

# Committee Agenda



**Epping Forest  
District Council**

## **Area Plans Subcommittee C Wednesday, 19th October, 2005**

**Place:** Civic Offices, Epping

**Room:** Council Chamber

**Time:** 7.30 pm

**Democratic Services Officer** Gary Woodhall, Research and Democratic Services  
Tel: 01992 564470 Email: gwoodhall@eppingforestdc.gov.uk

Members:

Councillors K Wright (Chairman), R Morgan (Vice-Chairman), Mrs D Collins, P Gode, Mrs H Harding, D Jacobs, D Kelly and Mrs M McEwen

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**A BRIEFING FOR THE CHAIRMAN, VICE-CHAIRMAN AND APPOINTED SPOKESPERSONS WILL BE HELD AT 6.30 P.M. IN COMMITTEE ROOM 1 ON THE DAY OF THE SUB-COMMITTEE.**

**1. ADVICE TO PUBLIC AND SPEAKERS AT COUNCIL PLANNING SUBCOMMITTEES (Pages 5 - 6)**

General advice to people attending the meeting is attached.

**2. MINUTES (Pages 7 - 12)**

To confirm the minutes of the last meeting of the Sub-Committee.

**3. APOLOGIES FOR ABSENCE**

**4. DECLARATIONS OF INTEREST**

(Head of Research and Democratic Services) To declare interests in any item on this agenda.

**5. ANY OTHER BUSINESS**

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs 6 and 25 of the Council Procedure Rules contained in the Constitution requires that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order 6 (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks' notice of non-urgent items is required.

**6. DEVELOPMENT CONTROL (Pages 13 - 50)**

(Head of Planning and Economic Development) To consider planning applications as set out in the attached schedule

**Background Papers:** (i) Applications for determination – applications listed on the schedule, letters of representation received regarding the applications which are summarised on the schedule. (ii) Enforcement of Planning Control – the reports of officers inspecting the properties listed on the schedule in respect of which consideration is to be given to the enforcement of planning control.

**7. DELEGATED DECISIONS**

(Head of Planning and Economic Development) Schedules of planning applications determined by the Head of Planning and Economic Development under delegated powers since the last meeting of a Plans Subcommittee may be inspected in the Members Room or at the Planning and Economic Development Information Desk at the Civic Offices, Epping.

**8. EXCLUSION OF PUBLIC AND PRESS**

To consider whether, under Section 100(A)(4) of the Local Government Act 1972, the public and press should be excluded from the meeting for the items of business set out below on grounds that they will involve the likely disclosure of exempt information as defined in the paragraph(s) of Part 1 of Schedule 12A of the Act indicated:

<b>Agenda Item No</b>	<b>Subject</b>	<b>Exempt Information Paragraph Number</b>
Nil	Nil	Nil

To resolve that the press and public be excluded from the meeting during the consideration of the following items which are confidential under Section 100(A)(2) of the Local Government Act 1972:

<b>Agenda Item No</b>	<b>Subject</b>
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Nil

Nil

Paragraph 9 of the Council Procedure Rules contained in the Constitution require:

- (1) All business of the Council requiring to be transacted in the presence of the press and public to be completed by 10.00 p.m. at the latest.
- (2) At the time appointed under (1) above, the Chairman shall permit the completion of debate on any item still under consideration, and at his or her discretion, any other remaining business whereupon the Council shall proceed to exclude the public and press.
- (3) Any public business remaining to be dealt with shall be deferred until after the completion of the private part of the meeting, including items submitted for report rather than decision.

**Background Papers:** Paragraph 8 of the Access to Information Procedure Rules of the Constitution define background papers as being documents relating to the subject matter of the report which in the Proper Officer's opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) have been relied on to a material extent in preparing the report does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of executive reports, the advice of any political advisor.

Inspection of background papers may be arranged by contacting the officer responsible for the item.

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## **Advice to Public and Speakers at Council Planning Subcommittees**

### **Are the meetings open to the public?**

Yes all our meetings are open for you to attend. Only in special circumstances are the public excluded.

### **When and where is the meeting?**

Details of the location, date and time of the meeting are shown at the top of the front page of the agenda along with the details of the contact officer and members of the Subcommittee. A map showing the venue will be attached to the agenda.

### **Can I speak?**

If you wish to speak **you must register with Democratic Services by 4.00 p.m. on the day before the meeting**. Ring the number shown on the top of the front page of the agenda. Speaking to a Planning Officer will not register you to speak, you must register with Democratic Service. Speakers are not permitted on Planning Enforcement or legal issues.

### **Who can speak?**

Three classes of speakers are allowed: One objector (maybe on behalf of a group), the local Parish or Town Council and the Applicant or his/her agent.

### **What can I say?**

You will be allowed to have your say about the application but you must bear in mind that you are limited to three minutes and if you are not present by the time your item is considered, the Subcommittee will determine the application in your absence.

### **Can I give the Councillors more information about my application or my objection?**

**Yes you can but it must not be presented at the meeting.** If you wish to send further information to Councillors, their contact details can be obtained through Democratic Services or our website [www.eppingforestdc.gov.uk](http://www.eppingforestdc.gov.uk). Any information sent to Councillors should be copied to the Planning Officer dealing with your application.

### **How are the applications considered?**

The Subcommittee will consider applications in the agenda order. On each case they will listen to an outline of the application by the Planning Officer. They will then hear any speakers presentations. The order of speaking will be (1) Objector, (2) Parish/Town Council, then (3) Applicant or his/her agent. The Subcommittee will then debate the application and vote on either the recommendations of officers in the agenda or a proposal made by the Subcommittee. Should the Subcommittee propose to follow a course of action different to officer recommendation, they are required to give their reasons for doing so.

The Subcommittee cannot grant any application, which is contrary to Local or Structure Plan Policy. In this case the application would stand referred to the next meeting of the District Development Control Committee.

### **Further Information?**

Can be obtained through Democratic Services or our leaflet 'Your Choice, Your Voice'

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## EPPING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

**Committee:** Area Plans Subcommittee C                      **Date:** 21 September 2005

**Place:** Civic Offices, Epping                                      **Time:** 7.30 - 9.10 pm

**Members Present:** K Wright (Chairman), Mrs D Collins, P Gode, Mrs H Harding, D Jacobs and Mrs M McEwen

**Other Councillors:** (none)

**Apologies:** R Morgan and D Kelly

**Officers Present:** R Bintley (Principal Planning Officer), C Neilan (Conservation Officer) and G J Woodhall (Democratic Services Assistant)

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### 27. WELCOME AND INTRODUCTION

The Chairman welcomed members of the public to the meeting and outlined the procedures and arrangements adopted by the Council to enable persons to address the Sub-Committee, in relation to the determination of applications for planning permission. The Sub-Committee noted the advice provided for the public and speakers in attendance at Council Planning Sub-Committee meetings.

### 28. MINUTES

#### RESOLVED:

That the minutes of the meeting held on 24 August 2005 be taken as read and signed by the Chairman as a correct record.

### 29. DECLARATIONS OF INTEREST

(a) Pursuant to the Council's Code of Member Conduct, Councillor K Wright declared a personal interest in the following item of the agenda, by virtue of being a personal friend of the Objector. The Councillor had determined that his interest was prejudicial and would leave the meeting for the consideration of the application and voting thereon:

- TRE/EPF/794/05 – Torrells Hall Cottages, Shellow Road, Willingale.

(b) Pursuant to the Council's Code of Member Conduct, Councillor D Jacobs declared a personal interest in the following item of the agenda, by virtue of the Objector being known to the Councillor. The Councillor had determined that his interest was not prejudicial and would remain in the meeting for the consideration of the application and voting thereon:

- TRE/EPF/794/05 – Torrells Hall Cottages, Shellow Road, Willingale.

(c) Pursuant to the Council's Code of Member Conduct, Councillors K Wright, P Gode and D Jacobs declared a personal interest in the following item of the agenda, by virtue of being members of Ongar Parish Council. The Councillors had determined that their interest was not prejudicial and would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1480/04 – Ongar Motors & Transport Co, The Borough, Greensted Road, Ongar.

(d) Pursuant to the Council's Code of Member Conduct, Councillor Mrs D Collins declared a personal interest in the following item of the agenda, by virtue of being the Chairman of the Epping Forest Primary Care Trust. The Councillor had determined that her interest was not prejudicial and would remain in the meeting for the consideration of the application and voting thereon:

- EPF/1480/04 – Ongar Motors & Transport Co, The Borough, Greensted Road, Ongar.

**30. ANY OTHER BUSINESS**

It was noted that there was no other urgent business for consideration by the Sub-Committee.

**31. VICE-CHAIRMAN**

The Chairman reported that, in the absence of the Vice-Chairman, he would be seeking a nomination for a member of the Sub-Committee to act as Vice-Chairman for the duration of the meeting.

**RESOLVED:**

That Councillor P Gode be appointed Vice-Chairman for the duration of the meeting.

**32. DEVELOPMENT CONTROL**

The Sub-Committee considered a schedule of applications for planning permission.

**RESOLVED:**

That the planning applications numbered 1 – 4 be determined as set out in the attached schedule to these minutes.

**33. DELEGATED DECISIONS**

The Sub-Committee noted that schedules of planning applications determined by the Head of Planning and Economic Development under delegated authority since the last meeting had been circulated and could be inspected at the Civic Offices.

**CHAIRMAN**



**1. APPLICATION No:** TRE/EPF/0794/05

**PARISH:** Willingale

**SITE ADDRESS:**

TORRELLS HALL COTTAGES, SHELOW ROAD, WILLINGALE

**DESCRIPTION OF PROPOSAL:**

TPO/1/92: Western Section of Poplar Avenue: Fell and replace.  
(25 trees).

**DEFERRED** for members site visit.

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**2. APPLICATION No:** EPF/1480/04

**PARISH:** Ongar

**SITE ADDRESS:**

ONGAR MOTORS & TRANSPORT CO, THE BOROUGH, GREENSTED ROAD,  
ONGAR

**DESCRIPTION OF PROPOSAL:**

Erection of medical and day care centre with associated parking facilities.

**REFERRED to development committee with recommendation to approve.**

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**3. APPLICATION No:** EPF/1313/05

**PARISH:** Stapleford Tawney

**SITE ADDRESS:**

OS PARCEL 0002, BIRCHFIELD, STAPLEFORD TAWNEY

**DESCRIPTION OF PROPOSAL:**

Use of agricultural land as a private traveller site providing 16 pitches (Retrospective application).

**REFUSED:**

1. The site is within the Metropolitan Green Belt and the use of the land to provide a private gypsy caravan site is inappropriate development that is by definition harmful to the Green Belt. Moreover due to the scale of the proposal, it retention of made ground over the land, the stationing of caravans and vehicles, erection of ancillary structures and means of enclosure together with the normal everyday activities of people living on the land and the proposal would cause significant harm to the openness of the Green Belt and only serve to perpetuate the acknowledged harm caused by the existing lawful use and undermine the purposes of including the land in the Green Belt. It has not been demonstrated that very special circumstances sufficient to overcome this harm exist in this particular case. Accordingly the proposal is contrary to policies CS2, CS4, C2 and H6 of the Essex and & Southend on Sea Replacement Structure

Plan, adopted April 2001 and to policies GB2 and H11 of the Epping Forest District Local Plan, adopted January 1998.

2. Due to the scale of the proposal, its retention of made ground over the land, the stationing of caravans and vehicles, erection of ancillary structures and means of enclosure it would fail to respect its landscape setting and cause permanent damage to the character of the landscape. Accordingly, the proposal is contrary to policy NR1 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001 and policy LL2 of the Epping Forest District Local Plan, adopted January 1998.
3. The access to the site does not enable those vehicles turning left into the site to do so without crossing the centre line of Epping Lane while the proposal would cause an increase in traffic above that generated by the lawful use of the site to the west along Epping Lane. This would perpetuate a hazard to road safety caused by the existing unlawful use of the land. Accordingly the proposal is contrary to policy T3 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001 and policy T17 of the Epping Forest District Local Plan, adopted January 1998.
4. Insufficient information has been provided to demonstrate whether the risk to the development by flooding is acceptable and whether the impact of the development on the risk of flooding of adjacent land is acceptable. Accordingly, the proposal is contrary to policy NR12 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001 and policy U2 of the Epping Forest District Local Plan, adopted January 1998.
5. The existing means of disposal of sewage effluent is unsatisfactory and in the absence of any acceptable alternative proposals for the disposal of sewage effluent the proposal is likely to result in an unacceptable risk of pollution to the water environment. In addition, the existing use of the land has resulted in a number of diesel spillages/leakages and the proposal is likely to result in more similar contamination that poses a risk to the environment. Accordingly, the proposal is contrary to policy NR12 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001 and policy RP3 of the Epping Forest District Local Plan, adopted January 1998.
6. The site is situated in a remote rural landscape and is not actually accessible to local services, shops or schools by any other form of transport than private car. The proposal therefore conflicts with the sustainability aims of policy T3 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001.
7. The site is exposed to high noise levels from traffic using the adjacent motorway placing it in Noise Exposure Category C. The site is therefore considered to have poor living environment where it would not be appropriate to allow a residential development unless there is special justification for it. In view of reasons of 1 to 6 above and since no

reasonable steps have been taken to find an alternative site there is no justification for allowing the proposed development on this site. Accordingly, the proposal is contrary to policy BE6 of the Essex & Southend on Sea Replacement Structure Plan, adopted April 2001 and policy RP5 of the Epping Forest District Local Plan, adopted January 1998.

8. In view of reasons 1, 2, 3 and 7 above the proposal fails to comply with criterion c, d and e referred to the supporting text for policy H11 of the Epping Forest District Local Plan, adopted January 1998. Moreover, there are no special circumstances that would justify making an exception to Green Belt policies of restraint and the proposal would cause harm to the openness of the Green Belt and the character of the countryside. The proposal therefore conflicts with policy H11.

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**4. APPLICATION No:** EPF/1224/05

**PARISH:** Theydon Mount

**SITE ADDRESS:**

HIGH WARREN, MOUNT END, THEYDON MOUNT

**DESCRIPTION OF PROPOSAL:**

Two storey side extension (Revised application).

**REFUSED:**

1. The site is located within the Metropolitan Green Belt. The proposed development is at odds with Government advice, the policies of the adopted Local Plan and approved Essex Structure Plan, in that it does not constitute a reasonable extension to an existing dwelling. Thus this application is unacceptable, because the proposed extension by reason of its size and scale would result in a disproportionate addition and furthermore it would be dominant and intrusive in the surrounding area; and the dwelling has accommodation which meets contemporary living standards. If approved it would set a dangerous precedent for other disproportionate extensions.

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## AREA PLANS SUB-COMMITTEE 'C'

19 October 2005

### INDEX OF PLANNING APPLICATIONS/ENFORCEMENT CASES

ITEM	REFERENCE	SITE LOCATION	OFFICER RECOMMENDATION	PAGE
1.	TRE/EPF/794/05	Torrells Hall Cottages, Shellow Road, Willingale	Grant	15
2.	EPF/1330/05	Haque Empire, Ongar Road, Fyfield	Refuse	25
3.	EPF/1312/05	Ashlyns Organic Farm Shop, Epping Road, Bobbingworth	Refuse	34
4.	EPF/1320/05	Ashlyns Organic Farm Shop, Epping Road, Bobbingworth	Grant	39
5.	EPF/764/05	Highlands Farm, Old Rectory Road, Stanford Rivers	Grant	44

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**APPLICATION No:** TRE/EPF/794/05

Report Item No: 1

**SITE ADDRESS:**

TORRELLS HALL COTTAGES, SHELOW ROAD, WILLINGALE

**PARISH:** Willingale

**APPLICANT:** Mr B Swayne - Smiths Gore

**DESCRIPTION OF PROPOSAL:**

TPO 1/92; Western Section of Poplar Avenue: Fell and replace.  
(25 trees)

**RECOMMENDED DECISION: Grant Permission**

1. 20 replacement small leaved Limes (*Tilia Cordata*) minimum 16-18 girth, shall be planted in positions to be agreed by the Local Planning Authority within one month of the felling hereby agreed, unless varied with the written agreement of the Local Planning Authority. If within a period of five years from the date of planting any replacement tree is removed, uprooted, destroyed, dies or becomes seriously damaged and defective another tree of the same species and size of that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

It is FURTHER RECOMMENDED that the avenue be CERTIFIED as having special amenity value, by virtue of its location and visual importance and in particular its relationship to Torrells Hall.

This application was deferred at the previous meeting for a site inspection, which took place on 30 September. The application is now presented again for determination.

**Description of Proposal:**

Felling of southern section of avenue (25 trees). Replacement with 14 trees or different species (small leaved lime).

**Description of Site:**

Torrells Chase is the drive to Torrells Hall, approximately 1 mile east of Willingale Village north of the Shellow Road. Torrells Hall is a Grade II\* Listed Building and the avenue serves as an important "signifier" of its presence, set back from the road. The first section of Torrells Chase is lined

with what were originally workers cottages, in pairs, now largely sold off and converted to private dwellings.

The trees stand in the 90m length outside the several cottages; the northern section is unaffected by the application.

#### Relevant History:

TPO/EPF/1/92 was made in January 1992 to protect the avenue.

TPO/EPF/41/95 - Application to reduce crowns of 23 poplars (i.e. the application trees, minus 2 trees to the north) - granted February 1996 subject to conditions.

29 July 2004 - Application to fell 5 poplars on land adjacent to The Lodge, Torrells Hall, Willingale rejected as invalid: lack of supporting information.

24 January 2005 - Application received to fell 4 trees adjacent to 2 Torrells Hall Cottages (application by representatives of owners of property); also considered invalid, lack of evidence.

#### Policies Applied:

LL9: the Council will not give consent to fell a tree...protected by Tree Preservation Order unless it is satisfied that this is necessary and justified...any such consent will be conditional on appropriate replacement of tree.

#### Issues and Considerations:

##### Introduction

The basis of consideration of the application has been a number of site meetings with agents for the current owners (the land having passed from the Co-op Farm to a private trust). Two applications dealing with particular properties and particular trees have been taken into account insofar as the information (though not complete) is relevant to the current application.

The applicant has submitted information provided by an arboriculturist and an engineer. The Council has tested the engineering information with a specialist consultant. Apart from representations by neighbours, summarised in the agenda a report by an independent consultant acting for one of the neighbours has also been submitted and has been considered in a drafting of the report. This is also summarized below.

The issues concern not only damage to the buildings, whether it has happened, whether it is the fault of the trees and whether it can be cured by other means etc. but also what is the best landscape solution over the medium and long term in this



location.

## Issues

It is suggested that the following are the key issues to be considered:

1. What is the value of the trees in the local landscape?
2. What is the potential life expectancy of the avenue?
3. What degree of future risk to the adjacent buildings does the avenue pose?
4. Are there contraindications to felling (e.g. heave)?
5. Are there alternative solutions other than felling?
6. What weight should be given to the replanting proposals and are the details adequate?
7. Should the avenue be certified as having special or outstanding amenity value?

## Discussion

1. It is clear that the avenue is a local landmark. It stands out in views from Shellow Road, and is seen from wide distances. It serves as an indicator of the presence of, and mark the approach to Torrells Hall, which is a Grade II\* Listed Building.

The species, hybrid black poplar, makes a fast growing, tall, and attractive tree. It was traditionally planted for use in the match industry. It is not native, but it does have some environmental value as the home of the nationally scarce Poplar Hawk Moth. The ultimate form of Hybrid black poplar is very tall (20m plus, and widely spreading) although these trees have been contained to some extent by pruning.

2. On the other hand the life expectancy of the avenue is far less than had a different and more long-lived species been chosen originally. Poplar trees grow very quickly, but their wood is not strong, and so they are liable to shed branches. They are very poor at protecting themselves from decay. Decay gains entry through natural breakages, or through pruning wounds and tends to spread rapidly through the structure of the tree. Insipient decay can be seen in several of the standing trees, in the stems and in the crowns. We have no evidence for the date of planting of the trees or for the age of the avenue. However it is likely to be less than 60 years old. Even so the life expectancy of the avenue is therefore limited. Even with regular pruning a number of the trees would be expected to fail over the next 20 years, leaving the avenue more and more ragged.

3. In respect of the future risk of buildings we have evidence that a number of the cottages have been affected in the past; it would appear that although repairs have been done to some of them that these repairs are not such that there can be confidence that they will not be affected in the future

should growth of the trees not be curtailed. It is also asserted that there is likely to be a risk to buildings not so far affected.

In general terms it is accepted that Poplars have a high water demand and are well known as causing subsidence at much greater distances than here. The soil is stated to be a firm clay of moderate plasticity, hence subsidence is possible, although not at such distances as for London Clay. The evidence base presented in support of the application is limited, however the general position is reasonably clear. It is as follows:

1 The Chase: No evidence of damage to this property or future risk.

2 The Chase: Subsidence occurring to this property at present. Details supplied by the applicant, and also by the owner of the property in a separate submission confirms that the property has serious problems which are causing the owner great difficulties. It is confirmed by the Council's engineer that there is sufficient evidence to conclude that subsidence as a result of the nearest poplars has occurred and that felling the trees would be the only reasonable solution, other than underpinning.

3 The Chase: This property was until recently in the ownership of the Co-operative Group Pension Fund but has recently been sold. The Council's engineer accepts that there is sufficient evidence to conclude that the property was damaged by subsidence. It has been partly underpinned although details of the underpinning have not been submitted. The future subsidence risk to this property therefore should be limited.

4 The Chase: This property has not been sold on; it has suffered damage as a result of subsidence according to the Council's engineer and other evidence supplied. It appears that the damage however was less severe than to No. 3; underpinning is reported not to have been carried out although significant internal repairs have been. There is therefore a risk of future damage.

The Lodge (ex-5/6 The Chase): This property has been sold and converted from two cottages to one house. There has been significant damage in the past alleged to have resulted from tree root activity but without conclusive evidence. It is understood that as a result of the past damage the property was underpinned, but that underpinning did not extend to the porch, or at any rate was insufficient. The application submitted on behalf of that property alleged root damage causing problems in the porch area. It is also understood there is a claim against the Co-operative Pension Fund in relation to this property. The advice of the Council's engineer in respect of this property was that there was insufficient evidence to conclude that the damage to the porch was definitely caused by the poplars. The nature and extent of the damage is not stated.

Chase Cottage (Chase Cottage together with The Lodge is situated on the east side of The Chase). There is no evidence of any past damage or future risk in relation to this property.

7/8 The Chase: These are the final two cottages on the west side of The Chase; there is no evidence of current damage or future risk in respect of trees adjacent to these properties.

4. In terms of contraindications the main possibility is heave. Where there is long standing drying of the soil the movement of the trees can allow heave to occur with consequent damage to buildings. Because it is likely that the buildings affected pre-date the trees the Council's engineer considers that this is a low risk although he cannot completely discount it. The agents have stated that in the unlikely event that heave should occur they would take responsibility for any arising costs. It should be noted however that this is not an offer which the Committee can secure by condition or reasonably by legal agreement. In broad terms however the likelihood and consequences of subsidence are likely to be much more serious than those of heave.

5. Poplars are probably the worst kind of tree to try to manage because of their high water demand, far-reaching root systems, and their fast growth rates. Therefore it is difficult to discount entirely the possibility of future damage on other properties even were a rigorous pruning regime to be instituted. Pruning was undertaken following the earlier consent (see history) but has not been continued. It seems clear that the future risk could at least be managed by regular and well considered pruning. In the supporting information it is claimed that the cost of this would be disproportionate. This is relevant, but only in so far as it is sensible to look at using resources sustainably. The more important point is that to be certain of controlling the risk of subsidence the trees would probably have to be pruned more heavily than they were previously, and at very regular intervals. This would significantly diminish the current amenity value of the trees and, because of their susceptibility to decay, would be likely to further shorten their life expectancy. The only other alternative to felling to eliminate the future risk would be additional underpinning to The Lodge, a complete underpinning to No. 2, and probably, in the reasonably likely event of damage continued, additional underpinning to No. 3 and complete underpinning to No. 4.

6. In respect of replacement planting the proposal is to replace the avenue with fewer trees, giving a better definition of the shape of each tree, and with a native species, the small leafed lime. In some correspondence smaller growing varieties of small leafed lime have been suggested however it will be preferable to use the species itself (*Tilia cordata*). This is a long-lived tree, native to the area, which will grow well on

the particular soils, and is likely to be of greater ecological benefit than the poplars. It is a species often used for formal avenues in parks and gardens so would be appropriate to the setting of a listed building. A fairly large size has been offered, but in the event of approval it is recommended that a larger size be conditioned. It is also recommended that while 25 trees are not necessary at least 20 should be planted, 10 on each side of The Chase, rather than the 14 (6 to the west, 8 to the east so far offered). Should any of the planting fail then the Council has the power to insist on replacement, until the new avenue has successfully established. Small leafed lime also has a lower water demand and is expected to be able to grow to maturity without the risk of damage to the adjacent properties.

7. In respect of the value of the avenue it clearly has a special value as a local landmark, because of its visibility over a wide area, and because of its association with Torrells Hall. The Council therefore has the option of certifying the avenue as having special amenity value and this would have the effect of protecting the Council from claims for any costs arising from its decision. On the other hand it should be noted that such a certificate is liable to appeal and if the appeal on the certificate were lost its protective value would also be lost.

#### Conclusion

The key point is believed to be that the avenue needs to remain reasonably intact and be managed as a whole if it is to have value. Furthermore the value would be significantly diminished were it to be greatly restricted in size.

It would be open to the committee to dismiss the application in respect of all of the trees, other than those that have been demonstrated to affect No. 2. However it is considered that the cumulative weight of the evidence together with the short lifespan of the species clearly puts the balance of advantage with felling and replacement, providing that the numbers and the size of the proposed replacements are increased, as per the suggested condition.

It is further concluded as above, the existing avenue should be considered as having special value but that this does not override the benefits of replacement. Nevertheless a certificate should be issued.

#### **SUMMARY OF REPRESENTATIONS:**

8 TORRELLS HALL CORTTAGES - Object. Have had no reassurances from the Landowner's Agents regarding the risk of heave, despite promises. Value the current avenue highly and are concerned that any replacement avenue would not have the same

visual impact and integrity. Notwithstanding, were the proposal to be agreed, would wish to see the entire avenue treated uniformly with replacement by strong standards of a suitable variety. Would like residents to be consulted on species.

2 TORRELLS HALL COTTAGES - Have had 22 months of insurance claim arising from subsidence. Extensive work necessary internally but advised that underpinning will be required unless the trees are removed. Believe problems due to trees to the front (total 4). The problems are, all ground floors have dropped considerably; doors do not close; stud-wall has dropped; cracks in walls; considerable damage to decorations, tiles, wallpaper; concrete staircase has dropped; hall, stairs and landing walls so cracked that now stripped of wallpaper - tired of having to replace it; kitchen floor sunk so much that units now lean away from the walls; living room has nasty cracks, plaster beginning to be shed. New front crack discovered to front elevation, also issues of loss of light. Aware of problems to other properties near by, also caused by the trees.

From research believes trees were never intended to remain more than 15 years, believes intended for match production. Have no historical importance; now causing great distress to the houses and residence. Pollarding not a solution. Have only been pollarded once in the years she has been there (12). Problems have caused considerable distress, life effectively "on hold" for last 22 months. Unable to sell house or even redecorate it. Find grossly unfair that quality of life and finances are dependent on whether the trees are felled or not.

TORRELLS HALL - Affected by application. Application concerns the whole avenue, not just one tree. Have commissioned independent report from expert familiar with the site. (Copy of cv enclosed, but not summarised). Expert is critical of the submissions.

The trees form a long and very attractive avenue. Mature avenues have become rare and are appealing. The avenue is well known in the area, in part because of the public footpath running along it. Significant local landmark. North-south orientation produces interesting light catching qualities. Has been customarily highlighted by estate agents in sales particularly for houses in The Chase. Questions impartiality of supporting arboricultural evidence.

In addressing risks to buildings, recognised that there are parties with vested interest keen on felling, as a "one and for all" solution to perceived risks. However, benefit can be thought of as to insurance companies and to the detriment of others. Landowner may feel better off without the burden of listed trees, particularly financially, avoiding maintenance costs. Facts do not support the proposal to fell, according to expert report, supported by cogent reasons.

Supporting documentation for the application is limited;

implies damage to all the houses, however, this is not the case. Verticality reports showing foundation movements are not evidence of actual damage. Recognises that underpinning suggests a belief that damage has occurred, however, underpinning should have been a satisfactory solution in itself where carried out. Therefore no need to deal with trees. Recognised in supporting documentation to application that regular pruning of the trees should be an effective management. He objects to it on the need for regularity and the cost implications. Council may feel costs should not be a factor used to determine the right approach; feels that technical points in application may be wrong and these have been refuted by his own expert. Some of the replanting proposals previously made are inappropriate, e.g. crab apples.

There has been poor maintenance of the tree concerned. Two trees have been uprooted, the last in 2002, and not replaced. Impossible to resist feeling about applicant will not respect any replanting scheme. His expert believes applicants replanting proposal not thought through. However, replanting beside the point adds no justification for proposed felling.

Summary of report:

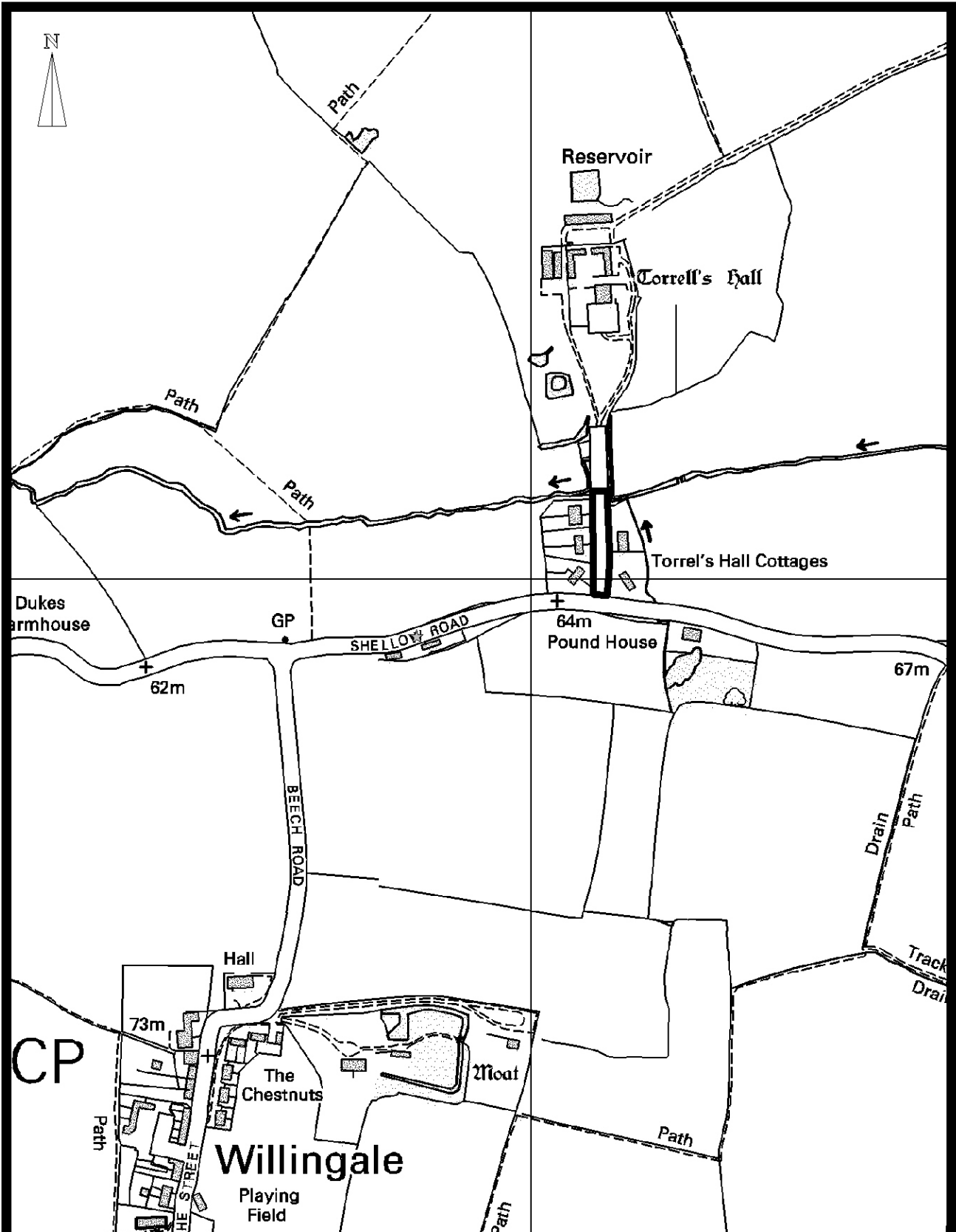
1. Trees clearly have a massive amenity value and this recognised in the application documents. Proposition in the application that their value is hard to judge makes no sense.
2. The avenue is one component of the overall setting of the Grade II\* listed Torrells Hall and Grade II separately listed wall garden to its south.
3. The proposal is a radical one, which requires a clear and well supported application. In this respect the application and its supporting papers demonstrate superficiality and contain troubling lack of clarity.
4. The application falls short of actually specifying that there is damage to any of the dwellings in The Chase.
5. Investigations have been carried out in relation only to some of the houses; do not show actual damage; verticality reports do not equate to actual damage.
6. In some case, at least, the issue of damage (whether actual or not) has apparently been addressed by underpinning, thus obviating the need for further action.
7. Application acknowledges that repeated pruning should be effective, but makes the point that it would be expensive - the cost is not the determinant.
8. The application states that pollarding of Poplars produces dangerous branches; this has not been the case in reality.

9. Replacement planting should be academic. Choice of replacement species is inappropriate. In any event the suggestions in the initial report and the addendum report are different and inconsistent. Proposed number of new trees (14) is deficient and proposed size is too small.

10. Poor management or disinterest in the existing trees in the past raises questions about care of replacement trees and their subsequent management.

11. It would be a travesty if the avenue of trees along The Chase were to be lost.

12. Trees contain Poplar Hawk Moth, this being a moth species of Essex Red Data Book status, nationally categorised as scarce.



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**Item No: 01**  
 Scale: 1:5000





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**APPLICATION No:** EPF/1330/05

Report Item No: 2

**SITE ADDRESS:**  
HAQUE EMPIRE, ONGAR ROAD, FYFIELD

**PARISH:** Fyfield

**APPLICANT:** Alistair Allan

**DESCRIPTION OF PROPOSAL:**

Outline planning application for the erection of 19 houses.

**RECOMMENDED DECISION: Refuse**

1. The site is within the Metropolitan Green Belt where the development of housing is deemed inappropriate development that is by definition harmful to the Green Belt. It has not been demonstrated that very special circumstances sufficient to overcome the harm that would be caused by the proposed development to the Green Belt by reason of its inappropriateness exist in this particular case. Accordingly the proposal is contrary to Policy C2 of the Essex and Southend on Sea Replacement Structure Plan, adopted April 2001 and to policy GB2 of the Epping Forest District Local Plan, adopted January 1998.
2. The proposed development would be likely to result in severe harm being caused to and/or the inconsidered loss of trees, including preserved trees, to the detriment of the character and landscaped setting of the site and the visual amenities of the locality. Accordingly the proposal is contrary to policy LL10 of the Epping Forest District Local Plan, adopted January 1998.

This application has been called to committee by Councillor Kelly.

**Description of Proposal:**

This application is for outline planning permission for the erection of 19 houses. The only matter not reserved for subsequent approval is the means of access, which would remain the existing point of access off Ongar Road.

The indicative plan submitted with the application shows a site layout of detached and semi-detached houses arranged around a single access road and two cul-de-sacs.

It is proposed that 5 of the houses would be held in trust on the basis of shared equity, the trust holding 50% and the purchasers owning 50%. It is intended that these will be

targeted at young people in the village. The applicant has stated he is willing to enter into a legal agreement with the Council to ensure the houses would be held in trust on this basis in perpetuity.

The proposal is essentially the same as that previously proposed in application EPF/50/05 that was refused on 22nd March 2005.

#### Description of Site:

The application site is situated off the west side of Ongar Road on the edge of the village of Fyfield, north of its junction with Moreton Road. Public footpath No. 13 bounds part of the site to the west whilst premises occupied by Chandelier Cleaning Company also bounds the western boundary. To the north are open fields and two houses fronting Ongar Road, Woolmongers Cottage and The Longhouse. To the south is Moreton Road and, Mill Hatch, a detached house at the junction of Moreton Road and Ongar Road. The site is situated within the Metropolitan Green Belt.

The site comprises a roughly rectangular area that excludes a triangular area of land abutting Ongar Road. It wraps around Mill Hatch and the premises occupied by Chandelier Cleaning Company and extends south to Moreton Road. It has an area of 0.82 hectares and would include an agricultural storage building situated immediately to the north of the Chandelier Cleaning Company's premises. The part of the site excluding the barn accommodates a fire damaged single storey building and tarmac parking area immediately to the north of the building. The remainder of the land that is not taken up by the access road is predominantly a grass field with occasional trees. Trees and hedges on the boundary of the land enclose the site. Two preserved trees are situated in the approximate centre of the site.

The lawful use of the site excluding the barn is as a restaurant (Use Class A3).

#### Relevant History:

EPF/581/93 - Demolition of existing building and erection of 4 dwellings. Refused 11.10.93. Subsequent appeal dismissed 02.03.94.

EPF/115/94 - Outline Application for erection of 4 detached dwellings and social housing comprising 11 dwellings. Withdrawn.

EPF/50/05 - Outline Application for the erection of 19 dwellings. Refused 22.03.05

Policies Applied:

Structure Plan:

CS2 Protecting the natural and built environment  
CS4 Sustainable new development  
C2 Development within the Metropolitan Green Belt  
H2 Housing development - The sequential approach  
H3 Location of residential development  
H5 Affordable Housing  
T3 Promoting accessibility  
T7 Road hierarchy  
T8 Improvements to the primary route network

Local Plan:

GB2 Development in the Green Belt  
H5 Affordable housing - criteria  
H6 Securing affordable housing  
H9 Accessibility to persons with mobility difficulties  
DBE2 Impact of buildings on neighbouring property  
DBE9 Impact of development on amenity  
LL10 Provision for the retention of trees  
T17 Highways: Criteria for assessing proposals

Relevant National Planning Policy Guidance:

PPS1 - Delivering Sustainable Development  
PPG2 - Green Belts  
PPG3 - Housing  
PPS7 - Sustainable Development In Rural Areas

Issues and Considerations:

Although the application site is situated at the edge of a village, the development conflicts with the policy preference for providing new dwellings within existing urban areas and is clearly inappropriate development within the Metropolitan Green Belt. The main issue in this case is therefore whether any very special circumstances exist in this case that are of sufficient weight to justify allowing inappropriate development that would, by definition, be harmful to this Green Belt site.

In support of their application the applicant acknowledges the Green Belt designation of the site and cites the following reasons for allowing the development:

1. The site is previously developed 'brownfield' land to which Government policy guidance directs new development in order to avoid the need for development on undeveloped 'greenfield land'.
2. Notwithstanding the Council's claims to have met its housing provision requirements set out in the adopted Structure Plan, the District is likely to be required to provide for an additional 11,000 dwellings by 2021.
3. The proposal does not conflict with the purposes of

including the land in the Green Belt.

4. The lawful use of the site as a restaurant, if resumed, would be harmful to amenity due to its hours of operation, traffic, noise and unpleasant odours generated by it.

5. The site is well enclosed with no positive relationship to the open countryside beyond.

6. There are local precedents for the grant of housing development within the Green Belt. Two examples are given, the first being the former Elmbridge School to the south of the application site and the second being land adjacent to Doe's agricultural machinery depot to the north of the site.

7. The proposal would meet a need for more housing in Fyfield including some shared equity housing that could be of assistance to local people who cannot afford to buy on the open market.

8. It would assist in negotiations with the County Highways Authority to secure a reduction of the speed limit in the village.

The proposed development is for new housing that would be predominantly for sale on the open market. The element of social housing proposed amounts to 26% of the proposed number of houses and that would be provided on a shared equity basis rather than to rent by a Registered Social Landlord (RSL).

The applicant has had discussions about the proposal with Hastoe Housing Association. Hastoe Housing Association has confirmed to officers they are not involved with the proposal at this point but may take some of the units if they became available and even then not all of the units they would take would be for rented accommodation.

Policy guidance on the provision of affordable housing is set out in PPG3 - Housing (As amended in 2005). Paragraph 18 of PPG3 states, inter alia, "Affordable housing provision in rural areas should be supported by a rural exception site policy (see Annex B). Rural exception sites should be small, solely for affordable housing and on land within or adjoining existing small rural communities which would not otherwise be released for general market housing."

Annex B of PPG3 states indicates that a rural exception policy should only be considered where there is a lack of affordable housing to meet local needs as demonstrated by up-to-date assessments of local housing need. Paragraph 2 of Annex B states, inter alia, "General market housing, or mixed developments consisting of high-value housing used to cross-subsidise affordable housing on the same site, are inappropriate on exception sites." Furthermore, paragraph 5 of the annex makes it clear that "The policy is not intended to apply in most Green Belt areas, which are by their nature close to the main conurbations where conditions are not typical of the generality of rural areas."

This advice is reinforced by PPS7 - Sustainable Development in

Rural Areas, which at paragraph 9(i), states in planning for housing in their rural areas, local planning authorities should "have particular regard to PPG3 guidance on the provision of housing in villages."

Adopted Structure Plan policies C2 and H5 accord with the above guidance whilst similarly adopted Local Plan policy GB16 deals with the provision of small scale 'affordable' housing schemes in smaller settlements.

Since 75% of the proposed housing would be for open market housing the proposal would not meet the requirements of the rural exceptions policy. No weight can therefore be attached to the affordable housing element of the scheme as justification for allowing inappropriate development within the Green Belt.

Part of the site is indeed previously developed but the greater part of it is not. PPG2 makes it clear that the condition of land is not material to the continued protection of Green Belt land. The applicant's contention that the land is 'brownfield' land is not considered to be a true reflection of the condition of the land but in any case this is not a matter to which any weight can be attached. Equally, the degree of enclosure of the site and the externalities that may be caused by the lawful use of the land are not considered material to the continued protection of it as Green Belt land.

With regard to the potential for the lawful use to cause harm to amenity, this is restricted by the size of building in which the use could take place and its relationship to nearby residential properties. There is only one house that is likely to be affected by any nuisance, Mill Hatch, and any adverse impact through noise and odour could be addressed through enforcement the Environmental Protection Act 1990. Moreover, it is likely that the impact of the proposed development would also have a significant impact on the amenities enjoyed by the occupiers of Mill Hatch. It is therefore considered that any potential improvement in amenity is not clear and it is certainly not an improvement of such weight that could overcome the policy objection to the proposal on Green Belt Grounds.

It is not clear what future housing allocations for the district would be but any proposals for housing to meet that allocation would have to comply with the adopted planning policies and national planning guidance existing at that time. Since it is uncertain what housing allocations and planning policies for the period after 2011 may be it is not considered appropriate to give any weight to the applicant's comments in this respect. Moreover, even if the applicant's contentions were requested, in these circumstances it would be premature to give planning permission for the proposal at this time.

The applicant suggests that the proposal could assist in

negotiations with the County Highways Authority to secure a reduction of the speed limit in the village. No confirmation of this has been received from Essex County Council. Consequently this assertion is considered to be pure conjecture and of no substance.

It is not accepted that the proposal would not prejudice the purposes of including the land in the Green Belt. It clearly would be an encroachment of the built up area into the countryside. In doing so it would conflict with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The most important attribute of Green Belts and the greater part of this site in particular, is its openness.

With regard to the issue of a previous precedent having been created, the sites mentioned are not considered comparable to the application site and in any event each application should be considered on its own merit having regard to all the material circumstances. The overriding policy consideration in this case is the continued protection of the Green Belt from inappropriate development that by definition is harmful.

It is also considered that, having regard to the indicative plan submitted with the application adopted planning policy and Supplementary Planning Guidance, it is likely that the scale of the development would not leave sufficient room for meaningful landscaping whilst the protected trees on the site would be threatened by the proposals. It should be noted that the extent of development indicated on that plan extends beyond the application site boundary.

## Conclusion

The proposal does not differ from the previously refused development in any way that is meaningful to its assessment. It is inappropriate development that by definition is harmful to the Green Belt and no very special circumstances of sufficient weight to override the harm caused by inappropriateness exist. Having regard to adopted planning policy, unless it is proposed to provide 100% social housing to rent by a registered social landlord there is no justification in planning terms for allowing housing on this Green Belt site.

The development of the site for 19 houses is also likely to result in a development that would not provide adequate protection for existing preserved trees and would not allow for meaningful landscaping. The proposed development is therefore contrary to Structure Plan policy C2 and Local Plan Policy GB2.

Accordingly, it is recommended that planning permission be refused.

### **SUMMARY OF REPRESENTATIONS:**

PARISH COUNCIL - Object to the proposal in its present form. The development of the site for 19 houses is too great a density for the rural nature of the village. Four to six houses would be more appropriate. Furthermore, the traffic generated by a development of this scale would cause congestion on roads in the locality while insufficient off-street parking is proposed. Infrastructure provision for the development would be problematic.

ESSEX COUNTY COUNCIL - A financial contribution of £51,618 towards the provision of educational facilities and a contribution of £38,000 for highway improvements in the locality should be secured by a Section 106 Agreement.

COUNCIL FOR THE PROTECTION OF RURAL ESSEX - "We object to this application for the following reasons:

- 1) The proposal would be a gross over-development of the site and we estimate that only 3 of the proposed larger houses would equate to the existing footprint of the Haque Empire (formerly Gipsy Mead Tearooms). The overall footprint is about 5 times the existing footprint.
- 2) It is a major intrusion into the Green Belt and many of the large conifers are destined to come down in the plan. This intrusion is not permitted by either Government guidelines PPG2 or, the EFDC Local plan."

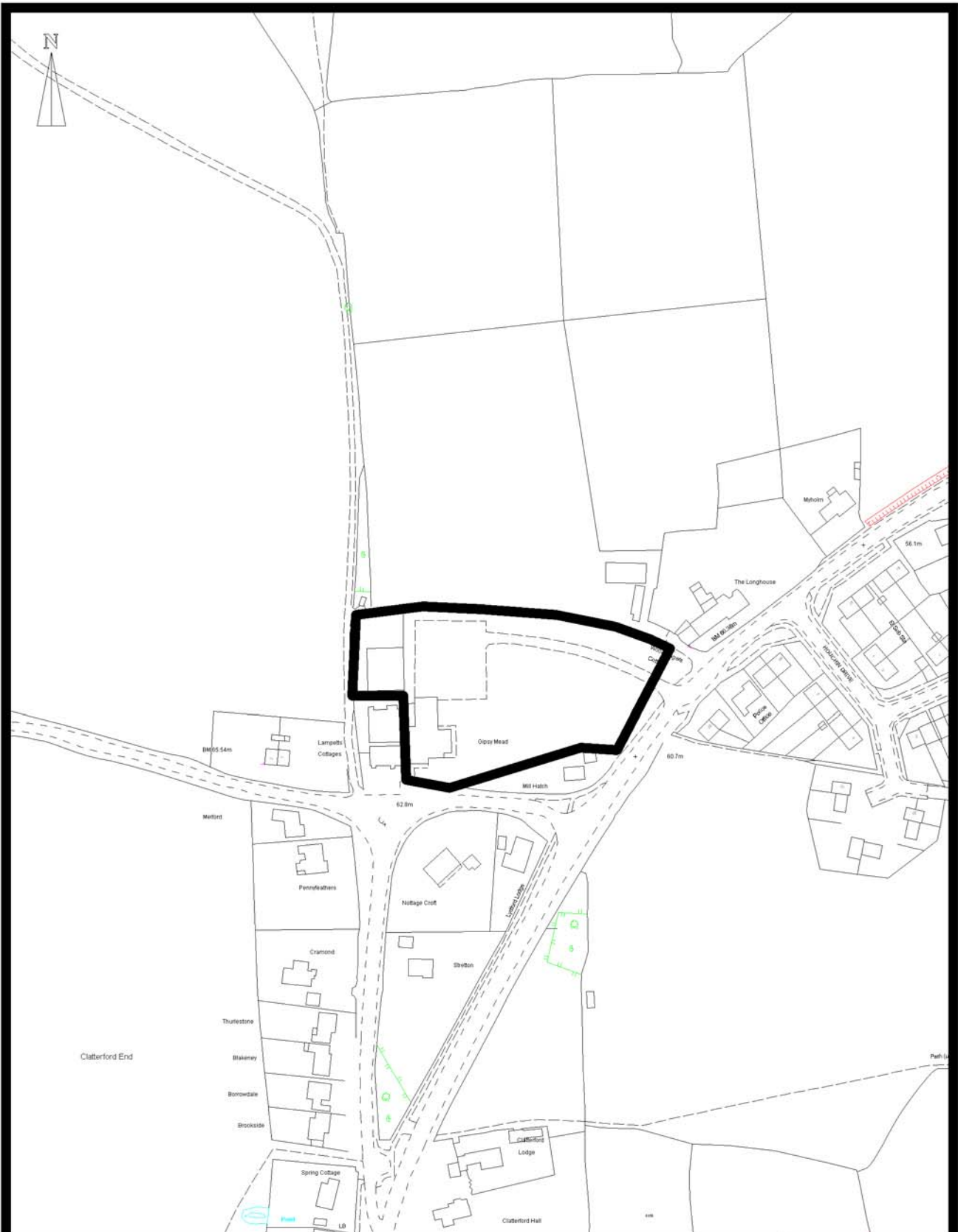
NEIGHBOURS: The occupiers of 12 neighbouring properties responded to the Council's consultation exercise. Ten raised objection to the development, 3 raised concerns and one was supportive but nevertheless raised concerns. The objections and concerns raised are as follows:

1. Regard should be had to the Green belt status of the land.
2. Inappropriate development within the Green Belt.
3. Low-density development is preferable.
4. The arrangement around the access to the site is now acceptable.
5. The development should not have an adverse impact on services.
6. The proposal would be a cramped form of development out of character with the locality.
7. Excessively dense development that is an overdevelopment of the site.
8. Insufficient off-street parking is proposed.
9. The number of dwellings would exacerbate demand for on-street parking.
10. The proposal would exacerbate existing traffic congestion on the Ongar Road.
11. Insufficient spaces at local schools to accommodate the new pupils generated by the development.
12. A hazard to road safety would be caused.
13. The restaurant use has served the community well for many years and should not be lost.
14. The restaurant does not have any adverse impact on amenity.
15. The proposal would have a poor appearance and would be

overbearing.

16. Adverse impact on privacy of neighbouring occupiers.
17. The development would generate far more noise and pollution than the restaurant use.
18. Loss of preserved trees.
19. The local drainage system could not cope with the additional dwellings.
20. No street lighting or only low street lighting should be provided.
21. Inadequate footways adjacent to the site.
22. Building to the road boundary is not in keeping with the character of the locality.
23. The houses should be family homes
24. The development should fit in with those around it.
25. All the houses should appropriate size gardens.
26. The leafy out look of the village should be retained and enhanced where possible.
27. External boundaries should be hedged.
28. The introduction of a 30mph speed limit on Ongar Road should be a requirement for planning consent.
29. Consideration should be given to the inclusion of a pedestrian crossing on the B184 to allow safe crossing to the village amenities in Walker Avenue and to the church beyond.
30. Who would have responsibility for maintaining communal areas?
31. The houses would be too close to some preserved trees that would cause a loss of light to the houses concerned as well as threaten foundations. This would lead to demands to remove them.
32. An open view across the site should be maintained since the site has provided amenities for the village for over 80 years.
33. A gated development should not be permitted.
34. There is a need for very low cost social housing in the village and this development would not meet that need so there are no special circumstances to justify this large development.
35. Residential development is preferable to the lawful restaurant use.
36. A previously removed hedge at the boundary of the site should be reinstated.





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**Item No: 02**  
**Scale: 1:2500**



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**APPLICATION No:** EPF/1312/05

Report Item No: 3

**SITE ADDRESS:**

**PARISH:** Moreton, Bobbingworth & The Lavers

ASHLYNS ORGANIC FARM SHOP, EPPING ROAD, BOBBINGWORTH

**APPLICANT:** WWJ Collins

**DESCRIPTION OF PROPOSAL:**

Continued use of farm shop for sale of general produce.

**RECOMMENDED DECISION: Refuse**

1. The site is within the Metropolitan Green Belt. The proposal represents inappropriate development and is therefore at odds with Government advice, Policy GB2 of the adopted Local Plan and Policy C2 of the adopted replacement structure plan for Essex and Southend on Sea. The latter state that within the Green Belt permission will not be given, except in very special circumstances for the construction of new buildings or for the change of use or extension to existing buildings except for the purposes of agriculture, mineral extraction or forestry, small scale facilities for outdoor participatory sport and recreation, cemeteries or similar uses which are open in character. In the view of the Local Planning Authority the application for shop selling farm produce fails to comply with policy GB2 as it is a general retail use, resulting in a considerable harm to the Green Belt. No very special circumstances have been put forward which are considered to outweigh the harm to the Green Belt.
2. The site is within the Metropolitan Green Belt. The proposed development is at odds with Policy GB12 of the adopted Local Plan, in that the goods sold are not reasonably limited to those grown on Ashlyns Farm.

**Description of Proposal:**

Change of use from Farm Shop to a shop selling Farm Produce (A1) (retrospective application).

**Description of Site:**

A purpose built single storey shop premises (with a half mezzanine floor) on land to the west of the Travel Lodge on the northern side of the A414 from North Weald to Epping. The site consists of the shop, an adjacent cart lodge, and agricultural barn, and a large area of open farmland to the north, which is used as an 'open farm' area. The whole site is within the

Metropolitan Green Belt.

Relevant History:

AGR/EPF/1639/99 - Agricultural determination for Farm Shop -  
Permission not required  
EPF/302/04 - Construction of two agricultural buildings  
-Approved

Policies Applied:

Structure Plan  
C2 Development in the Green Belt  
T3 Traffic

Local Plan  
GB2 Green Belt Policy  
GB12 Farm Shops  
T17 Highways

Issues and Considerations:

The main issues are whether this development is appropriate in the Green Belt, and if not whether there are any very special circumstances which overcome the harm from the development. It should be noted that this is a retrospective application as the use is ongoing.

Green Belt

The shop was erected in 2002 under agricultural permitted development rights which allow the erection of structures on farms for the sale of produce grown on that farm, and often relying on passing trade. In 2004 the Council became aware that the shop was also selling produce that was not grown on the farm and was imported onto the site.

It is the case that many farm shops may have an element of sales of goods not sourced on the site, which can be considered as an ancillary use of the site which does not affect the main use of the site. As a rule of thumb the percentage for these goods should not exceed a maximum of 10% of the total, and if this is exceeded it would mean the imported goods are no longer ancillary to the main use, and material change of use will have occurred.

During officers investigations in the later half of 2004 it was clear that, on the applicants own figures, only 55% of the goods sold on the site were sourced from the farm. However, by September 2005 this figure had risen to some 70%. This percentage will increase slightly in the future as increased animal numbers and crop areas develop.

Approximately 20% of the remaining 30% is 'local' produce imported onto the site, although this includes farms from Hertfordshire, Cambridgeshire, Norfolk and Suffolk as well as Essex. The remainder of the goods come from further afield. The shop is open seven days a week. There is also a small cafe.

It is accepted that the application is strongly supported by the Parish Council. However the fact remains that a shop is an inappropriate use in the Green Belt, protection of which is a national policy, and this building is not being used for the purpose for which it was erected. The current use as a shop is inappropriate in this area and against national and local policy. Therefore the question must be considered if there are any very special circumstances which outweigh the harm caused to the Green Belt by this use.

#### Very Special Circumstances

The applicant has argued that if the shop is limited to home grown produce that customer numbers will fall and viability will suffer, including a loss of employment. It is further argued that the 10% limit on imported goods is unreasonable and arbitrary. In addition the site is considered to be an asset to Epping Forest District by providing employment, educational and recreational facilities, and has won several business awards.

He further argues that the shop is an ancillary use to the farm itself, and is appropriate in the Green Belt as it is used for the purpose of agriculture. Other development in the area (the adjacent golf course) is seen as more obtrusive than this development. PPS7 (Sustainable Development in Rural Areas) is also enlisted in support of this application in that this enterprise is a form of farm diversification.

In spite of these arguments it is not denied that the shop is selling produce not sourced from the farm, and the amount of these goods is significant. This was a building which was allowed under permitted development, as ancillary to the farm, but it appears the use has never complied with the basic requirement that the great majority of the goods were produced on the farm. Therefore it is not an ancillary use. The 10% limit is a reasonable benchmark, recognised in appeal case law, which is used by many local authorities, and is based on an appraisal of the fact and degree of the change of use, as has been explained above.

With regards to employment if this use were accepted then an argument could be made in the future that the shop would need to sell clothes or electrical goods to maintain employment because of the economic climate or changes in shopping habits. It should be noted that PPS7 does not give carte blanche to developments in rural areas, but requires that they be carefully appraised. This shop is selling produce produced on

farms spread over East Anglia. This is a general retail use, similar to an urban greengrocers, which would allow any retail business to use the property without applying for permission.

Other developments in the area will have been assessed according to the policies in the local plan, and it is not considered that the impacts of the shop and golf course are comparable. It is the case that golf courses can be an appropriate use in the Green Belt, retail shops are not. The site can be used for its authorised use as a farm shop, without the need for permission, by reducing the amount of imported goods, although the applicant does not wish to do this.

It is the case that the current use is contrary to policy GB2 and GB12. It is also considered that the imposition of a condition requiring the site only to sell farm produce (regardless of where it is sourced) would be impossible to enforce.

#### Highways

The Highways Department has raised no objections to the scheme.

#### Amenity

The site has a residential property (Spinney Lodge) some 80m to the west. However there is a screen of mature trees between the house and this site, and no objections have been received from the occupiers of Spinney Lodge. Whilst the site is in use 7 days a week, and some disturbance caused by cars, it is considered that the distance reduces the harm caused to acceptable levels.

#### Human Right Act Considerations:

The Human Right Act 1998 is now in force, and is a relevant consideration in this case. The act incorporates the European Convention on Human Rights into UK law. Article 8 of the Convention concerns the right to respect for private and family life, and the First Protocol relates to the protection of the right to property.

The resultant enforcement action would result in interference with the right to property of the owner of the site. However, that interference must be balanced against the legitimate aims stated in Article 8. The objections to the development and harm to the green belt (which is a national policy) are serious and fundamental. It would not be acceptable to allow this application, even taking into consideration human rights issues, as to do so would fundamentally undermine the planning system and the objectives of the green belt.

#### Conclusion

This is a balanced case, and it is to be deplored that the use

of the site has not got the benefit of planning permission. However the case must be determined on its merits. The applicant has provided a considerable amount of information about the use of the site, and it is clear that the use is not ancillary to the farm due to the amount of imported produce, and a material change of use has occurred.

The facts are that the use of this building as a shop selling general farm produce is contrary to national and local policy. Therefore the recommendation follows from the adopted policies and is for refusal. The service of an enforcement notice would naturally follow.

**SUMMARY OF REPRESENTATIONS:**

PARISH COUNCIL - Fully supports this application. The business exemplifies the concept of "Sustainable Development" by the efficient use of local farm land for production of wholesome food for local consumption and by providing employment to local people. It is improbable that the business could survive on locally produced food alone therefore sales of outsourced complementary products of 20% - 30% of sales is acceptable to sustain the business overall.

The business development is in accord with the Local Strategic Partnership strategies:

"Green and Unique" - strive to protect local agriculture and encourage sustainable practices such as consumption of local farm produce

"Economic Prosperity" - support rural diversification, the agricultural and horticultural industry, through planning policies and advisory services.

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**APPLICATION No:** EPF/1320/05

Report Item No: 4

**SITE ADDRESS:**

ASHLYNS ORGANIC FARM SHOP, EPPING ROAD, BOBBINGWOTH

**PARISH:** Moreton, Bobbingworth & The Lavers

**APPLICANT:** WWJ Collins

**DESCRIPTION OF PROPOSAL:**

Retrospective application for enclosure and change of use of a cart lodge building for use as an educational building/school excursion meeting room.

**RECOMMENDED DECISION: Grant Permission**

1. The use of the building hereby approved shall only be between the hours of 08.00am - 17.00pm Monday to Friday only.
2. No more than 5 individual groups shall be allowed to use the site in any week without the prior written approval of the Local Planning Authority.
3. The use of the building hereby permitted is only for use by educational groups and schools engaged on field trips in connection with the bona fide agricultural use of the land and for no other purposes whatsoever.
4. Within two months of the date of this permission a drawn parking scheme shall be submitted to the Local Planning Authority and once approved in writing shall be maintained according to the approved plan.

**Description of Proposal:**

Enclosure of existing cart lodge and change of use as an educational building/school excursion meeting room (retrospective application).

**Description of Site:**

A purpose built agricultural barn/cart lodge on land to the west of the Travel Lodge on the northern side of the A414 from North Weald to Epping. The site consists of a shop, an adjacent barn/cart lodge, and agricultural barn, and a large area of open farmland to the north, which is used as an 'open farm' area. The whole site is within the Metropolitan Green Belt.

#### Relevant History:

AGR/EPF/1639/99 - Agricultural determination for Farm Shop -  
Permission not required

EPF/204/03 - Construction of two agricultural buildings  
-Approved

#### Policies Applied:

##### Structure Plan

C2 Development in the Green Belt

T3 Traffic

##### Local Plan

GB2 Green Belt Policy

GB8 Change of Use

T17 Highways

#### Issues and Considerations:

The main issues are the effect on the Green Belt, Highway Safety, and design. It should be noted that this is a retrospective application as the use is ongoing and the works carried out.

#### Green Belt

The structure was granted permission in 2003 as a machinery store for the organic farm use, and consisted of a 3 bay open fronted structure. As erected it has the open front enclosed, a small gable roof on the front roof slope, and a 4m x 6m by 5.5m side extension on the northern flank with a hipped roof, housing toilet facilities.

The area to the north of the buildings is used as an area where visitors to the site can view livestock and farm animals, and a number of farm and wildlife trails. The applicant has stated that 2 to 3 school parties a week visit the site during term time. These schools are both local and from further afield including inner London. The purpose of these visits is to enable pupils to learn more about farming and food production, and see crops and animals in their natural state, and experience the countryside. This is a non-profit facility, with some funding provided by Essex County Education services. The building provides toilet facilities (including disabled access) and a meeting/class room to deal with the vagaries of the weather.

Policy GB8 of the adopted local plan allows for a change of use of buildings provided they meet a number of conditions.



- (i) The building is:
  - (a) of permanent and substantial construction; and
  - (b) capable of conversion without major or complete reconstruction; and
  - (c) in keeping with its surroundings by way of form, bulk and general design;
- (ii) The proposed use is for recreational, business or storage use and where it is desirable that the building is brought back into beneficial use
- (iii) The proposal entails appropriate benefits to Green Belt or countryside objectives in circumstances where the council considers it necessary or desirable
- (iv) the Council is satisfied that in the case of a relatively new building it was not constructed with a view to securing a use other than that for which it was ostensibly built.

In this case it is accepted that criteria (i) is met. With regard to criteria (ii) & (iii) the conversion is for a recreational use for young people, which is educational. The applicant has argued that the use of the building will be of benefit to the Green Belt by encouraging young people to enjoy the countryside in a safe, controlled environment. Officers consider that this use does coincide with objectives of the Green Belt and meets these criteria. The times of use of the building can also be controlled by conditions to avoid causing undue harm to the Green Belt.

With regard to criteria (iv) the building has been built in its current form rather than being a conversion of an existing building. It would appear that this use was intended from the beginning rather than the agricultural use originally applied for, this use being the justification for the grant of permission in 2003.

However, on balance, it is considered that the use of the building could be appropriate in this Green Belt area if it is allied to a genuine agricultural use of the site. This use is indeed occurring in the fields to the north of the building, which is used for grazing and the rearing of livestock. It should be noted that the adjacent shop is not an agricultural use (this matter is subject to a further planning application before committee). In addition the use of the building can be regulated by appropriate conditions to prevent harm to the Green Belt and to ensure the use is in connection with the bona fide agriculture use of the land.

#### Highways

The applicant has stated that the groups travel to and from the site by coach which reduces the amount of traffic generated. The Highways Department has raised no objections to the scheme.

#### Amenity

The site has a residential property (Spinney Lodge) some 80m to

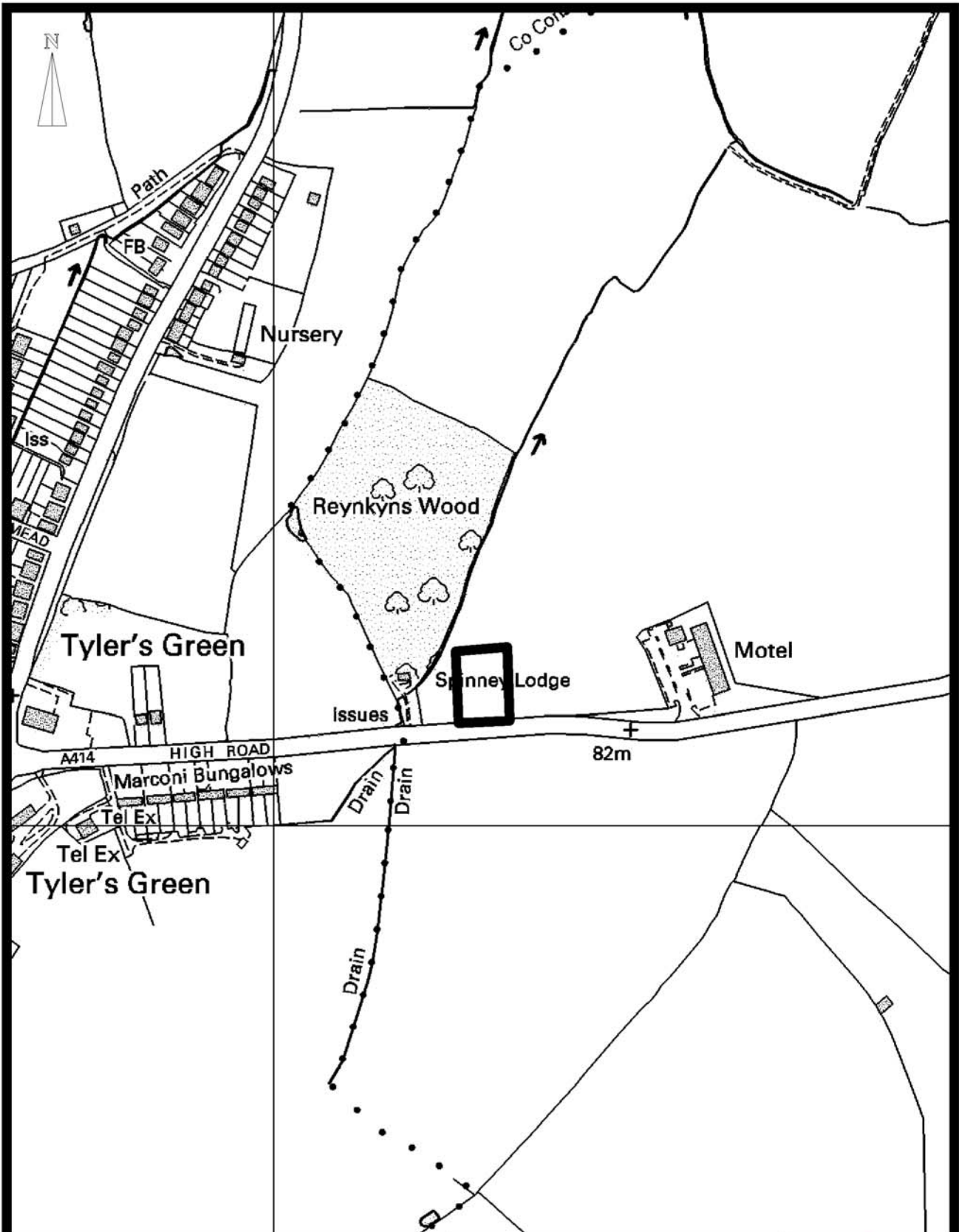
the west. However there is a screen of mature trees between the house and this site, and no objections have been received from the occupiers of Spinney Lodge. It is also the case that the building would only be used during school hours during term time. Therefore it is considered that the distance between the buildings reduces the minimal harm caused to acceptable levels.

#### Conclusion

This is a balanced case, and it is to be deplored that the works and use of the site has not got the benefit of an existing planning permission. However the case must be determined on its merits, and it is considered that, on balance, the use of this existing building for this relatively low key use is considered acceptable and will cause minimal harm to the Green Belt. The recommendation is for approval.

#### **SUMMARY OF REPRESENTATIONS:**

PARISH COUNCIL - No Objection



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Item No: 03/04  
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**APPLICATION No:** EPF/764/05

Report Item No: 5

**SITE ADDRESS:** **PARISH:** Stanford Rivers  
HIGHLANDS FARM, OLD RECTORY ROAD, STANFORD RIVERS

**APPLICANT:** Mr J Mason

**DESCRIPTION OF PROPOSAL:**

Retention of building, hardstanding and access for agricultural use.

**RECOMMENDED DECISION: Grant Permission**

1. The building hereby permitted shall be used for agricultural purposes only in association with agricultural activity on the land known as Highlands Farm as outlined on the attached site plan. In that respect the first floor accommodation of the building shall not be used as permanent residential accommodation and shall only be used for occasional overnight stays and other purposes ancillary to the agricultural use of the land.
2. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any other order revoking and re-enacting that Order with or without modification) no development of the types falling within Class B of Part 6 of that Order shall be carried out without the prior written approval of the Local Planning Authority.
3. Within three months of the date of this decision a plan showing the following details shall be submitted to the Local Planning Authority for their approval:-
  - (a) Details of alteration to the access indicating the entrance gates set back a distance of 4.5m from the edge of the metalled highway; and
  - (b) Details of hardsurfacing materials to the first 6m distance of the access from the edge of the metalled highway.

The approved works shall be carried out within six months of the date of their approval.

4. Within three months of the date of this decision, a scheme for landscaping works (including tree planting) shall be submitted for the written approval of the Local Planning Authority. The submitted scheme shall include:-

- (a) Details of all planting to be retained; and
- (b) Details of the planting of native species including plans for planting or establishment by other means and full written specifications and schedules for plans, including species, plant sizes and proposed numbers/densities where appropriate, and the timing for their provision.

All planting and landscaping comprised in the approved details shall be carried out in the first planting and seeding seasons following the date of their approval, and any trees or plants, which within a period of five years from the completion of the planting scheme, die or are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consents to any variations.

- 5. Within three months of the date of this decision a Schedule of Landscape Maintenance and Management shall be submitted to the Local Planning Authority for approval. The schedule shall include details of the arrangements for its implementation and shall be carried out in accordance with the approved schedule.
- 6. Within one month of the date of this decision details of a system for the disposal of sewage installed at the site shall be submitted to the Local Planning Authority for approval and the system, as subsequently approved, shall be maintained thereafter.
- 7. No overhead wires, cables or any exterior illumination or other form of overhead servicing shall be installed without the written approval of the Local Planning Authority.

Subject to a SECTION 106 LEGAL AGREEMENT, to be agreed and signed by the applicant within 1 year of this permission, that states the following:

- a) That the building shall only be used in connection with the "holding" and not be severed from it.
- b) The building shall be used for agricultural purposes only in association with agricultural activity on the land known as Highlands Farm and in that respect the first floor accommodation of the building shall not be used as permanent residential accommodation and shall only be used for occasional overnight stays and other purposes ancillary to the agricultural use of the land.

#### Description of Proposal:

Retention of two storey, timber-framed building with a central ridge pitch roof, located within northern corner of the site. Ground floor comprises two open bays and two enclosed bays. First floor contains habitable accommodation consisting of a living room/kitchen, bedroom and shower room/w.c. The building measures 12.0m x 6.0m in area and 6m high to the roof ridge. An access road and yard have been formed from a gated access off Old Rectory Road.

#### Description of Site:

The building is located in the narrower northern part of this roughly rectangular 6.5 acre site, in an open countryside location. Its western boundary is hedge-lined and follows this part of Old Rectory Road south to its junction with A113 London Road, where it continues east for about 120m. A footpath is just north of the site. The rest of the site is mainly rough grass with cattle in the field and poultry fenced in enclosures.

#### Relevant History:

Enforcement notice served 14/04/04 seeking removal of the building, access road and hardstanding. Appeal lodged 19/05/04 and public inquiry forthcoming, though held in abeyance pending outcome of this planning application.

#### Policies Applied:

Local Plan: GB2 (Green Belt restraint), GB11 (agricultural buildings), GB17 (dwelling for agricultural, horticultural, forestry workers), DBE4 (Buildings in the Green Belt respect its surroundings), LL2 (development in countryside).  
Structure Plan: C2 (Green Belt uses), NR5 (Resist development that adversely affects landscape character).

#### Issues and Considerations:

The main issue in this case is whether the building is appropriate development in the Green Belt; does it harm the visual amenities of the countryside ? and finally:

##### 1. Appropriate to Green Belt - Need for Development

The applicant states that the building was first erected in 2000 as an open sided barn and used for storage of hay, animal feed and farm machinery. Over the last 5 years the building has been altered and now has a solid, predominantly closed appearance. The two open bays contain hay for animal feed, the

two enclosed bays contain a staircase to the first floor and tools, tractor, mower and work benches. The first floor is, according to the applicant, accommodation for tea making and overnight stay when livestock are ill, giving birth or other such emergencies. Given its mixed use, the building does not fall within the definition of "appropriate" development in the Green Belt.

As well as this holding, the applicant is also renting 30 acres of land opposite on the western side of Old Rectory Road, which provides further grazing land for the cattle. Highland cattle were present in this field at the time of the Planning Officer's site visit. Around 150 chickens and about 8 geese were also present on the application site. A total of about 100 Highland cattle are owned by the applicant, which are farmed on this and three other sites in neighbouring boroughs.

In preparation for the Public Inquiry appeal against the enforcement notice, the Council employed an agricultural consultant, who concluded that there appeared to be sufficient agricultural activity at the application site to justify a building of this size for storage, as well as its access road and yard area.

National policy in PPS7 and Local Plan policies GB2 and GB11 encourage and permit necessary agricultural developments in the countryside where these are generally seen as appropriate, subject to their being no adverse highway issues or harm to residents. Increased vehicular activity is not considered to be significant to justify a refusal, despite this being a protected lane. There are no local residents living in close proximity to the site and this is also not an issue.

## 2. Residential Accommodation

Whilst Planning Officers agree that the ground floor element is reasonably necessary for the purposes of agriculture within the site, it is the first floor residential accommodation which is particularly contentious. It is equipped as a small residential flat and is in excess of what would be normally required for temporary overnight accommodation. The applicant states he lives in Leytonstone, about a 40 minute drive away, and needs to be on site at certain times, as stated.

Policy GB17 is relevant and states that planning permission should only be granted for a dwelling if it is:- (i) essential (i.e. required for livestock care and security), (ii) there is evidence of viability and continued long term viability, (iii) efforts have been made to find alternative accommodation and (iv) the living quarters floor area does not exceed 150m<sup>2</sup>.

As stated above, there appears to be a justification for an agricultural building on this site but there is no justification at this time for a permanent residential unit and indeed, the applicant has not made a claim for permanent but

for occasional overnight stay. A pitched roof building covered with clay tiles is far more preferable than a flat roofed structure. It follows, therefore, that there is available floorspace in the roof void. The main issue is therefore the manner in which the loftspace is used by the applicant and it is not unreasonable for a farmer to need an office area or some sleeping facility should he need to stay overnight. It does however, have the appearance of a one bedroom flat (wood strip flooring, fully fitted kitchen, double bed, sitting area with TV, fully fitted shower and toilet). The floor area is however only 44 square metres well below the maximum threshold of 150 square metres.

The applicant has not submitted his own justification for the retention of the building, particularly the use of the first floor roof void, but includes the Council's agricultural consultants report for the Public Inquiry. However, the latter does not support well the Council's case and it was recommended that a planning application to retain the building be submitted, which is the subject of this report. There is no supporting financial information and therefore the profitability or viability of the enterprise, even financial information of turnover, is not available. There is therefore a question mark over the present and long term viability at this enterprise.

### 3. Visual Impact on Countryside

The building is finished in black stained horizontal weatherboarding walls and a second-hand clay peg tiled roof. It is of good quality appearance and visually does not harm the character or amenities of the surrounding area. Furthermore, hedgerow and tree screening exists along the road boundary and between the site and the public footpath to the north. The applicant has carried out landscaping planting, which will screen the site further.

On this matter the building and hardsurfaced areas are in keeping with the surrounding countryside and comply with policies DBE4 and LL2.

### Summary

This is a retrospective application but despite the Parish Council's objection to the building being built without planning permission, the merits of the case need to be carefully assessed. The appearance of the building is not visually intrusive, although further planting is required to lessen its visual presence on the surrounding area. The ground floor storage area is essential to the enterprise and there is clear evidence of livestock (cattle and poultry) on the holding.

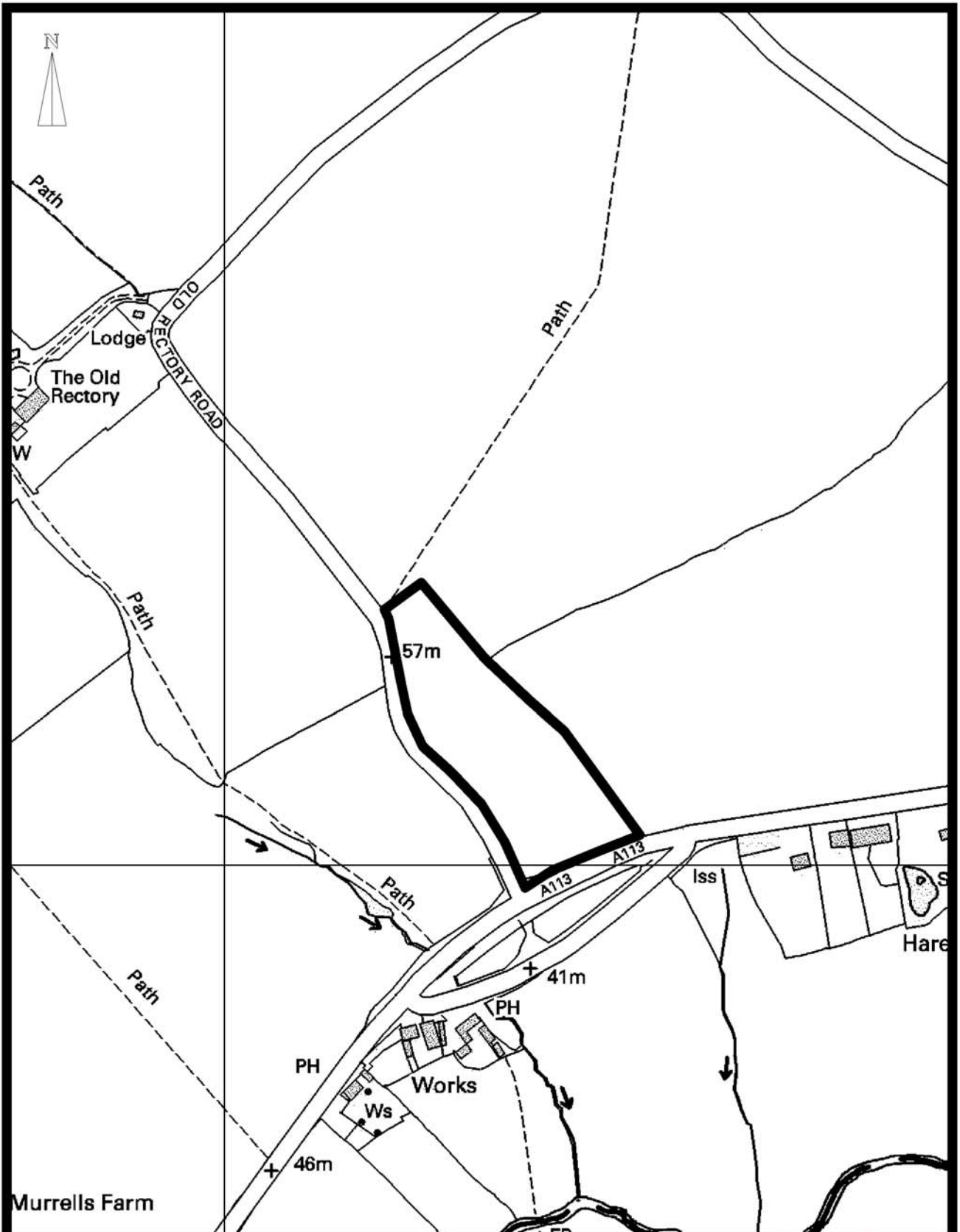
A permanent dwelling is clearly inappropriate and unjustified. However, the overnight accommodation is only in the roof void



of a traditional pitched roof. On balance, subject to the applicant entering into a satisfactory Section 106 Agreement to strictly control the use and to the imposition of the conditions at the head of this item report, then the proposal can be considered to be appropriate development in the Green Belt and recommended accordingly.

**SUMMARY OF REPRESENTATIONS:**

PARISH COUNCIL - Strong Objection; this has been a development by "stealth" - The Parish Council have been watching its progression from an open sided barn for storage to a residential development and have been in touch with the enforcement officer for the area, dogs are permanently there and lights at night, also a post box for receipt of mail. Intrusion into the Green Belt. This retrospective application sets a precedent for back door tactics and should be resisted. We request that you abide by your Planning Policy and reject this application and Enforcement Action should have been carried out.



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