Local Plan and Alterations.

Richard Gardiner, Environment and Technical Manager, presented a report regarding noise and health issues which is reproduced here:

**North Barn, New Farm Drive, Abridge, Essex, RM4 1BU
EPF/1558/09**

1. My name is Richard Gardiner. I have been employed by Epping Forest District Council (EFDC) since May 1993 as an Environmental Health Technical Officer, Technical Team Co-ordinator and my current role as the Environment & Neighbourhood Manager within the Council's Environment & Street Scene (ESS) Directorate. As part of my duties, throughout my time at EFDC, I have been involved in the investigation of complaints of nuisance and have provided advice to my colleagues in Planning Services on noise and other environmental issues. I have a BSc (Hons.) degree in Science and the Environment, a post-graduate diploma in Environmental Protection Control and Monitoring and the Institute of Acoustics Diploma in Noise Control. I believe I am well qualified to provide advice on loss of amenity and statutory nuisance.

2. I was recently contacted by the owner of Oakfield House, Chalet Kennels, New Farm Drive, Abridge regarding a planning application for a residential conversion near to his property at North Barn, New Farm Drive, Abridge. The owner of Oakfield House explained that he runs a pig farming business and boarding kennels and that he was concerned what impact the proposed residential use may have on his business if the Council received complaints of nuisance from new occupants of the barn. I was subsequently contacted by my colleagues in Planning Services and asked to attend the Planning Committee to provide advice on the potential environmental impact of the dogs and pigs at Oakfield House, Chalet Kennels, on any future residents of the barn and

whether or not there have been any complaints of noise or odours in the last 5 years. I have also met the applicant Mrs Hart, who provided me with some background information.

Previous complaints

3. I checked the Environment & Street Scene Directorate's database of previous complaints and found no complaints in relation to noise or odour from Oakfield House, Chalet Kennels.

Licensing

4. I established that Chalet Kennels & Cattery, New Farm Drive, Abridge, Romford, Essex RM4 1BU is licensed by the Council to keep up to 35 dogs and 30 cats (Ref LN/210002626 2013).

Potential environmental impact of Chalet Kennels & Cattery on the proposed residential use of North Barn

Dog barking

5. I visited the site unannounced on 16 April 2013 at approximately 4pm. I met the owner of Oakfield House, Chalet Kennels on site who showed me around his property adjacent to North Barn, the kennels and outside areas where he told me that the dogs are exercised.

6. Due to the close proximity of the outside exercise area to the boundary with North Barn, which has a clear line of sight to the proposed residential property, it is very likely that dog barking in the exercise area will be audible and reduce the amenity of the proposed residential use at North Barn, particularly in outside areas.

7. The exercise area is secure, but the existing fence provides no barrier to noise. It is difficult to predict the actual impact because this will vary depending on how often the outside areas are used and variability in the amount of barking different dogs produce. From experience it is likely that the dog barking will range from very little impact to significant, certainly with potential to cause complaint and reduce the amenity to the average person at North Barn. I understand that the outside exercise areas are only used in the daytime normally.

8. The kennels themselves are well enclosed in a building and the building structure appears to be capable of containing most of the barking at night when the dogs are securely contained. However, if the main door of the building containing the kennels is kept open for ventilation or skylights left open, noise from dogs barking in the kennels may also be audible at night and cause loss of amenity. Kennels need ventilation, so with the current design it is likely that noise from the kennels will at times be audible at night at North Barn and cause some loss of amenity, for example on a hot evening when the occupiers of North Barn may have their windows open at the same time that the Kennels need maximum ventilation. I experienced this on site standing by the front gate of North Barn. I could hear dog barking coming from the kennels. I found that the front door of the kennels was open.

Other noise

9. The front of the proposed dwelling faces onto a piggery and what appears to be a working farm. On that basis it appears likely that any residents of North Barn will experience noise that is normally inherent with animals and work associated with that use, which can start early in the morning and continue into the evening for some parts of the year.

Odour

10. The piggery and other animals will inevitably produce waste, which at times will inevitably produce odours that are detectable at North Barn and cause some loss of amenity. However, managed correctly odour levels should not be excessive and cause statutory nuisance. At the time of my visit there was very little odour detectable.

Pest control

11. Residents living close to working farms can experience problems with an increase in the population of rats and flies that may occur as an inevitable consequence of the farming operation. These issues can be brought under control, but at peak populations before control takes effect, there may be a reduction in amenity that some residents find unacceptable.

Potential impact of proposed change of use on Oakfield House, Chalet Kennels

12. The Council is duty bound to investigate complaints of statutory nuisance in relation to the Environmental Protection Act 1990. Whilst one would hope that anybody who moved into North Barn would do so with a realistic view on the likely impact of the existing uses of the neighbouring property and any potential lawful expansion may have on their amenity, it is true to say that the Environment & Street Scene (ESS) Directorate receive a number of complaints each year from residents who appear to have moved close to an existing operation that causes some loss of amenity or disturbance that could have reasonably been foreseen.

13. It is no defence in law to argue that a resident has moved to a nuisance (although one would pay due regard to the existing character of the area when assessing the case). The ESS Directorate would be duty bound to investigate complaints and if a statutory nuisance established that cannot be resolved informally, pursue formal action and serve an abatement notice. However, business premises have a defence against any nuisance action if they can demonstrate that they applied the Best Practicable Means (BPM) to prevent or counteract the effects of nuisance.

14. Best Practicable Means (BPM) is interpreted by reference to the following as given in Environmental Protection Act 1990, Section 79(9):

'79(9) (a) "practicable" means reasonably practicable having regard amongst other things to local conditions and circumstances, to the current state of technical knowledge and to the financial implications.

(b) the means to be employed include the design, of plant and machinery, and the design, construction and maintenance of building and structures.'

15. If North Barn is converted to a residential property, bringing residents closer to the business uses at Oakfield House, Chalet Kennels, there is clearly an increased potential for complaints to be received. The Council would be duty bound to investigate and typically, consider in detail whether the BPM are being applied. For example, in this case, if a statutory nuisance was established due to dog barking, it would be necessary to consider whether installing an acoustic fence/barrier would constitute the BPM. With regard to any odour or pest complaints, a similar process would be followed to establish if the owner of the farm could reasonably be required to pursue any further action to manage the waste or pests, in line with applying the BPM.

16. Due to the relatively isolated current location, absence of complaint and therefore any intervention by the Council, the existing use can continue without too much regard to the use of the BPM i.e. nobody appears to be impacted to any significant degree by the current use. If the North Barn is converted to a residential property, the use of BPM to minimise any impact from disturbance inherent with the operation may become more important.

17. Although the level of disturbance can be controlled through existing legislation, it should be understood that the application of BPM does not necessarily mean that the site will be free of disturbance, as the owner of the farm/kennels can only be required to take reasonable steps that are financially viable. Even with the BPM in place, it is likely that the occupiers of North Barn will have some loss of residential amenity due to the location of the property close to a working farm and kennels.

Conclusion

18. The proposed new residential use of the property at North Barn will have reduced amenity due to the existing uses on the neighbouring property. In my view the level of disturbance is unlikely to reach levels where health is significantly affected, but may cause annoyance and complaints. Existing legislation can be used to assess for statutory nuisance and may require the existing business to reduce the impact from their activities by applying the best practicable means i.e. taking reasonable steps to minimise disturbance as far as possible. This may have some financial impact on the neighbouring business.

Noise conditions

19. In order to mitigate the potential impact of noise from the kennels on the outside amenity areas of North Barn, the applicant could be required by condition to install a good quality close boarded wooden fence along the perimeter with Oakfield House, Chalet Kennels (and retain this in the future). Noise barriers are most effective if they are close to the source of the noise or recipient, so a wooden fence along the boundary of North Barn would only be of limited benefit for part of the outside amenity area and ground floor of the property, but would provide some protection.

e.g.

A suitable noise barrier should be erected on the boundary between North Barn and Oakfield Nursery, Chalet Kennels. The design and specification of the barrier should be agreed in writing with the Local Planning Authority before being installed. The barrier should be maintained and retained in place.

Reason: To protect the amenity of the occupiers of North Barn.

20. In order to mitigate the potential impact of noise in the bedrooms of North Barn a condition could be imposed to require sufficient double glazing and additional ventilation that allows the windows to be kept closed, but still receive adequate ventilation.

e.g. The bedrooms of North Barn shall be provided with sufficient double glazing and acoustically treated trickle ventilators, or other means of ventilation that will provide adequate ventilation with the windows closed, to ensure that the occupiers are provided with reasonable resting/sleeping conditions with reference to British Standard BS8233: 1999 - Sound insulation and noise reduction for buildings – Code of practice.

Details of the proposed double glazing and acoustically treated trickle ventilators, or other means of ventilation, shall be submitted to and agreed in writing by the Local Planning Authority and installed before any of the proposed residential development is occupied.

Reason: To protect occupiers of the premises from noise whilst sleeping.

Declaration of Interest - Councillor B Rolfe made the following declaration regarding Development Control Item 5 EPF/1558/09 North Barn, New Farm Drive, Abridge, he made a statement under this agenda item:

Councillor B Rolfe had made a similar declaration at the last meeting of this sub-committee on 20 March 2013 regarding this planning application. He advised that he had decided not to take part in the discussion and voting on the North Barn planning application and would withdraw from the meeting. He had decided to do this on advice and because he had recognised that any involvement by himself could be misinterpreted by the applicants and could be used to undermine the Council's position in any potential planning appeal or other challenge. He said that he remained clear in his own mind that he had done nothing wrong but recognised that his higher duty was to avoid any undue risk to the Council.

Report Item No: 2

APPLICATION No:	EPF/2451/12
SITE ADDRESS:	32 Piercing Hill Theydon Bois Epping Essex CM16 7JW
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Proposed replacement dwelling.
DECISION:	Refused Permission

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniTelM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544381

REASON FOR REFUSAL

- 1 The house to be demolished has been recommended for inclusion in the Council's local list of buildings of special architectural interest and the locality has been recommended for inclusion in a new conservation area within Theydon Bois. The house forms part of an important group known as Manor Villas. The design of the proposed replacement dwelling does not fit well within this group and will have an adverse impact on the street scene and the locally important, non-designated heritage asset. The proposal is therefore contrary to policies CP2, CP7 and DBE4 of the adopted Local Plan and Alterations, and to the National Planning Policy Framework.

Report Item No: 3

APPLICATION No:	EPF/2452/12
SITE ADDRESS:	The Old School House Coppice Row Theydon Bois Epping Essex CM16 7DL
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Conversion of existing building into 2 houses (1 x 4 bed, 1 x 3 bed) including a single storey side extension, loft conversion and alterations to elevations, together with provision of second vehicular access and 2 car spaces per dwelling
DECISION:	Granted Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544382

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 No development shall take place until samples of the types and colours of the external finishes, including windows, doors, and surface materials on hardstandings, have been submitted to and approved by the Local Planning Authority in writing prior to the commencement of the development. The development shall be implemented in accordance with such approved details. For the purposes of this condition, the samples shall only be made available for inspection by the Local Planning Authority at the planning application site itself.
- 3 Roof lights to be inserted in the roof slope shall be those of a Conservation style ie flush with the roof plane.
- 4 Further details of the provision of a first floor and its relationship with existing high widows in the front elevation of the building shall be submitted to and approved by the local planning authority before any work commences on site. Once approved these details shall be implemented in full.
- 5 No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS 5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to the Local Planning Authority and approved in writing. The development shall be carried out only in accordance with the approved documents unless the Local Planning Authority gives its written consent to any variation.

- 6 No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule) have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out as approved. The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other minor artefacts and structures, including signs and lighting and functional services above and below ground. The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate and pay particular attention to the boundary with the war memorial site. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 7 Prior to first occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway/highway verge.
- 8 Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
- 9 Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
- 10 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1223/04E; 1223/05F; 1223/03a; 1463.2.
- 11 Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no development generally permitted by virtue of Part 1, Classes A, B, C, D and E shall be undertaken without the prior written permission of the Local Planning Authority.

Report Item No: 4

APPLICATION No:	EPF/2470/12
SITE ADDRESS:	65 Forest Drive Theydon Bois Essex CM16 7HB
PARISH:	Theydon Bois
WARD:	Theydon Bois
DESCRIPTION OF PROPOSAL:	Two and one storey side and rear extensions to house.
DECISION:	Granted Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=544461

The Officer reported that there was 1 additional comment received from No. 67 Forest Drive, raising no objection but asking that light to their patio and garden be taken into consideration.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 Materials to be used for the external finishes of the proposed development, shall match those of the existing building, unless otherwise agreed in writing by the Local Planning Authority.

Report Item No: 5

APPLICATION No:	EPF/0403/13
SITE ADDRESS:	59 - 61 High Road North Weald Epping Essex
PARISH:	North Weald Bassett
WARD:	North Weald Bassett
DESCRIPTION OF PROPOSAL:	Erection of three dwellings in place of existing printworks building.
DECISION:	Granted Permission (With Conditions)

Click on the link below to view related plans and documents for this case:

http://planpub.eppingforestdc.gov.uk/AniteIM.websearch/ExternalEntryPoint.aspx?SEARCH_TYPE=1&DOC_CLASS_CODE=PL&FOLDER1_REF=546453

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.
- 2 The development hereby permitted will be completed strictly in accordance with the approved drawings nos: 1291/01, 1291/02, 1291/05g, 1291/11a, 12391/15a
- 3 No construction works above ground level shall take place until documentary and photographic details of the types and colours of the external finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such approved details.
- 4 Prior to first occupation of the development hereby approved, the proposed window opening in the first floor northern flank elevation shall be entirely fitted with obscured glass and have fixed frames to a height of 1.7 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
- 5 No development shall take place until details of surface water disposal, including means of preventing surface water draining onto the public highway, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such agreed details.
- 6 The parking areas shown on the approved plan shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents and visitors vehicles.
- 7 A flood risk assessment and management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The assessment shall demonstrate that adjacent properties shall not be subject to increased flood risk and, dependant upon the capacity of the receiving drainage, shall include calculations of any increased storm run-off and the necessary on-site detention. The approved measures shall be

carried out prior to the substantial completion of the development hereby approved and shall be adequately maintained in accordance with the approved management and maintenance plan.

- 8 No development shall take place until a Phase 1 Land Contamination investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 1 investigation. The completed Phase 1 report shall be submitted to and approved by the Local Planning Authority prior to the commencement of any necessary Phase 2 investigation. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the Phase 2 site investigation condition that follows]

- 9 Should the Phase 1 Land Contamination preliminary risk assessment carried out under the above condition identify the presence of potentially unacceptable risks, no development shall take place until a Phase 2 site investigation has been carried out. A protocol for the investigation shall be submitted to and approved in writing by the Local Planning Authority before commencement of the Phase 2 investigation. The completed Phase 2 investigation report, together with any necessary outline remediation options, shall be submitted to and approved by the Local Planning Authority prior to any redevelopment or remediation works being carried out. The report shall assess potential risks to present and proposed humans, property including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments and the investigation must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11", or any subsequent version or additional regulatory guidance.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the remediation scheme condition that follows]

- 10 Should Land Contamination Remediation Works be identified as necessary under the above condition, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved remediation scheme unless otherwise agreed in writing by the Local Planning Authority. The remediation scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures and any necessary long term maintenance and monitoring programme. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 or any subsequent version, in relation to the intended use of the land after remediation.
[Note: This condition must be formally discharged by the Local Planning Authority before the submission of details pursuant to the verification report condition that follows]

- 11 Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the Local Planning Authority for approval in writing. The approved monitoring and maintenance programme shall be implemented.
- 12 In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified in the approved Phase 2 report, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the immediately above condition.
- 13 Prior to first occupation of the development, the new vehicle access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.
- 14 Prior to occupation of the proposed development, a Residential Travel Information Pack for sustainable transport, as approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator, shall be provided to each new household.
- 15 No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.
- 16 All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 08.00 to 18.30 Monday to Friday and 08.00 to 13.00 hours on Saturday, and at no time during Sundays and Public/Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
- 17 No development shall take place until details of levels have been submitted to and approved in writing by the Local Planning Authority showing cross-sections and elevations of the levels of the site prior to development and the proposed levels of all ground floor slabs of buildings, roadways and accessways and landscaped areas. The development shall be carried out in accordance with those approved details.
- 18 Prior to the commencement of development, details of hedging to be provided along the boundary of the site with the adjacent church site shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed details. The details shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers / densities where appropriate. If within a period of five years from the date of the planting or establishment of any plant, that plant or any replacement is removed, uprooted or destroyed or dies or become seriously damaged or defective another plant of the same species and size as that originally planted shall be planted in the same space, unless the Local Planning Authority gives its written consent to any variation.

