

Committee **Development Control**

Date **27 July 2011**

Item

Title: **ENF/0265/09/B - Greenarbour, Radleys End,
Duton Hill, Great Easton**

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Summary

1. This report recommends that the committee agrees to permit the Council to enter into a S106 (legal) agreement with the property owner to allow the continued use of an outbuilding as extra accommodation to the main dwelling and preclude its separation or sale as a separate dwelling. The tying of host and ancillary accommodation in this manner is common but is normally associated with a planning application, normally due to the carrying out of physical alteration to such a building. In this instance no alterations are proposed and therefore there is no associated planning application.

Recommendations

2. It is recommended that the committee agrees that the Council enters into a S106 agreement with the property owner to allow the continued use of an outbuilding as accommodation used in conjunction with the main dwelling and preclude its separation or sale as a separate dwelling.

Financial Implications

3. The property owner will meet the Council's costs in drawing up the agreement.

Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Application UTT/0987/98/LB and enforcement file.

Impact

Communication/Consultation	NA
Community Safety	NA
Equalities	NA

Health and Safety	NA
Human Rights/Legal Implications	NA
Sustainability	NA
Ward-specific impacts	NA
Workforce/Workplace	NA

Situation

5. Green Arbour is a residential property in Great Easton Parish situated in the countryside. It is on the northern side of the main Thaxted – Dunmow Road (B184) approximately opposite Blamsters Rise. It is a substantial two storey listed dwelling in about 0.4 hectare of land. Approximately 10-12 metres to the rear of the dwelling is a sizeable brick coach house. The precise age of the coach house is unknown but is thought to be pre 1948. All access to the site is from a single treed access with a parking area in the yard enclosed by the dwelling and coach house. There is no separate curtilage or sub division of the site into more than one unit. The brick building has been used for ancillary purposes to the main dwelling including providing accommodation used in conjunction with the main dwelling. Listed Building Consent was granted in 1998 for the alterations to form an annexe.
6. The whole site – main dwelling, coach house and garden - changed hands a couple of years ago. At that time the coach house had a workshop, sitting room, small bathroom and kitchen on the ground floor and two small bedrooms on the first floor which is mostly contained within the roof space. Since then the occupiers of the accommodation have been non dependant members of the owner's family. The dividing line between use of a building as a separate dwelling which requires planning permission and as an annexe which does not is a fine one made on the facts of the case. Case law indicates that it is not simply a matter of the facilities within a building that determines the matter but how it is used. It appears that the building may be being used as a separate dwelling, although in conjunction with the main house. The use of the buildings as one unit is acceptable in planning terms.
7. The owner has confirmed that he intends to retain the building as part of the main property and not separate it as a dwelling in its own right. To preclude it becoming a separate dwelling Officers have advised the owner to enter a S106 agreement to tie the use and ownership of the accommodation to the main dwelling.

Risk Analysis

8. The following risks have been identified.

Risk	Likelihood	Impact	Mitigating actions
The accommodation becomes a lawful dwelling over time	2 Depends on future actions of this and future owners	3 The uncontrolled creation of an additional dwelling	Accept the recommendation and enter into an agreement control future use of the building

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.