

**CO4.11**

# **Colchester Borough Council**

Planning Appeal against Colchester  
Borough Council's Refusal of  
Application for Consent for Stour Valley  
Visitor Centre at Horkesley Park

Supplementary evidence of Karen Syrett  
following the addition of The Chantry to the  
statutory list of buildings of special  
architectural or historic interest on 7 October  
2013



**LPA Ref: 120965**  
**PINS Ref: APP/A1530/A/13/2195924**

## **1.0 Background**

- 1.1 On the 7 October 2013, Colchester Borough Council received notification from English Heritage that The Chantry, Great Horkesley had been added to the statutory list of buildings of special architectural or historic interest. The list description and associated documentation is attached at Appendix A to this supplemental evidence.
- 1.2 My Proof of Evidence (CO4.1) and oral evidence presented at the Inquiry did not consider the planning implications of this listing on the deliverability of the proposed art gallery as a key element of the visitor attraction.
- 1.3 It is for this reason that I have prepared supplementary evidence to consider the implications of this change in circumstances for the determination of the appeal bearing in mind the statutory duties of the decision maker introduced by the listing of The Chantry (referred to below).

## **2.0 The statutory duties**

- 2.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') contains two key provisions for the decision maker. The first relates to the requirement for listed building consent to be obtained for all works to the principal listed building and associated curtilage structures where these works would affect the character of the building as one of special interest, either internally or externally. Section 16(2) of the 1990 Act provides that "*in considering whether to grant listed building consent for any works the LPA or SoS shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*". In this case, inclusion of the term 'special' serves to highlight the significant weight that must be given to the desirability of preservation as an aim.
- 2.2 The second provision of the Act extends the protection afforded by listing to include the setting of any listed building as a statutory duty in the determination of planning applications, as opposed to a simple further material consideration. Section 66(1) requires "*in considering whether to grant planning permission for development which affects a listed building or its setting, the LPA, or the SoS shall have special regard to the desirability of preserving the listed building or its setting or any features of special... interest which it possesses*".

## **3.0 Relevant National and Local Planning Policies**

- 3.1 These statutory duties are reflected in the adopted Local Plan and National Planning Policy Framework (NPPF) (CD/0249). The Adopted Core Strategy (2008) (CD/0242) states at policy ENV1 – Environment that new development in rural locations should protect, conserve or

enhance the interests of historic assets. This is amplified at DP14: Historic Environment Assets of the Adopted Development Policies (2010) (CD/0244). This policy confirms that development will not be permitted that will adversely affect a listed building and that development affecting a historic asset should seek to preserve or enhance the heritage asset and any features of specific historic or architectural interest. The policy states that conservation of the historic environment will also be ensured by (inter alia) preserving or enhancing Listed Buildings; including their respective settings. Neither of these policies (in so far as they relate to historic assets) is affected by the Focussed Review (CD/0329)

- 3.2 The NPPF (CD/0249) includes the conservation of heritage assets as one of the Core Planning Principles (paragraph 17). Part 12 of the NPPF concerns conservation and enhancement of the historic environment. Paragraph 132 states that when considering the impact of a proposed development on the significance of a heritage asset, *'great weight'* should be given to the assets conservation. This paragraph confirms that significance can be harmed or lost directly by works affecting the fabric or indirectly via development adversely affecting the setting. The framework continues that *"as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm or loss of a grade II listed building...should be exceptional."* The framework advises that permission should normally be refused for development that will lead to substantial harm (paragraph 133) and where the harm identified is less than substantial that the public benefits should be weighed against the harm (paragraph 134). The NPPF defines setting (Annex 2: Glossary) as *"the surroundings in which a heritage asset is experienced"* and confirms that elements of the setting may make a positive or negative contribution to the significance of an asset.

#### **4.0 Consideration of the impact of listing upon the deliverability of The Chantry Art Gallery and the Chinese Garden**

- 4.1 The listing of The Chantry introduces a significant new statutory obligation that must be considered by the decision maker; both in terms of the direct impact of the development on the fabric of the listed buildings and moreover the indirect impact upon the setting of the listed buildings (The Chantry, its outbuildings and walled garden).

##### *The Chantry Art Gallery*

- 4.2 It is my opinion that the lack of any detail in terms of the detailed scheme of conversion of The Chantry to a major art gallery hosting significant works of art makes it impossible for the impact of these unspecified works to be assessed in accordance with the Act and relevant planning policy (Section 3 above). Paragraph 128 of the NPPF expects applicants to provide sufficient detail to enable an understanding to be gained of the potential impact of the proposals upon the significance of the asset. Whilst the Chantry was not listed at the time of the application,

nevertheless the building is now listed and in my opinion inadequate information exists for an informed judgement to be made.

- 4.3 The expert evidence of Anne Lyles (appended to CO3.1) confirms that significant alterations would be expected to facilitate the conversion of the (now listed) building and a decision made in the absence of the requisite detail concerning the likely impact of works on the significance of the listed building would not be appropriate. The list description makes it clear that the building is both externally architecturally distinguished (historic features and composition) and retains significant internal interest extending to both the historic floor plan and internal features. All of these elements contribute to the significance (or special interest in terms of the 1990 Act). In the absence of a detailed scheme of conversion or an application for listed building consent (normally considered concurrently), the uncertainty surrounding the potential deliverability of this key element of the visitor attraction and highlighted in the Council's reasons for refusal is further exacerbated by the listing of The Chantry. Neither is the decision maker in a position to discharge the statutory duty imposed by section 16(2) of the 1990 Act in the absence of the requisite details of the conversion works.

#### *The Chinese Garden*

- 4.4 The submission concerning the Chinese Garden is similarly lacking in detailed design particulars. Even the siting of the garden appeared uncertain and required clarification from the appellants immediately prior to the exchange of proofs. Plan CD/0336, received in August 2013, shows the close relationship of the house to the siting of the proposed Chinese Garden to the east and north-east (in a roughly dumb-bell shaped parcel of land). The expert evidence of Dr Alison Hardie (appended to CO3.1) explains the scale and form of structures normally associated with a Chinese Garden within the orthodox tradition. This evidence confirms the significant interventions (built forms, water and rock features and exotic planting) that would be expected as part of the erection of any authentic garden in the Chinese tradition (whether Imperial or Scholarly).
- 4.5 The absence of design details for the garden makes it impossible for an informed judgement to be made regarding the magnitude of impact in accordance with the Act and paragraphs 133 and 134 of the NPPF. It is my professional opinion that the statutory test required by s.66(1) of the Act and planning policy as summarised at Section 3 above cannot be applied by the decision maker on the evidence available to him.
- 4.6 The introduction, on the other hand, of distinctive and substantial forms lacks any known precedent (locally or nationally) found in association with a provincial Rectory or smaller country house of the Regency period. The close physical association of the Chinese Garden with The Chantry would logically suggest the potential for a significant impact upon the immediate setting of the listed building. Based upon the atypical

form and logical incompatibility of an authentic Chinese Garden with a Regency country house, its impact would, in my opinion, be harmful due to the contextual incongruity. I cannot anticipate the magnitude of harm, in accordance with the NPPF, in the absence of detailed design proposals. Nevertheless, the introduction of a distinguished Chinese Garden (such as that which would be expected as part of a major visitor attraction) does have at least the potential to result in significant harm to the established and unspoilt setting of The Chantry, currently characterised by semi-parkland, pleasure grounds and walled gardens in the conventional English garden tradition.

## **5.0 Conclusions**

### 5.1 To summarise and conclude:

- (i) the absence of detail concerning the detailed scheme of conversion of The Chantry to a major art gallery makes assessment of their impact impossible in accordance with the Act and relevant planning policy; and
- (ii) the statutory and planning policy tests may not likewise be applied by the decision maker to the proposal for a Chinese Garden on the evidence available to him, though it has at least the potential to result in significant harm to the setting of The Chantry.

**Appendix A:** Notification of Listing received from English Heritage on 7 October 2013

**Annex 1****List Entry****List Entry Summary**

This building is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended for its special architectural or historic interest.

**Name:** The Chantry

**List Entry Number:** 1416068

**Location**

The Chantry, Nayland Road, Great Horkesley, Colchester, Colchester, CO6 4AJ

The building may lie within the boundary of more than one authority.

County	District	District Type	Parish
Essex	Colchester	District Authority	Great Horkesley

**National Park:** Not applicable to this List entry.

**Grade:** II

**Date first listed:**

**Date of most recent amendment:**

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**Legacy System Information**

The contents of this record have been generated from a legacy data system.

**Legacy System:** Not applicable to this List entry.

**Legacy Number:** Not applicable to this List entry.

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**Asset Groupings**

This List entry does not comprise part of an Asset Grouping. Asset Groupings are not part of the official record but are added later for information.

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**List Entry Description****Summary of Building**

An early-C19 former rectory, a private house in 2013.

**Reasons for Designation**

The Chantry, an early C19 former rectory in Great Horkesley, Essex is listed at Grade II for the following principal reasons:

- \* Architectural interest: the principal elevations have a confident and dignified treatment with well-proportioned exterior Neo-Classical features such as the double-height bay at the west elevation and entrance porch at the south. The Chantry is comparable in architectural quality to listed examples;
- \* Interior: the plan-form is said to survive well and some fixtures and fittings remain including window shutters, fireplaces and the staircase in addition to the lofty, arched entrance hall;
- \* Alterations: there have been some alterations to the building, but these do not affect the architectural interest of the building unduly;
- \* Group value: The Chantry has historical and functional group value with the Church of All Saints, listed at Grade I.

## History

The Chantry served as the rectory of the Church of All Saints and, according to the Victoria County History, is probably located on the site of the medieval parsonage which is documented as needing repair in 1643. The Chantry was constructed in 1808 and it has been suggested that it may have been designed by Sir John Soane (1753-1837) for the Revd. Philip Yorke, grandson of Philip Yorke, 1st Earl of Hardwick, for whose family Soane carried out several important commissions. Soane was an immensely important architect in England; of his extraordinary oeuvre, the Bank of England and his own house (now the Soane Museum) in Lincoln's Inn Fields are some of his most renowned designs. However, The Chantry is not documented as a building for which Soane was responsible; Pevsner and Bettley consider that it is more likely that a pupil of Soane designed the main house.

The building is marked as the parsonage on the Tithe map of 1839. On the 1876 Ordnance Survey (OS) map it is labelled as the rectory for the nearby church and had a terraced garden to the west and numerous outbuildings to the east. The service wing at the north-east elevation has been partially truncated. The house was sold in 1937, renamed The Chantry, and given a new lodge designed by Raymond Erith in 1938.

Close inspection of the property has not been possible, but the evidence to hand suggests that the bay windows to the south elevation may have been added in the later C19 and the first-floor windows may have been enlarged. An historic photograph of c. 1900 shows the west elevation much as it is today.

## Details

A former rectory of c. 1808, probably for Philip Yorke, possibly influenced by Sir John Soane.

Stucco rendered, probably over a brick structure, with slate covered roofs. U-shaped plan.

### EXTERIOR

The Chantry is a house in the Neo-Classical style with two-storeys and three bays to the elevations under a shallow hipped roof with deep eaves. It has two ridge stacks. The west elevation (facing the garden) has a central double-height bow window covered by the main roof. There are French windows at the ground floor with glazing bars and three casement windows above. On either side of the bow are French windows, with mullioned casements, set within partially blocked and recessed arched openings. At the first floor above are four-light mullioned windows in rectangular openings. The south (front) elevation has two canted bay windows with one-over-one sash windows and pent roofs to either side of the central recessed entrance. There are Doric columns in antis to either side of the front door, which has a semi-circular fan light with finely detailed glazing bars above. On the first floor are three rectangular metal casement windows. The rear (north) elevation has a similar arrangement of French windows on the ground floor and rectangular casement windows on the first.

### INTERIOR

Not inspected but the sales particulars of 2011 describe the building as having 5 polite rooms and a staircase hall on the ground floor and six bedrooms on the first floor. The plan-form is largely intact. The interior retains a plaster vaulted hall with shallow arches and, it is said, an historic staircase and many contemporary fittings including fireplaces with rosette motifs and shutters to some of the French windows.

**Selected Sources**

Bettley, J and Pevsner, N, The Buildings of England: Essex, 2007

Watkin, David , English Architecture, 2001

British History online, A History of the County of Essex, volume 10 pp230-232,  
<http://www.british-history.ac.uk>, 09 July 2013

**Map****National Grid Reference:** TL9718832456

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