

DR/21/13

committee DEVELOPMENT & REGULATION

date 31 May 2013

MINERALS AND WASTE DEVELOPMENT

Proposal: **Retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices**

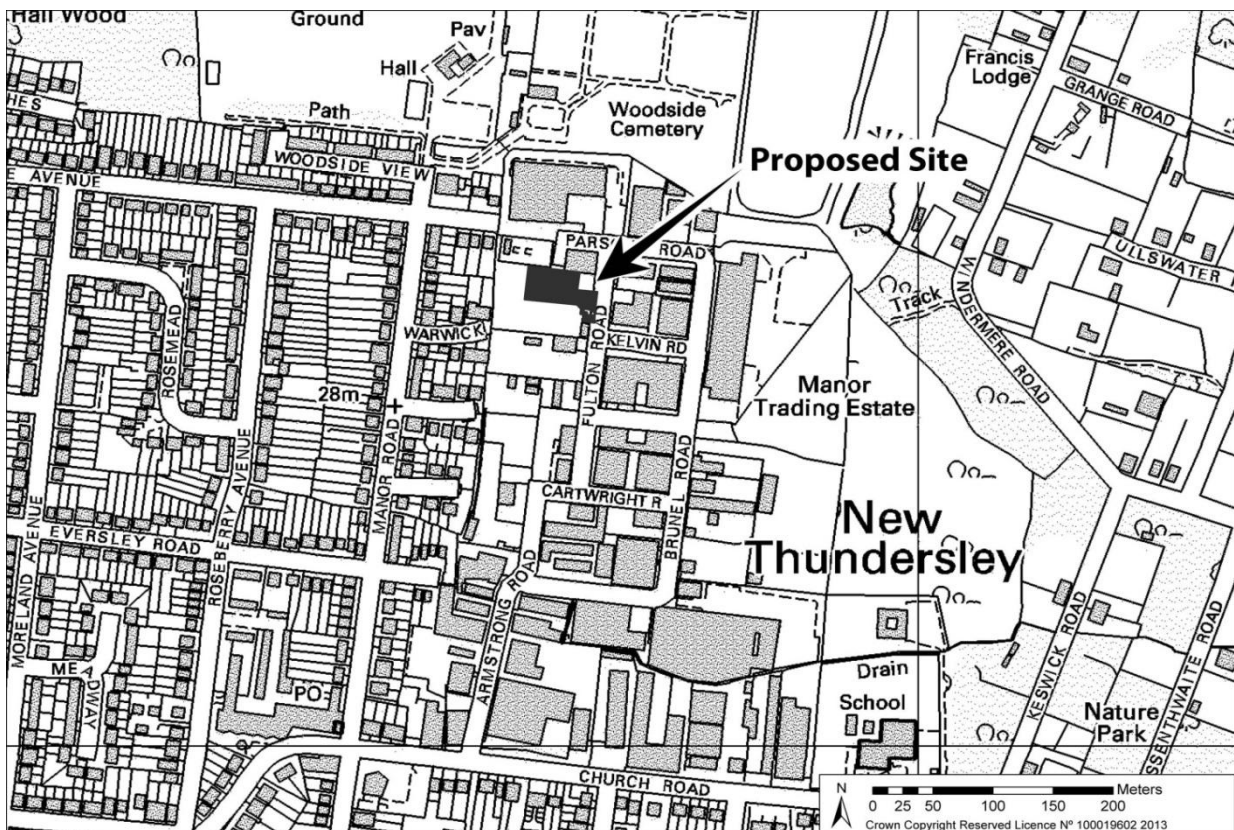
Location: **Unit 2, Level D, Fulton Road, Manor Trading Estate, Benfleet, Essex, SS7**

Ref: **ESS/76/12/CPT**

Applicant: **Tyre Reclaim Ltd.**

Report by Head of Planning, Environment and Economic Growth

Enquiries to: Glenn Shaw 01245 437117





1. BACKGROUND

The planning application for the above development was considered at the Development and Regulation Committee on Friday 19 April 2013. The officer report is attached at Appendix 1.

Members resolved to refuse the retrospective planning application for the change of use of the site from storage land to the manufacture and storage of blocks using waste tyres as raw material and the storage and sale of waste tyre products and the use of existing offices for the following suggested reasons:

- Omissions of Odour from the site
- Fire risk from the storage of tyre blocks and loose tyres.

Members also requested that it is consideration is given to the affect the development would have on potential flooding issues from the Manor Trading Estate and the impact on local amenity.

It was noted that as the development has already begun and accordingly the unauthorised development may require enforcement action to secure its removal.

In accordance with the Committee Protocol, a formal decision on the application was deferred until the May 2013 meeting of the Development and Regulation Committee. The deferral was to allow officers to provide appropriate reason for refusal based on planning policy and a consideration of whether it is expedient to undertake enforcement action to remedy the existing breach of planning control.

2. SITE

The site lies to the west of the Manor Trading Estate, Thundersley. Access to the site is off Fulton Road and all vehicles from the industrial estate have access to the A13 and A130.

The industrial estate accommodates a variety of industrial units including waste transfer operations on adjacent sites and is adjacent to residential areas.

Tyre UK operates in a small part of Unit 2, Level D, with the remainder of the site occupied by a builders yard which is used for storage. There is established planting on the western side of the site.

The properties on Warwick Close have gardens which back onto Unit 2. There is a 30 metre strip from the residential properties on Warwick Close to the start of applicant's boundary within Unit 2.

Robert Drake County Primary School is approximately 500 metres to the south east of the site.

The site occupies an area of 0.13 hectares.

The site is surrounded by secure palisade fencing on three sides and a concrete wall on the fourth.

The site is located approximately 1.5 kilometres west of an area of Thundersley Great Common, a designated SSSI.

A full description of the development is set out in the report at Appendix 1.

- 3.** Castle Point Local Plan (CPLP) adopted in November 1998. It was saved in its totality until 28th September 2007 policy EC3 (Residential Amenity) (a full appraisal of CPLP policy EC3 is contained in the original officers report at Appendix 1) states that inter-alia development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused. The Essex and Southend Waste Local Plan (adopted 2001) Policy W10E requires, inter alia, that the effect the development has on the amenity of neighbouring occupiers is take into account.

Given the resolution to refuse planning permission, as the proposed development poses a fire risk and odour omissions come from the site, the proposal is considered to conflict with fumes or other disturbances of policy EC3 of the Castle Point Local Plan (CPLP) adopted in November 1998. The plan was saved in its totality until 28th September 2007 and is in force in the area which the land to which this application relates.

The National Planning Policy Framework (the Framework), sets out requirements for the determination of planning applications and a material consideration. It is

important to note that Castle Point District Council adopted its Local Plan document post 2004. The Framework (paragraph 214) states from the date of publication (27 March 2012) for a 12-month period the determining planning authority can give full weight to the relevant policies of those plans even if there is a limited degree of conflict with the Framework. This 12-month grace period has expired meaning the Local Plan falls into interpretation under paragraph 215.

Paragraph 215 states, in summary, that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The level of consistency of the policies contained within the Castle Point Local Plan adopted in November 1998 and the Waste Local Plan are set out in Appendix 1 of Committee report appended to this report. The NPPF (Framework) at paragraph 17 stipulates that planning policies should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

It is considered that CPLP policy EC3 (Residential Amenity) is in conformity with the Framework in that the policy is concerned with the protection of the environment and plays a pivotal role for the Castle Point Council in ensuring the protection and enhancement of the natural, built and historic environment. It is also considered that Policy W10E of the Waste Local Plan is also in conformity with the Framework. These policies are therefore primarily linked to the environmental dimension of sustainable development as set out in the Framework.

Given the resolution made at the April 2013 Committee meeting and that the development proposed is a retrospective change of use, it is necessary to consider whether enforcement action is required to remedy the breach of planning control.

As the site is located within an allocated industrial area any 'sui generis' uses would be considered on their individual merits. The change use of the land is for an unauthorised waste management facility which has commenced and given the committee resolution to refuse permission, is causing harm from odour emission and the potential fire risk the site poses. As such it is therefore considered that it would be expedient for the change of use to cease to protect the local amenity.

4. RECOMMENDATION

That planning permission be refused for the following reason:-

1. The proposed development would lead to an unacceptable odours and fire risk which would have a detrimental impact on the residential and local amenity contrary to policy EC3 of the Castle Point Local Plan (CPLP) (adopted November 1998) and Policy W10E of the Essex and Southend Waste Local Plan (adopted September 2001), and;
2. as the development is a retrospective change of use operating without the benefit of a planning permission, it is further recommended that enforcement action be taken requiring the cessation of the development to take place within a reasonable timescale to prevent further harm to the local amenity.

5. BACKGROUND PAPERS

Consultation replies

Representations

Ref: P/DC/Glenn Shaw ESS/76/12/CPT

6. LOCAL MEMBER – CASTLE POINT – Thundersley.