

Rochford District Council Planning Dept

For the attention of Mr Stranks

Date: 20.3.12

RE: PLANNING APPLICATION NO: 12/00094/FUL

I/We object to the above planning application for the following reasons: .

B2 Class/Long-term Lack of Activity at the Site

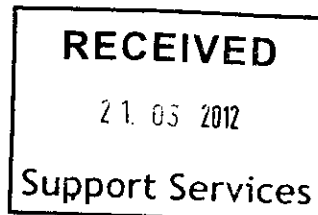
The application incorporates a requirement for additional B2 use within the northern building and on adjoining land for use of Car Repair/Dismantling Breakers & Parts Export. Upon review of previous approved applications, the site has been designated "sui generis" (of no specific class) and has to our knowledge never been given B2 classification (general industrial) for any part of this site. I would like to contend the use recognised in the Certificate of Lawfulness awarded by Rochford District Council in 2011. I believe that it should be revoked. The site has no history of any B2 class operations. It should be noted that planning permission was originally granted in 1964, stating 'The site is outside any area where industrial development would ordinarily be permitted. Consent is granted exceptionally here due to the need for salt water.' The development was in the opinion of the Planning Authority sui generis as the time of granting consent.

Although it is hard to be specific, the applicant concedes that use ceased circa 1984. The application to convert the fish processing plant into a boat yard was granted in 1999 through application 99/00339/COU. Again the exceptional nature of the development was acknowledged, a proximity to water required for a boat yard being a prerequisite of such a development. Again, at the time the consent was granted the development was in the opinion of the Planning Authority sui generis.

In 2004, the application was resubmitted due to the no business operation having been undertaken within the 5 year period granted within the 99/00339/COU application.

The Certificate of Lawfulness was granted on the assumption that Condition 3 of the 99/00339/COU application was discharged due to the completion of the 5metre wide access drive way before September 29th 2004. I would contend that this condition has not been fully met; the requirement for a 5 metre access drive was to ensure safe access along the Public Bridleway, this specific length of the access drive is still to this day approximately 3.1m wide, and has not been surfaced with MOT type 1 sub base. Although receipts can be produced to evidence the purchase of the material, a simple inspection of the site (Which I understand was not undertaken by the planning authority) would reveal that the surfacing undertaken was within the yard and upon the length of driveway not permissible for public access. Therefore although construction of the driveway commenced at an earlier date, the driveway was never completed in accordance with condition 3 of planning application 99/00339/COU.

In the period since 1984, it is acknowledged by the applicant (the 2011 application for certificate of lawfulness) that use has been limited to a short period in 2008 for the sale of boats. This short period of use, in a 28 year time span of inactivity and abandonment does not constitute continuous use. There is also evidence of an intervening change of use which might be material for planning purposes that is use of the building as storage by the previous owners business as a builder.



On granting permissions for previous applications at this site the planning authority have specifically considered the development exceptional, but within the keeping of the character of the area. A general B2 class use is not in the spirit of the original permissions, nor would it allow any control of the character and visual impact of B2 class use.

Traffic Generation

We are of the opinion that the proposal will give rise to an intensification of use of the site in a remote location giving rise to increased traffic on a remote dead end road distant from the highway network contrary to Policy T1 of the Rochford District Council Core Strategy). It is also our opinion that if this is allowed, the proposal would result in increased pressure on the main Fambridge Road to the detriment of residential amenity of residents adjoining and near to the proposed site, as there is no alternative regular public transport service along the road to the village, which is the only access route to and from the village. Fambridge Road is inadequate to provide regular access egress and manoeuvring for the large lorry vehicles required to attend the proposed premises. If allowed, the proposal would give rise to vehicle conflict in Fambridge Road between such lorries attempting to access the site and domestic cars and vehicles servicing the existing properties/river bearing in mind the inadequate road structure and lack of lighting, lack of paving for pedestrians and restricted width. Such additional vehicle activities would also restrict movement within the heart of the village.

Noise/ Disturbance Pollution - Impact on the Rural Landscape and Recreational Enjoyment.

It is our opinion that the proposed site is inappropriate in its setting, causing harm by reason of its industrial nature and appearance to the character of the Countryside, Special Landscape Area and Coastal Protection Area/Belt. This would have an impact adversely upon the appearance of the Roach and Crouch Marshes Special Landscaped Area and impact adversely upon the undeveloped coastal areas within the Coastal Protection Belt.

The risk of environmental pollution must be considered on the basis of the premises being on a flood plain and the risk of run off pollution to the surrounding land and borrow dyke which in the plans submitted is referred to as a "pond". We understand that there is currently designated polluted land within the immediate area surrounding the village due to historical lapse of planning control and this must be considered.

It is our opinion that this proposal will have a negative impact on the environment, ecosystems, wildlife conservation and habitat, both in terms of Light and noise pollution as a result of increased traffic, the use of forklift trucks, on site, despite the proposed use of an exhaust silencer and the general daily activity expected with a business of this nature. Such impact has been well researched by conservationists and has been well documented. The open environment and direction of wind carries noise a vast distance. There has been a recent sighting Wryneck bird at South Fambridge which is no longer a species of the British Isles and has caused a great interest. There are regular sightings of newts, barn owls and bats and many more species. This will also affect the enjoyment of residents and visitors who currently experience a tranquil and rural environment. In accordance with PPS9 (Circular 06/05):

'It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted... developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place...before the permission is granted.'

The surrounding area to the site consists of semi-natural habitat, and there are several water bodies in close proximity with a reasonable likelihood of protected species being present (There are records of Great Crested Newts, Water Voles and all four species of common reptile within the proximity of the site), and being affected by the proposed development. Therefore it is requested that the applicants arrange for a survey to be undertaken to ensure that the planning application can be determined with all material considerations being represented.

The information on the status of protected species and priority biodiversity species upon the proposed development site being is incomplete; without further survey work, a decision may be in direct breach of Regulation 3(4) of the Habitats Directive.

Flood Risk & Coastal Change

The site is located within a flood risk area – Zone 3. This is contrary to the statement made by the applicant, it should also be noted that no flood risk assessment has been submitted, contrary to PPG25.

The Policy ENV3 of the Rochford Core Strategy states:

‘The council will direct development away from areas of flooding by applying the sequential test and, where necessary, the exceptions test as per PPS25... proposed development on previously developed land within Flood Zone 3 will be permitted if it enables a contribution towards the District housing requirement...’

It should be noted that suitable B2 class is vacant within industrial estates such as Eldon Way that would not be at risk from flooding. I do not believe the sequential test can be satisfied. It should be noted that the proposal will not contribute to the housing requirement of the district. Due to the potential storage of Hazardous Substances upon the site, under PPS25, a highly Vulnerable site cannot have an exception test applied as outlined in PPS25, and hence development would not be permitted.

The Development would also be also be contrary to the PPG25 supplement which states:

- (i) avoiding inappropriate development in areas that are vulnerable to coastal change or any development that adds to the impacts of physical changes to the coast, and
- (ii) directing development away from areas vulnerable to coastal change.

It would be also be contrary to Policy ENV2 of the Rochford Core Strategy where the council will:

‘..... Not permit development in coastal areas which are at risk from flooding..’

Amenity and Rural Character/The Local Development Framework Core Strategy – Relevant Extracts

PPG2 provides Government advice with regard to the provision and safeguarding of Green Belts. There is a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances (shown in paragraphs 3.2, 3.8 and 3.11 and 3.12 of PPG2). Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and harm, is clearly outweighed by other considerations.

With regard to the amenity of the Green Belt, the erection of the proposed screening by its very presence will give rise to a general loss of openness of the Green Belt. The storage of vehicles will be visible from the public footpath that is elevated above the proposed development, and would result in a further detraction in the rural character and amenity value. The development would be visible from the wider area and the river Crouch which would impact adversely upon the character and openness of the Metropolitan Green Belt contrary to Policy GB1. It would impact adversely upon the appearance of the Roach and Crouch Marshes Coastal Protection Belt contrary to Policy ENV2 of the Rochford Core Strategy; and contrary to Policy CC1 of the Essex and Southend-on-Sea Replacement Structure Plan.

Policy set out in Planning Policy Guidance 2: Green Belts (1995) states that with suitable safeguards the re-use of buildings inside a Green Belt is not inappropriate development provided it does not have a materially greater impact than the present use on the openness of the Green Belt, strict control is exercised over the extension of re-used buildings and over any associated uses of land surrounding buildings which might conflict with openness (such as extensive storage, car parking and boundary walling) and that the buildings are of substantial construction capable of conversion and that the general design of the buildings are appropriate in their surroundings.

This is further supported by Policy GB2 of the Rochford Core Strategy which states:

“ Forms of rural diversification may be considered acceptable in appropriate circumstances in the Green Belt include: - Conversion of existing buildings for small-scale employment use.... In considering proposals for the above, issues pertaining to the purposes of the Green Belt and wider sustainability issues will be assessed...”

This statement is further qualified by :

11.28- “old poorly located “bad neighbour” industrial estates have been relocated for fit for purpose sites in sustainable locations which meet the need of businesses and benefits residential amenity”

And further,

11.29 -“The Council will consider the location and condition of existing industrial estates and will provide the creation of new employment areas in more sustainable locations, The Council will encourage the relocation of existing “bad neighbour” uses to more appropriate locations”.

Although it is recognised the particular significant weight needed to be given to secure economic growth and employment as stated in policy GB1 of the Rochford Core Strategy. These considerations do not however outweigh the harm to the Green Belt to which significant weight must also be attached. Furthermore, the location of the site is not considered a sustainable location given its remoteness from the main highway network. It should be noted that there are no exceptional circumstances as to why the business should be at this location, and development can in this case be practicably directed away to the many suitable industrial units that are available within the district that would provide a more suitable setting.

The application is not supported by an acoustic report assessing the site's suitability for B2 use.

It should be note that the 99/00339/COU application for boatyard was granted with particular conditions:

‘No wall fence or gate or other means of enclosure shall be erected to the sites boundaries, or anywhere within the sites boundaries.. To prevent the erection of means of enclosure which might be injurious to the character and amenities of this rural area.’

And further,

‘With the exception of storage boats and a small mobile crane no storage of external of any items, goods, plant, machinery, articles, or other materials shall take place anywhere on the site without the prior written consent of the planning authority. In order to control the appearance of the site, in the visual interests of the area’

The rural character of the area has not changed since the time of the ‘99 application, the rationale behind these conditions is still as relevant today, if not more so. The Public Right of Way provide one of few access points onto the River Crouch, and serves a valued amenity and open-space provision that is well used by those within the village and surrounding areas, and has become increasing well-used in recent years.

Environmental Risk

The site is located within a flood risk area and no flood risk assessment has been submitted, contrary to PPG25.

According to PPS23 the following matters (not in any order of importance) should be considered in the preparation of development plan documents, and may also be material in the consideration of individual planning applications where pollution considerations arise:

- the possible impact of potentially polluting development (both direct and indirect) on land use, including effects on health, the natural environment or general amenity;
- the potential sensitivity of the area to adverse effects from pollution, in particular reflected in landscape, the quality of soil, air, and ground and surface waters, nature conservation (including Sites of Special Scientific Interest (SSSIs), National Parks, Areas of Outstanding Natural Beauty (AONBs), Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Wetland of International Importance (RAMSAR sites), agricultural land quality, water supply (Source Protection), the possible adverse impacts on water quality and the impact of any possible discharge of effluent or leachates which may pose a threat to surface or underground water resources directly or indirectly through surrounding soils;

The application proposes the storing of vehicles upon an area of pervious hard-standing that would act as a soak-away. There is a significant risk of the leaching, and wash-down through flooding, of Hazardous Chemicals into the adjacent water system. The chemicals would be mainly hydrocarbons; glycol-based fluids; (used in brake fluids); and solvents. The River Crouch, and the neighbouring Burrow dyke are both approximately 40 metres away from the proposed development. These areas are both part of the Crouch & Roach Estuaries - Special Protected Area; Special Area of Conservation; Special Site of Scientific Interest; and RAMSAR site.

The application has not acknowledged any of 4 Statutory Conservation Designations or that the brake fluid and oils are a potential Hazardous Chemical. There has not been any evidence of consideration being given to the impact of the proposal upon the adjacent internationally significant conservation site. In particular, the burrow dykes with little ability for the dispersal of pollutants would be particularly at risk should a pollution incident occur.

There also is a further risk of pollution from the outfall from the septic tank of the private sewer, no use as such of this sewer has occurred in approximately 28 years, the impact from the effluent of 10 staff and visiting customers must be given consideration.

It should also be noted that the waters are a designated Shellfish Waters, and therefore the storage of hydrocarbons and possibility of raw effluent polluting the water body should also be treated with extreme caution.

Planning Policy Statement 9: Biodiversity and Geological Conservation states that 'The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm.'

PPS9 (Circular 06/05) states, when outlining the response to site on international importance for conservation:

'If the decision-taker is unable to conclude that the proposed development will not adversely affect the integrity of the site, and this effect, or possible effect, will not be removed by conditions or other restrictions, they must not grant planning permission.....'

The application is therefore directly contrary to PPS9 and Policy ENV1 of Rochford Core Policy, and may risk the breaching of Regulation 49 of the Habitats Directive should the application be granted.

The application if approved would be contrary to the 'The precautionary principle' as outlined in PPS23. The precautionary principle should be invoked when:

'there is good reason to believe that harmful effects may occur to human, animal or plant health, or to the environment;'

Although the levels of Hazardous leachates cannot be quantified, there is sufficient reason to apply the precautionary principle in this case.

Access and Condition of Unmade Road to Site

The proposed site has shared access with a Public Right of Way , Bridal Path 13 and access and ferry rights to the River Crouch owned by the Ferry House (Grade 11 listed). Regular use by ramblers, dog walkers, fishermen and horse riders will be endangered as the track is of restricted width and will be shared with huge vehicles entering the premises.

The access width does not enable two vehicles to pass on this stretch at any given time and this will also lead to vehicles blocking the main Fambridge Road or access to the river via the public right of ways. The track is unmade and is of insufficient construction to carry such heavy vehicles on a regular basis and is in breach of existing planning controls.

The gate at the entrance to the track is locked and under the authority of the environment agency and we have been advised that this gate must remain locked at all times except for access. The stretch of road leading down the hill to the entrance of the proposed site is not maintained in bad weather by the Council and early morning use of the vehicles to the proposed site may cause a danger especially from ice which is frequent given our rural location on the River Crouch.

Loss of Privacy

In our opinion, the installation of any CCTV cameras will have a negative impact on residents within the immediate area which will result in the loss of privacy bearing in mind several properties overlook the premises .

Ashington Primary Academy

The proposal would give the rise to increased danger with regards to traffic passing the entrance to the said school which at present caters for the education of 283 school children which age between 4 and 11. A crossing supervisor is responsible for crossing young children on three roads at the entrance of Fambridge Road. There is also hidden danger as this access is also a dedicated bus stop and waiting zone which partially blocks the exit of Fambridge Road on a daily basis. The Fambridge Road also has a speed limit of 60 MPH which starts very near the location of the school.

Adverse Conditions Affecting Fambridge Road

The weather conditions experienced in the vicinity of South Fambridge as a result of the rural environment poses its own problems such as dense fog, black ice and surface water causing flooding due to run off from the adjoining fields and lack of drainage. The only access road floods regularly in the winter months or after heavy periods of rain (all seasons).

Oil Recovery Tanks

The installation of oil recovery tanks is a health and safety concern. With such tanks being on the proposed site, the need for a fire assessment from the Fire Authority would need to be considered in respect of gaining access to the proposed site and any evacuation which will be necessary in the event of fire or explosion. We feel that the security

gate which must remain locked at all times (Environment Agency requirement) could result in delayed attendance by the emergency services and therefore increase the danger to nearby residents.

History of South Farnbridge

The historical importance of South Farnbridge and surrounding area is of great interest to its residents and visitors. It is Britain's first dedicated airfield which encompassed the development of the spitfire which has been officially recognised with a monument to commemorate the centenary. As a community, it is important to embrace the history of the village and not allow for any inappropriate development of an industrial nature that will adversely affect its identity and historical footprint.

SUMMARY

The lack of information submitted by the applicant means all material considerations that may determine the outcome of the planning application have not been presented. Information required consists of: An Environmental Statement identifying the likely impact of the development upon the ecology and environment of the areas, and outlining and possible mitigation if required; and an acoustic report providing comprehensive details of a scheme of noise control measures; A Flood Risk Assessment is also required.

There are a number of inaccuracies submitted within the application. The development is within zone 3 flood risk; adjacent to statutory conservation designations; and will handle Hazardous Chemicals. None of these have been stated in the application.

Conditions of the 99/ application have not been met and therefore the certificate of lawfulness should not stand. The site has effectively been abandoned since 1984, with little significant activity occurring since that date that could constitute industrial activity.

The proposal would have significant environmental and amenity impacts, in an area of high ecological and visual sensitivity. The remoteness of the site, its risk of flooding and coastal change suggest that this is not a site sustainable for development.

Should Members be minded to approve the application, the following conditions should be attached to any consent granted:

1. Prior to the commencement of any use hereby permitted, an acoustic report providing comprehensive details of a scheme of noise control measures, including the construction of acoustic enclosures and/or sound insulation of building envelopes where necessary, shall be submitted to and agreed in writing by the local planning authority. Such agreed measures and works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form whilst the premises are in use for the permitted purpose.

2. The use hereby permitted shall not take place, no plant/machinery shall be operated and no deliveries shall be taken at, or dispatched from the site outside the hours of 0800 to 1800 hrs Monday to Friday, 0800 to 1300 hrs Saturday, nor at any time on Sundays, Bank or Public Holidays

3. That further survey work for protected species as outlined in PPS9 prior to any development work or preparation of the site. Should protected species be recorded upon site, then further to the above:

- i) works do not commence until the appropriate Protected Species Licence is acquired from DEFRA.
- ii) that works do not commence without submission of a detailed mitigation method statement to Rochford District Council, and the subsequent written approval from Rochford District Council for the mitigation statement.

4. As per condition 3 of the 99/application a 5 metre surfaces access track should be provided from the proposed development to the main highway.

5. All works are to be undertaken within building,, no vehicles are to be stored in the yard, vehicles must be stored in building at all times, this is the interests of visual amenity, and reduction to noise and water pollution.

6. That no screening of the site can occur due the impact upon the open character of the costal belt.

7. That any permissions granted are 'sui generis' so as to ensure that any future changes would constitute further consideration of the impact of that development upon the locality.

Yours sincerely



Signature: