



**REGULATORY
SERVICES
COMMITTEE**

REPORT

23 February 2012

Subject Heading:

P1413.11 – 178 Crow Lane – canopy building (received 22 September 2011; further information submitted 19 December 2011)

P1414.11 – 178 Crow Lane - steel clad building (received 22 September 2011; further information submitted 19 December 2011)

P1768.11 – 178 Crow Lane - steel clad building (received 25 November 2011)

P1778.11 – 178 Crow Lane canopy (received 25 November 2011)

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Policy context:

Local Development Framework
The London Plan
National Planning Policy Statements/
Guidance

Financial summary:

None

The subject matter of this report deals with the following Council Objectives

Ensuring a clean, safe and green borough	<input checked="" type="checkbox"/>
Championing education and learning for all	<input type="checkbox"/>
Providing economic, social and cultural activity in thriving towns and villages	<input checked="" type="checkbox"/>
Valuing and enhancing the lives of our residents	<input type="checkbox"/>
Delivering high customer satisfaction and a stable council tax	<input type="checkbox"/>

SUMMARY

This report follows deferral of two applications (P1413.11 and P1414.11) from the Committee meeting on 17/11/11 and the submission of two further applications (P1768.11 and P1778.11) in respect of the same development such that it concerns four applications for development at 178 Crow Lane, Romford. The further applications are for a canopy building and a steel-clad building on a permanent basis and both on a 5-year temporary basis. The applications are retrospective as the structures have already been erected. The material considerations affecting that application are common to the applications and the report consolidates consideration of all 4 applications. The applications will be determined separately through separate resolutions of the Committee. The applicant is a relative of a Councillor.

RECOMMENDATIONS

1. It is recommended that P1413.11 is refused planning permission for the following reason:
 - The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. The Local Development Framework Policy DC45 and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new buildings will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances submitted in this case are not considered to amount to the very special circumstances needed to over-ride the presumption against inappropriate development in the green belt and the proposal is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and PPG2 (green belts).

2. It is recommended that P1414.11 is refused planning permission for the following reason:

- The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. The Local Development Framework Policy DC45 and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new buildings will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances submitted in this case are not considered to amount to the very special circumstances needed to over-ride the presumption against inappropriate development in the green belt and the proposal is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and PPG2 (green belts).

3. It is recommended that P1768.11 is refused planning permission for the following reason:

- The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. The Local Development Framework Policy DC45 and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new buildings will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances submitted in this case are not considered to amount to the very special circumstances needed to over-ride the presumption against inappropriate development in the green belt and the proposal is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and PPG2 (green belts).

4. It is recommended that P1778.11 is refused planning permission for the following reason:

- The site is within the area identified in the Local Development Framework as Metropolitan Green Belt. The Local Development Framework Policy DC45 and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belt) is that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new buildings will only be permitted outside the existing built up areas in the most exceptional circumstances. The special circumstances submitted in this case are not considered to amount to the very special circumstances needed to over-ride the presumption

against inappropriate development in the green belt and the proposal is therefore contrary to Policy DC45 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document and PPG2 (green belts).

REPORT DETAIL

Background

- 1.1 The two applications for permanent buildings were deferred from 17th November 2011 Regulatory Services Committee to provide an opportunity for the applicant to fully explain the case he wishes to promote for very special circumstances: to enable Staff to provide a fuller explanation of the two stage Green Belt assessment and how any harm (in principle and any other) must be outweighed by very special circumstances; and to explain why the physical condition/appearance of the land does not diminish its Green Belt function or status. A fuller explanation of the Green Belt and its function is also provided at Member's request below.
- 1.2 Since the previous reports were considered at Committee, two applications for the same buildings but seeking permission on a temporary basis for 5 years have been received (planning references: P1768.11 – Steel clad building; P1778.11 – canopy building).
- 1.3 The current report assesses all four of the above planning applications.
- 1.4 Applications for Certificates of Lawful (Existing) Development for both buildings have also been received (ref: E0018.11 – Steel clad building; E0019.11 – Canopy building). These are being assessed separately.
- 1.5 Enforcement Notices were served in relation to the steel-clad building and the canopy building on 12th January 2012. These become effective on 29th June 2012 and have a compliance period of 6 months.

The two stage Green Belt assessment

- 1.6 The green belt has been designated to prevent urban sprawl, i.e. to prevent the outward extension of London, in this case. Its main purpose is to provide for agriculture and forestry, nature conservation and open space for recreation. Certain development is allowed such as the extension of residential properties up to 50% by volume of their original size (or as so built in 1948). When the green belt was first designated, there were some commercial premises included in the designated area, which in Havering extends over some 6,000 hectares. The Green Belt begins closer to London than the main urban areas in the Borough which were formerly in Essex and wraps around them, such that there is a narrower strip to the west of

Romford which includes the application site. While the London Metropolitan Green Belt is generally 7 – 8 miles wide, at this point the Green Belt is approximately 270 metres wide. The essential function of this strip is to prevent urban sprawl and in particular to prevent the joining up of the urban areas. The development plan which identified the Green Belt also identified other areas for commerce and employment and, it is likely that over time it was expected that those remaining commercial units would have gradually disappeared from the green belt as they moved to more suitable locations. However, a number of commercial activities remain in the Green Belt, as do residential properties.

1.7 Assessment of proposals in the Green Belt is a two stage process. Firstly the decision maker must consider whether the development is appropriate development in the green belt. PPG2 (Green Belts) and Policy DC45 of the LDF define development which is considered to be appropriate in the Green Belt:

- **agriculture and forestry, outdoor recreation, nature conservation,**
- **Cemeteries;**
- **mineral extraction ;**
- **Park and Ride facilities provided that the criteria in Annex E of PPG13 are met.**

Planning permission for new buildings will only be granted for the following purposes:

- **they are essential for the uses listed above; or**
- **they involve limited infilling or redevelopment on a site designated as a Major Developed Site in accordance with DC46**

1.8 If the proposal is for development defined as inappropriate, such as that at the application site, the development is automatically deemed harmful in principle to the purpose of the green belt. PPG2 indicates that such in principle harm (together with any other physical harm) must be outweighed by very special circumstances. Any other physical harm may arise in connection with any other matter of planning importance than the Green Belt. This includes, for example, any harm to visual amenity, residential amenity, highway safety and parking, archaeology etc.

1.9 Very special circumstances must either singly or together be so special that they are particular to the circumstances of that site or proposal and are a reason to allow inappropriate development in the green belt. It is for the Council to decide whether any circumstances raised by the applicant constitute the very special circumstances needed to justify inappropriate development in the Green Belt, where there is a general presumption against all inappropriate development.

The very special circumstances test

- 1.10 The decision maker needs to consider whether the circumstances put forward by the applicant outweigh both the “in principle” harm and “any other harm”. The weight to be given to each circumstance offered by the applicant individually or together is a matter for Members' judgement as to whether they are sufficient to outweigh the presumption against inappropriate development. If Members agree with the applicant that the circumstances offered are unique and that the development proposed could only be accommodated at the application site and is demonstrably required/needed, then they may decide that the circumstances offered are very special and that the presumption against inappropriate development does amount to those needed to outweigh the harm identified. The Council will need to take into account the views of the Planning Inspector in considering previous applications for similar development at the application site when deciding whether the circumstances do outweigh the presumption and that such circumstances are very special in nature.
- 1.11 Incrementally allowing inappropriate development in the Green Belt may set a precedent for other development in the Green Belt. If the circumstances offered by an applicant are accepted as being the very special circumstances needed to outweigh the presumption against development in the Green Belt then if the same circumstances are offered on another site, they would have to be considered particularly carefully. Some circumstances will therefore be “universal” in that they could apply to any similar site in the Borough, some will be “special” in that they only apply to this type of commercial enterprise or to this part of the Borough (for example) but whether the circumstances put forward are “very special” that they are entirely unique to this proposal is what is for consideration here.

Physical condition/appearance of the land within the Green Belt

- 1.12 The green belt was designated to fulfil the function of checking London's urban sprawl so that it did not swallow up towns and villages in the surrounding countryside, including Essex. It also allowed recreation and agriculture to continue in reasonably close proximity to the major markets of London's urban population and to ensure that existing minerals could be extracted close to the City. Much of the green belt is made up of open fields, country parks and other recreational uses such as fishing ponds, stables etc giving it a distinctive 'rural' appearance. However, other parts include residential properties, particularly farmhouses and small rows of cottages (often farm workers cottages) as well as some large detached properties, industrial units and commercial sites including shops and garden centres. Green Belt policy is clear in its position that the state or appearance of land is not relevant in considering its Green Belt designation or function. Accordingly, the Green Belt "rules" apply to all land so designated and not just the “nice bits”. For the Green Belt to be successful and continue to be so, it is important that the Green Belt boundary is retained and maintained.

Land within the Green Belt but on the urban edge is in constant danger of being put forward for exclusion from the Green Belt.

- 1.13 If the physical condition of the land or the appearance of land at the boundary were to be a consideration for excluding land from the Green Belt, owners of land on the urban boundary in particular would be encouraged to let their land fall into a poor state of upkeep so that it could be re-designated and development take place. If that were to occur the next area just beyond that would also then deteriorate and come forward for development, etc. thus undermining the Green Belt and reasons for including land within it, in particular the need to check urban sprawl. It would also be the case that remote areas could be de-designated and begin the process of development from within the Green Belt such that these areas then join up.

REPORT DETAIL

1. Site Description

- 1.1 The application site is located to the northern side of Crow Lane and comprises No.178 Crow Lane and land to the rear of this building. It forms part of a larger site which includes the rear part of 188 Crow Lane and is in a commercial use for the storage of containers in connection with a removals business. In addition to the frontage building, the application site contains a number of buildings which provide ancillary office accommodation together with container storage plus vehicle maintenance/workshop. This application covers all four planning applications submitted for permanent and temporary consent for the canopy building and the steel-clad building. The site has direct access onto Crow Lane. The site is within the Metropolitan Green Belt albeit it has a significant commercial appearance.
- 1.2 The surrounding area is a mixture of residential (mainly to the road frontage), many with commercial activities behind and a commercial/industrial area to the east of the application site from No.158 Crow Lane eastwards. There are also open vegetated areas along Crow Lane to the West and to the north of the application site, beyond which lies the London – Southend Railway Line.

2. Description of Proposal

- 2.1 The proposals follow withdrawals of previous applications and are applications for permanent consent or for temporary consent for 5 years for both a canopy building and a steel-clad building which have been erected at the application site. By virtue of their scale, bulk and connection to services the structures are not considered to be temporary in nature. Nonetheless, it

is open to the applicant to make applications to retain them for a temporary time period.

- 2.2 The canopy building is in a central location beyond the existing frontage buildings, at its nearest point, 56m or so from the back edge of the public highway to Crow Lane. The canopy building is comprised of steel uprights and roof beams with a plywood/canvas roof covering. The canopy building is 37m long and 15m wide. It has a pitched roof with a ridge height of 9.2m above ground level (eaves height 6.5m above ground level) with gables to the southern and northern elevations.
- 2.3 The steel-clad building is adjacent to the eastern boundary, at its nearest point some 84m or so from the back edge of the public highway to Crow Lane. The building is 16.25m deep and 14.6m wide. It has a pitched roof with a ridge height of 8.8m above ground level (eaves height 6m above ground level) and gables to the western and eastern elevations. It faces west with the two roller shutter doors located centrally with two pedestrian doors flanking them.
- 2.4 The applicant states that a removals business has operated on this site since 1934. A special circumstances case has been submitted for both buildings and for both the permanent and 5-year temporary applications.
- 2.5 The applicant has also offered to have none of his existing business containers within an area marked "B" which is an area of land between the front building line of No.178 and a line slightly forward of the canopy. Also within the area marked "A" (which covers the remainder of the applicant's site) the applicant is offering to limit the number of containers stacked on top of each other to a maximum of 5. He would be willing to enter into a S106 legal agreement such that he would agree to be tied to this arrangement for his existing container business if he is granted planning permission for the canopy and the steel clad building.

3. History

The planning history relating to 178 Crow Lane and the rear part of 188 Crow Lane are inextricably linked due to them being in the same ownership and as they have a physical connection. There is extensive planning history relating to the application site/sites and the following are the relevant applications:

- 3.1 P1402.90 (178) erection of a storage building - refused; subsequent appeal dismissed.
P1177.94 (178) retention of a building for use as a museum – refused 6/1/95; subsequent appeal dismissed.
P1012.95 (178) building for use as a museum – refused 11/10/95; subsequent appeal dismissed.

P1451.98	buildings for vehicle maintenance, workshop, store, office and WC (at 178-188 Crow Lane) – granted 28-05-99.
P0384.00 (188)	repair and refurbishment of existing building for storage and museum – lapsed 7/11/02; appeal made (not determined).
P0158.01 (188)	replacement building for museum, offices, workshop and storage – refused Jan 2002; appeal dismissed 29/7/02.
P1513.02 (188)	replacement building for museum, offices, storage and workshop at rear. This application was called-in by the Secretary of State who decided to refuse planning permission.
P1803.10	steel clad building - withdrawn.
P1804.10	canopy building – withdrawn.
P1413.11	canopy building (permanent) – under consideration.
P1414.11	steel clad building (permanent) – under consideration.
P1768.11	steel clad building (temporary) – under consideration.
P1778.11	canopy building (temporary) – under consideration.
E0018.11	steel clad building (Certificate of Lawful Development) – under consideration.
E0019.11	canopy building (Certificate of Lawful Development) – under consideration.

3.2 Enforcement Notices were served in relation to the steel-clad building and the canopy building on 12th January 2012. These become effective on 29th June 2012 and have a compliance period of 6 months.

4. Consultation/Representations:

4.1 23 neighbouring and nearby properties were notified of the application. A site notice was posted and a press notice was issued. Six letters of support were received in connection with all the applications. No objections were received relating to the applications for permanent permission.

4.2 Two letters have been received objecting to the canopy building (temporary) on the following grounds:

- Creating an eyesore and then trying to get permission is not a reason to grant it on green belt land.
- The same rules should apply to everyone in respect of green belt development.
- There have been previous refusals and the situation appears to be no different.
- Council Officers should not have suggested that planning permission would not be required.
- A Museum was previously refused by the Planning Inspectorate after the Council indicated that it was in favour of the scheme.

- The applicant is aware that this is Green Belt land and that he shouldn't look to build here.
- Councillors should not be swayed by the bad state of the site into giving planning permission.
- The site should be brought up to a reasonable standard without further buildings going up.

4.3 Two pieces of correspondence have been received raising objections to the steel-clad building (temporary) on the following grounds:

- The structure is on green belt land and if granted would set a precedent for other development in the Green Belt.
- The Leader of the Council has publicly stated that this administration would defend green belt land within Havering.
- Do the owners have a plan to move the artefacts in 5 years time; if so why can't suitable premises not be sought now?
- A previous application to allow the workforce to work under cover was refused.
- A few years ago the Council voted for the applicant to build a museum on this site but it was overturned by the Planning Inspectorate as this site is in the green belt. The applicant knows that he has no right to build such a building here.
- Just because the site is a mess is not a good reason to allow buildings.
- The arguments put forward by the applicant are the same as previously when the Inspector refused permission.
- Green Belt rules must be seen to apply to everyone.
- Temporary building in the green belt is still building on the Green Belt.
- The buildings should be removed.

4.4 The London Fire and Emergency Planning Authority have previously written to advise that as a site currently in use by large vehicles the access is satisfactory for their emergency vehicles.

4.5 The London Fire Brigade (water supply) have previously written to advise that no additional, or alterations to the existing, fire hydrants are required for the site.

5. Staff Comments

5.1 This application is referred to committee as there is significant planning history in relation to development, in terms of planning applications, enforcement and appeals. In addition, the applicant is a direct relative of a Councillor. This report has been passed to the Monitoring Officer, who has confirmed that pursuant to the requirements of the Council's Constitution, the application has been processed in accordance with standard procedure.

5.2 The issues in this case are the principle of the development, its impact in the Green Belt and the street scene, impact on the amenities of nearby residential occupiers and highways/parking. Policies DC33, DC36, DC45,

DC55 and DC61 of the Local Development Framework Core Strategy and Development Control Policies Development Plan Document are relevant. Also relevant are London Plan Policies 2.7 and 7.16 and PPG2: Green Belts and PPS7 Sustainable Development in Rural Areas. Also relevant are the comments made by Planning Inspectors in dismissing earlier schemes.

- 5.3 Previous applications for buildings at this site have been dismissed at appeal principally on green belt grounds. The applicant on this occasion has asked for two buildings to be considered for both permanent and temporary consent, one for a museum – steel clad building (P1768.11) and the other is this stand-alone canopy building. Each proposal is considered on its own planning merits.

Principle of development

- 5.4 Policy DC45 of the LDF Core Strategy and Development Control Policies DPD states that planning permission for development in the Green Belt will only be granted if it is for agriculture and forestry, outdoor recreation, nature conservation, cemeteries, mineral extraction and Park and Ride facilities. This is the list drawn from national planning guidance, PPG2 “Green Belts”.
- 5.5 The existing use of the application site is a commercial removals depot which does not fall within any of the listed categories. The proposed development of a canopy building of approximately 455sqm and a steel-clad building of approximately 270sqm are therefore both inappropriate development in the Green Belt, by definition, and therefore harmful in principle to the purpose of the Green Belt.
- 5.6 In addition, consideration is to be made as to whether the proposal creates other additional harm caused by the physical impact on openness, on visual amenity in the streetscene, on residential amenity etc.
- 5.7 The explanatory text to Policy DC45 clarifies that in order to achieve improvement to both the open nature and Green Belt environment at existing authorised commercial/ industrial sites, it may be justifiable to grant permission for a use which would not normally be acceptable in terms of Green Belt policy. Any such proposal would need to be the subject of the Departure procedure. The current proposals are not for redevelopment and would not result in a substantial decrease in the amount of building on the site or any improvement to the local Green Belt environment, such that these proposals are not considered as falling under that aspect of the policy.
- 5.8 The applicant has submitted a supporting statement which he wishes to be taken as a “very special circumstances” case sufficient to outweigh the harm caused to the Green Belt. The first section of this case is general in that it applies to all four applications. The next section to the canopy building (permanent and temporary) only and the final section to the steel-clad building (permanent and temporary) only. Prior to looking at the very special

circumstances case, it is necessary to consider what harm arises from the proposed development(s).

Impact on the character and appearance of the Green Belt

- 5.9 The Planning Inspector in his decision letter dated 25th September 2003 relating to 188 Crow Lane considered that this site plays a role in restricting the growth of the built-up area and in preventing the joining up of Romford and Dagenham which meet the first two purposes of the green belt. In his view the site in this part of Crow Lane “retains a distinct open and low-density character, and it appeared to me to continue to perform the roles of separating neighbouring settlement and restricting urban sprawl”.
- 5.10 The Planning Inspector further noted that “The appeal site is part of a narrow finger of Green Belt that links areas to the north and south of Crow Lane” such that “I consider it to be a sensitive part of the Green Belt. If the openness of the land were to be further reduced, an undesirable fragmentation of the Green Belt could result.”
- 5.11 The status of the application site in Green Belt terms has not diminished since the Planning Inspector made his comments in 2003. The site continues to fulfil the first two purposes of the green belt even though the use of the site itself does not fall within the range of appropriate uses of land in the green belt.
- 5.12 The canopy building, although 9.2m high, 37m long and 15m wide, would not be particularly visible from Crow Lane although it is visible from directly adjacent to the vehicular access onto Crow Lane and from views from the public highway to the west of the existing frontage building. In addition as containers cover much of the remainder of the site and are stacked at least 4 high in rows close to the canopy building to its north and west with other existing buildings to the east of the application site, this new building is not particularly visible from longer distance views.
- 5.13 Likewise, the steel-clad building at 8.8m high would not be particularly visible from Crow Lane. This is partly because the steel clad building is located nearly 90m from the back edge of the highway to Crow Lane and as there are intervening storage buildings and 2-storey office/ancillary buildings closer to the highway. In addition as containers cover much of the remainder of the site and are stacked at least 4 high in rows, the new structure is not particularly visible to this aspect.
- 5.14 Containers are stacked along the northern boundary of the application site. It is clearly a historic feature of the current use that there are containers at the application site. The canopy building and the steel-clad building would therefore not be visible from public viewpoints immediately adjacent on open land to the north of the application site. Also with the high container stacks to the northern boundary, although the railway is elevated, it is not currently

possible to see the canopy building or the steel-clad building from this public viewpoint.

- 5.15 Nonetheless containers can be removed from the application site and moved around the site in connection with the applicant's business such that they would not provide a permanent physical screen. Notwithstanding that the site's established and historic use, which pre-dates Planning (ie before 1948) causes some harm to the green belt by its very nature, the height and location of the containers currently do reduce the visibility of the canopy building and the steel-clad building.
- 5.16 If the use were to cease, while the containers would be removed, any buildings, including the canopy building and steel-clad would, as permanent buildings, remain permanently on the land. Notwithstanding the open sides of the canopy building, it encloses a space and has a roof covering of 455sqm in area raised between 6.5m and 9.2m above ground level. The steel-clad building is 270sqm and rises between 6m and 8.8m above ground level. It is considered that both buildings would have greater visibility from public viewpoints and therefore, due to their size, scale and inappropriateness in the Green Belt would individually and together, have an adverse impact on the openness of the Green Belt and purposes of including the site within it.
- 5.17 The replacement of an area for the storage of containers by a building, even on a temporary basis, would not increase openness at the application site and no other specific new area within the application site is proposed to be retained as open to compensate.
- 5.18 The Planning Inspector clarified that the fundamental aim of Green Belt policy is to prevent urban sprawl by "keeping land permanently open". Staff consider that the development of these permanent buildings, even for a temporary period, results in harm to the open character and appearance of this part of the Green Belt and the purposes of including land within it, contrary to Policy DC45 and PPG2.

Impact in the Street Scene

- 5.19 The canopy building and steel-clad building are not very visible from Crow Lane. This is partly because the canopy and steel-clad buildings are located at least 50m from the back edge of the highway to Crow Lane and as there are intervening existing storage and other works buildings and 2-storey office/ancillary buildings closer to the highway.
- 5.20 Both buildings would be partly visible from the adjoining industrial site and would appear to be similar in scale and form to other industrial buildings, albeit in newer materials. However the adjoining industrial area lies outside the Green Belt.

- 5.21 Staff therefore consider that there would be no significant adverse impact on visual amenity in the streetscene.

Impact on Residential Amenity

- 5.22 There are residential properties opposite the application site and along both sides of Crow Lane to the east and west of the application site. Of themselves Staff do not consider that the buildings would have any significant impact on the adjoining neighbouring occupiers amenity, in part as it is located some distance away, a minimum of 45m from the rear elevation of the nearest residential property.
- 5.23 Given the current use of the site for container storage, it is considered that the canopy building and the steel-clad buildings of themselves would not be likely to increase the level of activity on site, although workers would be able to work under the canopy's dry/sheltered conditions more than during normally wet or colder periods, such as during the winter, when work may be limited to shorter periods or not at all during inclement weather. There is, nonetheless, no suggestion that the canopy building or steel-clad building would increase either the number of the current workforce or the number of containers currently handled at the application site. It is therefore considered that there would be no significant increase in noise and disturbance beyond that existing.

Highways

- 5.24 There is no change proposed to the highway accesses to the application site. The London Fire and Emergency Planning Authority indicate that the access should meet particular requirements but recognise that this is an existing access.
- 5.25 The proposed buildings would not reduce the existing internal "road" width and there are no objections on highway safety grounds.

The Case for Special Circumstances

- 5.28 As set out above, in cases where in principle and physical harm has been identified, very special circumstances must be demonstrated in order for the proposal to be considered favourably. The applicant's special circumstances case is considered below. The first section of this case is general in that it applies to all four applications, the next section to the canopy building (permanent and temporary) only and the final section to the steel-clad building (permanent and temporary) only.
- 5.29 The Special Circumstances Case submitted by the applicant in relation to both the canopy building and the steel clad building, is summarised as follows:

- 1) The removal and storage industry has changed dramatically over the past years resulting from the introduction of large steel shipping containers closing London Docks and developing Felixstowe and Tilbury Docks. The Removal industry changed as people can now move all over the world as easy as they used to move from town to town. In the docks warehouses were replaced by stacks of containers. The removal industry is labour intensive but has become less so to compete with other industries for Staff and to be competitive. Containers have played a major part in this as staff can now do 2 or 3 times as much work. The applicant's has transformed dramatically to accommodate these changes.

People move more than before and have more smaller items as they leave fitted items behind often more expensive and delicate requiring expert preparation and packing. More larger homes are moved longer distances and use of containers have taken over transforming the industry like supermarkets in relation to small parades of local shops and like motor vehicles changed the days of horse and carts. Industry and businesses have to change to move with the times and demands or they will die or become extinct.

Staff Comment: These are statements of fact.

- 2) No new activities are being undertaken so there is no new Use Class involved. As there is no new activity, the activity undertaken under the canopy does not amount to a change of use and the activity itself was confirmed as allowed by the Planning Inspectorate in 1992.

Staff Comment: This is an application for works, not an application for a change of use. The fact that the activity has not changed is not considered to provide very special circumstances for new buildings in the Green Belt.

- 3) Neighbours all support the application. The business should be helped not hindered by the Council in the current commercial climate

Staff Comment: The neighbours have been asked by the Council for their opinion as to whether the proposal affects them which they have a right to respond to (any concerns are addressed in the original report). It does not automatically follow that if no objections are received that the scheme is acceptable. Whilst planning policies play a role in supporting business and enabling them to improve the main issue here is that the development is clearly inappropriate within the Green Belt.

- 4) The applicant's business was already in being as a commercial depot when in 1948 it was zoned as Green Belt. It therefore has the rights of a commercial site within the Green Belt. In 1948 residential,

commercial business uses and other uses outside the Green Belt still retained their rights

Staff Comment: The green belt around London was confirmed in the 1947 Town and Country Planning Act, following the Green Belt Act of 1938. There are no specific commercial rights to develop in the green belt.

- 5) It is not a virgin, undeveloped, green grassed, forest type open space which is what Council Officers have written in their report.

Staff Comment: Staff have not suggested that the site is anything other than in use for its current lawful use. The term "Green Belt" does not mean open, undeveloped, virgin, forest or open space; although it does contain many such sites. The term Green Belt applies to a concept which was applied to prevent London's urban sprawl. The Green Belt when first designated included residential properties, commercial properties and all other buildings within a designated band which circles London. It is generally some 7 - 8 miles wide and excluded towns such as Romford, Hornchurch and Upminster which were in Essex at that time. The Dagenham Corridor in which the application site is located is a narrower strip closer to London than the urban areas of Romford, Hornchurch etc., and is particularly sensitive to development pressures.

- 6) The applicant objected to the depot continuing to be within the Green Belt when the Local Development Framework (LDF) was being drawn up. It was highlighted by the Applicant to the Planning Inspector as part of the Inquiry process into the LDF that Copsey's lies directly next to an Industrial Zone but the Planning Inspector who considered the objection did not, in the applicants' view, make an acceptable visit to the site but decided that it would not make any difference to Copsey's if it were removed from the green belt as it was already in commercial use.

Staff Comment: The Planning Inspector considered the objection to the continued inclusion of the application site within the green belt and considered that the application site should continue to remain in the green belt. The use remains inappropriate in principle in the green belt and speculation as to whether the buildings would be acceptable if the site were not in the green belt is not relevant to assessment of the planning issues.

- 7) Containers could be stacked on the area where the buildings are located at any height (e.g. 76 feet) so that the buildings are less intrusive than what could be located on this part of the depot

Staff Comment: The lawful use of the site does not restrict the height of containers to be stacked in connection with the lawful use of

the application site. Containers are removable whereas the canopy is a permanent structure

- 8) Any person looking at the depot could not possibly guess or understand that the Council had zoned it green belt or that it was still in the green belt zone, especially when the Council zoned the Piggery directly next to us at 158 as an Industrial area.

Staff Comment: The activities at the site have changed over time. In 1992 a Planning Inspector confirmed that changes which brought large containers, stacked over the site did not change the lawful use of the application site. It clearly did have an impact on what people perceive. This does not change the fact that the green belt was designated in 1947 (or soon thereafter) and has continually been confirmed in all local plans since that date. Changes to the green belt boundary can only be considered through the development plan process and consideration was given by the Planning Inspector in charge of the Inquiry into objections to the draft LDF as to whether the application site should or should not be excluded from this approximately 50 year designation. The Planning Inspector did not exclude the site from its continuing designation within the green belt. The Council, in line with the Inspector's direction did not exclude the application site from the green belt. No.158, likewise remains within an employment area, albeit that its related policy advocates redevelopment to a more appropriate use.

- 9) The Council should presume in favour of the applicant unless what is being applied for is or would do demonstrable harm. The applicant submits that neither of the buildings (this and the steel clad building) is doing demonstrable harm to the environment of the area of Crow Lane

Staff Comment: The presumption in the green belt is against allowing inappropriate development. The proposal is for inappropriate development and there is no presumption in planning policy at local or national level in favour of the applicant. It is the applicant's opinion that the proposal causes no harm to the green belt.

- 10) The buildings are a credit to the company and the Staff and are an example to all businesses of what Staff can do to save their jobs

Staff Comment: The applicant has a right to hold this opinion. It does not amount to very special circumstances to override green belt policy.

- 11) Copsey's has asked neighbours to comment on the buildings to let the Council know whether they think the buildings have any impact so that the Council can judge what impact the buildings have had over the years.

Staff Comment: Neighbours have a right to make any comments on any application by which they are affected. Their comments whether positive or negative do not of themselves form very special circumstances to allow inappropriate development in the green belt.

- 12) The original Report indicated that the buildings would be intrusive if the containers were removed from the application site. A solution would be that the applicant enters into a legal agreement (Section 106 Agreement) to remove/dismantle the canopy building if ever all the containers were removed from the application site or if all the antique collection were removed from the depot the steel clad building would not longer be required and a legal agreement could be used to ensure this building is removed if no longer needed for this purpose.

Staff Comment: Any building, howsoever constructed, can be removed using the appropriate equipment. Such an agreement would not remove any harm identified which would then perpetuate for the unspecified time that the company remained at the site. The offer of a legally binding agreement to remove the buildings at some unspecified date in future does not constitute a very special circumstance for allowing the development

- 13) Another option would be to grant the two 5 year temporary consents (applied for separately) so that when the LDF comes up for review in 5 years time, the application site could be rezoned so that it is not in the green belt any more. Crow Lane is a prime candidate for rezoning due to past appeals, planning permission, enforcement action etc. resulting in a very mixed "Hotch Potch" area.

Staff Comment: Any expectation of "rezoning" is speculative. Central Government in their draft NPPF (National Planning Policy Framework) confirmed that green belt policy should be retained and that enforcement action should be undertaken as necessary to ensure its longevity.

- 14) The alternative is a lengthy expensive process of enforcement, planning appeals, courts, health and safety, high court, even the Court of European Rights

Staff Comment: The applicant is within their rights to undertake separate processes if planning permission is refused and/or Enforcement Notices served. The applicant is aware that previous applications in relation to a Museum at the site have been turned down by the Planning Inspectorate.

- 15) Every one of the 20 properties in the same part of Crow Lane as Copsey has a commercial element although some have a residential dwelling to the Crow Lane frontage.

Staff Comment: Crow Lane is by fact a mixture of residential and commercial properties; some of which are in the green belt. This does not of itself amount to very special circumstances to allow development in the Green Belt.

- 16) The buildings have cost a considerable amount of money to erect, do not financially benefit the Company, are purely for the benefit of Staff and to protect Customers possessions and historic articles and such projects should be encouraged by local Councils/Government in the current climate

Staff Comment: These matters have been previously raised and are not considered to form a very special circumstance for allowing inappropriate green belt development.

- 17) The buildings are not out of character.

Staff Comment: This is the applicant's opinion.

- 18) A Section 106 agreement would be entered into to prevent the provision of containers to the frontage area and limit their provision across the remainder of the site

Staff comment: It is not considered that the applicant deciding not to use this area for container storage would bring about any specific environmental improvement.

The offer to restrict container stacking locations and/or maximum height are not considered, on balance to offset the impact of the proposed canopy and steel-clad buildings.

The special circumstances case for the Canopy building alone:

- 19) The canopy building is erected in the middle of the site so that it does not interfere or cause problems for any neighbours

Staff Comment: Staff agree that the canopy does not result in any adverse impact on residential amenity, in part because there are few residential properties nearby and because of the distance of the canopy from the nearest residential property.

- 20) The canopy building is not visually intrusive as it can hardly be seen from Crow Lane or from neighbouring residential properties.

Staff Comment: Staff consider that the proposal is not visually intrusive while containers are located at the application site, nonetheless they would be if the containers were removed. Further analysis is contained in paragraphs 5.21 – 5.23 above.

- 21) The canopy is required to provide a dry environment for workers to meet Health and Safety

Staff comment: Staff understand that the canopy has been provided by the owner in the interest of providing safe working circumstances for his staff. This represents the owner's judgement about health and safety rather than a response to, for example, specific legislative requirements.

- 22) The canopy needs to be at this height to accommodate machinery including the fork-lift

Staff comment: The applicant indicates that the height is required for their forklift truck. The proposed height of the canopy is 9.2m at its apex and 6.5m at eaves level and it is likely that this would be needed to accommodate a fork-lift truck with its mast raised.

- 23) The canopy building needs to be this size to accommodate more than one operation at a time

Staff comment: No details have been submitted regarding the size of the forklift truck(s), the size of the container lorries, numbers of staff involved or why the canopy needs to be of a scale to accommodate more than one operation at a time.

- 24) The applicant's business has led the way in the removal industry but are very exposed to the weather conditions as a result of the introduction of the large steel containers. In recent years Staff experienced ever increasing work in the depot loading, unloading and transferring loads between containers and removal vehicles which was being carried out in the open depot. It has become necessary to provide a cover to protect Staff from the weather. Staff can now work full time even when the weather is bad; meaning that no lay-offs are necessary. Work can be done inside the residence in extremely bad weather but the canopy safeguards jobs, protects customers' goods and offers a better service as well as complying better with all the new legislation for the removal industry including Health and Safety

Staff Comment: Staff recognise that the removal of warehouses and their replacement by containers has changed the shipping and removals industry. Nonetheless the application site did not previously contain warehouses and the proposed buildings do not replace earlier structures. Protection of customers' goods is clearly a responsibility of

the company. No supporting information has been provided to show how the buildings meet Health and Safety Requirements.

- 25) Containers could be stacked on the area where the canopy building is located at any height (e.g. 76 feet) so that the canopy is less intrusive than what could be located on this part of the depot

Staff Comment: The lawful use of the site does not restrict the height of containers to be stacked in connection with the lawful use of the application site. Containers are removable whereas the canopy building is of permanent construction

- 26) If the buildings would be intrusive if the containers were removed from the application site, a solution would be that the applicant enters into a legal agreement (Section 106 Agreement) to remove/dismantle the canopy building if ever all the containers were removed from the application site or if all the antique collection were removed from the depot the steel clad building would not longer be required and a legal agreement could be used to ensure this building is removed if no longer needed for this purpose.

Staff Comment: Any building, howsoever constructed, can be removed using the appropriate equipment. Such an agreement would not remove any harm identified which would then perpetuate for the unspecified time that the company remained at the site. The offer of a legally binding agreement to remove the buildings at some unspecified date in future does not constitute a very special circumstance for allowing the development

The special circumstances case for the Steel-clad building alone:

- 27) The artefacts to be housed are company artefacts acquired over many years in the removal industry

Staff comment: Apart from ownership of both the collection and the application site, the applicant has not identified why the collection can only be housed at the application site and no where else, including in land/buildings which do not conflict with Green Belt policy.

- 28) The artefacts include many items which are priceless to the Company and if not housed in the proper manner, will deteriorate and be lost forever

Staff comment: During a site visit the applicant indicated that Romford Museum was unable to take the vehicles in the collection as they are too big and would cause the collection to be broken up. The applicant has not provided any evidence that he has contacted other Museums about whether they could take the collection or how to appropriately house his existing collection, although he has indicated

that in his view leaving the vehicles covered but outside would eventually result in their ruin.

- 29) The items saved can be traced back to 1847 when the Company was established

Staff comment: The applicant has been refused planning permission 5 times between 1995 and 2002/04 for a building to house this collection on Green Belt grounds (as well as other buildings). The difference now is that the applications for the steel-clad building are for a building which has already been erected.

- 30) The steel-clad building is low profile, located in the middle of the depot against the eastern boundary with 158 Crow Lane which is commercial and zoned commercial with two factory units on it

Staff Comment: The building is 8.8m high, 16.25m deep and 14.6m wide; it is not therefore of a low profile. Its location and its relationship with the adjoining employment area do not of themselves mitigate against harm to the green belt

- 31) When No.158 was given permission for large commercial vehicle workshops the Council also told Copsey's that they preferred any buildings needed by Copsey's should be along this eastern boundary as it would back directly onto the factories at 158 Crow Lane

Staff Comment: Whether or not Officers made such comments cannot be verified. The applicant has correctly highlighted that No.178 is on the eastern extremity of the Green Belt. Nonetheless this of itself does not amount to special circumstances

- 32) This building has been erected over a period of 6 years by the removal staff to accommodate a very special and rare collection of antique carts also pre and post war vintage vehicles as well as an enormous amount of historic items all connected to the removal industry and the company of Copsey established in 1847. Currently the items are being kept in containers but some have been kept outside and deteriorated so it is necessary to house them in a weather-proof building.

Staff Comment: No evidence has been submitted to verify that the buildings were erected over this period; nonetheless putting up a building without the necessary planning permission does not constitute a special circumstance to allow its retention in the green belt.

- 5.30 In the light of the detail set out above, Staff do not consider that the special circumstances case put forward in relation to the canopy building amounts to the very special circumstances needed to outweigh the harm identified.

5.31 Staff have considered whether a temporary or personal permission would be appropriate. However, the circumstances raised by the applicant are similar to those put forward to Planning Inspectors and the Secretary of State, in previous appeal cases, who all concluded that those additional buildings, even if ancillary to the main use of the site as a removals company, would be inappropriate and harmful development in the green belt. They also considered that the applicant's wish for additional buildings neither provided very special circumstances to outweigh that harm. The principle of additional buildings at this site has been tested several times previously and Staff consider that there has been no fundamental change in Green Belt policy since the last appeal decision in 2004.

6. **Conclusions**

6.1 Staff consider that these proposals in the Green Belt are inappropriate in principle. It is further considered that there would be harm to the open character and appearance of the green belt even if the permanent buildings are retained on a temporary basis for 5 years.

6.2 Members may apply judgment to the merits or otherwise of the very special circumstances case but in doing so the extensive appeal history is an important material consideration to which staff suggest significant weight should be attached. Staff consider that there is demonstrable harm and that the reasons promoted and proposed S106 restrictions to the existing use do not constitute the very special circumstances needed to outweigh that harm. Staff therefore recommend that planning permission be refused.

6.3 In the event that Members reach a different conclusion about 1) the nature and degree of harm and/or 2) the merits of the applicant's very special circumstances case in outweighing such harm, any resolution to grant planning permission would need to be referred to the Secretary of State as a departure in accordance with the Town and Country Planning (Consultation) (England) Direction 2009 as the application by reason of its scale, nature and location would have a significant impact on the openness of the Green Belt.

IMPLICATIONS AND RISKS

7. **Financial Implications and risks:**

7.1 None.

8. **Legal Implications and risks:**

8.1 The applicant is a relative of a Councillor. This report has been passed to the Monitoring Officer and the Monitoring Officer is satisfied that the application has been processed in accordance with standard procedure.

9. **Human Resource Implications:**

9.1 None.

10. **Equalities and Social Inclusion Implications:**

10.1 The Council's planning policies are implemented with regard to Equalities and Diversity.

BACKGROUND PAPERS

1. The planning application as submitted or subsequently revised including all forms and plans.
2. The case sheet and examination sheet.
3. Ordnance survey extract showing site and surroundings.
4. Standard Planning Conditions and Standard Green Belt reason for refusal.
5. Relevant details of Listed Buildings, Conservation Areas, Article 4 Directions.
6. Copy of all consultations/representations received and correspondence, including other Council Directorates and Statutory Consultees.
7. The relevant planning history.