



**Rochford District
Council**

**SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY THE
DEVELOPMENT CONTROL COMMITTEE - 24 June 2008**

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.

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



INVESTORS IN PEOPLE

Ward Members for Committee Items

DOWNHALL AND RAWRETH

Cllr C I Black

Cllr R A Oatham

HOCKLEY WEST

Cllr M Maddocks

HULLBRIDGE

Cllr Mrs R Brown

Cllr Mrs L A Butcher

Cllr P R Robinson

WHITEHOUSE

Cllr S P Smith

Cllr P F A Webster

REFERRED ITEM

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| Item R1 | 08/00359/FUL
Small Scale Wind Turbine System with 9 Metre High Mast
Church Road Nurseries Church Road Hockley | Mrs Judith Adams
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SCHEDULE ITEMS

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| Item 2 | 08/00214/FUL
Re-shaping and Landscaping of Parts of Existing Golf Courses, Including Raising Land Levels to Parts of Site by up to 4m to Improve Quality and Safety of Facilities and Creation of New Reservoirs for Irrigation Water Supply. Construct Temporary Site Access Onto Hullbridge Road for Duration of Construction Period. Remove Existing Ball Safety Fencing to Practice Range and Re-model Practice Range to be Contained Within Raised Mound up to 5m High and Provide 2m High Fence on Mound Top With Landscaping.
Lords Golf And Country Club Hullbridge Road Rayleigh | Mr Mike Stranks
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| Item 3 | 08/00156/FUL
Demolition of Existing Dwellings at Nos. 8 - 10 Weir Gardens and Construct Two Storey Building Containing 14 No. Two Bedroomed Flats With Access and Associated Parking.
Site Of 8 And 10 Weir Gardens Rayleigh | Mrs Judith Adams
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| Item 4 | 08/00280/FUL
Variation of Condition 14 of Reserved Matters Appeal Reference APP/B1550/A/06/2024715 and Condition 15 of Application 07/00588/FUL to Allow The Retail Foodstore to Accept Deliveries of Goods to be Sold Between the Hours of 0600 to 2300 Hours on any day.
Former Park School Rawreth Lane Rayleigh | Mr Mike Stranks
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| Item 5 | 08/00217/FUL
Application to Vary Condition 4 of Permission 06/00079/FUL to Allow Store Opening 0600-2200 Monday to Friday, 0600-2100 Saturday and 0930-1900 Sundays and Bank Holidays.
Makro Rawreth Industrial Estate Rawreth Lane Rayleigh | Mr Mike Stranks
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REFERRED ITEM R1

**TITLE: 08/00359/FUL
SMALL SCALE WIND TURBINE SYSTEM WITH 9 METRE
HIGH MAST
CHURCH ROAD NURSERIES CHURCH ROAD HOCKLEY**

APPLICANT: MRS J MANN

ZONING: METROPOLITAN GREEN BELT

PARISH: HOCKLEY

WARD: HOCKLEY WEST

In accordance with the agreed procedure this item is reported to this meeting for consideration.

This application was included in Weekly List no. 935 requiring notification of referrals to the Head of Planning and Transportation by 1.00 pm on Tuesday, 17 June 2008, with any applications being referred to this meeting of the Committee. The item was referred by Cllr M Maddocks.

The item that was referred is appended as it appeared in the Weekly List, together with a plan.

- 1.1 Hockley Parish Council:** No objection.

NOTES

- 1.2** Planning permission is sought to erect a wind turbine at Church Nurseries in Church Road, Hockley.
- 1.3** The site is located within an area designated as Metropolitan Green Belt that is characterised by sporadic development with individual dwellings set in substantial grounds. The site itself is currently occupied by several large greenhouses and a single storey wooden building utilised as a children's nature study centre.
- 1.4** The proposal involves provision of a single turbine to provide energy for both the study centre building and the adjacent bungalow. It comprises a turbine head of wood epoxy and three plastic blades (both black) with a radius of 5.5m mounted atop a galvanised steel mast (dull grey) 9m high. The overall height of the structure would be 11.75m from ground level. The turbine is located on high ground to the west of the study centre between a line of mixed evergreen and deciduous trees running along the boundary line and a short row of deciduous trees adjacent to the east. To the north the ground level of the site significantly drops away in level towards the railway line.

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- 1.5 The current application follows the refusal of a similar scheme for a wind turbine in the same position but with a mast height of 15m. This was refused due to lack of information with regard to impact on the character and appearance of the Metropolitan Green Belt and visual amenity.
- 1.6 Policy UT3 of the adopted Rochford Replacement Local Plan (2006) which covers renewable energy states that minor energy schemes will be permitted provided such proposals would not adversely affect:-
- I. The special character of the Coastal Protection Belt, Special Landscape Areas, Areas of Ancient Landscape or sites of nature conservation (including avian flyways) or heritage conservation interest; and
 - II. The amenity of nearby dwellings or residential areas
- 1.7 Whilst the site is located within the Green belt Bt is not within any of the specific designations above and is over half a kilometre from the nearest local wildlife site and the nearest listed building.
- 1.8 The noise level produced by the wind turbine at a speed of 5m/s is stated to be 45 dBA. This is lower than the noise of a car travelling at 40 mph on a road 20 metres away. The nearest dwelling to the proposal is just over 100m and, given this distance, it is not considered that the amount of noise generated will cause loss of amenity to surrounding residents.
- 1.9 With regard to visual amenity, the turbine will be screened to varying degrees by existing mature trees to different heights and other vegetation to all sides of the site boundary. This would allow for some limited views, mainly of the turbine itself from residential curtilages and the surrounding area. Due to the sloping nature of the site immediately to the north of the proposal, the turbine will be most visible when travelling down Church Road from a point between the church and Murrels Lane. Nevertheless this would provide only distance views which would also be partially obscured by the railway line, together with adjacent trees.
- 1.10 As a single feature of limited scale within an area containing significant numbers of mature trees and overhead power lines to the railway, the impact of the proposal is not considered to be of sufficient harm to the character, appearance or openness of the Green Belt or to residential amenity such as would justify any refusal of planning permission.
- 1.11 The proposal is directly comparable in size to an approved wind turbine at the western end of Eastcheap in Rayleigh (04/00826/FUL), although this current proposal is considerably further distant from residential dwellings.
- 1.12 **County Surveyor (Highways):** De-Minimis.

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- 1.13 **Woodlands Section:** No ecological concerns and arboricultural officer advises he has no comments for the application.
- 1.14 **Essex Wildlife Trust:** No objection.
- 1.15 **Natural England:** No objection.
- 1.16 Neighbours: 10 letters of objection received from surrounding residents. 3 further objections received from residents in other parts of the district. Summary of main points include:-
- Insensitive proposal an eyesore
 - Not appropriate in a local landscape of natural beauty and historic/architectural importance
 - Noise pollution
 - Single wind turbine of little value, only effective in farms which should be off shore
 - Reduction in height of mast a token gesture
 - Turbine blades will remain visible through and above adjacent trees
 - Inappropriate development in protected countryside
 - Visually intrusive, destroys pleasant views
 - Excessive noise from sails
 - Wind turbines only justified when for the benefit of the wider population
 - Should not be allowed to destroy local amenities for personal gain
 - Unnecessary
 - Harmful impact upon wildlife, especially bats and birds
 - Highly visible and too large
 - Proposal not compatible with a nature study centre
 - Environmental benefits not proven
 - Regular flashes of blades and constant noise can be harmful to health
 - Visual distraction to train drivers and motorists
 - Too large
 - Not in keeping with the area
 - Would set a precedent for similar development in the Green Belt
 - No reduction in size of the turbine itself
 - Harmful effects far outweigh the small environmental benefits
 - Not suitable in a residential/suburban area
 - Already have a wind turbine in Rayleigh
 - Amount of energy generated not sufficient to justify proposal
 - Contrary to Local Plan
 - Regarding existing turbine at Eastcheap Rayleigh
 - Highly visible and a blot on the landscape
 - Residents didn't realise its height until erected
 - Detrimental impact on property values

REFERRED ITEM R1

APPROVE

- 1 SC4B Time Limit Standard
- 2 Prior to the wind turbine coming into operational use, details including noise Assessment, shall be submitted to and agreed in writing by the Local Planning Authority of any associated transformer, other equipment or housing (save for any to be installed within the nature study centre building) to be used in association with the wind turbine hereby approved. Such details as may be approved shall be retained and maintained thereafter.
- 3 Notwithstanding the details of the drawings date stamped 28th April 2008, the colour of the development hereby approved shall be matt grey for the mast pole and black for the turbine head and blades.

REASON FOR DECISION

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area or residential amenity such as to justify refusing the application; nor to surrounding occupiers in Church Road.

Relevant Development Plan Policies and Proposals

R1, UT3, PN5, of the Rochford District Council Adopted Replacement Local Plan



Shaun Scrutton
Head of Planning and Transportation

For further information please contact Judith Adams on (01702) 546366.

08/00359/FUL



Rochford District Council, licence No.LA079138

Schedule Item 2

**TITLE: 08/00214/FUL
RE-SHAPING AND LANDSCAPING OF PARTS OF EXISTING
GOLF COURSES INCLUDING RAISING LAND LEVELS TO
PARTS OF SITE BY UP TO 4M TO IMPROVE QUALITY AND
SAFETY OF FACILITIES AND CREATION OF NEW
RESERVOIRS FOR IRRIGATION WATER SUPPLY. CONSTRUCT
TEMPORARY SITE ACCESS ONTO HULLBRIDGE ROAD FOR
DURATION OF CONSTRUCTION PERIOD. REMOVE EXISTING
BALL SAFETY FENCING TO PRACTICE RANGE AND
REMODEL PRACTICE RANGE TO BE CONTAINED WITHIN
RAISED MOUND UP TO 5M HIGH AND PROVIDE 2M HIGH
FENCE ON MOUND TOP WITH LANDSCAPING
LORDS GOLF AND COUNTRY CLUB HULLBRIDGE ROAD
RAYLEIGH**

APPLICANT: DEREK GOVEY

ZONING: METROPOLITAN GREEN BELT

PARISH: HULLBRIDGE PARISH COUNCIL

WARD: HULLBRIDGE

INTRODUCTION

- 2.1 This application is to the site of the Lords Golf Club located on the eastern side of Hullbridge Road and extending to a site of some 88 hectares of land. The site is divided into three main areas. A practice range exists immediately adjoining Hullbridge Road to the immediate north of the club buildings. The remainder of the site is divided into two 18 hole courses. The Regency Course is located on the northern part of the site and operates as a pay and play facility. The Georgian Course is located on the southern part of the site and operates as a private members club.
- 2.2 The new owners of the site wish to improve the quality gap between the pay and play course to the north and the members course to the south. This would help redress a general trend where pay and play courses have been overplayed and of general poorer quality but where private clubs have been difficult to join. As a consequence clubs are becoming more welcoming to visiting golfers and as such the Regency pay and play course is currently under-used.

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- 2.3 The owners identify safety concerns with the arrangement of holes on the pay and play course and the need to improve the irrigation of the site, given the threat of drought orders and that it is no longer possible to rely upon the water companies for supply.
- 2.4 The practice ground/driving range is not receiving the volume of use the club had hoped for. It is felt this is due to a lack of visual quality and golfing interest with a flat outfield and no shaping to lead the eye towards defined target areas. The lack of slope and clay soils means water is slow to disperse despite drainage. A lack of ball roll and consequent plugging have had a negative impact on practice as well as ball collection.
- 2.5 The nets around the practice area are difficult to maintain and are unsightly.
- 2.6 The short course marked out around the outside edge of the existing driving range has received little custom in part due to the unattractive location alongside the range netting.

PLANNING APPLICATION DETAILS

- 2.7 This current application is near identical to the previous application refused permission at an extraordinary meeting on 13 March 2007 under application reference 06/01096/FUL. This current application is different by way of the realignment of the haul road from the access point, the inclusion of an additional plan showing typical driving range net details, alterations to the alignment of driving bay dividers to the driving range shed, and the inclusion at the outset of a signed Unilateral Undertaking to provide a contribution to highway improvements of £142,000.
- 2.8 The applicant has also confirmed that the waste exemption licence details may also be relied upon as submitted with the previous application, but due to the need to identify a definite construction period and the uncertainty surrounding the success of this application, the applicant has not re-applied for a new licence until permission has been obtained.
- 2.9 The proposed remodelling works requiring planning permission affect some 21.5 ha of the site. The areas to be worked would be connected by temporary internal haulage routes from a temporary site access. The proposal includes wider landscaping changes over the greater part of the site. The development would be implemented whilst the courses and facilities remain open for business.

Creation of Temporary Site Access

- 2.10 To facilitate the access of the fill to be used in the earth works and allow construction traffic to enter the site without conflict with players and other guests, a temporary site access onto Hullbridge Road is proposed to be formed 140m north of the existing site access opposite open land just to the south of the dwelling "Leawood".

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- 2.11 The access would be constructed to a width of 7m with 10m radii to both sides. The supporting Transport Statement states that adequate visibility would be achieved by a visibility splay of 4.5m x 120m.
- 2.12 The access would connect to a haul road running parallel to Hullbridge Road south towards the main access. In the current application the haul road route is revised to a new route away from between the existing buildings and driving shed to a revised route across the driving range some 40m to the north of the driving shed building before forking out across the site to the areas of work on both courses.
- 2.13 The haul roads would be made from hardcore and would be lifted and removed at the end of the construction period.
- 2.14 The proposed temporary access would be constructed by removing part of the existing hedging and forming the construction in accordance with the requirements of the County Highway Authority. Once the development is completed the temporary access would be permanently closed and the land reinstated.
- 2.15 To serve the construction process a fenced site compound with security lighting would be created close to the temporary entrance. This would include a portable site office, mess room and toilet facilities. The applicant advises that a variety of equipment would be used from time to time but it is likely that a tracked bulldozer/excavator suitable for grading inert soils would be present on site for the duration of the operation and at other times a 360 degree excavator and dump truck will be required.
- 2.16 The applicant proposes a wheel spinner to be located close to the site entrance to be used by all vehicles to clean wheels prior to joining the public highway.

The Driving Range

- 2.17 The practice ground is set in a large rectangular plot over 340m in length and 145m in width at the southern end widening to 185m at the northern end. The current application seeks to take into the practice area the unused short hole course that exists around the practice nets and by changing the landform would create a far more interesting and visually attractive practice area.
- 2.18 The proposal would create a contoured outfield with raised target greens and sufficient falls to improve surface water dispersal. The ridge line to the mound in this area will be typically 4.5m-5.0 m above the existing ground level with an average depth over the outfield and perimeter area of 1.9m. Two mature trees on the eastern side of the practice ground will be retained and the mound would not extend into their canopy area.
- 2.19 To aid with ball containment, assist collection and deter trespass onto the outfield it is proposed to erect 2m high fencing along the mound top inside a landscaped and planted area.

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- 2.20 A new drainage pond and putting green are also proposed alongside the clubhouse.
- 2.21 In this current application the applicant shows further information to realign the existing driving bays to give direction of play more central to the range through a shot cone of 15 degrees. In addition, each driving bay would be extended by netting to the height of the bay shed for a distance of 1 – 2m beyond the open end of the building. Also proposed is the provision of 12m high netting for a distance of 30m northwards at each end of the driving shed but at a narrow angle in comparison with the line of the existing netting.

Regency – Pay and Play Course (North)

- 2.22 The Regency course is the subject of extensive remodelling to address safety concerns and improve the quality of play.
- 2.23 To relieve congestion around the south eastern part of the course around holes 13 – 17 a new 6th hole is proposed. The tee and green complexes need to be raised to ensure visibility, playability and drainage. No works will take place within 16m of the water course to negate any adverse hydrological impacts.
- 2.24 The existing holes in this area will be realigned with wider spacing and additional shaping and one existing hole removed. A new pond will be created to the right of the 16th green to create an additional golfing hazard and attractive landscape feature. New mounding will be created to improve visual separation and safety.
- 2.25 The maximum change in elevation from existing ground levels in this part of the site will be approximately 3.5m with an average depth of area worked at just under 1.3m.

Georgian - Members Course (South)

- 2.26 The area of the 11th, 15th, and 16th holes forms a triangle of doglegs. It is proposed to introduce shaping of the area to provide a visual reason for the alignment of the holes by mounding and planting. Mounding in this area will gently slope up to 4m in height with an average depth of less than 1.5m above existing ground levels.
- 2.27 This part of the site would continue to be managed as rough grassland to encourage the skylarks in this area to remain.
- 2.28 Adjoining the 5th green it is proposed to provide a clay lined pond of around 1300 square metres to provide hazard to golfers, but also visual and ecological interest. The pond will be planted with marginal species appropriate to the locality.

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Reservoirs

- 2.29 Three reservoirs are proposed to the south eastern part of the site and on the Georgian Course alongside the 3rd, 4th and 14th holes. They would each be in the region of 5000 square metres in area and able to hold over 20,000 cubic metres of water which is a capacity considered able to meet the irrigation requirements for both courses in most years.
- 2.30 The reservoirs would be set at ground level to avoid risk of encroachment on the ground water table. The retaining banks would be shaped like the practice ground mounds and extensively planted. The maximum change to elevation from existing ground levels would be approximately 5m with an average depth of area worked at just over 1m.
- 2.31 The reservoirs would be filled from spring water on the site over the winter period.

Landscaping

- 2.32 The proposal sets out a general programme of planting and maintenance across the site as a whole with out of play rough areas between fairways aimed at increasing ecological connectivity across the site and increasing the planting of native species. Immature non native plantings such as eucalyptus would be removed and new plantings of native species provided to reduce the framing of fairways on the Georgian fairways by exotic specimens such as Leyland Cypress. Whilst no large expanses of new woodland would be created, the total area of tree and shrub planting would amount to some 6ha across the site and equating to 15,000 shrubs and 4,800 trees.
- 2.33 A further 2,000 or so tree and or shrub whips will be planted to strengthen the hedgerow along the eastern boundary. The phase one establishment trees will comprise a mix of 35% Field Maple, 20% Hazel, 15% Ash, 10% Crab Apple, 10% Wild Cherry and 10% Whitebeam. The shrubs will include 25% Hawthorn and 15% Blackthorn. The mix will also include 10% East Anglian Elm or disease resistant European Elm on the advice of the applicant's ecologist.
- 2.34 The phase two establishment will comprise 35% Oak, 20% Ash, 15% Field Maple 10% Crab Apple, 10 % Crack Willow and 10% White Willow. The hedgerow species will be dominated by 30% Hawthorn and 15% Blackthorn.
- 2.35 Opportunities exist to increase the impact of native species by positioning tighter groups of new plantings in out of play locations. Blanket planting of belts of trees will be avoided to prevent blocking distant views and the loss of rough areas of grassland in accordance with the advice of the applicant's ecologist. The management of the planting will seek to retain features to trees after five years which show splits and forks and dead tissue because of their value to species diversity.

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2.36 New areas have been identified for extensive wildflower seeding with a policy to manage these areas for ecological benefit. The linking of rough areas of grassland would create wildlife corridors.

2.37 The application is accompanied by the following supporting material:-

Supporting Statement

2.38 The supporting statement sets out the reasoning behind the proposal and that to do nothing would be unacceptable from the point of view of risk of injury, decline in usage, together with loss of course appeal. Failure to stimulate demand would impact on the funds available to maintain the facility.

2.39 Alternative safety measures such as shortening certain holes would imbalance the layout and adversely affect course appeal. The use of high safety net fencing would be intrusive visually and expensive to maintain.

2.40 To increase green fees and range ball costs might have some benefits to the pay and play course but financial benefits would be questionable and would have an effect upon the perception of the course as a whole.

2.41 Improvements in the efficiency of water use will be investigated but would not in themselves bring benefits of the scale required to negate summer dependence on mains supply for irrigation. The use of boreholes to supply water is an option but subject to licensing by the Environment Agency and would not provide a water supply safe from restriction.

2.42 The supporting statement explains the details of the application. If allowed, the proposed importation of material would be carried out over a period of three years between the hours of 0730 – 1730 Mondays to Fridays and 0730 – 1300 on Saturdays. The duration of the works despite best estimates would be dependant upon weather conditions and availability of soils in the locality.

2.43 The remodelling works would be undertaken in four phases:-

1. The practice ground remodelling of the driving range would take place over a period of 12 months.
2. The regency course works (northern part of the site) would take around 16 months but would not commence until DEFRA Licensing approval has been achieved for works to take place in the vicinity of the Great Crested Newts, with any necessary mitigation measures in place.

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3. The Georgian Course works (southern part of the site) would take around 2 months to complete and will need to be undertaken between September to January to avoid disturbance to breeding/nesting Skylarks. This phase may therefore need to alternate with the construction of the reservoirs depending upon completion of the regency course works.
 4. The final phase would be the construction of the irrigation reservoirs over a period of six months.
- 2.44 The fill material in the main would be taken to the working area by the visiting lorries over the haul road and deposited where required to avoid the cost of double handling. The machinery required would be a large bulldozer (eg, CAT D8), one 360 degree excavator, a dumper, water bowser and tractor used for damping down as well as the 4 axle tipper lorries bringing the material onto the site.

Transport Assessment

- 2.45 This assessment identifies the need for 350,000 cubic metres of infill for the required course design to be delivered over a three year period. The assessment calculates a requirement for 46 No. twenty ton trucks per day at 5 No. arrivals and 5 No. departures per hour assuming a 9/10 hour working day.
- 2.46 The assessment concludes that the temporary access proposed would enjoy adequate visibility by way of a 4.5m x 120m visibility splay and that the size and location of the temporary access is considered acceptable in terms of highway safety and practicality.

Flood Risk Assessment

- 2.47 This assessment identifies that the site is within a small catchment that discharges to the River Crouch. The proposed construction of three reservoirs and remodelling of the courses is to be achieved using imported soils to create embankments and landforms. The construction of the reservoirs is not expected to have a significant impact on local hydrology. The reservoirs are to be filled using spring water in the winter season and so the abstraction will not affect local water courses during the summer.
- 2.48 It is likely that steeper slopes will generate higher rates of run off. There will, however, be a reduction in effective catchment because rain falling within slopes and into the reservoirs will be retained. The construction of the reservoirs is not therefore expected to result in increased run-off from the site as a whole.
- 2.49 The establishment of the practice ground will involve the importation of soil to create an inclined practice area and perimeter embankments. Mitigation measures and outline hydrological designs have been proposed for interception of run off and attenuation into two balancing ponds prior to discharge to water courses.

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- 2.50 A maintenance programme is recommended to include inspection and remedial work for the various water features, reservoirs and balancing ponds, together with a regular programme of recording water levels.
- 2.51 An addendum to the assessment revises the figure for green field run off rate following discussions with the Environment Agency.

Earth Works Method Statement and Specification for the Construction of Irrigation Impounding Reservoirs

- 2.52 This report sets out the approach to the site preparation by way of clearance and compaction of the site, attention to stresses and likely leakage areas including diverting of water courses, if necessary, followed by construction with suitable fill material. Unsuitable material is described amongst other things as peat, logs, material from swamps, perishable material, material susceptible to spontaneous combustion, any industrial, commercial or domestic waste and cobbles and boulders with a minimum dimension greater than 150mm.
- 2.53 The composition of the fill material is better described from particulars submitted with the waste exemption application as follows:-
- Soil and stones from construction.....92%
Concrete Brick and tiles from demolition.....5%
Minerals from screenings.....3%
- 2.54 All areas to be graded will be cleared of vegetation other than mature trees. The vegetation to be cleared will comprise of more recent growth associated with the golf course and considered by the applicants to often comprise inappropriate species. Trees of an appropriate species will be saved and transplanted into areas of new planting.
- 2.55 The cleared areas will then be stripped of topsoil which will be temporarily stockpiled up to a height of 3m. Earth works will not take place beneath tree canopies. Following the initial build up of landform the final thickness of the profile will consist of 450mm of subsoil and up to 200mm of topsoil . Where the area in question is to be range outfield the topsoil will be 150mm thick. Where the mounding is to be planted with trees this will be 200mm thick. Where the area is to be left as grassland the topsoil will be 100mm thick.
- 2.56 All fairways and rough areas to be seeded will be cultivated and prepared using agricultural machinery.

Ecological Survey and Environmental Assessment

- 2.57 This report concludes that the site retains several features of an ancient landscape, particularly its old hedgerows and veteran trees which provide an element of both ecological and historical continuity to the site.

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Whilst many species have survived from the previous agricultural period, the conversion to a golf course has created new grassland habitat and greatly increased the number of ponds. Consequently the area supports greater biodiversity than when farmed.

- 2.58 The hedges and veteran trees are important to the specialised species they support and as green corridors. It is important therefore that these features are retained and, where possible, isolated former hedgerow trees should be incorporated into new hedging. The report identifies scope for woodland planting but identifies the need for care to avoid breaking up extensive areas of grassland and the attractive views of the area. The report identifies that exotic species should be replaced with native specimens. The report suggests enhancing gaps in hedgerows with disease resistant elms.
- 2.59 The need is identified to retain and extend existing rough areas of grassland to favour the breeding skylarks on the site.
- 2.60 Water Voles are also identified as an unexpected discovery on the site with the recommendation that their existing ponds should be safeguarded and any new ponds created with a view to their possible colonisation, particularly the formation of banks without fluctuating water levels.
- 2.61 The report identifies the presence of Pipistrelle Bats being reported on the course but the presence of breeding sites or roosts is not recorded by the County bat recorder for this site. It is suggested that the bats may be utilising older veteran trees on the site.
- 2.62 The report finally identifies the presence of Great Crested Newts at one of the ponds on the site.

Great Crested Newt Survey

- 2.63 This report concludes that, following a survey, along published approved methods, that a low population of Great Crested Newts was found present in the existing pond near the 8th Hole adjacent to residential property and Coventry Hill Road on part of the Regency Pay and Play course on the northern part of the site.
- 2.64 **RELEVANT PLANNING HISTORY**

There has been an extensive planning history for this site, much of which relates to the existing buildings on the site. The relevant history of the playing course area is set out below:-

Application No. ROC/0243/89

Change of use of land to Golf Course

Appeal against non – determination dismissed 30 January 1990

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Application No. ROC/0458/89
Construct Golf Course and ancillary club house and pro-shop, vehicle/plant store with allied car parking facilities.
Permission refused 20th October 1989
Appeal allowed 30 January 1990

Application No. CU/0369/90
Change of use of land to form 2 Golf Courses with ancillary car parking area landscaping and alterations to Hullbridge Road adjoining site.
Permission granted 14 August 1990.

Application No. F/0864/90
Removal of condition 22 on CU/0369/COU to allow retention of overhead power lines in connection with change of use of land to form 2 Golf Courses with ancillary car parking landscaping and alterations to Hullbridge Road
Permission Granted 1 February 1991.

Application No. 01/00480/COU
Change of use of land to form addition to existing Golf Course.
Permission granted 30 August 2001

Application No. 02/00378/COU
Change of use of land to open air driving range and erection of 5m high catch fencing
Permission granted 26 September 2002

Application No. 03/00034/FUL
Erection of building comprising 16 No. driving bays for use with associated golf driving range.
Permission granted 18 March 2003

Application No. 04/00088/FUL
Erect 3No. Free Standing Spot Lights On 8m High Columns. 2No Local Height To Fascia Of Existing Covered Driving Bays.
Permission granted 14 July 2004.

Application No. 06/01096/FUL
Reshaping and landscaping of parts of existing golf courses, including raising land level to parts of site by up to 4m to improve quality and safety of facilities and creation of new reservoirs for irrigation water supply. Construct temporary site access onto Hullbridge Road for duration of construction period. Remove existing ball safety fencing to practice range and remodel practice range to be contained within raised mound up to 5m high and provide 2m high fence on mound top with landscaping.

Permission refused 13 March 2007 for the following reasons:-

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- 1) The proposals, by virtue of the large volumes and nature of materials transported on to the site during a considerable period of time, would result in the treatment of the site for fill purposes, for which no policy exists within Rochford District Replacement Plan (2006). This will result in considerable changes to the landform of the site detrimental to the openness and appearance of the area. In the opinion of the Local Planning Authority the proposed contouring and landscaping of the golf course would be ancillary to the main purpose to dispose of fill material.
- 2) The scale, extent and excessive height of the proposed raising of land levels together with the level of noise and disturbance arising from the works to reform the land and import of the material over a considerable period of time would result in a loss of open outlook and level of amenity currently enjoyed by the occupiers of the neighbouring properties.

Application No. 07/00290/FUL

Close Existing Access, Form New Access onto Hullbridge Road and Revise Layout to Car Park. Change Groundsman's Store to Leisure Site, Provide Gymnasium to First Floor, Provide Pitched Roof to East Dormer, Pitched Roof to Flat Roofed Link and Revise Window Details to Ancillary Building. Two Storey Extensions to Provide New Kitchen and Golf Pro Shop and Extension to Bar, Extend Bar to Ground Floor with Roof Terrace Over, Extend Rear Dormers and add Two New Dormers to Side, add Entrance Porches and Revise Window Details to Clubhouse Building.

Permission refused 26 June 2007.

Application No. 07/00291/FUL

Pitched Roofed Greenkeepers Building to Provide Store, Workshop, Repair Shop With Office and Staff Room in Part of Roofspace.

Permission refused 26 June 2007.

Application No. 07/01130/FUL

Pitched Roofed Greenkeepers Building to Provide Store, Workshop, Repair Shop With Office and Staff Room in Part of Roofspace on Land Opposite Lubards Farm.

Permission refused 13 February 2008.

CONSULTATIONS AND REPRESENTATIONS

- 2.65 **Hullbridge Parish Council:** Objections raised on the grounds of potential increase in water running off the peaks and causing problems in surrounding ditches off the site, height of the mounds excessive and changing the surrounding natural landscape, soil brought in from the Olympic site (previously industrial sites) now under construction, potentially being from contaminated land and drainage flowing into the surrounding water courses, excessive vehicle movements which would affect traffic in Hullbridge Road, plus spoil from the lorry tyres being left on the road surface.

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- 2.66 **Essex County Council Minerals and Waste Planning:** Advise that the proposal is considered to be a hybrid proposal involving a County Matter (waste importation) and as such it should be dealt with by the County Council.
- 2.67 However, it is recognised that the application was made to re-establish the applicants' appeal position, and rather than take over the case at this late stage, happy for the District Council to continue to determine the matter. That said, the fee attached to the application should reflect the fact that waste importation is involved, ie, £65,000.
- 2.68 Essex County Council raises an objection to the waste importation development proposed. The use of the waste material for land raising would be contrary to Policy W9B of the Essex and Southend Waste Local Plan September 2001 (WLP).
- 2.69 Furthermore, insufficient information has been submitted with the application to demonstrate that the need is justified, contrary to further policies within the WLP, as set out below.

Justification

- 2.70 The supporting statement to the application states that the three main reasons to justify the remodelling works to the Golf Course are 'Course Quality', 'Safety Issues' and 'Irrigation and Water Sourcing'. It is considered that, in view of the scale of the importation of waste materials proposed (350,000 cubic metres), that this justification should be substantiated by independent reports. Without that independent assessment, and in light of the information supplied with the application, it is concluded that this proposal is waste importation and land raising for its own sake and not course improvement.
- Course Quality – An independent report by a golf expert that demonstrates that the quality of the golf course would be substantially enhanced as a result of the remodelling works.
 - Safety Issues – An independent report assessing the safety risk at the existing golf course and whether the proposed remodelling would address any issues raised or whether they could be addressed without the need for the remodelling on the scale proposed. Also a safety risk assessment of the remodelled golf course, to ensure no further safety issues would be created by the remodelling should be supplied.
- 2.71 For example the driving range is proposed to be raised across its entirety with a large bund surrounding the driving range; it is stated to improve its visual appearance and improve safety. It is not clear why the level of the driving range is necessary and the screening of the driving range could perhaps be achieved with fencing/netting and enhanced planting, negating the importation of waste material on the scale proposed.

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- Irrigation and Water Sourcing – While it is stated that there is need for additional storage capacity at the golf course, no information is provided as to the justification for the number, size or capacity of the proposed water bodies. It is considered that an assessment of the irrigation needs of the golf course and the existing capacity to store and sources water should be provided. Then how the proposed water bodies meet any shortfall, in terms of their size and how they will be recharged.

Waste Local Plan Policy

- 2.72 Policy W3C of the WLP requires that non-landfill proposals with a capacity in excess of 50,000 tonnes per annum will be restricted to sources of waste from the plan area. The applicant has stated that the material used for remodelling would be sourced from a 20 mile radius of the site. In light of this, there is potential for the material to be sourced outside of Essex, in which case the proposal would be contrary to the requirements of policy W3C. Moreover, information should be supplied as to these potential sources, including the timescales for importation to ensure the scheme can be completed within a reasonable timescale.
- 2.73 Policy W9B of the WLP states: “Landfill, or land raising, for its own sake, without being necessary for restoration, will not be permitted.” It is considered that the applicant has not demonstrated any overriding justification for the proposals and that alternative solutions to the problems of golf course quality and safety could be sought without the need for large scale importation of inert material, the proposal would therefore be contrary to the provisions of policy W9B. In respect of the latter point, unnecessary land raising in the Green Belt would be contrary to Green Belt policy due to the level of unnecessary activity and potential for landscape harm.
- 2.74 For information, notwithstanding the provisions of any of the aforementioned policies, the proposal would also need to be considered in light of policy W10E of the WLP. This policy requires that waste management facilities make satisfactory provision in respect of the listed criteria. In the main these criteria are: neighbouring amenity (noise, dust, smell), the effect of the development on the landscape and countryside, available transport links, effects on the historic environment and archaeology, availability of water supply, the effect on nature conservation and ecology and the effect on the purposes of the metropolitan Green Belt.
- 2.75 Further to the requirements of the Waste Local Plan, it is also worth noting that the proposal for the importation of some 350,000 cubic metres of inert material would divert material away from sites to be restored within Essex, which could potentially impact upon restoration timescales.
- 2.76 If planning permission were to be granted, Essex County Council would like to see conditions imposed covering the following issues:-
1. detailed landscaping scheme.
 2. dust suppression scheme.

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3. all lorries/HGVs entering and leaving the site shall be sheeted.
4. noise monitoring scheme.
5. surface water drainage scheme.
6. details of topsoil handling.
7. soil spreading.
8. phasing scheme – requiring progressive restoration.
9. maintenance of access road.
10. wheel washing.
11. restrictions on vehicle movements.
12. restrictions on operating hours.
13. tree protection measures
14. habitat restoration scheme.

2.77 **Essex County Council Highways and Transportation:** the Highway Authority would not wish to raise an objection to the above application subject to the following:-

1. No commencement of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:-
 - Contribution of £25,000 towards highway improvements in the vicinity of the site including, but not solely for use, with the junction of Hullbridge Road and Hambro Hill. Improvements as deemed necessary by the Highways Engineer.
 - Provide full details of the proposed temporary access off Hullbridge Road. To include a clear to ground visibility splay with dimensions of 4.5 metres by 120 metres as measured from and along the nearside edge of the carriageway. Such sight splays shall be provided before the road is first used by vehicular traffic and retained free of any obstruction at all times. No unbound material shall be used in the surface finish of the driveway within 20 metres of the highway boundary of the site.
 - Any gates provided at the vehicular access shall only open inwards and shall be set back a minimum of 4.8 metres from the nearside edge of the carriageway.
 - Complete the proposed temporary access off Hullbridge Road in accordance with the details as agreed with the Highway Authority.
2. No occupation of the development shall take place until such time as the following have been provided or completed to the satisfaction of the Highway Authority:-

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- The existing crossover shall be removed and the footway and verge resurfaced and kerb reinstated for use, as approved in writing by the Local Planning Authority.
 - 3. Space shall be provided within the proposal site to accommodate the parking, loading, unloading and turning of all vehicles visiting the site, clear of the highway and properly laid out and such space shall be maintained thereafter free of any impediment to its designated use, further, in order to allow all vehicles to enter and leave the highway in forward gear.
 - 4. Measures shall be provided to ensure no mud and/or debris is deposited on the public highway by any vehicle associated with the proposal. Details to be agreed with the Local Planning Authority and Highway Authority.
 - 5. No construction traffic shall arrive or depart the site between the hours of 0830 – 0930 and 1600 – 1730. Subsequently vehicle movements should be limited to 92 per working day (46 in/46 out).
 - 6. Blountswood (public byway) crosses the site and should be protected during the construction phase; all details to be agreed with the Highway Authority.
- 2.78 **Natural England:** Object on the basis that the application contains insufficient information to demonstrate how potential impacts on protected species will be mitigated and consequently whether or not the development would have an adverse effect on such species.
- 2.79 Stress that do not object to the principle of the development itself but that this objection can be overcome by the submission of additional information.
- 2.80 In summary the application identifies the presence of Great Crested Newts and that no discussion has been made nor measures suggested to mitigate against the likely adverse effects upon Great Crested Newts.
- 2.81 The survey identifies the presence of Water Voles but are currently satisfied that the proposals should not adversely affect Water Voles but recommend that any consent given should include a precautionary condition as identified in the ecological survey that the existing Water Vole ponds should be safeguarded and any new ponds created with a view to their possible colonisation.
- 2.82 Recommend further that, given the presence of breeding Skylarks, these rough grassland areas should be retained and extended where possible. Works should be undertaken in these areas when the young have fledged.
- 2.83 The site should also be inspected for the presence of Badgers and Bats.
- 2.84 Support the removal of the highly invasive New Zealand Pygmy Weed.
- 2.85 **Buildings/Technical Support (Engineers):** No objections or observations.

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- 2.86 **Woodlands Section:** The ecological surveys are almost 2 years old.
- 2.87 Natural England would require a presence/absence survey for protected species to be completed again if a twelve month period or more has passed between applications, which it has in this instance.
- 2.88 The site contains networks of hedgerows and aged trees. Recommend the development is not permitted until a full tree impacts assessment is supplied in accordance with BS 5837. This is required to ensure the most suitable trees are retained and protected and the most suitable construction techniques are employed.
- 2.89 **Essex Bridleways Association:** Object on the basis that the proposed landscaping involves dramatically raising the level of the courses by up to 4m, thus utilising approximately 46 No. 20 ton trucks daily over the course of three years to import the soil. (10 vehicle movements per hour).
- 2.90 The Rawreth Lane/Hullbridge area is heavily populated with horses and this constant movement of such heavy vehicles would certainly put both horses and riders in jeopardy.
- 2.91 Advise also that the site/applicants are subject to a claim for a bridleway route running between the Hullbridge Road and Murrells Lane across the Golf Course. This route was in constant use until the building of the Hanover Course.
- 2.92 **Environment Agency** - Advise there is great scope to enhance the long term biodiversity value of the golf course site. To achieve this it is essential that all of the excellent habitat and species mitigation and enhancement measures proposed in the ecological survey report and subsequent letters are undertaken.
- 2.93 Essential that the re-contouring of the practice range does not affect the root systems of the existing hedges and 2 veteran trees and should be retained to BS 5837.
- 2.94 The old hedge line and 3 individual old pollards and pollard jet ant tree should be similarly retained. The Skylark breeding area must either be excluded or works only allowed to take place between September and the end of January.
- 2.95 Advise on a number of other recommended mitigation measures concerning the protection of existing trees to BS 5837, clearance of vegetation outside the bird breeding season, planting of native tree species, rough grassland areas to be planted with appropriate species, protection of Yellow Ants nests, protection from damage of the existing stream and banks, protection of existing ponds, removal of New Zealand Pygmy Weed, habitat management for Water Voles, removing existing fish from some ponds to increase biodiversity for invertebrates and no works to commence on the Regency Course until a licence has been granted by Natural England regarding the presence and mitigation for Great Crested Newts on this part of the site.

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- 2.96 The design of the reservoirs should include wide margins of shallow water. The cutting of wood and piled and left would form important habitat for amphibians.

Advise that the information supporting the current application is limited with respect to water resourcing. However, if no changes to the previous application are anticipated, have no objection. The Environment Agency has no objection to the abstraction of water to be stored in the reservoirs and shortfall to be made up from mains water.

- 2.97 Advise that the development may require registering as an exemption under Waste Management Licensing Regulations 1994 or Environmental Permitting Regulations 2007.

- 2.98 No objection to the proposal on Flood Risk grounds, subject to the following heads of conditions:-

- Surface water to be discharged at no greater than 18.3 litres per second.
- Minimum of 534 cubic metres of storage pond to be created to accommodate any surface water generated.

- 2.99 **Neighbour and Public Representations**

36 Letters have been received in response to the public consultation and which make the following comments and objections:-

- Substantial increase in traffic generation access/for 46 No. 20 ton trucks per day for 3 years
- No alternative route for this traffic
- Effect upon shaking of buildings and homes
- Effect/strain upon wear upon the road
- Rawreth Lane already overloaded
- Highway safety issue of such numbers of large vehicles including access, congestion and effect on people walking to school and effect upon cyclists
- Want peaceful quiet life which will not happen if this is approved
- Adverse effect upon quality of life
- Suggest downgrading of property banding would be in order
- Disproportionate to the need for a good social and employment/income outlet
- Noise, pollution and disturbance
- Question if fill material would be contaminated
- Can guarantee be given as to inspection of dumped material that would effectively become a landfill site
- Impact of dust and contamination especially in dry summers
- Enough scope on the existing course to excavate and also create reservoirs using the material for remodelling
- Will spoil the enjoyment of adjacent gardens
- Loss of privacy
- Poor design

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- Insufficient drainage
- Overdevelopment
- Loss of trees and vegetation
- Areas of nature
- concern for the flow of water in brook adjoining homes
- concern for the large volumes of landfill involved and endorse the view of the County Waste Authority and ask the matter be referred to them as a matter of urgency
- huge environmental impact in carbon footprint terms, such as pollution and noise from the handling of aggregates
- application would not be providing desperately needed housing to benefit the area as a whole
- adverse effect on wildlife
- flooding problems and drainage problems
- concerned at the scale of soil to be transported to the site
- concern at the resultant aesthetics of the countryside
- loss of privacy from players on higher ground
- golfers currently trespass onto neighbouring properties
- scale and time span of the project causes the most concern
- refers to other breaches of control on this site
- the existing landscape is not damaged or derelict and therefore the imperative to make wholesale landscape changes through the importation of waste material is not high
- the asserted needs for the development are without technical basis
- the scale of land remodelling is immense and departs from normal course design that seeks to take advantage of existing landforms and topographical features
- heights of 2.3m and 5m compare to single and two storey buildings
- such topographical change is not justified in Green Belt terms and would have no relation to the original landscape and beyond a reasonable evolution of the course
- Biodiversity and planting improvements do not justify this proposal
- Proposal is not in accordance with the Essex Waste Plan and does not need this site to satisfy the strategic waste disposal function
- No guarantee that the works will be completed
- Proposal would compromise the openness of the Green Belt
- Excessive height of the proposal would be very oppressive to neighbouring properties
- possibility of soil contamination leaching onto adjoining land
- identical to a previous application refused
- a thinly veiled earth moving landfill exercise
- already speed and weight issues for existing traffic and incomplete developments giving rise to presence of construction traffic which will be increased by this proposal
- devaluation of property

2.100 Amidst the above representations are also the following comments made in support of the application by those same objectors:-

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- No objection to the proposed reshaping and landscaping per se
 - Do not object in principle to the development, provided there are conditions to restrict working hours and to minimise disturbance during the construction period
 - Do not blame the applicant for taking advantage of the Thames Gateway development or Olympic site at Stratford.
- 2.101 One letter has also been received from Mark Francois MP and which makes the following comments and objections:-
- Believe the previous reasons for refusal still stand.
 - Concerned at the large number of vehicles required to transfer the amount of spoil.
 - Unclear exactly where the material is coming from and what it might contain. Best course is for the Council to object to the application.

MATERIAL PLANNING CONSIDERATIONS

2.102 Green Belt and Leisure Provision

The proposal involves a large quantity of material with significant change to the landform to parts of the site. Much of the material would be evened out over the landscape but the higher areas and in particular the most significant changes in the driving range area result in more substantial land forming that reduces the openness on those parts of the site. It is considered that given the lack of a need justification for the proposal the adverse result upon the openness of the area conflicts with Green Belt policy and is contrary to Policy R1.

2.103 Waste issue

Informal discussion of the previous application between District and County Waste team officers concerning the merits of the proposal concluded, given the clear understanding of the inert nature of the fill material and the waste exemption licence in hand, that the District Planning Authority could proceed with the determination. This was understood to be the case for other similar schemes elsewhere in the county at that time.

- 2.104 Since permission being refused for the previous application similar schemes elsewhere have been approved and implemented including notably a scheme for a new course by the applicants at another site in the Braintree District. On the basis of the experience of that and other sites, the County Waste Team have given a formal view on the current application as set out in detail within the response to consultations elsewhere in this report.

- 2.105 This concludes that the proposal is considered to be a hybrid application involving the importation of waste and in the circumstances of this application it can, however, be determined by the District Planning Authority taking into account the specialist advice of the County Waste team.

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- 2.106 Officers, given a clearer understanding of the matter and the experience of other similar schemes, including that made by the applicant elsewhere in the County, have formed a revised opinion on the merits of this current application despite the identical nature of the current and previous submissions. District officers also support the objections raised by the County Council's specialist Waste Planners and consider on the basis of the current advice that permission should be refused as the proposal would contravene the provisions of the Essex and Southend Waste Local Plan (September 2001), as set out in detail in response to the consultation elsewhere in this report.

2.107 **Revised Contours, Levelling and its Impact**

The proposed revised land forming would substantially change the appearance and form of the existing driving range/practice ground area averaging an increase in height of 2.3m and maximum of 5m at the mound top enclosing the area.

The toe of the mounding would extend almost to the site boundaries with dwellings in Wellington Avenue but would increase in slope away from the site boundaries to the mound top. This feature would be enhanced with landscaping.

- 2.108 The proposal would represent a change in the outlook for residents backing onto this part of the site from a relatively flat terrain and high fencing to a landscaped bank with 2 metre high fence that will be absorbed by the development of the landscaping over time. The removal of the short course may improve the seclusion of the fringes of this area. It was previously considered that the change to the land form would not represent a loss of amenity to those occupiers such that permission should be withheld on this basis.
- 2.109 The experience of this practice elsewhere since the consideration of the previous application now reinforces Members' view that the effect of the proposal upon the amenity of residents near to the site, who would be subject to massing of earth forms in the landscape, and particularly in the vicinity of existing dwellings, such that the overall height of fill and the duration of the construction period would give rise to a loss of amenity and nuisance to those residents, particularly in the vicinity of those works proposed to the driving range area.
- 2.110 Extensive but less intense activity would be focused on the second phase alterations to the Regency Course on the northern part of the site backing onto dwellings fronting Coventry Hill and Burlington Gardens. The average height increase in these works would be some 1.3m and a maximum of 3.5m contoured for golfing challenge and enhancement to the alignment of the fairways. Given the relative distance of these works beyond adjoining residential occupiers it is not considered that the changes to the landform are such that a loss of amenity will arise to justify withholding consent on this basis.

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- 2.111 The changes to the landform to the Georgian Course are less extensive and to the same height and average as that to the Regency Course. The formation of the three reservoirs would be contained within more significant mounding but, given their remoteness to residential property, it is considered that there would not be a loss of residential amenity such that permission should be withheld.

Biodiversity and Landscape Ecology Issues

- 2.112 The preamble to Policy NR4 acknowledges the importance of biodiversity to sustainability. The general planting and seeding proposals contained within the supporting information, together with the construction of ponds, will facilitate and encourage biodiversity to the benefit of golfers and the landscape alike.
- 2.113 The site is close to Blounts Wood wildlife site. The submitted information accompanying the application concludes that the range of improved landscaping, out of play roughs and improvement to wildlife corridors would not detrimentally affect the adjoining wildlife site.
- 2.114 Similarly, the landscape proposals which represent an increase in hedgerows, linear tree belts, semi natural grasslands, additional ponds and reservoirs, combined with favourable planting regimes, would not prove detrimental to the quality of the landscape. All planting is stated to be of locally appropriate species and to enhance habitat.
- 2.115 These aspects of the proposal are generally supported by Natural England and the Council's ecologist. The applicant's ecologist expresses concern at the re-contouring of the area of the practice ground in close proximity to existing hedging. It is argued such close deposit of material and working by plant and machinery could prove detrimental to the root system of constituent trees and shrubs, as well as the two trees shown to be retained. The consultant advises keeping the work out from the canopy area, which should be safeguarded by fencing, into which there should be no material or movement of machinery. This matter was previously thought adequately addressed by the subject of a condition to any approval that might be given.
- 2.116 Similarly the applicant's consultant ecologist identifies concern at the effects of re-grading of the land upon the old hedge line and pollards surviving from the more historic landscape. These pollards should be similarly protected by fencing and the re-grading area moved a short distance to the east. The applicant states there will be no clearance of noteworthy trees which will be protected by fencing beyond the drip line. This matter was previously considered to be adequately addressed by a condition to any approval that might be given. However, in response to the current application the Council's arboricultural officer now recommends a full impact assessment to BS 5837 be undertaken for both existing hedgerows and aged trees on the site. This information would need to be considered before a decision to approve the application.

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2.117 Species Protection and Mitigation – Survey and Report

The ecological site survey and report has established the presence of Great Crested Newts to one pond on the northern part of the site in low numbers, Water Voles, Skylarks and Pipistrelle Bats, as well as reports of Adder, Grass snake, Badger and slow worm more generally and jet ants.

2.118 Newts

The works to the northern part of the site close to the pond with recorded Great Crested Newts will require separate licensing from DEFRA and which will address any mitigation and protection issues. Natural England and the Council's Ecologist maintain their previous request that information should be provided on how species will be protected before, during and after the development. This matter was previously considered adequately addressed by a condition to any approval that might be given. However, the Council's ecologist is critical of the lapse in time since the original surveys in support of the previous application which have been reproduced for the current application but, given the passage of time, could be out of date. Similarly, Natural England object to the proposal on the basis of omission of information concerning the effect and consideration of necessary mitigation upon Great Crested Newts known to exist on part of the site. It is now considered that such information should be considered with the application, should the effects require amendment to the scheme.

2.119 Bats

The supporting statement states that there will be no clearance of noteworthy veteran trees and the protection of existing trees to the extent of the drip line. It is considered these measures will result in no negative impact upon Bats.

2.120 Voles

The supporting statement affirms that the proposals should ensure less fluctuation in water level to the benefit of Water Voles. The applicants state that the new ponds to be created on the Georgian Course should provide banking into which the Voles can burrow above fluctuating water levels. This would enable further colonisation of the new ponds by Water Voles.

2.121 The Council's ecologist requests that information should be provided on how species will be protected before, during and after the development. This matter can be the subject of a condition to any approval that might be given.

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2.122 Skylarks

The Skylark breeding areas are identified around the 11th Hole to the Georgian Members course and phase three of the programme of works. The applicants consultant expresses concern at the works in this area, expressing the preference to exclude works in this area or otherwise restricting the works to between early September and the end of January. The Council's ecologist expresses similar concern at such loss. Natural England advise these areas should be retained, maintained and, where possible, extended and that works affecting these areas should be undertaken outside the breeding season

- 2.123 The development would improve the general habitat across the site for the benefit of biodiversity and species generally. Whilst Skylarks would experience initial habitat loss, this habitat itself is not protected but the species is understood to benefit from the proposed increased landscaping and rough grassland proposed in this application. It is considered this benefit overcomes the short term loss, provided the species is accommodated as part of a management plan. This management plan can be the subject of a condition to any approval that might be given.

2.124 Jet Ants

This species were found to be present in at least six of the veteran trees and which are a species found only in southern Britain. The site at Hanover golf course is considered the edge of the range for this species. The veteran trees are acknowledged for their importance to the ecology of the site. It would be necessary to not only retain those trees but the mitigation contained within the application suggests that the isolation of these trees should be reversed by incorporation into hedging.

- 2.125 Whilst the retention of veteran trees is described in the mitigation, the retention of the trees and hedging provision can be the subject of a condition to any approval that might be given.

2.126 Other Species

Adder, grass snake, slow worm and badger. The site provides suitable habitat and the proposed development is not understood to put these species at risk.

2.127 Sustainable Drainage Systems and Hydrological Issues

The Flood Risk Assessment accompanying the application concludes that the raising of land levels, as proposed, will contribute to higher rates of run off but which will be off- set by reduction in catchment size by the formation of the reservoirs.

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- 2.128 Attenuation measures in the formation of other ponds on the site as part of increased golfing hazard mitigate other effects associated with increased run off from the increase in slope to parts of the site.
- 2.129 The hydrological statement accompanying the application states that the proposed reservoirs will be filled by spring water during winter months to limit local impact upon water resources and the hydrological regime.
- 2.130 The Environment Agency advises that stream depletion to existing water courses and other abstraction activities would be suitably mitigated because abstraction would take place over the winter months and at a time when the water table is elevated. The majority of run off would be likely to run away from adjoining abstraction licence areas.
- 2.131 Given that specialist advice from the Environment Agency raises no objection to the application, it is considered no material objection can be raised at possible effects upon the loss of water to fill adjoining fishing lakes, as detailed in objections from those adjoining fishing clubs.

Highway Issues

- 2.132 Policy T4 to the Council's adopted Local Plan (2006) sets out circumstances where the creation of heavy traffic for development will be resisted. The applicant estimates that 46 No. twenty ton trucks would be required per day at a frequency of five per hour (five arrivals and five departures) to provide the fill material over a three year period. The submitted transport assessment states that the necessary vehicles will be able to manoeuvre into the site access. The lorries carrying the fill would be likely to originate from south Essex and London areas and would approach the site from the A130, Rawreth Lane and Hullbridge Road and would leave by the same route.
- 2.133 The applicant states a willingness to enter into a maintenance bond with the highway authority to mitigate against any resulting damage from this construction traffic.
- 2.134 The proposal is understood to have been discussed with the County Highway Authority prior to submission of the earlier application. The County Highway Authority raise no objection to the proposal in terms of the impact of the traffic importing the fill material upon the highway network. The transport of fill material would relate to the construction period and that the attraction of heavy traffic would not be a permanent feature of the proposal. The road geometry is understood to accommodate the movement of large vehicles and such vehicles are not prohibited from using this route. The proposal does not present a sustainable conflict with Policy T4.
- 2.135 The submission of more specific details for the construction of the temporary access can be the subject of conditions to any approval that might be given.

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The County Highways Authority requires the reinstatement of the highway at the end of the duration of construction activity. Because of the phasing of the development and availability of remodelled areas for play whilst other areas are worked upon, it is considered acceptable to require a further condition requiring a reinstatement of the highway within three months of the end of duration of the consent.

2.136 Provision of Footpath to Western Side of Hullbridge Road

This issue was raised by a Member in the consideration of the previous application whereby the request was made to seek provision of a footpath between Lubbards Farm and the junction of Hullbridge Road and Rawreth Lane.

- 2.137 Further examination of this issue then established that a footway of width of 1.8m (1.2m at any pinch points) could be provided within the limits of the highway on the western side of Hullbridge Road, subject to site survey. It was considered necessary by the County Council's Head of Transportation and Operational Services for highway safety reasons that such provision should either stop some distance short of the junction, such as opposite Ferndale Road, or in fact turn the corner of the junction for some distance along Rawreth Lane. The County Highways officers express concern for the safety of pedestrians otherwise crossing in close proximity to the roundabout and, whilst not supporting this proposal, required any desired footway to the roundabout to turn the corner and continuing on the northern side of Rawreth Lane to the extent of the pavement provided opposite the junction made with Caversham Park Avenue or at least 60 metres from the junction of Hullbridge Road opposite the shops at Hambro Parade.
- 2.138 The technical provision of such a footway was discussed with the highways officers. Initial costs then provided an estimate for the footpath round to Caversham Park Avenue of £142,100 (based on a cost of £140 per metre) which did not include matters that can arise from detailed site investigation such as the presence of statutory undertakers apparatus which substantially increase initial costs. The initial costings did not include other contingencies such as provision for drainage and the design stage.
- 2.139 Whilst lighting to Rawreth Lane can be improved by replacing the luminaries to existing lamp columns, further lighting provision will necessitate the change to the lighting provision at the roundabout and which in turn will require detailed lighting inspection and revised design, the cost of which is unknown.
- 2.140 The County Highway Authority is not supportive of this extent of footway and instead favour limited provision to the front of Lubbards Farm to prevent pedestrians crossing the road into the existing vehicle access points.

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- 2.141 The County Highway Authority express an alternative preference that a contribution be made to the provision of highway improvements to the area such as the short section of footway to Lubbards Farm frontage, provision of a cycle way by widening the existing footpath onto Hullbridge Road, as well as contributions to the improvement of street lighting luminaries and improvements to the junction of Rawreth Lane with Hullbridge Road. Such works could be undertaken by the Highway Authority and would only require a financial contribution from the applicant.

A financial contribution can appropriately be the subject of a Unilateral Undertaking; a contribution of £142, 000 which is submitted as a Unilateral Undertaking as part of the current application. Such a contribution would assist in the provision of a number of works and improvements as detailed above.

Fill Material Issues

- 2.142 The proposed works do not intend digging soils from within the site to achieve the desired remodelling because this would increase the extent of the worked area and would have a severe impact upon the operation of the golf course, hydrology, ecology and visual appearance, together with financial costs. The applicant has estimated a volume of 350,000 cubic metres of fill required to achieve the planned remodelling. The final levels represent the final landform following topsoil replacement. The exact quantity of imported soil will be dependant upon the level of settling and compaction.
- 2.143 The imported material will consist of excavated, uncontaminated earth spoils and soils. In response to the concerns raised regarding the nature of the fill material the applicant has provided details of an application made for an exemption from a waste licence. This enables the use of perfectly good soils that might otherwise have been taken to landfill sites. These details confirm the material will not be contaminated and therefore will not require a risk assessment for contaminated material. The exemption allows the use of certain materials in schemes such as landscaping, noise abatement and agricultural restoration. The application sets out the following more detailed information concerning the make up of the fill material relative to this current planning application:-
- 2.144 Soil and stones from construction.....92%
Concrete Brick and tiles from demolition.....5%
Minerals from screenings.
- 2.145 All materials for tipping will be free from litter and putrescible or biodegradable matter. The material would not contain paper, wood, plastic, peat or marsh material, logs, stumps, material susceptible to spontaneous combustion, industrial, commercial or domestic waste, cobbles and boulders with a dimension greater than of 150mm. It is expected that all material will be taken originating from construction sites within a 20 mile radius of the site.

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- 2.146 Such material will be exempted under the Waste Management Licensing Regulations, but subject to sample testing by the Environment Agency on an occasional basis.
- 2.147 It is considered that the type of fill to be used and as set out in the supporting information is acceptable and does not raise issues of harmful disposal of waste.
- 2.148 The applicant states that the location and source of the fill material is somewhat dependent upon the extent of housing and office developments, pipe works, road tunnels and restoration schemes taking place during the construction period. The applicant is certain that there is a tremendous amount of spoil being generated in the east Essex region.
- 2.149 By way of an example in the previous application the applicant indicated that soil from new developments at 5 Links Estate, Basildon (30,000 m³) Linster Road, Laindon, Basildon (10,000m³) and a site in Chelmsford (25,000m³) was then available. This helps illustrate the likely source of the fill material and an indication of the quantity of material from just a few sites.
- 2.150 The applicant advises that it is not in the hauliers' interests to transport the fill material a great distance from building sites. It is for this reason the applicant assures that the majority of fill will be locally sourced within 15 – 30 minutes drive time from the site of the current application.
- 2.151 **Sustainability**

The sustainability issues in this application can be considered from a number of viewpoints such as the carbon footprint of the development sites from where the fill material will be sourced. However, the fill material will be put to good re-use as part of this proposal improving the landscape and the quality of play at two existing golf courses.

The use of the fill material in the manner proposed would prevent the material otherwise wasting precious landfill space or disposal by other means. In view of this it is considered the proposal meets sustainability concerns.

- 2.152 **Practice Range fencing**

The existing columns for the safety netting to the practice ground are approximately 9m in height and extend for the length to each side of the driving range. The netting is in poor condition and is missing for most of the length of the range.

The driving range is not currently intensively used. It will be noted from the details of the planning history of the site that the catch fencing was approved to a lower height of 5m under application 02/00378/COU.

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The proposed alterations to the shape of the land and improvements to the practice ground/driving range would provide a contoured bund to enclose the range to a height of 5m to the mound top with 2m high fencing and landscaping. These works would exceed the authorised height of the fencing previously approved but less in height than was installed. The contouring inwards of the practice area would deflect balls into the low ways and it is considered would provide a satisfactory protection against stray balls. Although no details of the fencing have been submitted it is considered such details could be the subject of a condition to any approval that might be given.

2.153 CONCLUSION

The proposal would provide for change to the landform of parts of the existing golf courses on the site to improve the challenge to golf play and the appearance of the landscape. Further planting and management also proposed would be to the benefit of wildlife interests and bio diversity.

- 2.154 The proposal would include the transportation to the site of fill material and works to achieve the raise in land levels over an estimated three year period. This fill material would not constitute licensed waste. The site would remain in use for golf during the construction period and the development would be phased.

- 2.155 The proposal is near identical to a previous application refused permission on 13 March 2007 under application reference 06/01096/FUL. Since the consideration of this previous application a number of similar schemes have been implemented to lead to the conclusion that such applications of the size and scale proposed in this current application conflict with the provisions of the Essex and Southend-on-Sea Waste Local Plan (September 2001).

- 2.156 The supporting material is reproduced from the earlier application but, given the lapse of time, is dated with regard to the consideration of the issue of protected species. In this case Great Crested Newts are known to exist on part of the site. The absence of an up to date assessment and the consideration of the effects of the proposal upon those protected species and the hedgerows and aged trees also on the site prevents the Local Planning Authority being able to adequately consider the effect of the proposal upon those species.

The extent of the remodelling and scale of fill imported to the site would significantly change the landscape of the driving range area in close proximity to residents backing onto that part of the site, to the detriment of the amenity those residents enjoy.

RECOMMENDATION

- 2.157 It is proposed that this Committee **RESOLVES to REFUSE PERMISSION** for the following reasons:-

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- 1 The use of the waste material for land raising would be contrary to policy W9B of the Essex and Southend Waste Local Plan September 2001 (WLP). Furthermore, insufficient information has been submitted with the application to demonstrate that the need is justified. The supporting statement to the application states that the three main reasons to justify the remodelling works to the golf course are 'Course Quality', 'Safety Issues' and 'Irrigation and Water Sourcing'. It is considered that, in view of the scale of the importation of waste materials proposed (350,000 cubic metres), that this justification should be substantiated by independent reports. Without that independent assessment, and in light of the information supplied with the application, it is concluded that this proposal is waste importation and land raising for its own sake and not course improvement.
- 2 Policy W3C of the WLP requires that non-landfill proposals with a capacity in excess of 50,000 tonnes per annum will be restricted to sources of waste from the plan area. The applicant has stated that the material used for remodelling would be sourced from a 20 mile radius of the site. In light of this, there is potential for the material to be sourced outside of Essex, in which case the proposal would be contrary to the requirements of Policy W3C.

Moreover, information should be supplied as to these potential sources, including the timescales for importation to ensure the scheme can be completed within a reasonable timescale.
- 3 Policy W9B of the WLP states: "Landfill, or land raising, for its own sake, without being necessary for restoration, will not be permitted." It is considered that the applicant has not demonstrated any overriding justification for the proposals and that alternative solutions to the problems of golf course quality and safety could be sought without the need for large scale importation of inert material, the proposal would therefore be contrary to the provisions of Policy W9B. In respect of the latter point, unnecessary land raising in the Green Belt would be contrary to Green Belt policy due to the level of unnecessary activity and potential for landscape harm.
- 4 The proposal contains insufficient information to demonstrate how potential impacts on protected species and in this case Great Crested Newts will be mitigated and consequently whether or not the development would have an adverse effect on such species. In the submitted material no discussion has been made nor measures suggested to mitigate against the likely adverse effects upon Great Crested Newts. The Local Planning Authority is therefore unable to consider this matter or take specialist advice into consideration prior to determining the development proposed which, if allowed, could prove detrimental to protected species known to be present on part of the site.

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- 5 Insufficient information has been provided to allow the Local Planning Authority to properly consider the impact of the proposal upon the network of hedgerows and aged trees present on the site and in the vicinity of the development proposed. Such a full tree impacts assessment should be in accordance with BS 5837 and is required to ensure the most suitable trees are retained and protected and the most suitable construction techniques are employed in the interests of the health and longevity and amenity afforded by those hedgerows and trees on the site.
- 6 The scale, extent and excessive height of the proposed raising of land levels, in particular to the driving range area, would change the landscape to reduce the openness on those parts of the site to the detriment of the character and appearance of the Metropolitan Green Belt contrary to Policy R1 to the Rochford District Replacement Local Plan (2006). Furthermore, the level of noise and disturbance arising from the works to reform the land and import the material over the construction period would result in the loss of the open outlook and prove detrimental to the level of amenity that ought reasonably be expected to be enjoyed by the occupiers of dwellings backing onto the site and fronting the road network serving the site more generally.

Relevant Development Plan Policies and Proposals

W9B, W3C, W10E of the Essex and Southend – On Sea Waste Local Plan (September 2001)

R1 , LT1 , LT13 , NR4 , NR7, NR8 , NR9, NR12, T4 of the Rochford District Replacement Local Plan (Adopted 16th June 2006)



Shaun Scrutton
Head of Planning and Transportation

For further information please contact Mike Stranks on (01702) 546366.

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**TITLE : 08/00156/FUL
DEMOLITION OF EXISTING DWELLINGS AT NOS. 8-10
WEIR GARDENS AND CONSTRUCT TWO STOREY
BUILDING CONTAINING 14 NO. TWO BEDROOMED FLATS
WITH ACCESS AND ASSOCIATED PARKING.
SITE OF 8 AND 10 WEIR GARDENS RAYLEIGH**

APPLICANT : MR S BAKER

ZONING : RESIDENTIAL

PARISH: RAYLEIGH TOWN COUNCIL

WARD: WHITEHOUSE

THE SITE

- 3.1 The application site is located to the eastern side of Weir Gardens in a corner position with a return frontage onto Brook Road. At present the site is occupied by a detached bungalow and detached chalet. Vehicular access is currently achieved via Weir Gardens, which is a cul-de-sac ending in a turning head opposite the site.
- 3.2 Weir Gardens is a mixed street that comprises a variety of housing types (bungalows, chalets and houses) built to a number of different styles and designs. The A127 Arterial Road runs to the south of the site and to the rear is the adjacent Brook Road Industrial Estate served by Brook Road. Opposite the site is a detached bungalow at No.3 and beyond this further to the west is the Express Holiday Inn and Weir Public House.

PLANNING APPLICATION DETAILS

- 3.3 The proposal involves demolition of the existing two dwellings and replacement with a two storey building composed of three distinct blocks linked at single storey level, providing 14 two bedroom flats. The roof design of the proposed development includes hipped ends to each block with gabled features to the front and rear elevations. The main ridge line has an overall height of 8.2m with the intervening linking elements at a height of 5m. This represents a reduction in the overall height of 1.4m and 3.1m for the linked elements. The external walls are proposed to be a mixture of brick and render (mainly at first floor level) with clay plain tiles to the roof.
- 3.4 A new vehicular access is proposed from Weir Gardens leading to a parking area to the rear of the building that provides 21 spaces for cars and a cycle store with 14 spaces.

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- 3.5 The application is accompanied by a copy of the completed Unilateral Undertaking for a payment of £14,297 that was signed prior to the previous application and that accords with the amount currently required by the County Education Authority.
- 3.6 The arboricultural report and protected species survey that accompanied the previous refusal have been re-submitted.
- 3.7 The application seeks to overcome the reasons for refusal of the previous two-storey scheme under 07/00976/FUL. The applicant states that design concerns have been addressed by:-
- A reduction in height of the proposal with reference to the potential for accommodation within the roof space;
 - The separation of the building into three main parts linked by single storey buildings to reduce the overall bulk of the proposal; and
 - A revised design that reads as two storey pitched roofed forms with a series of lower roof lines that retain a traditional design and respect for the character of the location.

3.8 RELEVANT PLANNING HISTORY

005/00675/OUT Demolish existing property and erect a block of 10 flats with on site parking and access from Brook Road. Refused on 8 November 2005. This application related to a smaller site than the current application (No.8 Weir Gardens alone) and was refused for three reason relating to: the size and scale of the proposed building, the detrimental impact with regard to the character of the area, the unacceptable access onto Brook road and lack of an arboricultural report.

07/00057/FUL. This application proposed the demolition of the existing dwellings and re-development to provide a three storey building of 15 flats, with associated parking and new vehicular access. This application was refused on 27 March 2007 for the following reasons:-

1. The proposal, by reason of its size, scale and design being three storey with habitable rooms and balconies/terraces overlooking neighbouring plots, would be an intrusive and unneighbourly development, out of scale and character with the prevailing pattern of residential development in the locality, as well as having a serious and adverse effect on the amenities enjoyed by occupants of the neighbouring properties.
2. The proposal makes insufficient provision for off street car parking at the site, and given this shortfall, it would be likely to lead to residents of and visitors to the development parking in Weir Gardens, its turning head as well as Brook Road. Parked vehicles in Weir Gardens and its turning head would be to the detriment of other road users and may cause highway safety issues.

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3. The application makes no provision for infrastructure (financial contribution towards the provision of school places) and in the absence of this contribution it is considered that the proposed development would have an adverse impact upon local infrastructure.
4. The application is not accompanied by a method statement in relation to the development within the root protection area of the significant trees to the rear of the plot. In addition, no information has been supplied in relation to tree protection measures and in the absence of this information it is considered that the proposed development may have an adverse impact upon the health and vitality of the significant trees on the site.
5. The application is supported by an ecological survey/mitigation report, however it is not comprehensive, and, given the known existing habitats that are present on and adjacent to the site, it is considered that, in the absence of a full ecological survey/mitigation assessment of the development site, the proposal may have an adverse impact upon protected species.

07/00587/FUL This application proposed the demolition of the existing dwellings and the re-development of the site to provide a three storey building containing 14 flats with associated parking and a new vehicular access. This application was refused for the following reason:-

1. The proposal, by reason of its size, scale and design, would be intrusive and unneighbourly development, out of scale and character with the prevailing pattern of residential development in the locality.

07/00976/FUL This application proposed the demolition of the existing dwellings and the construct of a two storey building containing 14 No. two bedroom flats with access and associated parking. This application was refused on 11 January 2008 for the following reason:-

1. The proposal, by reason of its height and bulk, would be an intrusive and unneighbourly development, out of scale and character with the prevailing pattern of residential development in the locality.

CONSULTATIONS AND REPRESENTATIONS

- 3.9 **Rayleigh Town Council** – Object to the application because the proposal by reason of its size, scale and design would be an intrusive and detrimental development, out of scale and character with the prevailing pattern of residential development in the locality
- 3.10 **Buildings/Technical Support (Engineers)** - No objections or observations.

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- 3.11 **ECC Historic Environment Branch (Archaeology)** - Unlikely to be any significant archaeological implications.
- 3.12 **Anglian Water** - Advise that the existing foul and surface drainage networks and existing waste water treatment capacity are able to accommodate the foul and surface water flows from the development.
- 3.13 **Head of Environmental Services** - No adverse comments in respect of the application, subject to Standard Informative SI16 (Control of Nuisance) being attached to any consent granted
- 3.14 **Rayleigh Civic Society** - Comment the roof levels of the flats have now been reduced to a satisfactory height. However, still concerned about the impact this development will have on surrounding properties
- 3.15 Additional traffic generated will have serious effects on the inhabitants at present living around the site and in Weir Gardens and Glasseys Lane.
- 3.16 Tree planting proposals do not appear to have been supplied yet.
- 3.17 Remain concerned at the high density (83 dwellings per hectare) which is well above the 30-50 dwellings per hectare that is considered acceptable.
- 3.18 **ECC Highways and Transportation** - No objection, subject to a number of conditions being attached to a grant of consent including the control of visibility splays, bound surface details for the driveway/parking area to be agreed, details of operatives' parking and storage of building materials, details by which wheels of vehicles leaving the site will be cleansed, minimum dimensions of parking hardstanding and minimum distance between each row and the delineation of the car parking spaces, including any spaces for the mobility impaired.
- 3.19 **Castle Point Borough Council** - No objections.
- 3.20 **Woodlands:** The ecological report January 2007 to support the application is insufficient. The arboricultural officer refers to comments provided for the previous application as follows:-
- Consultants for the applicant have supplied an arboricultural report to BS 5837 showing all existing trees, trees to be planted and root protection areas.
 - The method statement for the construction of the tree barrier protection is adequate. Sections 6.0, 7.0, 8.0 (including appendices 4,5 and 6) should form part of the tree-related planning conditions to ensure adequate tree protection.
 - The locations of tree barrier protection (root protection areas) are adequate. Barrier protection is to be located on the ground.
 - Development should not be permitted until: -

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1. a plan supplied showing designated contractors' parking, welfare and service runs;
 2. suitable method statements for hard surfacing within the RPA of any preserved tree at or adjacent the site
 3. suitable method statements for service run installation
 4. contract monitoring specification to ensure that the trees, barriers and site conditions are regularly inspected and monitored with corrective actions, if required
 5. further details supplied for tree planting, including species, specifications and planting method. Some planting adjacent to parking bays is inadequate and will cause future nuisance and do not provide adequate conditions for growth and longevity
- 3.21 **ECC Urban Design Specialist Advice** - advise that the revised proposal has addressed a number of the issues highlighted in response to the previous application and that these are to the benefit of the scheme.
- 3.22 Note that the visual duality on gable ends has not been addressed in relation to the easternmost block on the Brook Road frontage.
- 3.23 Note that the roof pitch and ridge heights have been reduced. Consider the lower roof pitch to be detrimental to the appearance of the scheme and does not reflect the Essex vernacular, to which, in other respects the scheme begins to make reference. Comment that traditionally a steeper roof pitch would be employed and do not consider that this aspect of the revised proposal is acceptable.
- 3.24 **Environment Agency** - No comments.
- 3.25 **Natural England** - No objections.
- 3.26 **Essex County Schools, Children and families Directorate** - Advise that a developer contribution is required prior to commencement for one secondary school place, equivalent to £14,297.
- 3.27 Twenty eight letters have so far been received in response to the public consultation and which in the main make the following comments and objections:-
- Inadequate parking and resulting parking within the turning head causing increased congestion
 - Existing parking problems creating problems for construction lorries and other vehicles during construction
 - Existing problems relating to overflowing of effluent to the adjacent manhole in Weir Gardens
 - The highway network and this part of Weir gardens in particular incapable of sustaining any addition traffic
 - Adverse impact on highway and pedestrian safety

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- Building will be overbearing
- Would lead to unacceptable danger for residents with regard to difficult of access for emergency vehicles
- Greatest visual impact from within Weir Gardens
- Oppose any increase in the local population
- Increased traffic noise
- What is there to stop buyers converting the loft space which would overlook all the gardens on that side of Weir Gardens
- This part of south Essex in danger of becoming a concrete slum
- Will set a precedent
- Destroys the character of Weir Gardens
- This application has only made minor changes, plans much the same as before
- How many applications can be made on the same site for the same type of proposal
- Out of keeping with the character of Weir Gardens
- Out of scale with the surrounding area
- Existing speeding problems will be made worse
- Noise and disturbance during construction
- Weir Gardens a rat run and constantly used as a parking/dropping off point for people using the adjoining industrial estate
- In keeping with the warehouses in Brook road but from Weir gardens look awful
- Overlooking
- Applicant does not have to live in the area
- Privacy
- Does not conform to the building line
- Over-development; 14 units too many
- No parking for visitors
- Lowering the roof has a negligible effect on the impact of a development of this size
- Basically no different to previous refusal
- Exercise to gain maximum profit for developer
- Existing parking difficulties made worse by restrictions in Brook Road
- Adjoining roads were never meant to take the level of traffic they now carry
- Flats have never proved good for the community
- Proposal much higher than existing dwellings on the site
- Proposal does not allow for any frontage to the Brook Road side
- Safety concerns regarding proximity to industrial estate
- Devaluation of property
- Local amenities already stretched to breaking point
- Proposed building is somewhat less obtrusive
- Concern regarding transient nature of the population to the development
- Proximity to industrial estate cannot be used to justify proposal

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3.28 MATERIAL PLANNING CONSIDERATIONS

The key issues for consideration in this application are:-

- The principle of development
- Design considerations and impact upon the character of the area
- The effect of the proposal on residential amenity
- Access, parking and highway issues
- Trees and ecological issues
- Education provision

Principle

- 3.29 The changes from the previously refused scheme have been acknowledged.
- 3.30 The site is located within a residential area and as such the principle of residential development to a greater density to that which currently exists at the site is in accordance with Government advice and also Local Plan policies that seek to steer appropriate development to sustainable locations.
- 3.31 Similarly, there is no objection in principle to the site being developed as a flatted scheme, notwithstanding an acceptance that Weir Gardens is predominantly characterised by bungalow and chalet style properties with a density in the region of 17 dwellings per hectare.
- 3.32 The density of the proposed scheme is 83 dwellings per hectare which exceeds the guide of 30-50 dwellings per hectare contained within Local Plan policy HP3. However, the more recent advice within PPS3 is that on appropriate sites there should not be an upper limit on density but that all sites should achieve a minimum of 30 dwellings per hectare.
- 3.33 The locality enjoys good transport links and comprises residential low density development to the north. In contrast, large substantial buildings exist at the Weir and adjoining commercial areas. Therefore the overall scale of the proposal would not be in conflict with the prevailing density of built form within the wider locality.
- 3.34 Two previous applications of the same number of units were not refused on grounds relating to density, which implies that the level currently proposed is acceptable in principle.

Design

- 3.35 The predominant pattern of development within Weir Gardens is characterised by bungalow and chalet style properties. As with the previous two applications the proposal is sited to give a new frontage onto Brook Road and the A127 with only the flank (west elevation) facing onto Weir Gardens. It is considered that in this position the building relates well to the scale of development fronting Brook Road and along the A127.

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- 3.36 The current application is similar in concept to that previously refused under 07/00976/FUL in that it is a two storey development comparable in character with the scale that is usually found in domestic dwellings.
- 3.37 As with the previous scheme, the proposal is sited so as to give the new block a frontage onto Brook Road with only a flank wall (west elevation) facing onto Weir Gardens. In this orientation it is considered that the linear nature of the building relates better to the development within Brook Road. It is thought that the design and appearance of the building's façade would sit well within the wider Brook Road/A127 townscape whilst the return flank to Weir Gardens reflects the domestic nature to this adjoining street scene.
- 3.38 A number of residents have commented that, notwithstanding the reduction in the height of the proposal, it would be out of character with the existing development in Weir Gardens. The prevailing pattern of development in Weir Gardens is bungalow or chalet style single family dwellings. Nevertheless, the proposal for a single block flatted scheme is considered to be of an overall design and form that would be acceptable in this location. The revised design of this application further reinforces this view with regard to the significant reduction in the height of the building and the decrease in mass afforded by the single storey linking elements. The overall effect of these changes is to substantially reduce the bulk of the building and create a visual impression of three separate units as opposed to a single block.
- 3.39 It is of regret that the lower ridge height has attracted the criticism of the County Urban Designer with regard to the appearance of the building vis-a vis the Essex vernacular building tradition. However, overall the revised proposal is felt to satisfactorily address the previous design concerns highlighted in the previous application.
- 3.40 It is considered that the design, scale and appearance of the proposal, whilst proposing a different form of residential development, is unlikely to result in material harm to the character and appearance of the site or the surrounding area sufficient to substantiate a reason for refusal.
- 3.41 The scheme proposes a cycle store to the rear of the site adjacent to the north boundary with provision for 14 spaces. The 2.6m high building has been re-sited in accordance with advice from the County Urban Designer, who considers the new position and design of this building to be acceptable

Residential Amenity

- 3.42 The proposal forms a gentle crescent that is sited between 17m and 23m from the nearest dwelling at No.6 Weir Gardens. The intervening area comprises soft landscaping, amenity area for the flats, a cycle store and car parking.

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The cycle store, which is positioned just off the north boundary, is of a height and scale that is compatible with the usual type of residential outbuildings that can be erected as permitted development. The proposed building is located to the south of the neighbouring dwelling at an overall height of 8.2m that is domestic in scale albeit to a substantial depth. However, the visual impact of the northern elevation is reduced considerably by the separation of the building into three linked parts that break up this façade into something approaching household sized units.

- 3.43 The side of No. 6 Weir Gardens is dominated by a large single storey extension and there is only one clear glazed first floor window to the flank wall of this neighbour. The separation afforded by the car park and adjoining amenity area is felt to adequately offset any harmful impact on the residential enjoyment of the occupiers of this dwelling arising by way of the size of the proposed building.
- 3.44 The return side of the side extension to No. 6 Weir Gardens forms a screen to the area immediately to the rear of the dwelling and thereby safeguards the privacy of this space. It is considered therefore that the relationship of the proposal to this neighbour is acceptable.
- 3.45 It is also considered that the separation between the proposal and the existing residential dwellings would be sufficient to provide an adequate buffer and a refusal based upon direct overlooking could not be substantiated.
- 3.46 The site layout provides for an amenity space of some 356 square metres, including both hard and soft landscaping. The level of provision in the manner proposed would meet the adopted Local Plan standards.

Access and Car Parking

- 3.47 Some residents have commented upon the loss of amenity from the increase in traffic as a result of this proposal and that Weir Gardens is used as a rat run for those vehicles wishing to avoid the town centre. It is accepted that as a result of more residential units on the site there will be an increase in vehicular movements over and above the existing situation. Given the size and capacity of Weir Gardens and surrounding roads it is considered that the increase in vehicle movements could be readily accommodated without pressure upon the capacity of the local highway network.
- 3.48 The fact that Weir Gardens and surrounding streets are used as a rat run is not a material planning objection that can be levelled against this application. There are no adverse comments received from the County Highway Authority in terms of this application having any material impact upon the local highway network either by way of congestion or highway safety.

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- 3.49 In addition, some residents have raised issues relating to the speed that some vehicles travel in Weir Gardens and surrounding streets; again this is an existing situation and is outside the control of this planning application.
- 3.50 It is considered therefore that a refusal based on the highway safety, congestion and loss of residential amenity through increased traffic movements could not be substantiated.
- 3.51 The off street car parking is shown to provide 21 spaces (150%). This level of provision is considered by County Highways to be sufficient to meet the likely needs generated by the proposal. In addition, a cycle store with 14 spaces is provided within the site.
- 3.52 The surface finish of the car park is to be controlled by condition.

Trees and Ecological Issues

- 3.53 The application proposes the removal of the conifer type trees that form the boundary with Brook Road; these are considered to have little ecological merit. The trees that form the eastern boundary of the site are a line of mature oaks that are protected by Tree Preservation Orders and are to be retained within the scheme.
- 3.54 The Council's arboricultural officer comments that the applicant has supplied an arboricultural report to BS 5837 showing all existing trees, trees to be planted and root protection areas and has not made an objection to the scheme, subject to a number of conditions being attached to any consent.
- 3.55 The ecological report accompanying the previous application has been re-submitted with the current application. This confirmed that the earlier scheme would not result in any ecological harm and it was also advised by officers in the addendum to the report to the Development Control Committee on 18 December 2007 that with regard to ecological concerns, the domestic pond raised as an issue would appear to have been filled at some stage previously. The ecological information submitted with the application has not raised any objection from Natural England.

Refuse/Recycling

- 3.56 The scheme proposes a bin/refuse store to the east of the site adjoining hardstanding adjacent to the car parking area. A condition is recommended that, notwithstanding the size shown on the proposed drawings, further details shall be submitted in order to confirm that the enclosure will be of a size large enough to contain refuse and recycling materials.

Education

- 3.57 Essex Schools Services have requested that the developer contributes to the provision of one secondary school place within the Rayleigh catchment area.

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- 3.58 The developer has completed a Unilateral Undertaking to meet this requirement and which is submitted with the application.

CONCLUSION

- 3.59 The site is allocated for residential purposes whereby the further intensification in the use of such land is generally encouraged by National and Local Plan policy, seeking to make better and more efficient use of previously developed land and providing a range of good quality housing of mixed dwelling types within accessible locations
- 3.60 The site is at a point in the street scene where the established form of post war residential development meets the commercial development within the Arterial Road and the adjoining industrial estate. Notwithstanding the modest nature of residential development to the north of the site, the scale and design of the building proposed would not prove out of character in the wider context of this location.

RECOMMENDATION

- 3.61 It is proposed that this Committee **RESOLVES to DELEGATE** to the head of Planning and Transportation to APPROVE the application on the expiry of the outstanding notification period and subject to the following conditions:-
- 1 SC4 - Time limits full standard
 - 2 Tree protection
 - 3 Method statement for works within tree protection areas
 - 4 Visibility splays
 - 5 Car park delineation
 - 6 Hard surface details
 - 7 SC59 – Landscaping details
 - 8 Surface water attenuation
 - 9 SC91 – Foul water drainage
 - 10 Details of contractor's compound within site
 - 11 Details of wheel cleansing facility within site
 - 12 Conditions arising on the advice of the Council's woodlands officers concerning the ecological and tree issues outstanding
 - 13 SC90 – Surface water drainage

REASON FOR DECISION

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.

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Relevant Development Plan Policies and Proposals

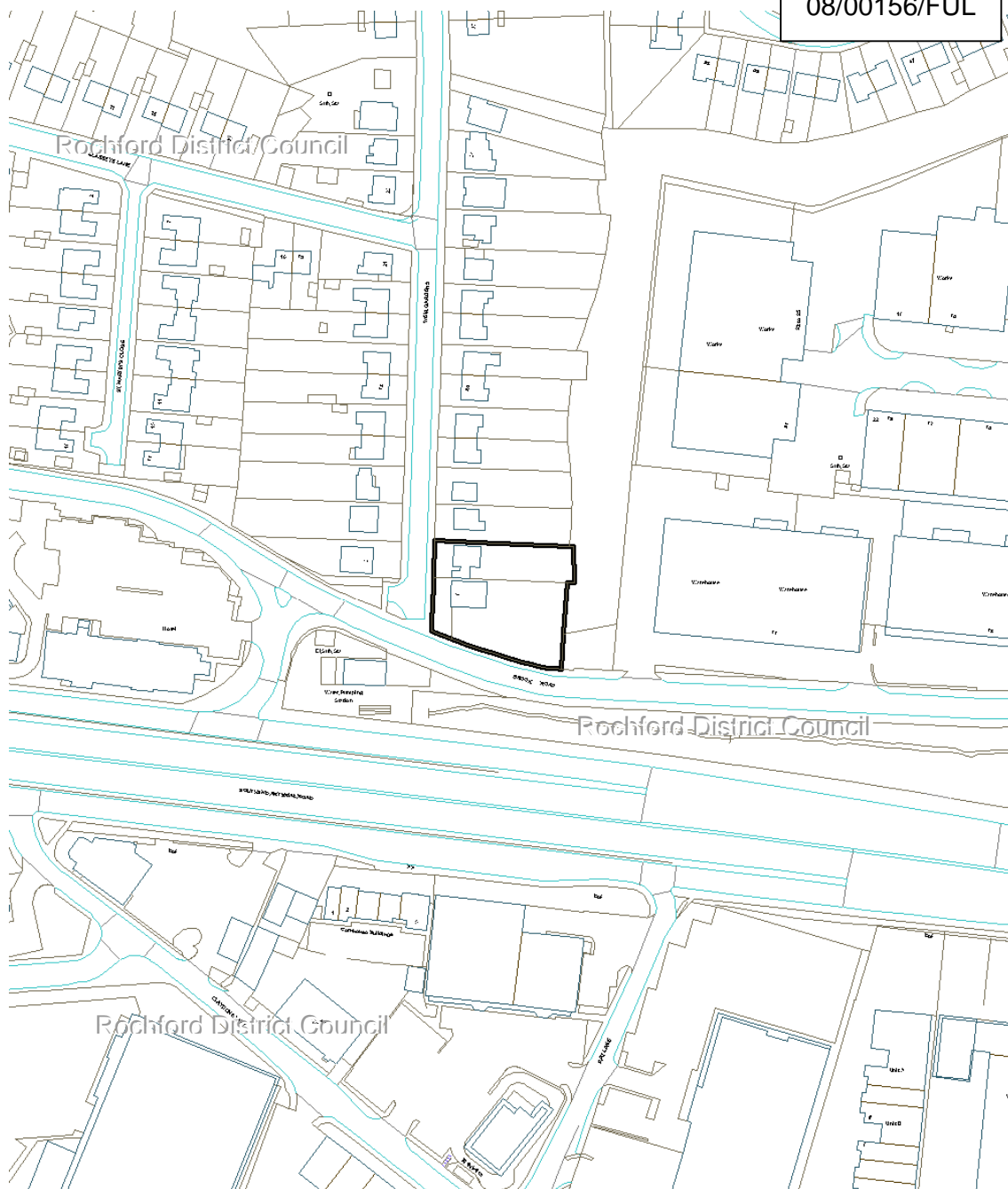
HP3, HP5, HP6, HP11, NR3, NR9 of the Rochford District Replacement Local Plan
(Adopted 16th June 2006)

A handwritten signature in black ink, appearing to read 'Shaun Scrutton'.

Shaun Scrutton
Head of Planning and Transportation

For further information please contact Judith Adams on (01702) 546366.

08/00156/FUL



Rochford District Council, licence No.LA079138

Schedule Item 4

**TITLE : 08/00280/FUL
VARIATION OF CONDITION 14 OF RESERVED MATTERS
APPEAL REFERENCE APP/B1550/A/06/2024715 AND
CONDITION 15 OF APPLICATION 07/00588/FUL TO ALLOW
THE RETAIL FOODSTORE TO ACCEPT DELIVERIES OF
GOODS TO BE SOLD BETWEEN THE HOURS OF 0600 TO
2300 HOURS ON ANY DAY
ASDA, PRIORY CHASE, RAWRETH**

APPLICANT : ASDA STORES LTD

ZONING : MIXED USE DEVELOPMENT

PARISH: RAYLEIGH TOWN COUNCIL

WARD: DOWNHALL AND RAWRETH

THE SITE

- 4.1 This application is to the site of the Asda store located as part of the former Park School development on the southern side of Rawreth Lane directly opposite the junction with Parkhurst Drive. The site has been developed to provide housing, leisure centre and primary school. The application relates to the retail store provided as part of an intended neighbourhood centre to provide a mix of retail, food and drink and non-residential institutions to this particular part of the site.

PLANNING APPLICATION DETAILS

- 4.2 The store was originally allowed on appeal under application reference 05/01049/REM. The store was modified by a further application to amend details to the building. In the consideration of the issues concerning the provision of the store the Inspector allowed the building subject to the following condition:-
- 14) The retail foodstore hereby permitted shall only accept deliveries of goods to be sold between the hours of 0700 hours and 2300 hours on any day.
- 4.3 This condition was repeated as condition 15 of the application for amendments granted under application reference 07/00588/FUL. Therefore, whilst the description of the application refers to two conditions, they are the same condition, thus the requested variation is in the singular.
- 4.4 The current application seeks permission to vary this condition by allowing for an additional hour earlier in the morning and would read as follows:-

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4.5 *Proposed condition:*

The retail foodstore hereby permitted shall only accept deliveries of goods to be sold between the hours of 0600 hours and 2300 hours on any day.

4.6 The application is supported by a Planning Statement and Delivery Noise Assessment.

4.7 In the determination of the earlier appeal the Inspector did not consider the control of the hours of trading. The applicants are free to trade unrestricted. This current application relates only to the control of the deliveries to service the existing retail store.

4.8 **RELEVANT PLANNING HISTORY**

Application No. 01/00762/OUT

Outline application for a mixed use development comprising housing, neighbourhood centre, public open space, primary school and leisure centre.
Permission granted 18 June 2003.

Application No. 04/00612/REM

Details of Spine Road, associated footpaths and footpath cycleway, Roundabout and turning facilities.
Permission granted 26 August 2004.

Application No. 04/00975/FUL

Variation of conditions attached to outline permission No. 01/00762/OUT to allow for separate reserved matters to be submitted and to allow flats above retail units in the neighbourhood centre.
Permission granted 17 February 2005.

Application No. 05/00599/REM

Details of retail foodstore and part two storey and part three storey building comprising 4 No. A1 (retail) units and 1 No. café/restaurant to ground floor and 8 No. two bedroomed flats at first and second with access and car parking layout.
Permission refused 24 November 2005.

Application No. 05/01049/REM

Details of retail foodstore and part two storey, part three storey building comprising 5 No. (retail) units and 1 No. A3 Café, 3 No. d1 (non-residential institutions) 1 No. D1 Nursery at ground, first and second floor with access and car parking layout.
Permission refused 25 May 2006
Appeal Allowed 25th January 2007.

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Application No. 07/00588/FUL

Alterations to approved ASDA store building comprising covered walkway to car parking area, provision of smoking shelter to staff parking area, provision of external cash machine pod and removal of one car parking space, provision of draft lobby to store entrance, raise height of service yard wall from 1.8m to 3m, revised layout of service yard, revised location of trees to car park, extension of entrance canopy, revised elevations of store to show location of cash office transfer unit, provision of 2 No. first floor windows to staff restaurant and training room, reduced size of curtain walling panels, provision of additional fire exit to north elevation and revised position of roof plant.

Permission granted 20 September 2007.

CONSULTATIONS AND REPRESENTATIONS

- 4.9 **Rayleigh Town Council** - Object on the basis of the proposal being detrimental to amenities of nearby residents and there should not be a variation of conditions 14 and 15.
- 4.10 **Rawreth Parish Council** - The variation of both conditions should not be granted. Many residents living along the approach roads or directly in the vicinity of the store will be directly affected by the variation of these conditions. Lorries already turn up an hour early, some of which are Asda lorries, others without name and not within the applicants' control.
- 4.11 Residents that live on the approach roads have witnessed lorries arriving at 6.05am. If the variation is granted it is felt that these lorries will abuse the time frames even further, arriving earlier and earlier for deliveries. If the variations are agreed it is felt the inclusion of the words on any day should be deleted as it is vital that a restriction is made to exclude Sundays.
- 4.12 **Essex County Council Highways and Transportation** - No objection.
- 4.13 **The Head of Environmental Services** - The acoustic report from Bickerdike Allen Partners (Ref: A7856/R01/DT) submitted by the applicant in support of this application demonstrates the following:-
- That the unloading/loading of delivery vehicles whilst in the delivery yard can be carried out between the hours of 0600 and 0700 without having an adverse effect, by way of noise, upon nearby residential premises
 - That the noise levels created by the delivery vehicles during their entry into/exit of the delivery yard would have a significant adverse effect upon nearby residential premises.

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- A level of 73dB_{LAF,max} or lower must be achieved at the outside of a closed bedroom window in order to attain a reasonable internal night-time level. The report indicates that this cannot be achieved at the façades of nearby closed bedroom windows. Therefore, a reasonable internal noise environment is not attainable, and certainly not during warmer weather when bedroom windows may reasonably be expected to be open.
- 4.14 It is clear that the proposed variation to conditions would have an unacceptable impact upon nearby residents by virtue of the noise generated by the regular movements of delivery vehicles entering and exiting the yard during night-time hours.
- 4.15 30 letters have so far been received in response to the public consultation and which in the main make the following comments and objections:-
- Further extension of the time for deliveries is truly unacceptable as existing time span of 16 hours every day is more than enough for a community store
 - Already have to contend with excessive noise pollution where such lorries leave their engines running as well as manoeuvring and sounds of fork lift trucks unloading and beeping
 - Time the Council thought of the residents and key workers living adjoining this site
 - Applicants already leave their delivery bay lights on all night
 - The store does not warrant opening to 10.00 pm as its many competitors close at 8.00 pm (Officer comment: store opening hours are not controlled by condition)
 - Application disregards the welfare of neighbours as considered by the Inspector
 - Applicant is the second largest retailer in the country and should well understand their delivery requirements. The condition was framed on the information given by the applicants and volunteered by them in their previous application allowed on appeal whereby they stated would only require four large lorries per day and 8 smaller vehicles between the hours of 0700 hours to 2300 hours and recognising deliveries outside these hours would be unacceptable
 - Resultant loss of amenity would be unreasonable by the applicants' own previous admission
 - Implication of the hours proposed is to accept night time deliveries and may have implications later
 - By reading the noise report accompanying the application the delivery lorries would each have a noise rating greater than 6db and louder than a significant noise event
 - The only assessment method BS 4142: 1997 which takes distinguishable notes into consideration has not been fully explored
 - Own traffic survey between 0500 hours and 0800 hours shows that of the time span analysed by the applicants more traffic movements occurred in the 30 minutes prior to 0700 hours with the majority of movements occurring just before 0700 hours. The accompanying report fails to illustrate this point merely giving a figure for the period 0500 hours to 0700 hours

Schedule Item 4

- Ridiculous attempt in the report to try and include the four ASDA lorry movements into an average noise level for the one hour period stating the average will increase by only one decibel
- Clear that the lorries pull away at the junction and climb the incline under load and in low gear which wakes residents when this happens
- If earlier hours permitted this will require unloading staff to arrive even earlier
- Unfair that due to applicants failing to manage their delivery times the residents will be inflicted with more noise and disturbance
- Lorry parking in Priory Chase is a hazard and causes difficulty for the bus
- Priory Chase becoming damaged by lorry parking
- Continuing problem of trucks idling outside homes early in the morning
- Will lead to longer store opening hours
- Drivers not willing to turn lorry engines or refrigeration units off while they wait so early in the morning
- Loss of property value
- Breaching the original consent by not building the smaller retail units
- Waiting lorries cause huge inconvenience and obstruction – why can't they wait elsewhere until the store opens or arrive at the correct time
- Applicants have no control over these deliveries
- No net cost benefit to society as a result of this application
- No account being taken of the right to peaceful enjoyment of adjoining homes
- Material being stacked higher than the loading bay walls
- Request contradicts a clear set of guidelines already provided
- Parking on the double yellow lines
- Applicant should not be rewarded for breaking existing guidelines
- Equivalent to mowing the lawn at 6am which would be unacceptable
- Increased noise and traffic
- Disturbed enough/loss of sleep
- Should remain a rural area
- Would encourage youths to hang around even longer
- Requests explanation as to why site notice refers to major development when notification letter does not
- Car park largely empty at 8 am. The shop serves its purpose perfectly well and there is no evidence of huge demand at 7.30 in the morning
- Not an out of town store but is sited in a very built up residential area. Increased hours will just increase traffic and congestion that Rawreth Lane is already struggling to cope with
- Rawreth Lane well and truly overdeveloped
- typical of the way the applicants treat Local Authorities and manipulate the system
- has all come about because no receiving section was provided within the structure because it would have made the retail area too small or the store too large to be acceptable to the planners
- lorries the same size as ADA fleet contrary to suggestion that smaller lorries would be used in addition to articulated lorries
- comparison to the Rayleigh Somerfield was a smoke screen to sway authorities
- Instead of weakening under the demands of this untrustworthy company give the locals support for a change

Schedule Item 4

- Store management do nothing to alleviate the existing disturbance or parking problem
 - Already has 112 delivery hours for a store open 93 hours per week
 - Breach the consent by allowing delivery yard gates to be open all day
 - Bedroom windows cannot be opened because of the noise and fumes
 - Noise is amplified by the design and canopy to the service yard
 - Access should have been from the industrial estate
 - The matter was also considered by the Inspector in dismissing the appeal for the cricket club in Rawreth Lane to extend their hours in the evenings that this is a rural area and the residents should expect it to remain so.
- 4.16 One letter has also been received from Mark Francois MP and which makes the following comments and objections:-
- The inspector clearly established limits on the hours of delivery as part of the Inquiry process and do not see that things have changed such that this condition needs to be altered.
 - Suspect that, if granted, it would represent something of a thin end of a wedge and before long would receive an application to vary the hours even more.
- 4.17 One letter has also been received which makes the following comments in support of the application:-
- Fully support this application, the store is the best thing to happen for ages, look at the number of people that use it
 - If it means we get a better service and the goods we want, then let's have it
 - The people that are complaining should not have bought a house there.

MATERIAL PLANNING CONSIDERATIONS

4.18 Contrast of Previous Appeal

The Inspector in the earlier appealed application specifically considered the effect of the proposal upon the amenities of adjoining residents and in particular those properties fronting onto Priory Chase. He reasoned that the outline consent provided for a neighbourhood centre and that the Council had had regard to the general relationship between future servicing and customer traffic upon the residential part of the site.

- 4.19 The noise assessment then available indicated:-
- relative noise levels for weekdays and Saturdays AT 47dB and 46dB for Sundays.
 - The lorry arrivals and departures indicated levels of 48dB for weekdays/Saturdays and 47dB for Sundays.
 - The noise levels with regard to service yard activities indicated noise levels of 45dB for weekdays/Saturdays and 43dB for Sundays.

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- 4.20 The Inspector concluded that none of these levels were to exceed the World Health Organisation guidance level of 50 dB for moderate annoyance and concluded therefore that there would be no material loss of amenity for nearby residential occupiers.
- 4.21 The Inspector noted the suggestion before him that amenity considerations could further be protected by limiting the delivery hours for goods and imposed a condition suggested by the Local Planning Authority.

The Current Proposal

- 4.22 The applicants state that the extra hour in the morning would allow for an extra one or two deliveries. The store currently opens between 7.30am – 10pm Monday to Saturday and 10am to 4 pm on Sundays. The applicants state that the restrictions in place hamper the re-stocking of the store causing a problem in the supply of fresh goods. The applicants state the variation of the condition would reduce current problems of HGVs currently waiting at the gates in the mornings.
- 4.23 The applicants have submitted a Delivery Noise Assessment. This assessment is described to have included a number of techniques because there is no nationally accepted method of assessing noise from deliveries. The assessment is based upon the closest affected properties being those fronting Priory Chase close to the service yard.
- 4.24 The conclusions state that to extend the hours to midnight would be detrimental due to the low background noise level at this time of night. Between midnight and 0600 hours the background noise levels are similarly low with the same consequence. The report states that during the period between 0600 hours and 0700 hours the number of road traffic movements increase. Noise levels from arrivals and departures from delivery vehicles will be marginally higher than noise from domestic vehicles. It is considered, however, that if the number of deliveries is restricted, for example, to two deliveries the impact from these four movements will not result in an increase in noise and therefore feasible to allow the variation sought.
- 4.25 The Council's Head of Environmental Services disagrees with these findings and takes the view as set out in detail above that the arrivals and departures will result in an unacceptable increase in noise. Furthermore, whilst agreeing the average noise level used for the unloading activities would not be objectionable, the assessment has not included information on the maximum level of noise measured.
- 4.26 It is considered on the basis of the applicants' own evidence and that submitted from residents currently affected by the deliveries arriving and waiting for the service yard to open in accord with the consent, that required noise levels outside of a closed bedroom window necessary in order to attain a reasonable internal night-time level could not be achieved.

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Therefore, a reasonable internal noise environment is not attainable, and certainly not during warmer weather when bedroom windows may reasonably be expected to be open and contrary to Policy PN5 to the Council's adopted Local Plan (2006).

CONCLUSION

- 4.27 The retail store was originally allowed on appeal under application reference 05/01049/REM. The store was modified by a further application to amend details to the building allowed on appeal. In the consideration of the issues concerning the provision of the store the Inspector allowed the building, subject to the specific condition limiting the delivery of goods to between 0700 hours and 2300 hours.
- 4.28 The applicants state that the extra hour in the morning would allow for an extra one or two deliveries. The store currently opens between 7.30am – 10pm Monday to Saturday and 10am to 4 pm on Sundays and that the restrictions in place hamper the re- stocking of the store, causing a problem in the supply of fresh goods. The applicants state the variation of the condition would reduce current problems of HGVs currently waiting at the gates in the mornings.
- 4.29 The Council's Head of Environmental Services disagrees with the findings of the Delivery Noise Assessment and takes the view that the arrivals and departures will result in an unacceptable increase in noise to those residents adjoining the site fronting Priory Chase. The application should therefore be refused and the existing condition allowed to stand.

RECOMMENDATION

- 4.30 It is proposed that this Committee **RESOLVES** to **REFUSE** the application for the following reason:-
- 1 The proposed variation in hours to allow deliveries by service vehicles from 0600 hours would by way of the noise levels created by the delivery vehicles during their entry in to/exit of the delivery yard, have a significant adverse effect upon nearby residential premises. A level of 73dB_{LAF,max} or lower must be achieved at the outside of a closed bedroom window in order to attain a reasonable internal night-time level. The Delivery Noise Assessment submitted in support of the application indicates that this cannot be achieved at the façades of nearby closed bedroom windows. Therefore, a reasonable internal noise environment is not attainable, and certainly not during warmer weather when bedroom windows may reasonably be expected to be open. The proposal would therefore prove detrimental to the amenity that ought reasonably be expected to be enjoyed by residents in Priory Chase adjoining the site contrary to parts (iii) and (iv) to Policy PN5 to the Rochford District Replacement Local Plan (2006).

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Relevant Development Plan Policies and Proposals

Rochford District Replacement Local Plan (Adopted 16 June 2006)
HP2, PN5.

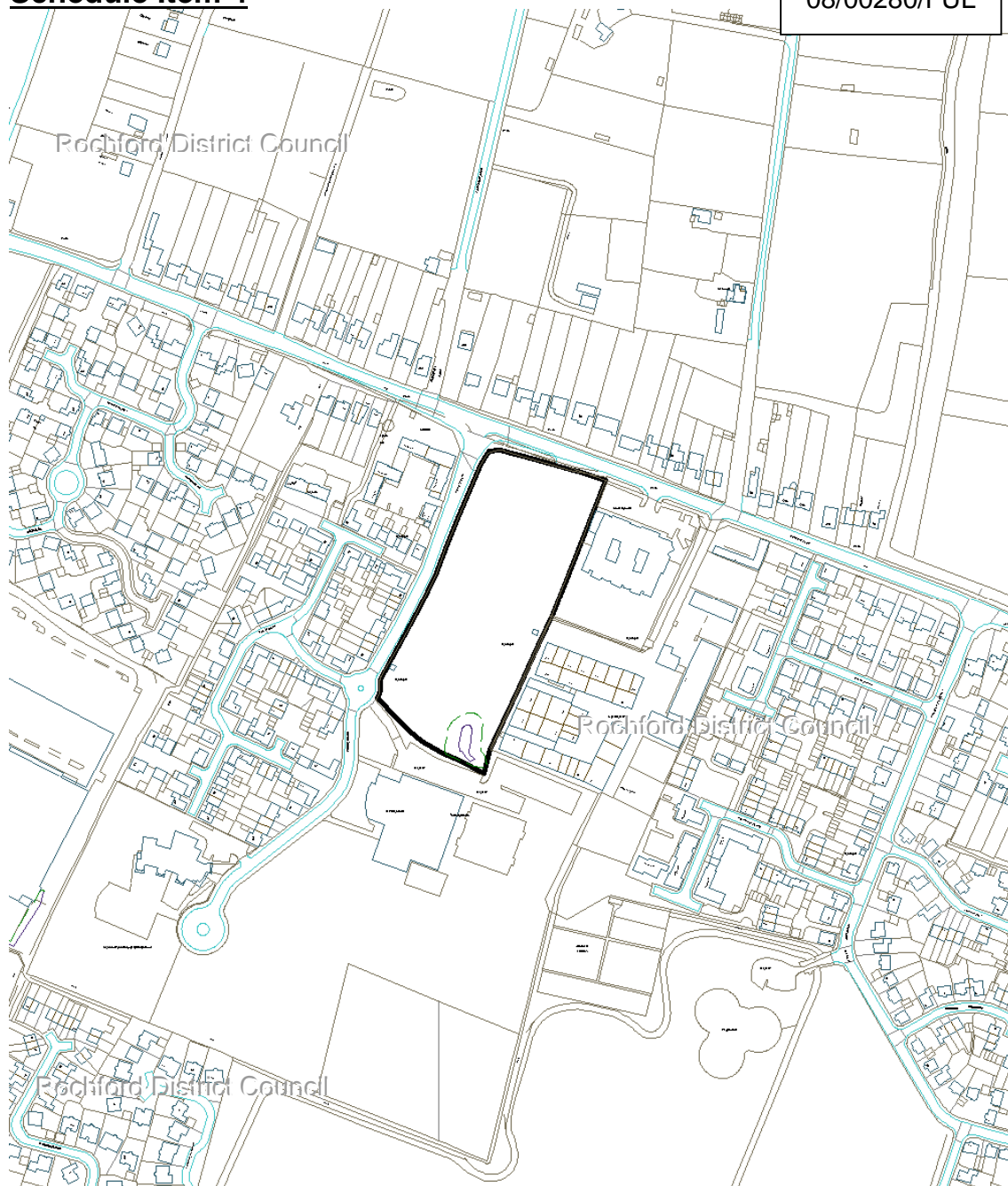
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Shaun Scrutton
Head of Planning and Transportation

For further information please contact Mike Stranks on (01702) 546366.

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Schedule Item 5

TITLE : 08/00217/FUL
APPLICATION TO VARY CONDITION 4 OF PERMISSION
06/00079/FUL TO ALLOW STORE OPENING 0600 HOURS
TO 2200 HOURS MONDAY TO FRIDAY, 0600 HOURS TO
2100 HOURS SATURDAY AND 0930 HOURS TO 1900
HOURS SUNDAY AND BANK HOLIDAYS
MAKRO LTD RAWRETH INDUSTRIAL ESTATE RAWRETH
LANE RAYLEIGH

APPLICANT : MAKRO SELF SERVICE WHOLESALERS LTD

ZONING : EMPLOYMENT LAND

PARISH: RAWRETH

WARD: DOWNHALL AND RAWRETH

THE SITE

- 5.1 This application is to a site on the eastern side of the access road serving Rawreth Industrial Estate. On the site is an established cash and carry/membership club style warehouse recently refurbished and extended as part of an application granted permission under application reference 06/00079/FUL which also varied the condition controlling opening hours and delivery times.
- 5.2 The site is adjoined to the west by open arable farmland and bounded to the east by residential and primary school development. To the south exist industrial uses. To the north adjoining the intervening store car park exists housing.

PLANNING APPLICATION DETAILS

- 5.3 The proposal seeks consent to vary the existing hours of store opening because the applicants have identified a need to extend their store opening hours for, in particular, those customers within the Hotel, Restaurant and Catering businesses and to provide those customers access to early morning fresh produce.
- 5.4 Application 06/00079/FUL approved various alterations and provision of a canopy to part of the car parking area and which has since been built. Condition 4 of that permission specified the hours as follows:-

4. The use of the site hereby permitted, shall not
- be open to customers
- receive or dispatch goods or stock
- allow the parking of goods/delivery vehicles

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- operate any plant machinery outside the building hereby approved

outside the hours of:-

0730hrs – 2100hrs Monday to Friday

0730hrs - 1900hrs on Saturday and

0900hrs - 1730hrs on Sunday

- 5.5 *Reason: To enable the Local Planning Authority to retain adequate control over such hours of use, in the interests of residential amenity.*

The proposal is to vary the hours of trading in the following manner:

0600hrs – 2200hrs Monday to Friday

0600hrs - 2100hrs on Saturday and

0930hrs – 1900hrs on Sunday

5.6 RELEVANT PLANNING HISTORY

Application No. 93/00354/FUL

Construction of a Building Together With Associated Out Buildings and Car Parking for Use as a Cash and Carry Warehouse and/or Other Uses Within Class B8.

Permission granted 2 September 1993.

Application No. 97/00109/FUL

Use Land Adjacent to Existing Cash and Carry Warehouse as Garden Centre. Erect 4.8m High Perimeter Fence.

Application withdrawn.

Application No. 98/00700/FUL

Use Land Adjacent to Existing Cash and Carry Warehouse as Garden Centre. Erect 4.8m High Perimeter Fence.

Permission refused 8 April 1999

Application No. 04/00571/LDC

Application For A Certificate Of Lawfulness For A Hand Car Washing Service.

Certificate granted.

Application No. 05/01032/FUL

Retain 14 No. Storage Containers and 2 No. Compactor Units to Service Yard Area in Variance to Condition 3 of Planning Permission F/0354/93/ROC.

Permission granted 28 February 2006.

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Application No. 06/00079/FUL

Single storey side extension using matching materials, erect canopy to front of building over part of car park, internal and external alterations as part of modernisation. Amend car park layout including changes to customer and delivery accesses. Variation of conditions 8 and 9 of application F/0354/93/ROC to allow store opening times between 0730 hours – 2100 hours Monday to Friday and 0730 hours – 1900 hours on Saturday and 0900 hours – 1730 hours on Sunday. Delivery times are revised to during store opening times, namely 0730 – 2100 hours Monday to Friday and 0730 hours – 1900 hours on Saturday and 0900 hours – 1730 hours on Sunday.

Permission granted 24 May 2006

Application No. 06/00439/FUL

Erect Marquee to Front of Store (on Car Park) for a Temporary Period of 6 Months.

Permission granted 12 July 2006.

Application No. 06/00903/FUL

Application to Vary Condition 4 of Permission 06/00079/FUL to Allow Pre Christmas Opening Hours Each Year as Follows: Mon - Fri 0630 to 2200, Sat 0730 to 2000 and Sun 0930 to 1830.

Permission granted 19 December 2006.

CONSULTATIONS AND REPRESENTATIONS

- 5.7 **Rawreth Parish Council** - Cannot see a reason why there is a need to increase store opening times. Concerned that if the store were to open at 6am Monday to Saturday local residents would be subjected to and woken by a huge increase in noise and disturbance and traffic, including heavy goods vehicles and delivery vehicles, which would be in the vicinity of the store and roads such as Rawreth Lane from 5.30 am daily. Also, the late opening hours would mean the same residents would be subjected to the same disturbance during the evening.
- 5.8 The Planning Inspectorate who recently dealt with the cricket pavilion's appeal for an extension to opening hours said "this is a rural area and residents should expect it to remain so".
- 5.9 Another concern is that whilst the store is supposedly wholesale only, it is known that almost anyone, trade or not, can obtain a membership card.
- 5.10 **Essex County Council Highways and Transportation** - No objection.
- 5.11 Seven letters have so far been received in response to the public consultation and which in the main make the following comments and objections:-

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- The community will be again disturbed and exposed to increased noise and traffic, including deliveries from very early in the morning to much later in the evening, 7 days a week, including those living along Rawreth Lane. Activity will extend before and after revised hours as staff arrive and depart.
- Other local shops close at a sensible time on a Sunday. 7pm still means on a “rest day” late traffic movement will still be generated
- Rawreth Village is tranquil with a truly rural character and we hope to keep it that way
- Earlier and later opening times would be totally unacceptable and cut across the peace and quiet that residents are perfectly entitled to.
- Arguably a further invasion of privacy
- The store does not need increased opening hours
- Detrimental to the quality of life in a rural community
- Would mean heavy lorries and customer traffic proceeding along Rawreth Lane from 5.30am Monday to Saturday. Already have to put up with it from 6.30am.
- Existing problems of loud music, car alarms, screaming children during the current opening times
- Further extension of hours is unthinkable of a business surrounded by residential dwellings
- No evidence from the number of cars parked at the beginning and end of the day they need to extend their hours
- On a number of occasions large delivery lorries have been parked on the site next to houses
- Previous requests to extend hours have been declined
- Applicants operate in complete disregard to the largely residential community
- Will devalue the enjoyment of our house
- Existing hours are surely adequate for customers’ needs
- Car park and store lighting already degrades the area and extended hours will mean further intrusion
- Previous requests to have this moderated have been completely ignored by the management in the past so cannot see this being accommodated
- Any reasonable person would readily dismiss this request
- Increasingly irritated at having to spend time writing letters and protesting against unreasonable requests from Makro and therefore any requests to extend opening hours should be permanently declined.
- Local infrastructure already overloaded with ASDA and housing development
- Devaluation of property

MATERIAL PLANNING CONSIDERATIONS

- 5.12 The existing store is sited some 60m from dwellings to the south east and some 95m from those dwellings located to the north of the site. The dwellings to the south east adjoin the intervening service yard area to the store. Those dwellings to the north and north east adjoin the customer car park.

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- 5.13 The proposal would introduce customer and vehicular activity an hour and a half earlier in the morning from the authorised 0730 am trading hours Monday to Saturday. The proposal would extend the same for an hour later into the night Monday to Friday and for two hours on Saturday.
- 5.14 The hours proposed for Sunday would be reduced starting later by a half an hour and finishing earlier by an hour and a half in the evening.
- 5.15 The site has to be considered against the backdrop of the industrial activities to the south of the site and the relative distance between the building and adjoining residential properties. Account must also be taken, however, of the activity within the car park and service yard areas that would correspond to the opening regime. The ambient background noise would, however, be likely to be much quieter at the times of day into which the applicants now seek to extend trading.
- 5.16 The applicant states the need to have arisen from a particular customer sector. However, it is clear that the store would be open of necessity to any customers and as such additional traffic would arise with consequent noise and disturbance from engines and alarms.
- 5.17 The original permission granted under application reference F/0354/93/ROC was also subject to the following hours restrictions:-

Condition 08

The use hereby permitted shall not take place outside the hours of:-

- a) 0900 to 2200hours between Monday to Friday (in addition delivery activities may occur between 0700 to 0900 hours Monday to Friday Only)*
- b) 09:00 to 19:00 hours on Saturdays and*
- c) 09:30 to 17:30 hours on Sundays*
- 5.18 The current proposal seeks a part reversion to the original permission for evening closing Monday to Friday. It will be noted that the more recent permission, now the subject of variation, gave more flexible trading hours earlier in the morning. The current proposal would increase the early opening yet further with later opening hours also.
- 5.19 The applicant has offered no evidence to test the possible effects against the expected quiet of the locality or background noise levels. It is therefore difficult to provide an evidentially based judgment upon the likely noise levels.

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It is, however, clear from those letters received from neighbours near to the site and those fronting Rawreth Lane that there is a degree of existing nuisance that, in the absence of any evidence to the contrary, the Council should be cautious in freely extending the hours of trading into quieter periods of both morning and evening that would be likely to prove detrimental to the amenity enjoyed by those residents in the vicinity of the site.

CONCLUSION

- 5.20 The proposal seeks consent to vary the existing hours of store opening because the applicants have identified a need to extend their store opening hours in particular for those customers within the Hotel, Restaurant and Catering businesses and to provide those customers access to early morning fresh produce.
- 5.21 The proposal would, however, extend the trading hours into the quiet of the morning by one and a half hours Monday to Saturday and for an additional hour into the quiet of the weekday nights and for two hours on Saturdays. No evidence has been submitted to allow the Council to consider the ambient background noise against this additional activity. It is, however, likely that the increased activity will prove harmful to the quiet of those parts of the day to the detriment of the reasonable enjoyment of residents in the vicinity of the site.

RECOMMENDATION

- 5.22 It is proposed that this Committee **RESOLVES to REFUSE** the application for the following reasons
- 1 The proposal, by way of the extension of increased trading hours into the quiet of the morning and evening Monday to Saturday, would give rise to further noise and disturbance by way of traffic and the movement of customers to and from the store. No evidence has been provided to allow the Council to assess the ambient background noise levels for the extended hours proposed. In the absence of evidence to the contrary the proposal is likely to result in a loss of amenity to the occupiers of dwellings in the vicinity of the site detrimental to the expectations those occupiers ought reasonably expect to enjoy and contrary to parts (iii) and (iv) to policy PN 5 to the Rochford District Replacement Local Plan (2006).

Schedule Item 5

Relevant Development Plan Policies and Proposals

EB1, PN5 of the Rochford District Replacement Local Plan (Adopted 16th June 2006)

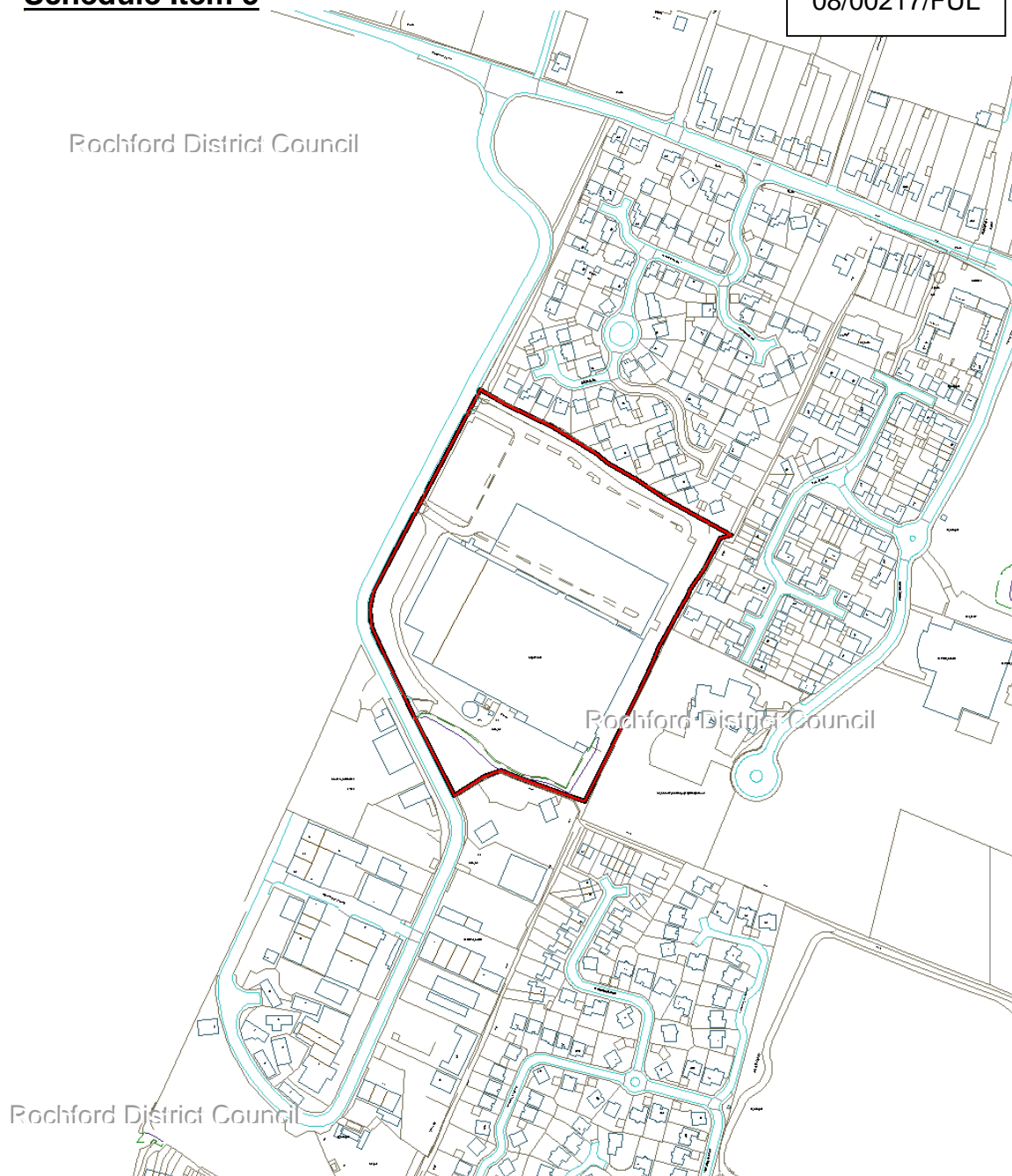
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Shaun Scrutton
Head of Planning and Transportation

For further information please contact Mike Stranks on (01702) 546366.

Schedule Item 5

08/00217/FUL



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CODE OF CONDUCT FOR PLANNING MATTERS

GENERAL PRINCIPLES

Members and officers must:-

- **at all times act within the law and in accordance with the code of conduct.**
- **support and make decisions in accordance with the Council's planning policies/Central Government guidance and material planning considerations.**
- **declare any personal or prejudicial interest.**
- **not become involved with a planning matter, where they have a prejudicial interest.**
- **not disclose to a third party, or use to personal advantage, any confidential information.**
- **not accept gifts and hospitality received from applicants, agents or objectors outside of the strict rules laid down in the respective Member and Officer Codes of Conduct.**

In Committee, Members must:-

- **base their decisions on material planning considerations.**
- **not speak or vote, if they have a prejudicial interest in a planning matter and withdraw from the meeting.**
- **through the Chairman give details of their Planning reasons for departing from the Officer recommendation on an application which will be recorded in the Minutes.**
- **give officers the opportunity to report verbally on any application.**

Members must:-

- **not depart from their overriding duty to the interests of the District's community as a whole.**
- **not become associated, in the public's mind, with those who have a vested interest in planning matters.**
- **not agree to be lobbied, unless they give the same opportunity to all other parties.**
- **not depart from the Council's guidelines on procedures at site visits.**
- **not put pressure on officers to achieve a particular recommendation.**
- **be circumspect in expressing support, or opposing a Planning proposal, until they have all the relevant planning information.**

Officers must:-

- **give objective, professional and non-political advice, on all planning matters.**
- **put in writing to the committee any changes to printed recommendations appearing in the agenda.**