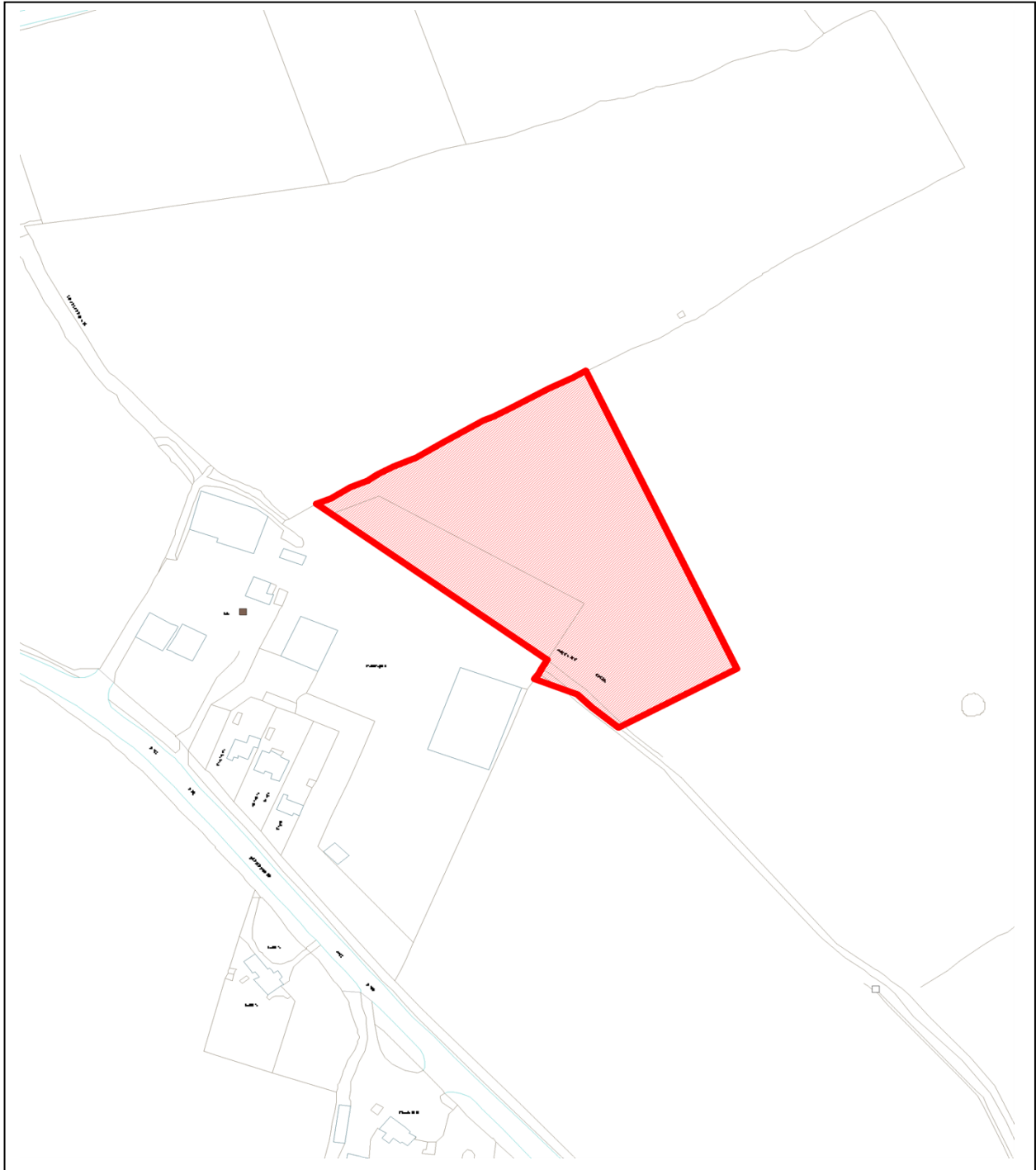


PLANNING COMMITTEE

20 SEPTEMBER 2011

REPORT OF THE TEMPORARY HEAD OF PLANNING

**A.4 PLANNING APPLICATIONS - 11/00578/FUL - BOTTLES HALL , CLACTON ROAD, ELMSTEAD, CO7 7DE**



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<b>Application:</b>	11/00578/FUL	<b>Town / Parish:</b>	Elmstead Market Parish Council
<b>Applicant:</b>	John Whiting Ltd - Mr Ben Whiting		
<b>Address:</b>	Bottles Hall, Clacton Road, Elmstead Market, CO7 7DE		
<b>Development:</b>	Change of use of agricultural land to form extension of established vehicle salvage yard for the storage and parking of salvaged commercial vehicles and vehicles acquired for breakage and export (Use Class B8) (Retention of Use).		

## 1. Executive Summary

- 1.1 The application site is situated outside of the defined settlement limits of Elmstead Market, where development is strictly controlled in the interest of protecting the countryside for its own sake. The proposed change of use is for an expansion of the existing business on the site and which has taken place since 2006 without planning permission.
- 1.2 Consideration needs to be given as to whether new employment opportunities which would be generated from this proposal would outweigh any adverse impact the development would have on its countryside setting. The change of use has assisted in the continued growth and viability of the business and has facilitated an additional 3 full time equivalent (FTE) jobs. The site now employs a total of 11 FTE staff. It will be a matter of judgement for members to balance the benefits of job creation against any adverse impacts of the development. In this instance officers consider that subject to the comprehensive landscaping scheme submitted, the proposal is, on balance acceptable. However Members will need to exercise particular judgement relating to these issues. Should Members attach greater weight to the impact of the development on the landscape character of the area, then there could, as a matter of judgement, be a case for refusing planning permission.
- 1.3 The proposal is considered acceptable, and in general accordance with policies QL9, QL11, ER7, and EN1 of the Tendring District Local Plan 2007, policy ENV7 of the East of England Plan 2008, and PPS1 (Delivering Sustainable Development), PPS4 (Planning for Sustainable Economic Growth), and PPS7 (Sustainable Development in Rural Areas).

### **Recommendation: Approve**

#### **Conditions:**

- **Landscaping**
- **No floodlighting/external lighting without prior permission**
- **Restrict operating hours**
- **Restrict use of site to parking and storage of salvaged vehicles only**

#### **Reason for approval:**

The proposed change of use of agricultural land to form an extension to established vehicle salvage yard, is considered to be in accordance with policies QL9, QL11, ER7, and EN1 of the Tendring District Local Plan 2007, policy ENV7 of the East of England Plan 2008, and PPS1 (Delivering Sustainable Development), PPS4 (Planning for Sustainable Economic Growth), and PPS7 (Sustainable Development in Rural Areas).

In particular, having regard to the existing development in the area, and subject to compliance with the conditions attached to this permission including a comprehensive landscaping scheme, on balance the proposal is considered to be acceptable given that the proposal will create employment opportunities which is considered to merit support in this rural location.

## 2. Planning Policy

### National Policy:

- PPS1 Delivering Sustainable Development
- PPS4 Planning for Sustainable Economic Growth
- PPS7 Sustainable Development in Rural Areas
- PPG13 Transport

Draft National Planning Policy Framework

### Regional Policy:

#### East of England Plan (2008)

- ENV7 Quality in the Built Environment

### Local Policy:

#### Tendring District Local Plan (2007)

- QL1 Spatial Strategy
- QL9 Design of New Development
- QL10 Designing New Development to Meet Functional Needs
- QL11 Environmental Impacts and Compatibility of Uses
- ER7 Business, Industrial and Warehouse Proposals
- EN1 Landscape Character
- TR1a Development affecting Highways
- COM23 General Pollution

#### Core Strategy and Development Policies Proposed Submission Draft (2010)

- CP1 Containing Urban Growth
- CP2 Development in the Countryside
- DP1 Design of New Development
- DP5 Landscape Impacts

### 3. Relevant Planning History

96/00612/FUL	(Part Bottles Hall, Elmstead Market) Change of use from warehousing (B8) to light industrial (B1) warehousing (B8)	Approved	16.07.1996
97/00452/FUL	Change of use to use Unit F as partly for retail lorry spares and Area G for lorry parking, repair and salvage, together with a Change of Use for Unit A from office to a dwelling for the use by the owner's son	Approved	03.06.1997
97/00453/FUL	(Unit B2 and Area J, Bottles Hall, Clacton Road, Elmstead) Change of use of storage to storage with first floor over. New shopfront and part use of Area 'J' outside display	Approved	03.06.1997
97/00802/FUL	(Bottles Hall Industrial Site, Clacton Road, Elmstead Market) Variation to Condition 3 imposed upon planning permission TEN/97/0452 relating to hours of operation	Refused	28.08.1997
98/00470/FUL	To erect new perimeter fencing to Area J, with hedge planting facing Clacton Road	Approved	21.07.1998
99/01721/FUL	Change of use from car parking and outside display to parking of 20-25 commercial vehicles incidental to the use of remainder of the site (Area J)	Refused (Appeal allowed)	02.02.2000 07.03.2001
00/00085/FUL	Sale of commercial vehicles – Area G	Refused (Appeal Allowed)	07.04.2000 07.03.2001
00/01146/FUL	Change of use of land and buildings to provide commercial vehicle sales area, customer car parking, vehicle parts store and compound for vehicles	Refused (Appeal allowed)	31.08.2000 07.03.2001
01/01098/FUL	Demolition of vehicle storage building and erection of new vehicle storage building (unit E)	Approved	20.08.2001
02/00493/FUL	Siting of mobile vehicle crusher	Approved	05.12.2002
03/00252/FUL	Variation of Condition 06 - Application No. TEN/97/00452 to allow dismantling of vehicles within Area H.	Approved	18.12.2003
03/02438/FUL	Permanent siting of vehicle crushing machine	Approved	19.02.2004
05/01035/FUL	Relocation of vehicle crushing machine	Approved	05.08.2005

06/00541/FUL	Continued use of land for storage and parking. Extension to established vehicle salvage and repair yard.	Approved	22.05.2006
08/01319/FUL	Change of use of land from agriculture to create a landscape buffer alongside established vehicle breaking yard.	Approved	06.11.2008

#### **4. Consultations**

4.1 Elmstead Market Parish Council strongly objects for the following reasons:

- Aerial photo submitted with application is misleading;
- Site area granted under 06/00541/FUL has been greatly extended without planning permission;
- Change of use will have an adverse impact on the landscape character;
- Finch Lane has been illegally blocked by the applicant;
- Existing bunding and screening is insufficient and piles of scrap metal are clearly visible;
- Original application did not deal with height of scrap piles and this should be dealt with and a limit put in place;
- Landscaping should be put around the entire boarder of the site;
- Site is next to world famous Beth Chatto Gardens – this site does not provide the ideal view for arriving visitors;
- Unclear whether the extension is to enable more staff to be employed;
- Traffic and access to the site is already dangerous and increase to the site will add to the problems;
- Site already operates outside the agreed hours which adds to the many problems experienced by nearby residents;
- Concern over health and safety regarding increased chance of another fire on site.

4.2 Environmental Services consider that in order to minimise any disturbance from noise etc at weekends and bank holidays the following condition should be attached to any permission which is consistent with the existing site: -

There shall be no working activity at the site outside of the following hours: Monday to Friday 0800-1800, Saturday 0800-1400, No working activity on Sundays or public holidays.

4.3 Regeneration considers that applications which promote job growth should be generally supported but in the absence of such information no specific comments are made. However, local companies with a proven need to expand and where the locations they are based are both suitable and allow for the type of expansion required, should be supported appropriately.

4.4 The Highway Authority raises no objections.

4.5 The Environment Agency has reviewed the information submitted and makes advisory comments regarding foul drainage, surface water drainage, and pollution control.

4.6 Natural England raises no objection to the proposal as submitted.

## 5. Representations

Two letters of objection has been received and are summarised below with the officer response;

- Visual intrusion – existing bund and landscaping will not screen site in winter months. *Officer response – See Assessment below.*
- Noise pollution – *Officer response – The proposal is for the open storage and parking of salvaged vehicles. It is not for the use of vehicle breaking activities. It is therefore considered that the proposal will not materially add to noise pollution such as to warrant a refusal of planning permission.*
- Health and Safety issues such as recent fire – *Officer response – Such issues would be dealt with by the Heath and Safety Executive.*
- Application is retrospective, as where two recent applications for a cattle shed – *Officer response – It is noted that the application is for the retention of the change of use, which occurred in 2006. The planning system allows for retrospective applications to be considered in the same manner as a normal planning application.*
- Finch Lane has been illegally 'cut off' by the change of use – *Officer response – This is a matter being investigated by Essex CC.*

## 6. Assessment

The main planning issues to be considered in the determination of this planning application are:

- Context and Background;
- Proposal;
- Policy Context;
- Impact on Landscape Character of the Countryside;
- Other Issues.

### Context and Background

6.1 The application relates to a 1.71 hectare area of land to the north of Bottles Hall, an industrial/commercial use located approximately half a mile to the east of Elmstead Market, to the north of the A133 (Clacton Road). The application site forms part of a larger site occupied by John Whiting Ltd, which is a local family firm with additional premises in Colchester Borough and Babergh. The business was established as a coal and haulage firm in 1959 and has continued to grow and diversify to provide a range of services including commercial vehicle and plant sales, specialist truck rental, haulage and logistics, vehicle breaking and salvage, and environmental recycling. As can be seen from section 3, of the report the site has an extensive planning history.

### Proposal

- 6.2 The application site itself is at the northern edge of the premises and is covered by hardstanding. The application site is enclosed by an earth bund approximately 3.5 metres in height. The area of land in question, which does not benefit from planning permission, is used for the storage of salvaged commercial vehicles and vehicles acquired for breakage and export (Use Class B8). The site has been used in this manner since 2006.
- 6.3 The proposal, being the retention of a change of use, has facilitated an additional 3 full time equivalent (FTE) jobs. The site now employs a total of 11 FTE staff.

## **Policy Context**

- 6.4 The application site is located outside of the defined settlement boundary for Elmstead Market where development is usually restricted to that mainly associated with agriculture. However, the proposal is intrinsically linked and forms part of an established industrial/commercial site and guidance in PPS1 and PPS7 provides that all development in rural areas should be well-designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.
- 6.5 Central to the assessment of this application is the guidance in PPS4, PPS7 and Local Plan policies QL1 and ER7. The guidance in PPS7 and PPS4 seeks to restrict economic development in open countryside away from settlements, but does accept that small scale development may be a sustainable option in some locations. Policy QL1 provides that the spatial strategy for Tendring to 2011 follows established national and regional principles for sustainable development, and that most new development is to be concentrated within those defined settlement boundaries as stated in the Local Plan, and outside of these settlement boundaries only development which is consistent with countryside policies will be permitted.
- 6.6 Policy ER7 'Business, Industrial and Warehouse Proposals' in the pre-ample to this policy states that the Council wishes to support the growth of existing businesses and will grant permission for extensions to established business and industrial premises in built up areas or villages and in rural locations providing they have an acceptable impact on visual and residential amenity, rural amenity and transportation considerations. Furthermore, in rural locations, the visual impact on the landscape character of the countryside will be an important consideration, however planning permission for extensions to existing firms in rural areas may be permitted if proposals would result in the creation of a number of jobs and if satisfactory screening and landscaping can be achieved to minimise the impact of the development on the countryside. It is therefore important that the proposed use is well designed so to minimise any adverse impacts and fits appropriately into its landscape setting.
- 6.7 Other policies of particular note include QL9 which requires all new development to make a positive contribution to the quality of the local environment and protect or enhance local character and that (inter alia) development should relate well to its site and surroundings particularly in relation to its siting, height, scale, massing, form, design and materials. Policy QL11 requires the scale and nature of all new development to be appropriate to its locality, and Policy EN1 seeks to protect the District's landscape and its distinctive local character from inappropriate development.
- 6.8 There is considered to be no conflict with the Draft National Planning Policy Framework (DPSS July 2011 consultation document). The draft framework states in considering applications for planning permission, local planning authorities should apply the presumption in favour of sustainable development and seek to find solutions to overcome any substantial planning objections where practical and consistent with the Framework, and that planning policies should support sustainable economic growth in rural areas by taking a positive approach to new development. However, whilst a material consideration the draft DPSS can only be given limited weight.
- 6.9 The decision on this application will, therefore, rest on the relative weight that is given to any adverse visual impact against job creation.

## **Impact on Landscape Character of the Countryside**

- 6.10 In this instance, the location for the proposed use is situated outside of the defined settlement boundary of Elmstead Market as defined within the Local Plan, and outside of the confines of the current operational area of the business which has planning permission (although it is noted a small section of the application site had been given planning permission in 2006 for the continued use of land for storage and parking (06/00541/FUL refers). The site is located within the countryside for assessing any application against national and local planning policies. Policy QL1 only allows development which is consistent with countryside policies. The reason being the countryside is to be protected for its own sake, with the aim to conserve and enhance the countryside against inappropriate development. This is also reaffirmed in PPS4 and PPS7 which state that new development in the open countryside away from existing settlements should be strictly controlled to protect the countryside for its own sake.
- 6.11 However, policy ER7 is somewhat more permissive in rural locations such as this, when permission may exceptionally be granted for extensions to existing businesses where new employment opportunities would be generated providing the proposal can take place without an adverse impact on the landscape character of the countryside. This can be considered a more sustainable option to development elsewhere as it takes advantage of established facilities and services.
- 6.12 The proposal has been submitted with a landscaping plan which includes earth bunding as built (approx. 3.5 metres in height along all sides of the site) and a landscape belt to be planted along the earth bund. Subject to an amended landscape plan to amend the specification of trees to be planted to be exclusively Oak, the understory planting to be amended to include a greater proportion of evergreen species, and the treatment of the northern boundary to be strengthened by new tree planting and the inclusion of additional evergreen planting, in this instance it is considered the landscaping belt and earth bund will assist in screening the development, and screening during the winter months.
- 6.13 In terms of visual impact from public vantage points, the submitted plans refer to Finch Lane (Track) which appears to run along the northern boundary of the approved site, however, this is not a public right of way or highway as has been suggested by some objectors. Furthermore, there are no public rights of way that run in close proximity to the application site. The nearest public highway is Clacton Road which is some distance away (approx. 160 metres at its closest point), and therefore the application site is not readily visible to the public.
- 6.14 Furthermore, it is noted the application site is already in use for the parking and storage of salvaged commercial vehicles, and therefore as the proposed use of the site can already been seen it is possible to more easily assess its impact. These vehicles can be partially seen from over the top of the earth bunds in their current form, and therefore compliance with the landscaping condition would reduce the current level of impact on visual amenity.
- 6.15 However. The proposed extension to the site could be considered to add to the sporadic commercial form of development in this locality, resulting in further creeping erosion and urbanisation of its countryside setting. Whilst any encroachment into the countryside will have some adverse impact, notwithstanding the improved landscaping that would be achieved, this needs to be balanced against the economic benefits.



## Other Issues

- 6.16 Policy ER7 sets further criteria which must be considered if extensions to existing businesses are to be granted. The proposal is not considered to adversely affect neighbouring residential amenity. The application site is some distance from the nearest residential properties (approx. 84 metres) and use is for open storage, and does not involve any vehicle breaking activities which is undertaken elsewhere in the site.
- 6.17 The proposal is not considered to adversely affect highway safety, and no objection has been raised by Essex County Council Highways to the proposal.
- 6.18 The proposal is for open storage, which has been assessed as being acceptable in this instance. The application site therefore does not require connection to mains water or mains sewerage. A condition has been recommended with regards to restricting the use of the site for the storage and parking of salvaged vehicles only, with restrictions on the storage of other items, including items removed from vehicles during breaking. This is because the application does not contain sufficient information to fully assess the impact of the storage of other goods. It is considered expedient to impose the above restrictions in order to protect both the visual character of the area and the wider environment from potential contamination caused through the unrestricted external storage of other goods.

## Background Papers.

None.