



**Rochford District  
Council**

**SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY  
THE DEVELOPMENT COMMITTEE - 29 March 2011**

All planning applications are considered against the background of current Town and Country Planning legislation, rules, orders and circulars and any development, structure and local plans issued or made thereunder. In addition, account is taken of any guidance notes, advice and relevant policies issued by statutory Authorities.

Each planning application included in this schedule is filed with representations received and consultation replies as a single case file.

The above documents can be made available for inspection as Committee background papers at the office of Planning and Transportation, Acacia House, East Street, Rochford and can also be viewed on the Council's website at [www.rochford.gov.uk](http://www.rochford.gov.uk).

If you require a copy of this document in larger print, please contact the Planning Administration Section on 01702 – 318191.

**ROCHFORD**

Cllr J P Cottis  
Cllr K J Gordon  
Cllr Mrs G A Lucas-Gill

**DEVELOPMENT COMMITTEE - 29 March 2011**

**SCHEDULE ITEM**

Item 1	10/00822/FUL	Mike Stranks	PAGE 4
	Change of Use of Car Show Room to Use Class A3/A5 Fast Food Take-away Restaurant and Provide New Customer Entrance in Shopfront Unit 1, 68 - 72 West Street Rochford		

**SCHEDULE ITEM 1**

**TITLE: 10/00822/COU  
CHANGE OF USE FROM CAR SHOWROOM TO USE  
CLASS A3/A5 FAST FOOD TAKEAWAY RESTAURANT  
AND PROVIDE NEW CUSTOMER ENTRANCE IN SHOP  
FRONT  
UNIT 1, 68 – 72 WEST STREET, ROCHFORD.**

**APPLICANT: MR MEMATALI KIOR**

**ZONING: EXISTING RESIDENTIAL DEVELOPMENT  
ROCHFORD CONSERVATION AREA**

**PARISH: ROCHFORD**

**WARD: ROCHFORD**

**PLANNING APPLICATION DETAILS**

- 1.1 This application is to a site of a former car showroom located at the junction between West Street and Union Lane in Rochford town centre. The existing building is of a flat roofed design with large glazed panes comprising a shop front to the showroom with a central double entrance door onto West Street midway along the front elevation. The site has a wide forecourt in tarmac surface, which continues around the façade onto the return frontage in Union Lane. The building is at present vacant.
- 1.2 The greater site includes a service garage and work shops, together with a separate car valeting and cleaning business, also on part of the site.
- 1.3 The current application is for a change of use to the car showroom part of the greater building fronting onto West Street and Union Lane, to Use Class A3 restaurants, snack bars and cafés and Use Class A5 take-aways, as specified in the Town and Country Planning Use Classes Order (Amendment) Order 2005. The proposal would therefore allow dining on the site and the taking out of hot food and drink.
- 1.4 The proposal also includes a change to the shop front by forming a pedestrian entrance door on the corner of the building facing onto the junction of West Street with Union Lane. The new door is proposed in aluminium with reinforced glass. The existing double doors fronting onto West Street and single double doors facing east onto the open land and exit for the valeting business would be retained as emergency fire exits.

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- 1.5 The show room would be divided in half to form a customer seating and waiting area parallel with the West Street frontage and with toilets, storage and food preparation areas to the back half of the unit.
- 1.6 The application also includes the provision of an external extract flue duct that will exit the rear wall of the building and direct downwards onto the rear yard area between the existing showroom and the workshops at the rear.
- 1.7 The application particulars state the hours of opening to be from 0600 hours to 0100 hours the following day for Mondays to Thursdays and Sundays and Bank Holidays. The hours of opening would be 0600 hours to 0300 hours the following day on Fridays and Saturdays.
- 1.8 The applicant currently owns and operates a mobile catering unit located next to the proposed premises on part of the adjoining yard area and has been trading on this site for the past six years after taking over from the previous owner. If the application is successful the applicant intends to cease trading from the mobile unit and will trade instead from the current application site.

**1.9 RELEVANT PLANNING HISTORY**

Application No. ROC / 836 / 88

Outline application to demolish existing buildings and erect three storey building of 31 sheltered housing units and one matron's flat.

Application withdrawn.

Application No. 89/00049/OUT

Outline Application to Demolish Existing Showroom and Workshops and Erect 2 and 3 Storey Block of Shops and Offices.

Permission Granted

Application No. 98/00300/FUL

Create Two Openings and Insert Windows to Side and Rear Elevations.

Permission granted 10 July 1978.

Application No. 05/00815/OUT

Demolish Existing Buildings and Construct Three and Four Storey Building Comprising 26 No. One Bedroomed, 16 No. Two Bedroomed and 2 No. Three Bedroomed Flats With Basement Car Park and Single Storey Management Centre and Bin Store.

Permission refused 29 December 2005.

Appeal dismissed 28 June 2006.

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Application No.05/00816/CON  
Demolish Existing Showroom and Workshop Buildings  
Permission refused 29 November 2005.  
Appeal dismissed 28 June 2006.

Application No. 07/00703/FUL  
Demolish Existing Buildings and Construct Part Three Storey, Part Four Storey Building With Basements and Underground Parking for 26 No. One Bedroomed Flats, 4 No. Two Bedroomed Flats, 1 No. Three Bedroomed Flat, 9 No. Two Bedroomed Maisonettes and One Bed-Sitting Flat (41 Units in Total)  
Permission refused 23 October 2007.  
Appeal dismissed 23 April 2009.

Application No. 07/00704/CON  
Demolish Existing Buildings and Redevelop Site for 41 No. Flats.  
Permission refused 18 September 2007.  
Appeal dismissed 23 April 2008.

Application No. 09/00192/FUL  
Demolish Existing Buildings and Construct Part Two and Part Three Storey Building Incorporating Lower Ground Level and Basement and Basement Car Parking to Provide Twenty Three x One Bedroomed Flats, Fifteen x Two Bedroomed Flats, One x Three Bedroomed Flat and One x Bed Sitting Flat ( Forty Units in Total).  
Permission refused. 23 June 2009.  
Appeal dismissed 1 December 2009.

Application No. 09/00193/CON  
Demolish Existing Workshops and Showroom Buildings in Order to Re-Develop Site for Forty Flats  
Application withdrawn.

- 1.10 The existing burger van on the site has been present for a number of years. Enquiries by the Council's enforcement officers in 1998 concluded that the use had existed for around 15 years and was lawful. Although application forms for a certificate of lawfulness were given out it appears that no application for a certificate was submitted. Because of the likelihood of the use being lawful the matter was not pursued further.

**CONSULTATIONS AND REPRESENTATIONS**

- 1.11 **Rochford Parish Council:** Concerns as to whether there is an adequate waste disposal area. Members commented about the excessive number of eateries in the town centre, particularly in the immediate vicinity of the proposed site.

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- 1.12 **Essex County Council Director for Environment , Sustainability and Highways:** No objection to raise.
- 1.13 **Essex County Council Historic Buildings and Conservation Advice:** No objections to the proposed change of use. Bringing this building back into use and smartening it up would be no bad thing for the appearance of the Conservation Area.
- 1.14 The actual use of the building is not really a conservation issue as the building's appearance would not alter significantly. Anticipate that the extra cowl on the rear wall will have no impact on the character or appearance of the Conservation Area.
- 1.15 The new door should be made of timber to match the existing windows.
- 1.16 A new fascia sign would be subject to a separate application for advertisement consent.
- 1.17 **Head of Environmental Services:** No objection to raise in terms of licensing. Advise that the applicant only needs to be licensed between the hours of 2300 hours – 0500 hours and the application seeks two hours less than the current licence for Monday to Wednesday early mornings and one hour less for Thursday to Sunday early mornings. If the planning application is successful it will be necessary for the applicant to apply for a new premises licence.
- 1.18 If Members are minded to approve the application, the following heads of conditions should be attached to any consent granted:-
- 1) A mechanical extraction system shall be provided to the kitchen area in accordance with the details submitted in support of the application hereby approved.
  - 2) Prior to the commencement of any development, details of any external equipment or openings in the external walls or roofs of the building proposed at any time in connection with the permitted use shall be submitted to and approved in writing by the LPA before the machinery is installed or the opening formed.
  - 3) The fan noise generated by the extraction system shall not exceed a level of 30dB (NC35) at 2 metres beyond the termination of the duct system.
- 1.19 Two letters have been received in response to the public notification and which in the main make the following comments and objections:-
- o In this particular part of West Street there is already The Marlborough Head PH, The Milestone PH with live music, Arthy's restaurant, an Indian restaurant and in the evenings a fast food trailer outlet.

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- The anti social behaviour in this area is unacceptable at the moment with noise and damage to property being a frequent issue.
- To have a further outlet for late night revellers causing more noise in late hours and more litter that will not be cleared up unless there is a strong wind.
- Rochford cannot handle the anti social behaviour in the town as it is but invites more.
- The planning notice does not specify the hours of opening and closing nor does it specify the type of food outlet and what the impact is on the neighbouring community.
- Opening another takeaway in Rochford down West Street will continue to cause the problems that already exist, and they are disturbance by teenagers, noise and pollution, opening and close hours, loud noise.
- These problems already exist and I feel if this business is granted it would not bring more business to the Rochford area but more noise and pollution.
- After having problems with this already I have also had to replace windows that have been smashed, mop sick and clear rubbish already left by local take away customers.
- Also on many occasions when the restaurant Arthy's is open I have young teenagers abusing my customers with gestures, foul language and just abusive behaviour from teenagers and also people who come out of the Marlborough Head and the Miley under the influence of alcohol.
- I feel that opening another eat in fast food business is not the answer to fill empty premises.

**MATERIAL PLANNING CONSIDERATIONS**

- 1.20 The site is in the Rochford town centre and is within an area allocated as existing residential development on the Council's saved Local Plan (2006).
- 1.21 Policy SAT 1 to the Council's saved Local Plan (2006) advocates a sequential approach to the location of commercial uses favouring town centre locations. The proposed use as a café and takeaway is an appropriate use for town centres and accords with Policy SAT 1.
- 1.22 Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS 4 2009) advises at paragraphs EC3.1 b. iii) and iv) that where existing town centres are in decline, local planning authorities should consider the scope for consolidating and strengthening these centres by seeking a wider range of services, promoting diversification and allowing retail uses to change to other uses, whilst aiming wherever possible to retain opportunities for vital local services.



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Advice at paragraph EC4.1 a. argues that local planning authorities should support a diverse range of uses that appeal to a wide range of age and social groups, ensuring they are distributed throughout the centre. More generally the advice advocates planning for a strong retail mix so the range and quality of comparison and convenience goods meets the requirement of the local catchment area.

- 1.23 The authorised use of the site is as a car showroom but permitted development rights would allow the premises to open as a shop. If permission was granted for the use now proposed, permitted development rights would allow the use in future as a shop should the takeaway restaurant close. The use is appropriate to the town centre and the re- use of the building would enhance the town centre and Conservation Area in preference to the continued vacancy of the building.
- 1.24 Government advice on the night time economy at paragraph EC4.2 to PPS 4, advocates that local planning authorities should manage the evening and night time economy in centres, taking account of and complementing the Council's Statement of Licensing Policy and encourage a diverse range of complementary evening and night time uses that appeal to a wide range of age and social groups ...making provision for leisure, cultural and tourism activities such as cinemas, theatres, restaurants, public houses, bars and cafés and setting out the number and scale of such development the Council wishes to encourage.
- 1.25 The Rochford District 2008 Retail and Leisure Study noted that the percentage of leisure use within the town centre was slightly below the national average. However, the study does not identify the lack of leisure uses within the town centre as a weakness per se (in contrast to its findings for Rayleigh). The study notes that when one looks at the service activities in general (not just leisure), the percentage within Rochford town centre was in line with the national average.
- 1.26 The study suggests that the promotion of A3 and A4 activities in the Market Square, in conjunction with the creation of a more pleasant environment through pedestrianisation, could promote public use and enhance the character of the area, while providing greater levels of natural surveillance, which in turn could engender a greater sense of security. Rochford's weaknesses, suggests the study, include its lack of comparison goods units, lack of high quality retailers and lack of modern larger units.
- 1.27 The site is not within the Market Square. The site is not allocated for retail use in the saved Local Plan (2006). The use for restaurant and takeaway would support the town centre function generally. The site adjoins the secondary and primary shopping frontages, is not located within them but is allocated for residential use.

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As such the concentration of non - retail use at this end of West Street does not fall to be considered under policies SAT 4 and SAT 5 to the saved Local Plan.

- 1.28 The licensing objectives contained within the Council's Statement of licensing Policy are:-
- a) The prevention of crime and disorder
  - b) Public safety
  - c) The prevention of public nuisance
  - d) The protection of children from harm
- 1.29 Paragraph 1.20. to the current Statement of Licensing policy (December 2010) states that from time to time a periodic report will be made to the Council's Executive on the situation regarding licensed premises in the area so as to inform Development Committee decisions.
- 1.30 Members may be aware that Oldham Metropolitan Borough Council has pursued a policy to introduce a so called "fat tax" of £1000 per unit to fund healthy eating campaigns and to address the overwhelming concentration of takeaways in the town dubbed "takeaway town". Informal discussions with officers at Oldham Council reveal that in Oldham there are extensive concentrations of such outlets with long runs of roller shutters dominating the daytime shopping frontage and with a strong night time culture with closed units during daytime reducing the attractiveness of the daytime shopping areas. The resultant concentration of eating establishments within the Rochford town centre does not compare with the extreme case of Oldham.
- 1.31 Waltham Forest Borough Council has a hot food takeaway SPD (March 2009) introduced to limit the number of fast food outlets within the retail frontages because of the domination of retail frontages by that use and which further bans such establishments from within 400m of a school. The Rochford District Council has no such policy basis on which to rely.
- 1.32 The current application site is within 200m of Rochford Primary & Nursery School. Within the Rochford town centre there are eating and takeaway outlets at:-
- o "The Regency Spice" Indian restaurant in Back Lane
  - o "The Great Wall" No. 6 East Street
  - o "Taste of Raj" No. 8 East Street
  - o "coffee corner" Horner's Corner
  - o "Flatleys" at No. 10 North Street
  - o The Conservative Club, 12 North Street ( but restricted to Members only and no takeaway)
  - o "Monsoon" 45 North Street

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- Gregs Bakers, 12 West Street
- “The Rochford Takeaway “at 36 West Street
- “Timbo House” Chinese takeaway at 25 West Street
- “Arthy’s” Restaurant 66 West Street
- “Stavros “ Kebab and Burgers Land opposite 75 West Street
- “The Royal Restaurant” at 75 West Street
- “The Beehive” 14 South Street
- “Upper Crust” 8 North Street

- 1.33 In addition to the above food can be obtained from a number of public houses in the town centre including the “Milestone” Union Lane and “The Marlborough Head” adjoining the site. The takeaway outlets are scattered throughout the town amidst other shops and services. The proposal would result in a takeaway adjoining two public houses and two restaurants with a different consumer choice as advocated in PPS 4. The proposal is therefore a reasonable re-use of the vacant showroom.
- 1.34 The proposed new shopfront and alterations would not detract from the character of the façade or the Rochford Conservation Area. The new entrance onto the junction would open out onto a wide pavement area and would not obstruct pedestrian flow. The request for timber materials as advised by the County Council’s specialist adviser on Historic Buildings and Conservation Areas can be a condition to the grant of planning permission.
- 1.35 The premises have a floor space of 201.94 square metres. Under the Council’s currently adopted car parking standards the former use as a car showroom would require a maximum parking requirement of 5 car parking spaces. The use for retail purposes would require a maximum of 10 car parking spaces. The proposed use as a takeaway would require the same car parking as for retail shop. However, the use as a restaurant would require a maximum of 20 car parking spaces based upon the dining area shown in the application.
- 1.36 The site is located within the town centre where there are public car parks, regular bus services and access to the rail network. Within the town centre there are many takeaways and restaurants that have no parking provision. In these circumstances the proposal would clearly not require the maximum provision because of the sustainable location of the site. Furthermore, the late evening use would be accommodated in the public car parking areas. There is no objection from the County Highway Authority. Given the town centre location of the site officers consider it is unnecessary to require on site parking provision to serve the development proposed.
- 1.37 The site is within the Rochford town centre. The site is already adjoined by two public houses and one which plays outside music and events.

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Representations from adjoining neighbours state nuisance already occurs and seems as much related to alcohol consumption as other issues such as litter. The applicant states that the existing trailer van use would cease.

- 1.38 There are no planning controls over the existing trailer van and which is licensed until 0300 hours Monday – Wednesday early mornings and until 0400 hours early Thursday to Sunday mornings. The proposal would see a reduction in these hours until 0100 hours Monday to Friday early mornings and a reduction to 0300 hours on Saturday and Sunday early mornings.
- 1.39 In such circumstances the use would be contained within a building with better facilities such as on site toilets and seating and which would introduce greater control over crowds and waiting customers. Ambient noise would also be contained within the building. It is possible to limit by condition the hours of trading to those proposed. As such the proposal would achieve an added benefit in amenity terms to the wider background noise and cooking smells affecting the backdrop to this part of the town centre.

**CONCLUSION**

- 1.40 The site is located outside a defined retail frontage and within an area allocated as existing residential development. The vacant condition of the former car showroom detracts from the appearance of the Rochford Conservation Area and the Rochford town centre more generally. The use proposed for a takeaway and restaurant is appropriate to the town centre. The site, although adjoined by two public houses and two restaurants, would provide an alternative to the services offered by those neighbouring establishments that would help reinforce the vitality of the town centre and remove the existing trailer van.

1.41 **RECOMMENDATION**

It is proposed that this Committee **RESOLVES to APPROVE** the application, subject to a **UNILATERAL UNDERTAKING** to provide a litter bin along the site frontage and secure the cessation of the existing burger van use on the site upon the commencement of this hereby approved and to the following conditions:-

- 1 SC4B - Start in three years
- 2 The proposed takeaway and restaurant hereby approved shall be closed for business between the hours of 0100 hours to 0600 hours Monday to Friday and 0300 hours to 0600 hours Saturday and Sunday.
- 3 Notwithstanding the submitted application details the proposed new door and alterations to the shopfront shall be finished in timber and details of the design and appearance of the door at a scale of not less than 1:20 including sections shall be submitted to and agreed in writing by the Local Planning Authority.

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The development shall be implemented in accordance with such details as may be agreed.

- 4 A mechanical extraction system shall be provided to the kitchen area in accordance with the details submitted in support of the application hereby approved. Such works shall be fully implemented prior to the commencement of the use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.
- 5 Prior to the commencement of any development, details of any external equipment or openings in the external walls or roofs of the building proposed at any time in connection with the permitted use, shall be submitted to and approved in writing by the LPA before the machinery is installed or the opening formed. The equipment shall be installed or the openings formed as approved and shall be maintained in the approved form while the premises are in use for the permitted purpose.
- 6 The fan noise generated by the extraction system shall not exceed a level of 30dB (NC35) at 2 metres beyond the termination of the duct system. Prior to opening, achievement of this level must have been demonstrated by way of a post-installation acoustic assessment, a copy of which shall have been submitted to and agreed by the LPA. The 30dB (NC35) level at 2 metres shall be maintained thereafter while the premises are in use for the permitted purpose.

**REASON FOR DECISION**

The proposal is considered not to cause harm to the character and appearance of the Rochford Conservation Area.

**Relevant Development Plan Policies and Proposals**

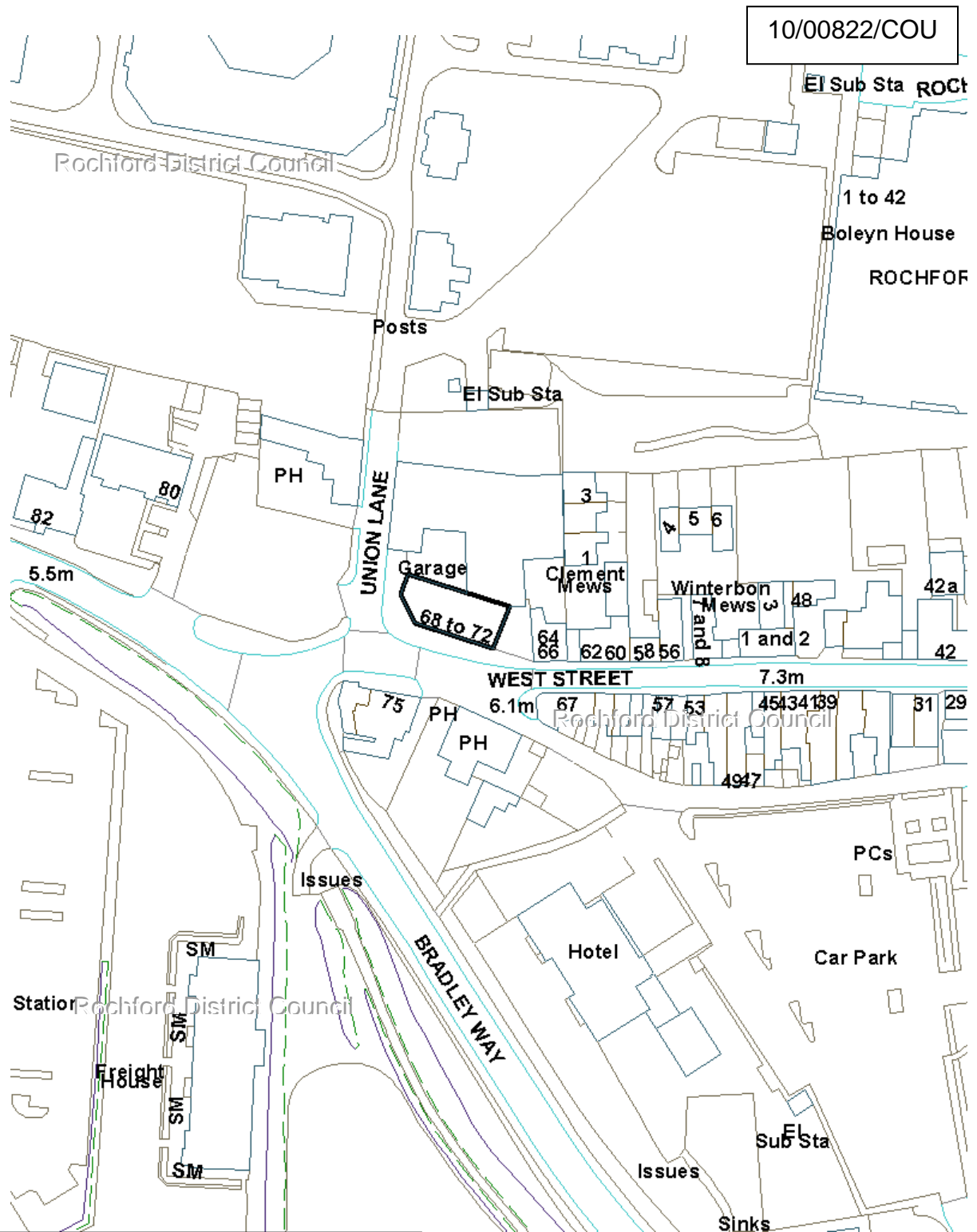


Shaun Scrutton  
Head of Planning and Transportation

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For further information please contact Mike Stranks on (01702) 318092.

**SCHEDULE ITEM 1**



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## **CODE OF GOOD PRACTICE FOR PLANNING MATTERS**

### **A. Introduction**

#### **1. The aim of this code of good practice**

To ensure that in the planning process all decisions are unbiased, impartial, and well founded.

#### **2. Your role as a Member of the Planning Authority**

To control development and to make planning decisions openly, impartially, with sound judgment and for justifiable reasons.

#### **3. When the Code of Good Practice applies**

This code applies to Members at all times when involving themselves in the planning process (this includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public, and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

### **B. Relationship to the Code of Conduct – Points for Members**

- **Do** apply the rules in the Code of Conduct for Members first.
- **Do** then apply the rules in this Code of Good Practice for Planning Matters, which seek to explain and supplement the Code of Conduct for Members for the purposes of planning control.
- **Failure** to abide by this Code of Good Practice for Planning Matters may put:-
  - the Council at risk of proceedings in respect of the legality or maladministration of the related decision; and
  - yourself at risk of a complaint to the Standards Committee or Standards Board for England.

### **C. Development Proposals and Interests under the Members' Code**

**Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.

**Do** then act accordingly.

Where your interest is personal and prejudicial:-

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application, save as mentioned below.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).
- **Do** notify the Monitoring Officer of the details.

#### **D. Fettering Discretion in the Planning Process**

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the Committee and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).



- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district and county councillor), provided that the proposal does not substantially affect the well being or financial standing of the consultee body, and you make it clear to the consultee body that:-
  - your views are expressed on the limited information before you only;
  - you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information;
  - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
  - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:-
  - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
  - remove yourself from the member seating area for the duration of that item; and
  - ensure that your actions are recorded.

#### **E. Contact with Applicants, Developers and Objectors**

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** contact the Head of Planning and Transportation where you think a formal meeting with applicants, developers or groups of objectors might be helpful. You

should never seek to arrange that meeting yourself. If a meeting is organised, officers will ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

- **Do** otherwise:-
  - follow the rules on lobbying;
  - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
  - report to the Head of Planning and Transportation any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:

- **Don't** attend a private planning presentation not open to the general public unless an officer is present and/or it has been organised by officers.
- **Do** attend a public meeting or exhibition to gather information about planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Committee.
- **Do** be aware that a presentation is a form of lobbying – you can express views, but must not give an indication of how you or other Members might vote.

#### **F. Lobbying of Councillors**

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

- **Do** promptly refer to the Head of Planning and Transportation any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to investigate.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:-
  - listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - attending a meeting with the developer or applicant organised by the Head of Planning and Transportation that is conducted in accordance with the rules set out in the Code of Conduct and this good practice guide;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

#### **G. Lobbying by Councillors**

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest.
- **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.

- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

#### **H. Site Visits**

- **Do** request an early site visit if you think one is required.
- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.
- **Don't** express opinions or views to anyone.
- **Don't** enter a site not open to the public which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:-
  - you feel it is essential for you to visit the site other than through attending the official site visit,
  - you have first spoken to the Head of Planning and Transportation about your intention to do so and why (which will be recorded on the file) and

- you can ensure you will comply with these good practice rules on site visits.

### **I. Public Speaking at Meetings**

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

### **J. Officers**

- **Don't** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Head of Planning and Transportation, which may be incorporated into any Committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- **Do** give officers the opportunity to report verbally on all applications reported to the Development Committee for determination.

### **K. Decision Making**

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation following a Weekly List report, you discuss your reasons with the Head of Planning and Transportation.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision, including any information presented through an addendum to a Committee report or reported verbally by officers.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present during the entire debate on any particular item, including the officers' introduction to the matter.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- **Do** be aware that in the event of an appeal the Council will have to justify the resulting decision and that there could, as a result, be a costs award against the Council if the reasons for refusal cannot be substantiated.

#### **L. Training**

- **Don't** participate in a vote at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.