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AGENDA

Committee: DEVELOPMENT CONTROL

Date and Time: Tuesday 3rd November 2015 at 7.30 p.m.

Venue: Council Chamber

N.B. This meeting will be webcast live on the internet.

Membership: Councillors Hart (Chairman), Smith (Vice Chairman), Anderson, Blackwell, Cole, Cross, Mrs Govier, Hurrell, Mrs King, Sharp, Varker, Mrs Wass, N. Watson.

Canvey Island Town Councillors : Greig and Tucker

Officers attending: Steve Rogers – Head of Regeneration and Neighbourhoods
Fiona Wilson – Head of Legal Services
Kim Fisher – Chief Development Control Officer

Enquiries: Cheryl Salmon, ext. 2454

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 6th October 2015 is attached.

4. Public Speakers

The Chairman will announce the names of those persons who wish to speak in support /objection under Agenda Item No. 5 (if any).

5. Deposited Plans

Report of the Head of Regeneration and Neighbourhoods is attached.

	Application No.	Address	Page
1.	15/0622/FUL	221 Benfleet Road, Benfleet, Essex, SS7 1QG (Boyce Ward)	1
2.	15/0661/FUL	Canvey Island Football Club, Park Lane, Canvey Island, Essex, SS8 7PX (Canvey Island East Ward)	5
3.	15/0688/VAR	Aldi 20 Rushbottom Lane, Thundersley, Benfleet, Essex (St Peter's Ward)	12
4.	15/0705/FUL	63 Cumberland Avenue, Benfleet, Essex, SS7 5NU (St Mary's Ward)	17
6.	TPO 3/2015 – Land at Downer Road North, Benfleet, Essex (St Peter's Ward)		22
	Report of the Head of Regeneration and Neighbourhoods is attached.		

Members are advised site inspections are recommended in respect of items 1, 2 and 3 attached to this agenda.

Members are asked to confirm their attendance at the site inspection no later than 5pm on Monday 26th October to Cheryl Salmon at csalmon@castlepoint.gov.uk / 01268 882454

Please assemble in the Members Room at 1:50pm on Monday November 2nd 2015.

Please note, if no confirmations of attendance are received the site inspections will be cancelled.

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DEVELOPMENT CONTROL COMMITTEE

6th OCTOBER 2015

PRESENT: Councillors Hart (Chairman), Smith (Vice-Chairman), Anderson, Blackwell, Cole, , Mrs Govier, Hurrell, Mrs King, Sharp, Varker, Mrs Wass, N. Watson and Canvey Island Town Councillor Greig.

Councillor Howard, Ladzrie, Riley and Wood also attended.

Apologies for absence were received from Councillor Cross and Canvey Island Town Councillor Tucker.

15. MEMBERS' INTERESTS

Councillor Anderson disclosed a Non Pecuniary Interest in applications concerning Canvey Island Central Ward by reason of his membership of the Big Local Lottery Committee.

16. MINUTES

Councillor Sharp questioned the wording of the final paragraph in Minute 13(a) which stated:

"During discussion Members stated that whilst they were in favour of the principle of development on the site it was considered that the proposal would result in an inappropriate form of development in the Green Belt".

Councillor Sharp felt that the Committee had indicated that the site was an ideal site for development because it had previously been developed. It was the fact that the proposal would result in overdevelopment of the site that the Committee had felt was an issue and Councillor Sharp was concerned that the current wording of the Minute did not reflect that point.

It was agreed that the wording be amended as follows:

"During discussion Members stated that whilst they were in favour of the principle of development on previously developed Green Belt sites it was considered that this proposal would result in an inappropriate form of development."

Subject to the amendment the Minutes of the meeting held on 1st September 2015 were taken as read and signed as correct.

17. DEPOSITED PLANS

(a) 15/0526/FUL – REAR OF 60 DAWS HEATH ROAD, BENFLEET, ESSEX, SS7 2TA (VICTORIA WARD) – ERECT DETACHED BUNGALOW AND EXTEND EXISTING VEHICULAR ACCESS TO DAWS HEATH ROAD – MR AND MRS J COSGROVE

The proposal was for a detached bungalow to the rear of an existing dwelling. It was considered to be compliant with national and local guidance and there were no robust reasons for refusal that could be identified. The proposal was therefore recommended for approval.

The application was presented to the Committee at the request of Councillor Riley in order to consider the impact of the development on neighbouring property and the surrounding area.

Councillor Riley, a Ward Member, spoke in objection to the application.

During discussion some Members raised concern regarding parking facilities on the site, the width and length of the access driveway and that the development could result in increased flooding in the area due to an increase in surface water runoff. Other Members felt that the proposal was viable and could see no reason for refusal.

The Planning Officer explained that at 3 metres wide the driveway was adequate to accommodate a vehicle driving along the property. The driveway already served the existing dwelling and included a turning circle. There was sufficient space within the site to provide more than adequate parking to serve the needs of both the proposed dwelling and existing property.

With regard to surface water drainage it was stated that there was no additional hard surfacing required on the site as part of the proposal. As there were no alterations being made to the driveway there was no reason to think that any issues with surface water drainage would be exacerbated.

During discussion a Member requested that with regard to the widening of the driveway at the front of the site a condition be added to ensure that the surface used was permeable to limit surface water runoff from the site on to the highway.

Following debate it was:-

Resolved – That the application be approved subject to the conditions as set out in the Planning Officer's report and an additional condition to ensure that any new area of hard surfacing is permeable to limit surface water runoff from the site.

(b) **15/0576/FUL – CASTLE POINT SERVICE STATION, SOMNES AVENUE, CANVEY ISLAND, ESSEX, SS8 9QB (CANVEY ISLAND WINTER GARDENS WARD) – INSTALLATION OF ‘CLICK AND COLLECT’ LOCKERS – ASDA STORES LTD**

The Planning Officer reported that the applicant had contacted the authority earlier in the day to state that they had not received the Planning Department's notification that the application was being presented to the Committee. The applicant had requested that the matter be deferred to give them the opportunity to appear before the Committee at a future meeting. The Committee was therefore requested to consider whether the item should be deferred. The Committee noted that the time limit for determining the application had expired.

Following consideration it was:-

Resolved – To proceed to determine the application.

The proposal sought to install two banks of 'Click and Collect' lockers at the site to allow Asda customers to collect online orders. It was not considered that the application demonstrated that there would be no nuisance to nearby residents by way of noise and accordingly it was recommended that permission be refused.

Councillors Howard and Greig requested that this application be considered by the Committee, irrespective of the recommendation, in order to assess the effect of the development on the surrounding residential area.

Mr Forrester, a local resident, spoke in objection to the application.

Councillor Howard, Essex County Council Ward Member, spoke against the application.

Councillor Greig, a representative of Canvey Island Town Council, spoke against the application.

During discussion Members expressed their general support for the concept but their disapproval of this proposal as they felt that the facility was not appropriate in this particular location. It was considered that the introduction of 'Click and Collect' lockers would have an adverse impact on the area and the amenity of local residents due to noise generated by the refrigeration equipment. Some Members were also concerned that there would be nuisance due to the increased vehicle movements on the site.

Following discussion it was:-

Resolved – That the application be refused because the proposed 'Click and Collect' facility, due to the use of refrigeration equipment in close proximity to the adjoining residential development, is considered likely to result in increased noise and disturbance to nearby residents during the night and the early hours of the morning, to the detriment of the amenity of surrounding residential occupiers, contrary to Policy EC3 of the Castle Point Local Plan and Government guidance in the National Planning Policy Framework.

(c) 15/0577/ADV - CASTLE POINT SERVICE STATION, SOMNES AVENUE, CANVEY ISLAND, ESSEX, SS8 9QB (CANVEY ISLAND WINTER GARDENS) – CLICK AND COLLECT VINYL GRAPHICS – ASDA STORES LTD

Consent was sought for the display of advertisements associated with proposed 'Click and Collect' lockers, the subject of application 15/0576/FUL. Notwithstanding the decision for that application, it was not considered that the proposed advertisements would cause visual detriment to the area and it was therefore recommended that consent for this proposal be granted.

The application was presented to the Committee as it formed part of the overall scheme for the provision of 'Click and Collect' lockers which had been brought before the Committee for consideration.

Following consideration it was:-

Resolved - That the application is approved subject to standard conditions.

(d) 15/0583/FUL – ADJ KING CANUTE, CANVEY ROAD, CANVEY ISLAND, ESSEX (CANVEY ISLAND CENTRAL WARD) – DEMOLITION OF EXISTING RETAIL UNIT AND GARAGE AND CONSTRUCTION OF VETERINARY PRACTICE AND 2 NO. HOUSES WITH ASSOCIATED PARKING, CYCLE AND REFUSE STORAGE AND RECONFIGURATION OF CAR PARK – NOVELLUS (CANVEY ISLAND) LLP

The Planning Officer reported that the applicant, having reviewed the recommendation for refusal, had submitted two draft amended layouts for consideration at 5pm that day which addressed the concerns that had been raised in relation to the proposed development. The applicant had therefore requested that the Committee agree to defer the matter in order to allow them time to work with the Planning Officer to reach an appropriate solution for the redevelopment of the site. The Committee noted that the time limit for determining the application had expired and that the applicant had opportunity to resubmit a revised application at a later date.

Following consideration it was:-

Resolved – To proceed to determine the application.

The application sought permission for the demolition of a large detached garage and retail unit and the construction of a single storey veterinary practice and two detached houses with associated parking, cycle/refuse storage. The proposal included the reconfiguration of the parking area for the former King Canute Public House, which was to be retained.

The application was presented to the Committee at the request of Councillor R. Howard in order that Members might assess the effect of these proposals on the surrounding residential area.

The site was allocated for shopping purposes and the proposal incorporated residential development and would result in the loss of a retail unit; it therefore

represented a departure from the Development Plan. However, the Planning Officer explained that the proposal would also contribute to the Council's housing supply and provide a commercial unit which would support the day-to-day needs of the local community.

The Planning Officer reported that in terms of the principle of development on the site this was acceptable. All of the uses were consistent with government policy and consistent with the Local Plan. However, there were a number of deficiencies in the scheme in relation to its design. Firstly, the location of the veterinary practice on the site was located in close proximity to the eastern boundary which would create a cramped appearance when viewed from Long Road. Secondly the proposed isolation space between the two detached dwellings was inadequate and would result in a development of cramped appearance which would be detrimental to the character and appearance of the surrounding area.

Furthermore the proposed car parking by reason of its layout, location and size would result in a significant level of harmful conflict within the site between the independent uses, adversely affecting the ease of movement within the site and potentially displacing the occupier's of the new dwellings vehicles onto Edith Road, to the detriment of highway safety.

With regard to flooding, the information provided in regard to the Flood Response Plan was inadequate. The reliance on evacuation in the event of a flood, lack of a provision of a safe refuge and inadequate floor heights relative to predicted flood levels failed to demonstrate that the proposed veterinary practice would not represent a risk to users of the site.

Accordingly the proposal was recommended for refusal.

Councillor Howard, Essex County Council Ward Member, spoke in objection to the application.

During discussion Members stated that they would like to see a more comprehensive scheme for the whole site and felt strongly that this proposal would result in unacceptable piecemeal development of the site. Some Members suggested that further discussions with the applicant would be beneficial to express the Committee's concerns about piecemeal development on the site and the loss of the 'King Canute' building. Other Members were not in favour of this proposal. The Planning Officer explained that such a meeting would be appropriate in the context of a pre-application meeting; however at this stage in the process the Committee should only concern itself with determining the application as it had been submitted.

Some Members also raised concern about the impact the development would have on traffic congestion in the surrounding area.

Following detailed discussion it was:-

Resolved - That the application be refused for the following reasons:

1. The proposed veterinary practice, by reason of its size and scale, combined with its relationship to the eastern boundary of the site,

would result in the provision of a building with mean and cramped setting, which if approved would detrimentally harm the character and appearance of the surrounding area contrary to Policy EC2 of the adopted Local Plan and Government Guidance as contained within the National Planning Policy Framework.

2. The proposed dwellings, by reason of the inadequate isolation achieved between the buildings would result in a development of mean and cramped appearance contrary to the prevailing character of development in the surrounding area, Policies EC2 and H17 RDG2 of the adopted Local Plan and Government guidance as contained within the National Planning Policy Framework.
3. The proposed car park by reason of its layout, location and the size of parking bays proposed, would result in a significant level of harmful conflict within the site between the three independent uses, adversely affecting the ease of movement within the site, and if approved, likely to accumulate in the displacement of the residential occupier's vehicles onto Edith Road, to the detriment of highway safety and traffic flows, contrary to Policies H17 RDG12, T8 and EC2 of the adopted Local Plan and Government guidance as contained within the National Planning Policy Framework.
4. The proposed development, by reason of the lack of information provided in respect of a Flood Response Plan, reliance on evacuation in the event of a flood, lack of a provision of a safe refuge and inadequate floor heights relative to predicted flood levels, fails to demonstrate that the proposed veterinary practice would not represent a risk to users of the site, contrary to Government guidance as contained in the National Planning Policy Framework.
5. The proposed development represents unacceptable piecemeal development of the site, the implementation of which would result in the creation of a discordant and fragmented form of development, detrimental to the character and appearance of the area and the effective and efficient use of land, contrary to Policy H12 of the Adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

Chairman

ITEM 1

Application Number:	15/0622/FUL
Address:	221 Benfleet Road Benfleet Essex SS7 1QG (Boyce)
Description of Development:	Outbuilding for swimming pool to rear
Applicant:	Mr David Lawrenson
Case Officer	Mr Keith Zammit
Date of Expiry	22.09.2015

Summary

The application seeks permission for the erection of a single storey building to contain an indoor swimming pool and associated facilities.

It is considered that the provision of such a structure is inappropriate development, detrimental to the openness of the Green Belt. The application is therefore recommended for **REFUSAL**.

Presentation of the application to Committee has been requested by Councillor Smith, in order for Members to consider the effect of the development on the surrounding area and Green Belt.

Site Visit

It is considered appropriate for Members to visit the site prior to determination of the application.

Introduction

The application property is a detached house on the south side of Benfleet Road. The plot has a frontage of some 17.5m and a maximum depth of some 66.2m and is located some 109m north east of the junction with Shipwrights Close.

The dwelling standing on the plot has recently been constructed pursuant to planning permission 15/0005/FUL, replacing a property of similar appearance.

The Proposal

Permission is sought for a building in the rear garden to provide a swimming pool and associated plant room, changing facilities, WC and bar.

The building would have a hipped roof with a maximum height of 4m. The footprint would be 12.8m wide and 9.5m deep and would be located 2.25m – 3m from the adjoining site boundaries.

The proposed external materials are weatherboarding with a tiled roof to match the existing house and aluminium windows and doors.

Supplementary Documentation

There is no supplementary documentation for this application.

Planning History

March 2015 – permission granted for retention of replacement dwelling (15/0005/FUL). Condition 1 withdrew permitted development rights for extensions under Classes A to E of the General Permitted Development Order.

Local Plan Allocation

Green Belt

Relevant Policies and Government Guidance

National Planning Policy Framework
Paragraphs 87-89

Current Local Plan
EC2

Residential Design Guidance

Consultation

No statutory consultees notified of this application

Public Consultation

No response to neighbour notification

Evaluation of Proposal

The main issue in this case is the impact of the proposal on the Green Belt.

The Council's 1998 Local Plan is silent on the provision of buildings other than garages within the curtilage of Green Belt dwellings.

National guidance, as set out in the National Planning Policy Framework at paragraph 89, is that local planning authorities should regard the construction of new buildings as inappropriate in the Green Belt, unless they are for the following purposes:

- o buildings for agriculture and forestry
- o provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it
- o the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building

- o the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces
- o limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- o limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development

The provision of a building containing a swimming pool does not fall within any of these categories and is therefore inappropriate development in the Green Belt.

Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that when considering applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The applicant has not advanced any very special circumstances in support of his proposal, other than verbally drawing attention to a large outbuilding in the rear garden of the adjacent property. The existence of similar development nearby is not considered to amount to the very special circumstances necessary to justify inappropriate development in the Green Belt. The local planning authority is unable to identify any other circumstances which may be viewed very special. No considerations can be found which would outweigh the harm to the Green Belt by reason of inappropriateness.

The proposal is also considered to be harmful to the openness of the Green Belt in this location, in that as a matter of fact the construction of a large building at this location would reduce the openness of the Green Belt.

The proposal is therefore contrary to Government guidance on development within the Green Belt, and is recommended for refusal.

The building is considered to be of satisfactory appearance and there are no conflicts that can be identified with the Council's Residential Design Guidance Supplementary Planning Document. However, this does not outweigh the other harm identified.

Conclusion

The proposed building represents inappropriate development which would be harmful to the Green Belt.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation.

My Recommendation is REFUSAL for the following reason:

1 The proposed building would be inappropriate development within the Green Belt, which would be detrimental to its openness and strategic function. The harm to the Green Belt by reason

of inappropriateness, together with the harm to openness, would not be outweighed by other considerations and therefore permission should not be granted according to Government guidance as set out in the National Planning Policy Framework.

Informatives

1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

ITEM 2

Application Number:	15/0661/FUL
Address:	Canvey Island Football Club Park Lane Canvey Island Essex SS8 7PX (Canvey Island East)
Description of Development:	Demolition of existing clubhouse and construction of single storey extension to existing players' changing rooms/WCs to form community centre and turnstiles
Applicant:	Mr John Batch
Case Officer	Mr Keith Zammit
Date of Expiry	22.10.2015

Summary

The application seeks permission for the reconstruction of the existing clubhouse structure to provide a community area with a bar, lounge area, kitchen, lobby areas and toilet facilities. A new turnstile facility is also proposed.

The proposal is considered to be compliant with all relevant planning policy and guidance and subject to appropriate conditions is not considered to be so injurious to the amenity of adjoining residents or future users that a reason for refusal on this basis could be sustained on appeal.

It is therefore recommended that planning permission be **GRANTED**.

The application is presented to the Committee as the Borough Council has a legal interest in the land.

Site Visit

It is considered appropriate for Members to visit the site prior to determination of the application.

Introduction

The football club site is located within an area of open space bounded by Leigh Beck Road on its north side, Park Road to the west, Park Avenue to the east and the sea wall to the south. The site contains the main football playing pitch, seating stands, car parking, changing room facilities and a flat roofed structure used as a clubhouse.

The Proposal

The application seeks permission for the demolition of the existing clubhouse building and the provision of a new single storey, pitched roofed building in its place, to provide a new community

area, with a bar, kitchen and toilet facilities. A new covered turnstile entrance from the existing hard surfaced car parking area is also proposed.

The new building would have a length of some 33m and width of 11m, with a pitched roof to a height of some 5.4m. The projecting 'wing' containing the turnstile block would have a width of some 6.7m and depth of some 2.75m. A pitched roof to a height of some 4.4m would be provided over this section.

Facing brickwork and a concrete tiled roof to match the existing building are proposed.

Supplementary Documentation

A Flood Risk Assessment and a Flood Warning and Response Plan have been submitted with the application, which can be viewed on the Council's website.

Planning History

None of relevance to this application

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework
Paragraphs 56-58, 70 and 123

Local Plan
EC2 – Design
EC3 – Residential Amenity
CF6 – Places of Worship and Community Centres
T8 – Parking Standards

Consultation

Legal Services

No objection.

Any new lease will contain a restriction that the building is for recreational use only.

Canvey Town Council

No comments received

Environment Agency

Refer to standing advice

Public Consultation

9 objections received plus a petition containing 24 names in opposition to the proposal.

The points raised are as follows:

- o use of clubhouse for functions disturbs residents particularly late at night, use of the building will increase
- o outdoor noise and disturbance will increase
- o hours of use 9am-midnight seven days a week are a concern

- o land was left to the club to be used as a recreational area
- o additional on-street parking
- o club is breaching terms of licence (events held/music played)
- o development would contravene covenants on site

Comments on Consultation Responses

- o the existence of covenants or terms within any licence are not relevant to consideration of this application, which must be determined on its planning merits only
- o the impact on surrounding residents, in terms of noise and the car parking situation, are discussed in the evaluation of the proposal

Evaluation of Proposal

The primary issues for consideration are the principle of the proposed use, the design of the building, the impact on nearby residential occupiers, parking implications and flood risk.

The principle of the proposed use.

The land is allocated as public open space on the adopted Local Plan. The provision of a building (or an extension to one) would necessarily result in a loss of open space. However, the structure proposed here would replace an existing one (the clubhouse) and would not result in a significant change in the level of open space provision in the local area. There is therefore no objection to the proposal on the basis of loss of open space.

Policy CF6 of the Local Plan states that the Council will support the principle of community centre uses subject to compliance with any other relevant policies. This is consistent with paragraph 70 of the NPPF. The principle of the community centre use would therefore be acceptable in principle in this location, subject to there being no adverse impacts on the local area.

Design

Policy EC2 of the Local Plan seeks a high standard of design in all new buildings and alterations to existing buildings. This is consistent with paragraphs 56 to 58 of the NPPF.

The proposed building is considered to be of a reasonable standard of design and being a single storey structure it is not considered that it would be unduly dominant or obtrusive in the street scene. There is therefore no objection to the proposal on design grounds.

Impact on nearby residential occupiers

The NPPF states at paragraph 123 that planning policies and decisions should aim to:

- o avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development
- o mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development,
- o recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- o identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason

The Council's Local Plan Policy EC3 reflects the provisions of the NPPF.

Anecdotal evidence suggests that patrons of the football club cause nuisance to the occupiers of surrounding residential properties when leaving the establishment late at night. It also appears that noise breakout from the structure is an issue for residents, with the noise from amplified music systems able to escape the building. Comments relating to use of the tannoy system on match days are noted; however this is unrelated to the current planning application.

The proposal is for a brick building with a tiled roof to replace the existing clubhouse structure, which appears to be of more lightweight construction. Furthermore, it is noted that, with the exception of the fire escape, the use of which can be controlled, there are no door or window openings proposed on the western elevation facing the closest residential properties. This feature, coupled with the more substantial form of construction proposed, is considered sufficient to adequately mitigate noise breakout from the building.

Doors and windows are provided on the eastern elevation of the building and doors to the foyer are also proposed on the north end of the structure. These provide opportunities for noise to spill out of the building and potentially affect adjoining residents. In order to mitigate this impact, mechanisms can be required to be attached to doors and windows to limit noise breakout. This may limit opportunities for natural ventilation to the building, but mechanical ventilation or air conditioning could be used to maintain acceptable conditions within the building without the need to open doors or windows. Subject to a condition requiring approval of door and window closing devices, it is considered that noise breakout from the building could be suitably controlled.

On the matter of noisy patrons, the hours of use that are being sought for the proposed community centre are 9am to midnight. It is noted from neighbour comments that disturbance from patrons leaving the premises has occurred well after midnight. This application therefore offers an opportunity for a condition to be imposed prohibiting use of the premises beyond midnight, which could provide some relief and reassurance to residents adjacent to the site, and would be in the spirit of bullet 2 of paragraph 123 of the NPPF. It is noted that residents fear that the replacement facility would be used to greater capacity than the current one, leading to more instances of disturbance, but on the basis of the information provided with the application, it would appear that even if greater use did occur, the impact on surrounding residents could be mitigated.

It is considered that through the use of appropriate planning conditions to limit the hours of use of the premises to those sought in the application, and to require door and window closers to be fitted, acceptable living conditions for nearby residents could be maintained.

On this basis it is considered that a refusal on the basis of noise and disturbance to nearby residents would be difficult to sustain on appeal.

Parking implications

Policy T8 of the Local Plan requires the provision of off-street parking in accordance with adopted standards. This is consistent with paragraph 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstances.

The objections to the proposal indicate that the football club causes a significant amount of on-street parking in the area, which is a source of annoyance to local residents. However, that would appear to arise from the playing of football matches rather than the use of the site for any

kind of function or community activity. Provided that the proposal did not result in a loss of car parking available to the football club, it is not considered that an objection to the proposal on the basis of inadequate parking could be sustained on appeal.

The 2009 County Parking Standards require the provision of a maximum of 1 car parking space per 20m² for this type of use. With a floor area of some 343m², a maximum of 17 car parking spaces would be required; however, the net increase in floorspace taking into account the demolition of the existing clubhouse is 183m², for which an additional ten spaces is required.

The existing hard surfaced car parking area, which is shared with the main football ground use, provides parking for 94 cars. An additional seven spaces are proposed as part of this application, to make a total of 101. This is fewer than the additional ten spaces that are required by the parking standards; however the standard is expressed as a maximum requirement and as such it is not considered that a refusal of the proposal on the basis of inadequate parking provision could be robustly defended at appeal. It is not considered that the proposal would lead to significantly increased instances of vehicles being left in surrounding streets compared to the existing situation; therefore there can therefore be no objection to the proposal on the basis of car parking provision.

It is noted, however, that the car park is poorly surfaced and poorly lined, and therefore may not be used to capacity due to the inefficient parking of vehicles. As acceptance of a reduced level of car parking provision is advocated, it is considered reasonable under these circumstances to require the resurfacing and relining of the car park to ensure that the stated quantity of spaces are available for practical use.

Flood risk

The Environment Agency's standing advice for minor non-domestic extensions states that floor levels should either be no lower than existing floor levels or set 300mm above the estimated flood level. The floor levels within the proposed building would be set 225mm above the existing clubhouse floor and would therefore meet the requirements of the standing advice. No objection is therefore raised to the proposal on flood risk grounds.

The agent for the application has submitted a Flood Warning and Response Plan as part of the application. Whilst not normally required for extensions to existing buildings, this application is for the replacement of the clubhouse so it is reasonable that the response of occupiers to a flood warning, or flooding occurring, is properly managed.

The submitted plan appears to be for a domestic property and is therefore unsuitable for the proposed use. If Members are minded to approve the application, a condition should be imposed to require submission and approval of an appropriate Flood Warning and Response Plan.

It is noted that the building does not provide a safe refuge for occupiers in the event of a flood. Such an omission would usually attract a recommendation of refusal; however, in this instance recognition must be given to the fact that a building is currently present on the site, which would appear to be used for purposes similar to those proposed within the new building.

It must also be recognised that the new building would be constructed with a higher floor level than the existing building and that the new building would be of more robust construction, offering greater resistance and resilience under flood conditions.

In the circumstances it is not considered that a materially greater flood risk to users of the building would arise on the site as a result of the development. No objection is therefore raised to the proposal on the basis of flood risk.

Conclusion

The proposed new community facility is not considered to be a form of development that would adversely affect the amenity of nearby residents or the local area subject to the imposition of appropriate conditions.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation.

My Recommendation is APPROVAL subject to the following conditions:

1 The development hereby permitted shall be begun on or before the expiration of five years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

2 The proposed development shall be finished externally in materials to harmonise with the adjacent players' changing room block.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

3 Prior to commencement of the use, details of appropriate door and window closers, to be fitted to all external door and window openings (except for those serving the turnstile block) shall be submitted to and approved in writing by the local planning authority.

REASON: To protect the amenity of surrounding residents in respect of noise breakout.

4 Such devices as may be approved in relation to condition 3 shall be installed prior to commencement of the use and thereafter retained at all times unless otherwise agreed in writing with the local planning authority.

REASON: To protect the amenity of surrounding residents in respect of noise breakout.

5 The premises shall not be used outside the hours of 9am to midnight on any day.

REASON: To protect the amenity of surrounding residential occupiers.

6 Prior to commencement of the use, the car parking area shown on drawing number CIFC/AGC/2 prepared by A. G. Coot Design shall be enlarged, resurfaced and marked out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority, with reference to an accurately scaled plan at a scale of not less than 1:200, as shown indicatively on the aforementioned drawing.

REASON: To ensure the provision of adequate usable car parking facilities on the site.

7 Following the completion of the work required in relation to condition 6, the car parking area shall be retained at all times for the purpose of car parking and not used for any other purpose.

REASON: To ensure the retention of adequate on-site car parking facilities.

8 Prior to commencement of the use, an appropriate Flood Response Plan shall be submitted to, and formally approved by, the local planning authority.

REASON: In order to ensure the appropriate protection of occupiers of the building in the event of a flood and because the plan submitted appears to be for a domestic property and is not therefore suitable for the proposed use.

9 Upon commencement of the use, the approved Flood Response Plan shall be enacted and thereafter maintained at all times that the use is in operation. Any revisions to the plan shall be submitted to and formally approved by the local planning authority.

REASON: In order to ensure the appropriate protection of occupiers of the building in the event of a flood.

Informatives

1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

ITEM 3

Application Number:	15/0688/VAR
Address:	Aldi 20 Rushbottom Lane Thundersley Benfleet Essex (St Peter's)
Description of Development:	Variation of Condition 17 (delivery hours) of planning permission CPT/669/13/FUL to extend delivery hours to 06:00-23:00 on Mondays to Saturdays and 08:00-22:00 on Sundays and Bank and Public Holidays
Applicant:	ALDI Stores Ltd
Case Officer	Mr Keith Zammit
Date of Expiry:	18.11.2015

Summary

The application seeks permission to vary the permitted delivery hours for the store, to allow deliveries to be received from one hour earlier in the morning than is currently the case. It is considered that this would not lead to unacceptable disturbance to surrounding residents sufficient to warrant a refusal of planning permission, and the proposal is therefore recommended for **APPROVAL**.

Councillors Govier and Hurrell have requested that the application be reported to Committee, in order that the Committee can consider the effect of the variation on the surrounding area.

Site Visit

It is appropriate for members to visit the site prior to determination of the application.

Introduction

The application relates to the Benfleet Aldi store, which is located on the eastern side of Rushbottom Lane, between the junctions with London Road and Elgar Close.

The Proposal

Condition 17 attached the planning permission for the Aldi's store seeks to ensure that deliveries to the site are not received outside the hours of 07:00-23:00 on Mondays to Saturdays and 09:00-22:00 on Sundays and Bank or Public Holidays.

The applicant would like to alter these times to 06:00-23:00 on Mondays to Saturdays and 08:00-22:00 on Sundays and Bank or Public Holidays.

The applicant's agent states in a letter that the current situation, where deliveries can only be received one hour before the store opening, does not provide sufficient opportunity for the transfer of goods to the shelves before trading begins, a two-hour window would allow this.

The agent also points out that delivery receipt at the store is different from that usually found at other large supermarkets; at this store the delivery bay is level with the floor area in the lorry allowing cages to be simply wheeled in, rather than using tail lifts, which reduces noise levels associated with deliveries.

Supplementary Documentation

A covering letter from the Agent and an acoustic report are available to view on the Council's website.

Planning History

June 2014 – permission granted for demolition of existing building and construction of new retail food store with car parking, landscaping and repositioning of vehicular access to Rushbottom Lane (CPT/669/13/FUL)

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework

Paragraph 123 – Noise impacts

Local Plan

EC3 – Residential amenity

Consultation

Environmental Health

Objects to the proposal. The reception of deliveries prior to 07:00 is objectionable due to background noise levels being lower between 06:00-07:00 compared to 07:00-08:00.

Public Consultation

Two objections have been received from local residents.

The objections are that the store has been receiving deliveries early in the morning before 7am and causing disturbance, delivery vehicle engines are left running which also causes disturbance and that people's voices while unloading deliveries are audible.

Comments on Consultation Responses

The noise impact on nearby residents is discussed in the evaluation of the proposal.

Evaluation of Proposal

The main issue here is the impact of the earlier delivery times on the amenity of surrounding residents, in respect of noise and disturbance.

The National Planning Policy Framework (NPPF) states at paragraph 123 that planning policies and decisions should aim to:

- o avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development
- o mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions
- o recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and
- o identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason

The Council's Local Plan Policy EC3 similarly seeks to protect the amenity of adjoining residents.

At paragraph 17, the NPPF states that local authorities should proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth.

Paragraph 20 states that planning authorities should help to achieve economic growth, by supporting existing business sectors, taking account of whether they are expanding or contracting. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances.

Paragraph 23 states, inter alia, that planning authorities should:

- recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;

There is therefore a clear focus on maintaining the vitality and viability of town centres and facilitating the development of a diverse retail base.

This drive however needs to be balanced against the impact on local residents and the need to avoid noise from giving rise to *significant* adverse impacts on health and quality of life.

At the time of determining the planning application for the store, the applicants indicated that deliveries would be restricted so that no deliveries would be received at the site before 07:00 on most days in order to protect the amenity of surrounding residents. This was incorporated into a condition attached to the grant of consent.

The applicant is now seeking a variation of the condition to enable deliveries from 06:00 Mondays to Saturdays and from 08:00 on Sundays and Bank Holidays (where the restriction is currently 09:00).

The Council's Environmental Health Service has commented that background noise levels are lower between 06:00-07:00, compared to 07:00-08:00 and attention has been drawn to a previous noise assessment from 2013, which stated that deliveries before 07:00 were not recommended as it was considered likely that noise would exceed the existing noise climate on the Lambeth Road side of the site. The Environmental Health Service is therefore of the view that the current restrictions should not be relaxed.

They have also drawn the planning authority's attention to complaints that have been received about the reception of deliveries prior to 07:00 since the store began trading, and subsequent action that had to be taken to resolve the issue with Aldi.

The agent for the application has responded to the Environmental Health comments in an email dated 14th October 2015, raising various points in rebuttal. The Environmental Health service has provided a further consultation response dated 15th October 2015, in which they state that it is the peak noise levels that are likely to be generated before 7am that are the concern, and that they maintain their objection to the proposal.

It is the role of the Planning Authority to balance the competing needs of the applicant and adjoining residents.

Government guidance is clear that unless development would generate noise that would have a significant adverse impact on health and quality of life the Planning Authority should encourage and support the development of retail development in town centres.

Whilst it is noted that ambient noise levels may be lower before 07:00, this does not demonstrate that the extension of delivery hours into this period would have such a significant adverse impact on the amenity or quality of life of adjoining residents that a reason for refusal on this basis could be sustained on appeal. No objection is therefore made to the proposed variation of the condition.

Mention is made by the agent and Environmental Health Officer of the possibility of Aldi signing up to a Delivery Management Plan, whereby no goods pallets or roll cages would be moved in open areas, no reversing alarms would be used outside 08:00 to 22:00 hours, refrigeration units would be switched off when a delivery vehicle was in the yard and delivery scheduling organised to ensure that no more than one vehicle was present at the site at any one time.

Whilst this may be an appropriate arrangement made between Aldi's and the Authority under its Environmental Health remit, it is not considered that an enforceable condition to secure these outcomes may be attached to the consent.

It should be noted that under the Provisions of the Environmental Protection Act the Authority has powers available to it to control nuisance noise.

It should also be noted that it is the clear advice of Government that Planning permissions should not replicate the controls available under other legislation.

Conclusion

It is not considered that the proposed variation of the delivery hours for the store would lead to a significant adverse impact on the amenity or quality of life of surrounding residents such that a reason for refusal on this basis could be sustained.

No objection is therefore raised to the proposed variation of the condition.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation.

My Recommendation is APPROVAL. The varied condition to read as follows:

17 No deliveries to the site shall be received other than between the hours of 06:00 - 23:00 on Mondays to Saturdays and 08:00 - 22:00 on Sundays and Bank or Public Holidays.

REASON: To protect the amenity of the adjoining residents.

Informatives

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

ITEM 4

Application Number:	15/0705/FUL
Address:	63 Cumberland Avenue Benfleet Essex SS7 5NU (St. Mary's)
Description of Development:	Part retrospective application to construct detached garage
Applicant:	Mr Gary Carter
Case Officer	Mrs Sophie Adams
Date of Expiry:	29.10.2015

Summary

The applicant seeks consent to retain and complete a partly constructed detached garage. The proposal is considered to be compliant with national and local policy and guidance and there are no robust reasons for refusal that can be identified. The proposal is therefore recommended for **APPROVAL**.

The application is presented to Committee at the request of Cllr Partridge in order to assess the impact of the proposal on the surrounding area. No adverse comments have been received in respect of the application, although it is noted that there is one supportive comment for the development.

Site Visit

It is not considered necessary for Members to visit the site prior to determination of the application.

Introduction

The application site is located on the northern side of Cumberland Avenue some 61m west of its junction with South View Road. The site is irregular in shape with a frontage of some 14m, a rear width of 9.5m and a maximum depth of 34.5m.

A semi-detached bungalow with rear conservatory occupies the site. There is a detached garage being constructed on site which is the subject of the current application. The dwelling benefits from a large area of hard surfacing which provides the parking for the property.

The application dwelling is located within a varied street scene of semi-detached and detached bungalows, chalets and houses. There are examples, within the street scene, of attached single storey side additions, such as garaging, up to the boundary.

The Proposal

The applicant seeks planning permission for the construction of a detached garage.

The construction of the garage has commenced and the application is therefore partly retrospective in nature.

The hipped roofed detached garage is located on the west side of the dwelling. The submitted plans indicate the garage to have a width of some 2.9m, a depth of 6.6m, a soffit height of 2.1m and a maximum height of 3.6m. A sloped roofed log store is shown attached to the rear of the garage, measuring 1.7m deep, 2.2m wide and 2.6m high.

Supplementary Documentation

No supplementary documentation has been submitted for this application.

Planning History

In 1958 planning consent was granted for the application dwelling (BEN/426/57), along with a collection of dwellings fronting Cumberland Avenue and South View Road. The approved plans show the internal layout of a two bedroomed semi-detached bungalow on site with a detached garage located towards the rear of the dwelling. The detached garage shown on the original consent is not evident on site.

Relevant Policies and Government Guidance

National Planning Policy Framework

Paragraph 39

Adopted Local Plan (Adopted November 1998)

The site is allocated for residential purposes in the adopted Local Plan. The following policies are of relevance:

EC2	Design
H17	Housing Development – Design and Layout
T8	Car Parking Standards

Residential Design Standards (Adopted January 2013)

RDG2	Space around Dwellings
RDG3	Building Lines
RDG6	Amenity Space
RDG8	Detailing
RDG12	Parking and Access

Essex County Parking Standards September 2009 (Adopted June 2010)

Consultation

No statutory consultation has been undertaken

Public Consultation

One response has been received from surrounding residents with the following comments:

- o No objection
- o Pleased that our neighbour is making these enhancements to his property
- o The garage will look very nice once completed

Evaluation of Proposal

Policy EC2 of the adopted Local Plan iterates that a high standard of design will be expected in all proposals for alterations and extensions to existing buildings. Policy H17 states that in assessing the design aspects of proposals for housing, the Local Planning Authority will have regard to its adopted Residential Design Guidance (RDG). This guidance is considered to be in compliance with the National Planning Policy Framework (NPPF).

RDG8 states that the provision of detailing elements must be consistent with the overall architectural approach of the dwelling and their design and siting should be an integral part of the dwelling. They must not result in prominent, dominant, alien or incongruous features which detract from the visual appearance of the dwelling or the public realm. The design of all development should result in well proportioned and balanced properties.

The proposed garage, in isolation, is reasonable in scale and has an acceptable pitched roofed appearance. The pitched roof is compatible with the hipped roof form of the host dwelling. Consequently the proposed garage is not considered to harm the appearance of the host dwelling.

The garage would be set back from the front elevation of the dwelling, but due to the relationship with the western neighbour would be highly visible within the street scene. Within the wider street scene there is a mixture of dwelling styles and roof forms, and examples of detached and attached garaging. The proposed garage would not appear unusual in this context.

The proposed external facing materials are considered to be acceptable subject to their implementation.

No objection is therefore raised to the proposal under Policies EC2 and H17 RDG8.

RDG2 states that space around all new development should be informed by the prevailing character of space around dwellings. Where there is no clear pattern of development the space around a dwelling should be proportionate to the size of the dwelling, with at least 1m provided between the property and the boundary.

The garage is located between the rear western corner of the dwelling and the western boundary. A gap of between 0.07m and 1.17m would be provided between the garage/log store and the western boundary of the application site. A gap of 1.15m would be provided between the garage and the dwelling.

Within the street scene there are examples of garages adjacent to the boundary set back from the front elevation of the dwellings, and also examples of garages up to the boundary directly adjacent to the front elevation of the dwelling. Further in the street scene there are examples of attached garaging to the boundary and projecting in front of dwellings. The setting of the

proposed garage is not therefore inconsistent with the prevailing character of the area. Furthermore due to its position, set back from the front elevation, an impression of greater space is provided to the western side of the dwelling. Consequently no objection is raised to the proposal under Policy H17 RDG2.

RDG3 states that where there is a distinct pattern of development which creates an exceptionally strong building line, development must not result in a disruption to this pattern. It further states that development which would result in excessive overshadowing or dominance to any elevation of an adjoining property will be refused.

The garage would be located towards the western side of the dwelling. The western neighbour is set back a greater distance from the highway than the application dwelling. Therefore whilst the garage would be located towards the rear of its host dwelling it would project partially in front of the western neighbour. However by reason of the hipped roof form of the garage, the limited roof height of the garage, the level of projection in front of the neighbour and the level of isolation achieved between the front and side elevations of the western neighbour to the boundary with the application site it is not considered that the proposal would adversely affect the amenities of the western neighbour to such an extent that a reason for refusal on this basis could be sustained on appeal.

The garage would be situated some 8m from the eastern boundary of the site. At this distance it is not considered that the garage would overshadow or dominate the rear elevation of the eastern neighbour.

All other properties are considered too remote to be adversely affected by overshadowing or dominance. No objection is therefore raised to the proposal under Policy H17 RDG3.

The application dwelling, after the implementation of the proposal, would retain sufficient amenity space to meet the needs of the occupiers and the aims of Policy H17 RDG6.

RDG12 provides guidance on the design of parking, and seeks to ensure that all forms of parking do not dominate the public realm. It also states that access should be safe and convenient for all users, and that the design, size, orientation and location of parking spaces would enable the spaces to be utilised conveniently.

Policy EC2 states that when considering proposals the Council will have regard to the need to ensure that all modes of movement are made safe and convenient.

Policy T8 of the current Local Plan requires off-street parking to be provided in accordance with County parking standards, which require a minimum of two spaces, each having a bay size of 5.5m by 2.9m, to be provided for properties with two or more bedrooms. Garaging will only be considered as part of the provision where they measure 7m by 3m internally. This information is consistent with paragraph 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstance.

The application dwelling requires a minimum of two parking spaces.

The garage measures 6.4m by 2.7m internally which is insufficient to be considered as a valid parking space. However the garage is set back from the roadway by some 12m and there is sufficient hard surfacing to provide two safe and convenient parking spaces, in tandem, on the

driveway between the highway and the garage. This parking provision would not appear overly dominant or prominent within this particular area. No objection is therefore raised to the proposal in respect of Policies H17 RDG12, EC2 and T8 of the adopted Local Plan.

Conclusion

The detached garage is considered to be compliant with national and local policy and guidance and there no sustainable reasons for refusal that can be identified.

My Recommendation is APPROVAL subject to the following conditions:

1 The development hereby approved shall be built wholly in accordance with the approved materials.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

Informative:

1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

AGENDA ITEM NO 6.

Subject: TREE PRESERVATION ORDER 3/2015

Address: LAND AT DOWNER ROAD NORTH, BENFLEET, ESSEX
(ST. PETERS WARD)

Description of Proposal: TREE PRESERVATION ORDER

Officer: ROBERT DAVIS

1. Introduction

- 1.1 This report informs the Committee of the representations received in response to the provisional Tree Preservation Order made on the above land. It is recommended that the Order be **CONFIRMED**.

2 Background

- 2.1 The trees forming the subject of this report are located within an area of Benfleet allocated as Green Belt within the Council's Adopted Local Plan. Residential development abuts the site to the south and west.
- 2.2 The site measures some 1.1 hectares (2.7 acres) in area and became the subject of a Tree Preservation Order on 8th July 1994, reference TPO 4/94. The trees were protected using the 'area' category designation.
- 2.3 An 'area' category Order is a method of protecting individual trees dispersed over an area. Authorities may either protect all trees within an area defined on the Order's map or only those species which it is expedient to protect in the interests of amenity. The area category protects only those trees standing at the time it was made.
- 2.4 In March 2014 the Tree Officer was contacted by one of the interested parties and advised that she wished to tidy up the plot and renew the fencing. A meeting subsequently took place on site to determine if permission was required.
- 2.5 The interested party subsequently confirmed that she would erect a one metre high fence around the perimeter of the land and remove only the smaller understorey growth consisting of immature trees that had developed since the Order was made.
- 2.6 The above works started around May 2014. They caused much consternation amongst local residents who believed that the trees were being removed to facilitate the future development of the land. This resulted in Officers visiting the site on several occasions and a significant exchange of correspondence. The Police attended the site on at least once occasion.
- 2.7 Residents alleged that the individuals responsible for carrying out the tree works did not own the land and should not have been permitted to carry out the works. It was also alleged that the works contravened the Order.

- 2.8 Investigation into the ownership of the land covered by the Order revealed that this was fragmented. There were four different parties with a registered interest and one further parcel of unregistered land.
- 2.9 Three of these parcels of land had a caution lodged against them. Only one interested party had title absolute.
- 2.10 Notwithstanding the above, there is no requirement under the Planning Acts for an individual to own land before carrying out works on it.
- 2.11 The tree works investigated to date do not contravene the Order and would certainly be insufficient to provide any realistic prospect of a conviction if legal action was initiated.

3 Action Taken

- 3.1 Following requests from residents for the area category to be re-designated as woodland the Council commissioned Essex County Council Place Services to undertake a Woodland TEMPO assessment (Woodland Tree Evaluation Method for Preservation Orders) of the site.
- 3.2 However, in the light of the judgement *Palm Developments Ltd v Secretary of State* [2008] this methodology has been withdrawn. Essex County Council Place Services therefore undertook the usual TEMPO assessment.
- 3.3 This assessment concluded that the site was secondary woodland at the later stages of succession, having been scrub for some considerable period of time, with early mature climax trees breaking through the scrub layer.
- 3.4 The ground flora was poor due to the density of the scrub layer and dense covering of ivy and bramble, although the woodland boundaries did provide increased herb diversity.
- 3.5 The site was found to have scored high and within the TEMPO recommendation criteria of 'definitely merits a TPO'.
- 3.6 In the light of this assessment the Council made a new Tree Preservation Order on the 28th August 2015 designating the trees as woodland. Owners and occupiers of the land and neighbours entitled to carry out works to the trees were notified of the Order and advised that if they had an objection or other comments to make their representations had to be received in writing by the Planning Authority no later than the 2nd October 2015.
- 3.7 Site notices were also displayed.

4 The Current Position

- 4.1 Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012, a Tree Preservation Order takes effect provisionally until the expiration of a period of six months or until it is confirmed or the authority decides not to confirm the Order.

- 4.2 If a decision is not made before the end of the Order's provisional period it ceases to have any effect. The new Order therefore needs to be confirmed before the 28th February 2016 if the woodland is to retain its current level of protection.
- 4.3 Should Members decide not to confirm the Order this will mean that only those trees present on the site in 1994, already covered under Tree Preservation Order 4/94, will be protected.
- 4.4 Representations in support of the new Order have been received from the following addresses:
- Downer Road North: 81, 95.
- 4.5 One of these residents advises that he is Chairman of the Downer Road North Committee which has been set up to save the woodland from development.
- 4.6 These representations have raised the following considerations:
- Protection of the Green Belt from development
 - Vital for the survival of butterflies
 - Important in controlling temperature and air quality in towns and cities
 - Mental and physical wellbeing
 - prevention of flooding
 - Keeping the land stable
 - Historic value
 - Climate change
- 4.7 Three representations objecting to the Order have been received from, and on behalf of, the stated owners of the land. These representations have been submitted by way of a letter and a report submitted by Eco-Planning UK.
- 4.8 These representations make the following points:
- Wildlife is minimal and there are no signs of badger setts
 - The site is not well connected to Coombe Wood
 - It is ideal for development and would contribute towards much needed housing in Castle Point
 - The site as a whole is not secondary woodland but plot land with secondary woodland developing to the boundary areas with pioneer scrub still common through the central areas
 - Site is flat and should not be viewed as landscape amenity from any distance
 - Amenity value is restricted to the very outside of the site
 - The TEMPO methodology used by Place Services in assessing the amenity value of the trees is not suitable for whole secondary woodland areas
- 4.9 The Eco-Planning UK report concludes that the amenity of the boundary trees is recognised and that the protection of these areas following discussions with the local authority would be supported.

4.10 Essex County Council Place Services has responded to the objections from Eco-Planning UK by submitting a statement making the following points:

- It is clear that the whole site is in the process of succession (albeit at different stages)
- The stage of succession is irrelevant, existing *and potential* amenity are however a consideration
- Insinuating that pioneer species such hawthorn do not merit protection is not pertinent as they are frequently a composite of secondary woodland
- Species is not relevant when considering whether or not to serve a TPO
- The site is clearly a contiguous group of trees having the potential to form a woodland stand. Complete visibility is not necessary.
- In the absence of any regularly used and industry accepted alternative it is entirely defensible to use TEMPO
- A woodland category should not hinder beneficial woodland management

5 Policy Context

5.1 The site has been promoted by the interested parties for residential development and is included within the Council's SHLAA (Strategic Housing Land Availability Assessment). The local planning authority has a responsibility to consider all such proposals and undertake an appropriate assessment as part of the SHLAA process.

5.2 This is undertaken in accordance with the methodology set out in Planning Practice Guidance and is assessed in terms of availability, achievability and suitability.

5.3 The SHLAA has identified that the suitability of this site for residential development is low, as such development would have significant adverse environmental impacts that would be difficult to mitigate. As a consequence of these environmental constraints the Council has not identified a capacity for this site.

5.4 Going forward, this site will remain in the SHLAA as it has been promoted by the owners. However, unless new evidence is presented which would significantly alter the assessment of suitability it is unlikely that the Council's assessment will change. The site will continue to be listed as having a low suitability, and will continue to be excluded from calculations of capacity.

6 Options available to the Council

6.1 The Council can confirm the provisional Tree Preservation Order, which will protect all trees, including saplings, within the site.

6.2 The Council can decide not to confirm the Order. This will mean that only trees present on the site in 1994 will continue to be protected and immature trees and saplings could be removed without the formal consent of the Planning Authority.

7 Financial, Legal, Human Resource, Equality, IT and Asset Implications

7.1 None.

8 Links to Council's priorities

- 8.1 The recommendation supports the Council's "Environment" priority of "*well maintained parks and open spaces*".

9 Conclusion

- 9.1 The trees at Downer Road North are currently protected by a Tree Preservation Order area classification. This permits smaller immature trees which have grown since 1994 to be removed without the consent of the Council.
- 9.2 Confirming the provisional Tree Preservation Order woodland classification would safeguard the woodland as a whole even if some of the trees may lack individual merit. In addition saplings which grow naturally or are planted after the Order is made would be protected.
- 9.3 A woodland category represents a greater level of protection but should not hinder any future beneficial woodland management of the site.
- 9.4 To protect only the woodland verges as suggested in some of the representations would not be practical. It would be difficult to identify the boundaries of such an Order and any alleged breaches would be almost impossible to enforce.
- 9.5 On balance it is considered that the arguments are weighed in favour of confirming the woodland Order and no fundamental reasons for not doing so have been identified.
- 9.6 As the years go by an increasing number of trees will mature at the site which will not be covered by the existing area Order. Given this fact it is considered expedient to upgrade the site's level of protection.

Recommendation:

That the Committee

1. **CONFIRMS TREE PRESERVATION ORDER 3/2015** in its current form and
2. **REVOKES THE EXISTING TREE PRESERVATION ORDER 4/94** which it would replace.

Background Papers

- July 2015, TEMPO assessment prepared by Place Services, Essex County Council
- 07 September 2015, Letter of support from Keith Little, 81 Downer Road North, Benfleet
- 17 September 2015, Letter of support from D J Grice (Mrs), 95 Downer Road North, Benfleet
- 27 September 2015, Letter of support from D J Grice (Mrs), 95 Downer Road North, Benfleet
- 30 September 2015, Formal objection from Eco-Planning UK on behalf of Mr A J Bush and Mrs S McCave via Brian Davison Associates
- 01 October 2015, Letter of objection from Mick Nevard of 11 Alexander Close, Hayes, Bromley
- 13 October 2015, Rebuttal letter from Dominic Poston, Natural Environment Manager, Place Services, Essex County Council