

*Plan*

PT239445  
Rec'd. 22-4-08 **(2)**

MEMORANDUM

To: Land Charges Section  
Pier Avenue, Clacton

From: Head of Planning & Building Services

Ref:

Date: 18-4-08

No 834

*(P3)*

*(Handwritten initials)*

LOCAL LAND CHARGES - NOTIFICATION OF INFORMATION

Purpose of notification:	
Information	<input checked="" type="checkbox"/>
Register Entry	<input checked="" type="checkbox"/>
Cancellation	<input type="checkbox"/>
Effective date	<input type="text"/>

Statutory Reference: *T4 CP ORDER 1995*  
 Act/S.I.  
 Section *ARTICLE 4(1) to WHICH ARTICLE 5(4)*

DESCRIPTION OF PROPERTY:

*LAND AT THE BURY, 85 OSYTH*

Nature of Information (E.G. Notice, Order, Statement)

*ARTICLE 4*

ENCLOSURES (for new Information only):

Decision	<input type="checkbox"/>
Notice	<input type="checkbox"/>
Order	<input type="checkbox"/>

Plan	<input checked="" type="checkbox"/>
Resolution	<input type="checkbox"/>
Other (Specify)	<i>ART 4</i> <input type="text" value="DIRECTIN"/>

CANCELLATION DETAILS

(date)

(date)

Original notification

Cancellation

Additional Information:

PLEASE COMPLETE AND RETURN THE ATTACHED SLIP TO PLANNING AND BUILDING SERVICES

R.C.S. Colley

*(Signature)*

Head of Planning & Building Services

To: Head of Planning & Building Services

From: Land Charges Section

No 834

Ref:

Date:

I hereby certify that on \_\_\_\_\_ the information enclosed with your notification dated \_\_\_\_\_ was

(tick appropriate box)

Registered as a local land charge

Noted

Cancelled

Signed



Mr R Fletcher  
Planning Enforcement Manager  
Tendring District Council  
Council Offices  
Weeley  
Clacton-on-Sea  
Essex, CO16 9AJ

**Lindsay Speed**  
**Development & Infrastructure**  
Eastbrook  
Shaftesbury Road  
Cambridge  
CB2 8DF



Website: <http://www.goeast.gov.uk>

Our Ref: E1/P1560/02/08/08

Your Ref: DF/mjk/07/00382

15 April 2008

Dear Sir

**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT)  
ORDER 1995 – ARTICLE 4(1) DIRECTION TO WHICH ARTICLE 5(4) APPLIES  
LAND AT THE BURY, ST OSYTH, CLACTON ON SEA, ESSEX**

1. I am directed by the Secretary of State for Communities and Local Government to refer to your letter of 20 December 2007, with which you enclosed a Direction made under Article 4(1) and 5(4), of the Town and Country Planning (General Permitted Development) Order 1995 restricting development within Class A of Part 2 of Schedule 2 to the Order in respect of land at The Bury, St Osyth, Clacton-on-Sea, Essex, together with additional information submitted.
2. The Council's reasons for making the Direction have been carefully considered. An officer of the Department has visited the site. The Council considers that the amenities of the area are threatened and that it is expedient and necessary to safeguard the special historic character and architectural interest of the setting of the listed buildings of St Osyth Priory and the St Osyth Conservation Area from the uncontrolled erection of gates, fences, walls and other means of enclosure. The Council is concerned that the uncontrolled enclosure and or subdivision of the land would radically alter the open and historic character of this part of the Conservation Area.
3. The Council acknowledge that complaints have been made about incidents of vandalism, trespass and anti-social behaviour by the owners of The Bury. The Council has stated that the Direction will cover only development proposed after the date it was made. Moreover, it accepts that the existing post and wire fencing and five bar gate were carried out and completed prior to the Article 4 Direction and remain lawful. The Secretary of State notes that, in the Council's

opinion, provided that maintenance of the existing development does not amount to operational development within the meaning of Section 55 of the Town and Country Planning Act 1990, such maintenance would not amount to operational development unless it changed the physical character of the land. The Secretary of State also notes that the Council considers that if such maintenance did amount to operational development then, given the national importance of the St Osyth Priory buildings, it is right that permission to carry out that work should be sought from the local planning authority.

4. Whilst there are no powers which provide for third parties to object formally to an Article 4 Direction, the Secretary of State is obliged to have regard to all material considerations. She has therefore taken into account the representations made by Foskett Marr Gadsby & Head LLP on behalf of the owners of The Bury concerning: the maintenance of the existing means of enclosure; the previous planning applications and the findings of the Appeal Inspector; the incidence of vandalism, trespass and anti social behaviour; and has treated these representations as a request to disallow the Direction pursuant to Article 5 (5) and (8) of the 1995 Order. Regard has also been had to the representations received from St Osyth Parish Council, and the St Osyth Historical Society in support of the Council.
5. The Secretary of State has carefully considered the Council's reasons for making the Direction, and the representations received, against the policies set out in Appendix D to the Department of the Environment Circular 9/95. It is her policy to approve the withdrawal of permitted development rights that have been granted by Parliament only in exceptional circumstances. On the basis of the information before her the Secretary of State is satisfied that in this case such action is justified. Evidence of a real and specific threat has been provided in that fences and gates have been erected and that there is an intention at some future stage to erect a more sympathetic means of enclosure. The Secretary of State is aware that details of a suggested fence and gate proposal has recently been submitted to the Council for consideration.
6. The Secretary of State notes that the importance of the buildings and premises, and its setting within the St Osyth Conservation Area, is acknowledged by the owners. The Secretary of State is also mindful that The Bury forms part of the home of the owners and, in her opinion, a reasonable balance has to be struck between the need to preserve and enhance the character and appearance of the Conservation Area and the setting of the listed buildings, and the right of enjoyment of their homes. In this instance, the Secretary of State is satisfied that the Council has made a clear and compelling case as to why permitted development rights should be withdrawn. She is mindful that the owners accept that there could be a more sympathetic means of enclosure, and there is evidence that the owners may well wish to review, alter, adapt, renew or replace the existing fencing in the future. The Secretary of State notes that the owners consider that the security of The Bury is fundamental for the use and enjoyment



of their homes. She also notes that the current means of enclosure has very substantially reduced acts of vandalism and nuisance and that the owners consider that The Bury must remain enclosed. However, in the opinion of the Secretary of State, the importance of The Bury is such that the uncontrolled exercise of permitted development rights could entail a threat to the amenity of the Conservation Area, an interest of acknowledged importance.

7. The removal of permitted development rights will mean that planning applications can be duly considered by the local planning authority, and be the subject of appropriate consultation. The Secretary of State is also mindful of the Council's contention that the Article 4 Direction is not intended necessarily to prevent the specified development, but merely requires it to be the subject of an application for planning permission. That process will, in the opinion of the Secretary of State, ensure that any proposed development falling within Class A of Part 2 of the 1995 Order is compatible with planning policy and the character of the area, and therefore safeguard local amenity.
8. For the reasons given above, the Secretary of State, in exercise of her powers under Article 5(1) of the Town and Country Planning (General Permitted Development) Order 1995, hereby approves the Article 4 Direction. One copy of the Direction endorsed with her approval is returned herewith.
9. The Council's attention is drawn to the provisions of articles 5(10) to 5(15) of the 1995 Order relating to the service or publication of notice of the Direction.

Yours faithfully



**LINDSAY SPEED**  
Head of Planning Casework

Enc.



INVESTOR IN PEOPLE

TENDRING DISTRICT COUNCIL



THE TOWN AND COUNTRY PLANNING  
(GENERAL PERMITTED DEVELOPMENT) ORDER 1995

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5(4) APPLIES

WHEREAS:

- (A) The Council of the District of Tendring being the appropriate local authority within the meaning of article 4(6) of The Town and Country Planning (General Permitted Development) Order 1995 ("the Order") is satisfied that it is expedient that the development of the description set out in the Schedule below should not be carried out on land at and known as The Bury, St Osyth, Clacton-on-Sea, Essex as shown hatched black on the attached plan unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990
- (B) The Council considers that development of the said description would constitute a threat to the amenities of its area and that the provisions of paragraph (4) of article 5 of the Order apply
- (C) In this Direction references to any particular article are to that particular article of the Order

**NOW THEREFORE** the Council in pursuance of the power conferred on it by article 4(1) directs that the permission granted by article 3 of the Order shall not apply to development on the said land of the description set out in the Schedule below

**THIS DIRECTION** is made under article 4(1) of the Order and, in accordance with article 5(4), shall remain in force until 19<sup>th</sup> June 2008 (being six months from the date of this Direction) and shall then expire unless it has been approved by the Secretary of State for Communities and Local Government

SCHEDULE

The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development comprised in any other Class

**GIVEN** under the **COMMON SEAL**  
of **TENDRING DISTRICT COUNCIL**  
this 19<sup>th</sup> day of December 2007

**SEALED** with the **COMMON SEAL**  
of **TENDRING DISTRICT COUNCIL**

in the presence of:-

The Secretary of State for Communities and Local Government hereby approves the foregoing direction.

[Redacted Signature]

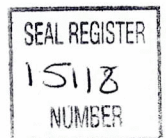
15 APR 2008

Signed by authority  
of the Secretary of State

L SPEED  
A Principal in the  
Government Office  
for the East of England

[Redacted Signature]

Principal Solicitor





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 No. 100018684 2007

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# TENDRING DISTRICT COUNCIL

## MEMORANDUM

To: Susan Howell	From: Dick Fletcher
Land Registry Section Administrative & Legal Services	Regeneration, Planning and Community Services  Our ref: DF/ Dick Fletcher Extension No: 6145  20 December 2007

**Service of an Article 4(1) to which Article 5(4) applies**  
**The Bury, St Osyth Priory, St Osyth Essex**

Please find a copy of the above Direction issued on the 19th December 2007.

Please place this on the Local Land Register.

The Direction remains in force until the 19th June 2007 unless it is disallowed by the Secretary of State for Communities and Local Government or alternatively it will remain in force in perpetuity if approved by the Secretary of State.

I shall advise you further on the outcome.

Dick Fletcher  
Planning Enforcement Manager



*only Reg by us  
once approved by Sec of State  
— left telemessage - 6-1-08*

TENDRING DISTRICT COUNCIL



THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995

DIRECTION MADE UNDER ARTICLE 4(1) TO WHICH ARTICLE 5(4) APPLIES

WHEREAS:

- (A) The Council of the District of Tendring being the appropriate local authority within the meaning of article 4(6) of The Town and Country Planning (General Permitted Development) Order 1995 ("the Order") is satisfied that it is expedient that the development of the description set out in the Schedule below should not be carried out on land at and known as The Bury, St Osyth, Clacton-on-Sea, Essex as shown hatched black on the attached plan unless permission is granted on an application made under Part III of the Town and Country Planning Act 1990
- (B) The Council considers that development of the said description would constitute a threat to the amenities of its area and that the provisions of paragraph (4) of article 5 of the Order apply
- (C) In this Direction references to any particular article are to that particular article of the Order

NOW THEREFORE the Council in pursuance of the power conferred on it by article 4(1) directs that the permission granted by article 3 of the Order shall not apply to development on the said land of the description set out in the Schedule below

THIS DIRECTION is made under article 4(1) of the Order and, in accordance with article 5(4), shall remain in force until 19<sup>th</sup> June 2008 (being six months from the date of this Direction) and shall then expire unless it has been approved by the Secretary of State for Communities and Local Government

SCHEDULE

The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure being development comprised within Class A of Part 2 of Schedule 2 to the Order and not being development comprised in any other Class

GIVEN under the COMMON SEAL of TENDRING DISTRICT COUNCIL this 19<sup>th</sup> day of December 2007

SEALED with the COMMON SEAL of TENDRING DISTRICT COUNCIL in the presence of:-



Principal Solicitor



SEAL REGISTER  
15118  
NUMBER





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