



**REPORT of
CHIEF EXECUTIVE**

**to
SOUTH EASTERN AREA PLANNING COMMITTEE
6 NOVEMBER 2017**

Application Number	OUT/MAL/17/01099
Location	Land Adjacent 13 Mill Road Tillingham Essex
Proposal	Variation of condition 5 of planning permission OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of 13/00366/OUT) to allow the removal of one sycamore tree.
Applicant	Miss Christine Rook
Agent	None
Target Decision Date	8 November 2017
Case Officer	Kathryn Mathews, TEL: 01621 875805
Parish	TILLINGHAM
Reason for Referral to the Committee / Council	Member Call In

1. RECOMMENDATION

REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see overleaf.

Land Adjacent 13 Mill Road, Tillingham
OUT/MAL/17/01099



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 Maldon District Council 100018588 2014



MALDON DISTRICT COUNCIL

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Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Department
Comments:	SE Committee 17/01099/RES
Date:	24/10/2017
MSA Number:	100018588

3. SUMMARY

3.1 **Proposal / brief overview, including any relevant background information**

3.1.1 The application site currently comprises part of the residential curtilage of 13 Mill Road and lies to the east of the dwelling. To the east of the site are open agricultural fields, whilst the northern boundary adjoins the village allotments. Vehicle access to the site is from Mill Road. The site is located outside the development boundary for Tillingham.

3.1.2 Outline planning permission (reference 13/00366/OUT) for two residential units and associated garages with access off Mill Road was renewed under reference OUT/MAL/16/00528. The only matter for consideration was in relation to access. Landscaping, appearance, layout and scale were reserved matters.

3.1.3 Condition 5 of planning permission 16/00528/OUT requires the following:-

5. *No trees within the site shall be felled, cut back, damaged or removed, unless otherwise first agreed in writing with the Local Planning Authority. No development shall commence until information has been submitted and approved in writing by the Local Planning Authority in accordance with the requirements of BS:5837:2012 in relation to tree retention and protection as follows:*

- *Tree survey detailing works required;*
- *Trees to be retained;*
- *Tree retention protection plan;*
- *Tree constraints plan;*
- *Arboricultural implication assessment;*
- *Arboricultural method statement (including drainage service runs and construction of hard surfaces).*

No development shall commence until fencing and ground protection to protect the trees shall be erected, details to be submitted and approved as per BS5837:2012, and ground protection been erected details of which shall have been submitted to the Local Planning Authority for written approval. The ground protection shall be laid as per Arboricultural method statement in accordance with British Standard BS5837:2012 (Trees in relation to construction) unless otherwise agreed in writing. The protective fencing and ground protection shall be erected before the commencement of any clearing, demolition and building operations and shall be retained until all equipment, machinery and surplus materials have been removed from the site. If within five years from the completion of the development an existing tree is removed, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, a replacement tree shall be planted within the site of such species and size and shall be planted at such time, as specified in writing by the Local Planning Authority.

REASON

To secure the retention of the trees within the site in interests of visual amenity and the character of the area in accordance with policy BE1 of the adopted Maldon District Replacement Local Plan.

3.1.3 The current planning application seeks a variation of the above condition to allow the removal of one sycamore tree. The application is the same as that recently refused planning permission (reference OUT/MAL/17/00872) (see below).

3.2 **Conclusion**

3.2.1 Having assessed the proposal, it is considered that the proposed development would be unacceptable. The proposal would be harmful to the character and appearance of the area, contrary to the relevant Policies of the Approved Local Development Plan and it is recommended that planning permission is refused.

4. **MAIN RELEVANT POLICIES**

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 **National Planning Policy Framework 2012 including paragraphs:**

- Core Planning Principles
- Section 7 Requiring Good Design
- Section 11 Conserving and Enhancing the Natural Environment

4.2 **Maldon District Approved Local Development Plan 2017:**

- Policy S1 – Sustainable Development
- Policy D1 - Design Quality and the Built Environment
- Policy N2 – Natural Environment, Geodiversity and Biodiversity
- Policy H4 – Effective Use of Land

4.3 **Relevant Planning Guidance / Documents:**

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

5. **MAIN CONSIDERATIONS**

5.1 The main issue which requires consideration as part of the determination of this application is the impact of the proposed tree removal on the character and appearance of the area.

5.2 **Character and Appearance**

5.2.1 The sycamore tree the subject of this application makes a positive contribution to the character and appearance of the area and is one of the better quality existing trees with an attractive shape. This tree is likely to have a screening/softening contribution once the land is developed. The tree is early mature, approximately 25-40 years old, and appears to be in good health.

5.2.2 As a result, the removal of this tree would be harmful to the character and appearance of the area, contrary to Policies H4 and D1 of the LDP, and reduce the ability to

mitigate the visual impact of the development that has been granted outline planning permission (OUT/MAL/16/00528). The Arboriculturalist supports this view.

- 5.2.3 As part of the current application, the applicant has stated that they would be willing to replace the sycamore tree with a different species but a replacement tree would take many years to replace the positive contribution the existing tree makes to the character and appearance of the area.

5.3 **Other Considerations**

- 5.3.1 The applicant is the owner of the neighbouring land who seeks to gain authorisation for the removal of the sycamore tree identified, on the basis that the tree's seeds and saplings are poisonous and potentially fatal to their horses who graze the adjoining field. They have advised that one of their horses has already been very sick. The application is accompanied by letters of support from Redwings Horse Sanctuary and Blaircourt Equine Veterinary Clinic Ltd.
- 5.3.2. Whilst Officers sympathise with the neighbouring horse owner, it cannot be concluded from the information available that complete removal of the tree is justified in order to minimise the risk to the health of their horses from sycamore seeds and saplings. The British Horse Society and the Royal Society for the Prevention of Cruelty to Animals (RSPCA) identify the seedlings and saplings of sycamore trees as being potentially hazardous if consumed by horses, advising that horses are most at risk during the autumn and late spring. However, they do not recommend that the trees are removed. Instead, they make reference to minimising exposure of horses to the seeds through, for example, cordoning off the area around the tree, collecting leaves, seeds and saplings, not overstocking pasture and supplementing feed if necessary, and checking the horses twice a day.
- 5.3.3. On the basis of the above, it is considered that the reasons for the proposal can only be afforded limited weight in the determination of the current application and do not outweigh the harm the removal of the tree would have on the character and appearance of the area.
- 5.3.4. The Parish Council previously objected to the proposal (OUT/MAL/17/00872) on the basis of CC5 'Protection of wildlife at risk on development site'. Policy CC5 was a policy contained in the now replaced 2005 Local Plan. Policy N2 'Natural Environment, Geodiversity and Biodiversity' is the equivalent policy in the current LDP. The sycamore tree, other than the potential to provide for nesting birds, is not known to provide habitat for any protected species and, therefore, a refusal of planning permission on the basis of wildlife loss could not be sustained in this case.

6. **ANY RELEVANT SITE HISTORY**

- **OUT/MAL/13/00366** - Two residential dwellings and associated garages with access off Mill Road. Approved.
- **OUT/MAL/16/00528** - Application for outline planning permission for two residential units and associated garages with access off Mill Road (Renewal of OUT/MAL 13/00366/OUT). Approved.

- **DET/MAL/17/05068** - Compliance with conditions notification
OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of OUT/MAL 13/00366) Condition 5 - No trees within the site shall be felled, cut back, damaged or removed. Refused.
- **OUT/MAL/17/00872/OUT** - Variation of condition 5 of planning permission
OUT/MAL/16/00528 (Application for outline planning permission for two residential units and associated garages with access off Mill Road - Renewal of OUT/MAL/13/00366) to allow the removal of one sycamore tree. Refused.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Tillingham Parish Council	No response received at the time of writing report but the Parish Council objected to the previous application for the same proposal (reference OUT/MAL/17/00872) on the basis of CC5 Protection of wildlife at risk on development site	Noted (refer to 'Other Considerations' section of report).

7.2 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Arboriculturalist	No response received at the time of writing report but, in response to the previous planning application for the same proposal (reference OUT/MAL/17/00872), the following advice was provided:- <i>The Sycamore in question is early mature on the northeast corner of the development site and as such, may be an important tree when viewed as a whole with the finished layout of the development which has outline permission. The tree appears to be in good</i>	Noted (refer to 'Character and Appearance' section of report).

Name of Internal Consultee	Comment	Officer Response
	<i>health, it is an attractive shape and should be retained until such time as the reserved matters are submitted for consideration.</i>	
Environmental Health	No objection.	Noted.

7.3 Representations received from Interested Parties

7.3.1 No letters of representation have been received.

8. PROPOSED REASON FOR REFUSAL

1. The sycamore tree the subject of this application makes a positive contribution to the character and appearance of the area, is one of the better quality existing trees with an attractive shape and appears to be in good health. This tree is likely to have a screening/softening contribution once the land is developed. Therefore, the removal of this tree would be harmful to the character and appearance of the area, contrary to the NPPF (Section 7), NPPG and Policies H4 and D1 of the Maldon District Approved Local Development Plan