



PLANNING APPLICATIONS WEEKLY LIST NO. 1706
Week Ending 5th April 2024

NOTE:

- (i). Decision Notices will be issued in accordance with the following recommendations unless **ANY MEMBER** wishes to refer any application to the Development Committee on the 18th April 2024
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **10th April 2024** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team pbctechnicalsupport@rochford.gov.uk .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

Note

Do ensure that, if you request a proposal to go before Committee rather than be determined through officer delegation following a Weekly List report, you discuss your planning reasons with Emma Goodings Director of Place. A planning officer will then set out these planning reasons in the report to the Committee.

Index of planning applications: -

- 1. 23/00944/FUL – Blounts Farm Church Road Hockley – PAGES 2-9
- 2. 23/00856/FUL - Land At End Of Hambro Parade Rayleigh – PAGES 9-17
- 3. 23/00706/FUL – The Paddock Lambourne Hall Road Canewdon – PAGES 18-24

Application No:	23/00944/FUL Zoning: MGB
Case Officer	Mr Richard Kilbourne
Parish:	Hockley Parish Council
Ward:	Hockley
Location:	Blounts Farm Church Road Hockley
Proposal:	Proposed manege and post and rail fencing (retrospective).

SITE AND PROPOSAL

1. The application site relates to a parcel of land which is located within the Green Belt as defined by the Rochford Development Management Plan. Located to the west of the application site is the applicant's property, which is a large two storey detached dwelling. The existing residential planning unit includes numerous outbuildings including garage and stables. To the north there are open fields, which are demarcated by mature native hedgerows and punctuated at sporadic intervals by large mature trees. To the east of the application site is another large detached property which also has a manege and stable within their curtilage. Whereas, to the south is an access road which is shared with a PRoW and serves the applicants dwellinghouse. The application site itself forms part of a larger paddock and the topography is flat. At the time of the case officers site visit the land was being grazed by a couple of horses.
2. This application is entirely retrospective involving the construction of a manege measuring 40m by 20m at land adjacent to Blounts Farm, Church Road, Hockley.

RELEVANT PLANNING HISTORY

3. Application No. 87/00505/OUT – Outline Application to Erect New Dwelling – Refused - 23.07.1987
4. Application No. 93/00582/FUL - Retention of an Existing Barn – Permitted - 11.01.1994
5. Application No. 03/00486/FUL - New Porch on South Elevation and Single Storey Extension on North Elevation – Approved - 24.07.2003
6. Application No. 12/00332/FUL - Construction of Detached Part Garage/Part Carport – Approved - 17.07.2012

7. Application No. 22/00135/DPDP1 - Householder Prior Approval for Single Storey Rear Extension. Projection 8.0m from Original Rear Wall, Eaves Height 3.0m, Maximum Height 4.0m – Refused - 10.03.2022
8. Application No. 22/00449/LDC - Application for a Lawful Development Certificate for proposed two storey rear extension – Permitted - 01.07.2022
9. Application No. 22/00498/FUL - Demolish existing stables and construct five new stables, tack room, hay store and feed room – Approved - 06.07.2022
10. Application No. 22/00521/DPDP1 - Householder Prior Approval for Single Storey Rear Extension. Projection 8m from Original Rear Wall, Eaves Height 3m, Maximum Height 4m – Not Required - 20.06.2022
11. Application No. 22/00647/DPDP6 - Application to determine if prior approval is required for a proposed agricultural barn for storage – Refused -15.08.2022

MATERIAL PLANNING CONSIDERATIONS

12. The proposed development must be assessed against relevant planning policy and with regard to any other material planning considerations. In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.
13. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

Principle of Development

14. According to the Development Management Plan 2014 (DMP) the application site is located wholly within the Green Belt. Paragraph 152 of the National Planning Policy Framework (NPPF) stipulates that Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. However, paragraph 154 of the NPPF list a number of exceptions to this inter alia “*material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)*” providing the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
15. Policy DM1 (Design of New Developments) of the council’s Development Management Plan (2014), indicates that the design of new developments should promote the character of the locality to

ensure that the development positively contributes to the surrounding natural and built environment and residential amenity without discouraging originality, innovation or initiative. Furthermore, policy DM15 allows for equestrian facilities in the Green Belt, subject to the proposal being satisfactory with regards to the criteria listed within the policy, which inter alia states proposed stabling and other small-scale essential facilities is modest and appropriate in scale and designed to minimise the potential detrimental impact on the openness of the Green Belt and the proposal utilises redundant agricultural and rural buildings, where possible.

16. Accordingly, as the proposal is for outdoor sport and recreation, the broad principle of development is acceptable. The determination of this application is therefore subject to the proposal not adversely affecting the character and openness of the Green Belt as well as the proposal being in accordance with other relevant policies.

Equestrian Facilities

17. The proposal seeks planning permission for the erection of a manege for private use that is close to an existing dwellinghouse and stables. The agent acting on behalf of the applicant has inferred that the proposed manege would be associated with the existing use of the land, stables, parking and vehicular access at Blounts Farm.
18. Policy DM15 allows for proposals that are “*small scale equestrian development (fewer than 10 stables) which does not create a proliferation of similar, or other associated, businesses in the same locality*”. According to the submitted plans the manege measures 40m in length by 20m in width. The manege is enclosed by a timber post and rail fence measuring approximately 1200mm high. This fence is open in nature and constructed from a natural material resulting in its impact upon the character or appearance of the landscape being minimal. Furthermore, according to plan reference DMG/23/78-1A no external floodlights are proposed as part of the development. In any event these if proposed now or at a later date if permanently fixed in the ground would require planning permission and if this ever arose as a proposals the impacts of such in Green Belt openness terms and impacts upon the night sky would be material planning considerations informing that future decision.
19. According to the NPPF the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.
20. In reference to the submitted plans the manege is situated adjacent to an access road and PRow, which is located immediately to the south

of the application site. This access road and PRoW is delineated from the application site by a mature native hedgerow. Furthermore, the proposed development is flanked on the eastern and western aspects by existing built form whilst to the north the application site over looks open countryside. Given the close proximity of existing built form, the development as undertaken is not situated in a remote and disparate location. It is considered that the location of the development helps to consolidate the material operations on land in terms of visual integration with its wider setting.

21. Overall, the manège is of a rural appearance, while its visual prominence is reduced by its set back from the road and the proximity of existing vegetation and built form. The development from a visual and landscape impact perspective is considered acceptable.
22. Notwithstanding the above, the case officer considers it prudent to attach conditions relating to personal use only, as a commercial use would need assessment in terms of additional impacts. The submitted plans/application forms indicate that no external lighting will be used to serve the manège whilst the plans nor evidence on site indicate their presence. To ensure that clarity is provided regarding the limitations of this consent and the need for planning permission should lights be proposed in future - in the interests of the residential amenity, ecology and the Green Belt a condition restricting the use of external lighting shall be attached to the decision notice.
23. For the reasons noted above, it is considered that the development would have only a limited impact upon the character and appearance of the open countryside location, and therefore the proposed development complies with policies DM1 and DM15 of the Local Development Management Plan and guidance advocated within the NPPF.

Impact on Residential Amenity

24. Paragraph 135 criterion f of the NPPF seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is reflected in Policy DM1, which seeks to ensure that new developments avoid overlooking, ensuring privacy and promoting visual amenity, and create a positive relationship with existing and nearby buildings.
25. Amenity is defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which have already taken place (if retrospective) or will arise as a consequence of the implementation of a development proposal. This impact can be in terms of overlooking, loss of light or creating a

degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.

26. In terms of residential amenity, the closest dwelling to the application site is situated approximately 46m to the west (the case officer noted that there is a large detached garage situated in between the applicants dwellinghouse and the manege). Whilst to the east neighbouring properties are located roughly 70m away from the subject site. The proposal does not include any lighting and would not result in significant noise disturbance. It is not considered that the proposal would have a negative impact on the amenity afforded to any nearby occupier. Small scale equestrian use is generally found to be a compatible land use on parcels of land adjacent to existing dwellinghouses. Subject to a condition restricting the manege to personal use only, the development would not result in a material increase in activity or vehicle movements which may otherwise cause harm to local amenity.
27. Overall, given the scale and nature of the proposal, separation distances and the intervening vegetation it is not considered that the proposed development will have a detrimental effect upon neighbouring residential amenity and as such complies with policy DM1 of the Local Plan.

Public Rights of Way

28. According to the submitted plans the application site is located immediately to the north of an access road which is shared with Footpath No 5 Hockley. The case officer noted from his site visit that there is a mature native hedgerow which separates the manege from this PRoW. Colleagues in PRoW have been consulted and raise no objection to the development subject to the footpath remaining open and available at all times – no temporary parked vehicles or materials stored on the footpath that could cause encroachment/obstruction issues. Additionally, the advice received stated that the manege and fence shall be constructed a sufficient distance away from the footpath so not to encroach upon or obstruct any part of the footpath. In the opinion of the case officer given the location of the manege and the intervening hedgerow the development is not considered to create any significant impacts upon the Public Right of Way.

Parking and Access

29. There are no material highway implications associated with this small-scale proposal, as pedestrian and vehicular access to the site remains unchanged and off street car parking provision is unaffected by the proposal. Furthermore, it is inferred that the proposed manege would be for personal/domestic use of the applicants only. As previously stated, a condition will be attached to the decision notice preventing the

proposal from being for any gymkhanas or any other similar equestrian events. Overall, it is considered that the proposal is therefore unlikely to result in significant increase in vehicular traffic and as such is not considered a sufficient justification to warrant a refusal.

Flooding

30. According to the Environment Agency's Flood Risk Map the application site is located entirely in Flood Zone 1, where there is a low probability of flooding from rivers and the sea as such the development is compatible with the advice advocated within the NPPF.

Trees

31. Policy DM25 of the of the Development Management Plan 2014 states that:

'Development should seek to conserve and enhance existing trees and woodlands, particularly Ancient Woodland. Development which would adversely affect, directly or indirectly, existing trees and/or woodlands will only be permitted if it can be proven that the reasons for the development outweigh the need to retain the feature and that mitigating measures can be provided for, which would reinstate the nature conservation value of the features.'

'Where development would result in the unavoidable loss or deterioration of existing trees and/or woodlands, then appropriate mitigation measures should be implemented to offset any detrimental impact through the replacement of equivalent value and/or area as appropriate.'

32. When the case officer conducted his site visit, he noted that there were no trees located on or adjacent to the site that would have been impacted by the proposal.

Ecology considerations

33. Chapter 15 of The National Planning Policy Framework - Conserving and enhancing the natural environment indicates the importance of avoiding impacts on protected species and their natural habitats. Where impact is considered to occur appropriate mitigation to offset the identified harm is required. The council's Local Development Framework Development Management Plan at Policy DM27 requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural

environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.

34. The site and surrounding fields are currently used by several horses for grazing and is therefore subject to disturbance as would be reasonably associated with such use. Consequently, it is not considered that any protected species will be impacted upon as part of this proposal.

CONCLUSION

35. Approve

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Parish Council: No comments received

PRoW: No objections subject to the following: -

- The footpath must remain open and available at all times – no temporary parked vehicles or materials stored on the footpath that could cause encroachment/obstruction issues.
- The manege and fence to be constructed a sufficient distance away from the footpath so not to encroach upon or obstruct any part of the footpath.

Neighbours: No responses received.

Relevant Development Plan Policies:

National Planning Policy Framework 2023

Core Strategy Adopted Version (December 2011) GB1

Development Management Plan (December 2014) Policies -DM1 and DM15

The Essex Design Guide (2018)

Natural England Standing Advice

RECOMMENDATION: APPROVE

Conditions

1. The development shall be undertaken in strict accordance with the plan referenced DMG/23/78 Drawing No. 1A (as per date stated on plan October 2023).

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with details considered as part of the application.

2. The development hereby permitted shall be for the personal recreational use only and not used in connection with any trade or business and no gymkhanas or similar events shall be held on the land.

REASON: Having regard to the location of the site, consequent issues of amenity, highway safety and potential conflict with policies relating to the Green Belt.

3. The manege hereby permitted in terms of its component materials including surface materials shall be removed and the land reinstated to its former state including topsoiling within three months of the date when it ceases to be used for equine purposes.

REASON: to prevent the accumulation of unused structures in the Green Belt which collectively would be detrimental to the character and appearance of the Green Belt.

4. No floodlights or other means of artificially illuminating any part of the site shall be installed and/or operated, whether or not in association with the use of the site hereby permitted without the written prior approval of the Local Planning Authority.

REASON: To enable the Local Planning Authority to retain adequate control over such means of illumination, in the interests of the green belt and residential amenity.

The local Ward Member(s) for the above application are Cllr A H Eves
Cllr J R F Mason Cllr Mrs E P Gadsdon

Application No :	23/00856/FUL Zoning : Residential
Case Officer	Mrs Elizabeth Milne
Parish :	Rayleigh Town Council
Ward :	Downhall And Rawreth
Location :	Land At End Of Hambro Parade Rayleigh
Proposal :	Construct Detached Single Storey Building to Provide 2 No. Commercial Units for Retail Use (Use Class E(a)).

SITE AND PROPOSAL

1. The site is located on vacant land at the western end of Hambro Parade, a parade of shops located immediately south of the junction made between Hullbridge Road and Rawreth Lane. Hambro Parade consists of a number of shops with first floor residential accommodation on the first floor. The site is an L shaped site fronting Rawreth Lane with Hambro Parade located to the east, residential dwellings and a row of garages to the west and residential dwellings to the south. The garages are in commercial use.
2. The proposal is to construct a detached single storey brickwork building with a tiled roof providing two commercial units for retail use (Class E(a)). The building would have a depth of some 8.7m, a width of some 8.6m, an eaves height of some 2.62m and an overall ridge height of some 4.8m.
3. There is an existing access that would be retained for the garages to the rear of the site in addition to the proposed parking for this proposal. Two parallel parking spaces are proposed alongside the western boundary of No. 6 Hambro Parade.
4. A refuse storage area is proposed to the rear of the building for each unit.

RELEVANT PLANNING HISTORY

5. None.

MATERIAL PLANNING CONSIDERATIONS

6. The proposed development must be assessed against relevant planning policy and with regard to any other material planning considerations. In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.
7. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).
8. Policy RTC3 of the Rochford District Council Core Strategy refers to Village and Neighbourhood Shops and states that the Council will encourage and support the provision of additional small-scale retail development in conjunction with new residential development, as long as such retail development would not undermine the role of the

District's town centre. The development is therefore considered acceptable in principle.

9. Rochford District Council's Economic Development team have provided a response in support of this application. Hambro Parade is located in close proximity to allocated housing sites including Wolsey Park, Rawreth and High Elms Park, Hullbridge and as such it is reasonable to consider that there is now a greater demand for retail goods and services in the local area and that it is sustainable to encourage local provision where possible, rather than requiring people to drive longer distances to town centres and out of town shopping facilities which are further away. An audit of Rayleigh Town Centre's uses in October 2023 found a vacancy rate of 3.5%, which is considered to be low. Furthermore, few of the vacant units being actively advertised for occupation were in a state of long term vacancy. It is not considered that the small additional provision at this site would undermine Rayleigh Town Centre, which is considered to be healthy in comparison to many high streets in South Essex with higher vacancy rates.
10. The 2022 Retail and Leisure Needs Assessment suggests that, on balance, there is likely to be a need for additional Class E space in Rayleigh, particularly further into the future.
11. Chapter 6 of the National Planning Policy Framework sets out the vision and principles of Building a Strong and Competitive Economy whilst paragraph 85 states that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'.
12. The details on the application form state that the proposal would result in two additional full time employees thus providing additional employment in the area. It is considered that the proposal would enhance the existing retail and service amenity provision in an area that has grown considerably in recent years.

Impact on Character

13. Policy DM1 of the Rochford District Council Development Management Plan requires that the design of new developments should promote the character of the locality to ensure that the development positively contributes to the surrounding environment and residential amenity.
14. Policy DM3 of the Development Management Plan requires that proposals for infilling or backland development positively address the existing street pattern and density of the locality, avoid a detrimental impact on landscape and avoid the loss of important open space which provides a community benefit and/or visual focus in the street scene.

15. The proposal is for a single storey brickwork building. To the east of the site Hambro Parade consists of two storey and single storey brick buildings. The residential development to the west consists primarily of modest detached bungalows. The proposed single storey brick building would be considered appropriate in this setting so as not to appear out of character or of a disproportionate scale with the residential development to the west. The proposed materials would be in keeping with the appearance of the built form at Hambro Parade. Whilst the proposed building would be sited forward of the existing development at Hambro Parade, it would occupy a space which provides no visual benefit to the locality.
16. It is not considered that the proposal would result in the loss of important open space which provides community benefit or visual focus in the street scene. The site is an underutilised and unattractive area of hard surfacing with the existing access leading to the garages to the rear. The proposal would also help screen the unsightly garages from the wider view so improving the Townscape.

Impact on Residential Amenity

17. The application site is located adjacent to a residential dwelling on its western side (1 Rawreth Lane) with a residential dwelling (53a Hullbridge Road) also sharing its side boundary with the rear boundary of the application site.
18. The boundary between the application site and 1 Rawreth Lane is made up of close boarded timber fencing to the part of the site that lies adjacent to the proposed building. To the rear of this the existing garage block forms the boundary for the southernmost extent of the site. The proposed building would be a modest single storey building and would be sited adjacent to the detached garage at the neighbouring property. The proposed building would be sited some 6.4m forward of the front elevation of 1 Rawreth Lane. Due to the modest height proposed and the siting adjacent to the existing garage it is not considered that the proposed building would result in a significant loss of amenity in order to justify a reason for refusal.
19. It is proposed that the refuse store would be sited to the rear of the proposed building. It is considered that the siting of the refuse store to the rear of the building could detrimentally impact the amenity of the neighbouring residential dwelling, and therefore should the application be recommended for approval it would be reasonable to request details of the proposed bin storage, include its re-siting, to be submitted and approved by the Local Planning Authority in order to protect the amenity of the neighbouring dwelling.
20. It is not considered that the proposal would have a significant detrimental impact on 53a Hullbridge Road due to the distance of the proposed building from the site. The area immediately to the north of

the boundary with 53a Hullbridge Road would remain in its existing use with the inclusion of two parking spaces for the proposed retail units, and it is not considered that it would result in a significant loss of amenity to this dwelling.

Parking

21. The proposal includes the provision of two parking spaces to the rear of the proposed building on private land which would be accessed via the existing access on site. The Essex Parking Standards: Design and Good Practice (2009) document sets out that for retail use, a maximum of one parking space should be provided for every 20sq metres. The shop floor of each proposed unit would measure some 20sq metres, with the total floorspace, which includes an area for tea making facilities and a WC, measuring approximately 31sq metres. The recommended parking provision is a maximum provision and therefore it is considered that, due to the location of the site within a residential area with a good bus service, it is reasonable to assume that some users of the proposed retail units would visit by public transport, on foot or bicycle and therefore two spaces would be considered appropriate in this location.
22. Neighbour letters have been received from two occupiers of the retail units at Hambro Parade which refer to the loss of parking for the existing retail units. The site of the proposed building and its associated land is privately owned and whilst the space, whilst vacant, has been used for informal parking it is not parking provision which is allocated to the retail units and there would therefore not result in a loss of formal existing parking provision by way of this application. Directly adjacent to Hambro Parade, unallocated parking bays are available for all highway users.
23. Essex Highways have responded to this application and have no objection to the proposal, however it is requested that should the application be recommended for approval, that a condition is imposed requiring cycle provision to be provided on the site prior to first occupation.

CONCLUSION

24. APPROVE subject to conditions.

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Rayleigh Town Council: The Town Council have no objection to this planning application however there were concerns over parking for the local residents in the surrounding area.

Neighbour representations:

Two responses have been received from the following addresses:

Hullbridge Road: 53a, 59.

And which in the main makes the following comments and objections:

- Support the extra retail provision but parking spaces very limited
- Applicant should provide more free parking for the parade
- Applicant should make a contribution to the Highway Authority to develop the land near the roundabout to provide more parking facilities
- Opposed due to impact on customer parking availability during the morning and peak evening hours of operation.
- Existing traffic flow issues
- No further proposals to increase parking capacity at the parade
- Will aggravate the existing issues faced by the owners/patrons of the parade

Essex County Council Highways:

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. Prior to first occupation, the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

2. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

Rochford District Council Economic Development:

In regard to this planning proposal for the creation of two additional shop units, I am replying on behalf of the Strategic Planning/Economic Regeneration teams.

We refer to Core Strategy Policy RTC3 - Village and Neighbourhood Shops, which states *the Council will encourage and support the provision of additional small-scale retail development in conjunction with new residential development, as long as such retail development will not undermine the role of the District's town centres*. Given that much of the growth in the District through allocated housing sites in the present Core Strategy comes from sites in close proximity to this site (e.g. Wolsey Park, on Rawreth Lane; and High Elms Park, Hullbridge), it is important to consider that there is now a

significant amount more demand for retail goods and services in the local area and that it is sustainable to encourage local provision where possible, rather than requiring people to drive longer distances to town centres and out of town shopping facilities which are further away. The team also recently carried out an audit of Rayleigh Town Centre's uses in October 2023, finding a vacancy rate of 3.5%, which is considered to be low. Few of the vacant units being actively advertised for occupation were in a state of long term vacancy. It is not considered that the small additional provision at this site would undermine Rayleigh Town Centre, which is considered to be healthy in comparison to many high streets in South Essex with higher vacancy rates.

In addition, we recently commissioned the 2022 Retail and Leisure Needs Assessment as part of the evidence base for the emerging Local Plan, envisaged to run from 2025-2040. This models expected demand for different types of retail and leisure floorspace based on expected population growth, also taking into consideration the reduction in demand for floorspace from the growth in online retail and other special forms of trading. This forecasts that in the short term, there will be a reduction in demand for convenience retail floorspace in the Rayleigh area of between -459 and -433 sq. m by 2023 and -182 and -95 sq. m by 2030, but by 2035 there will be a need for additional 166-312 sq. m, rising to 506-734 sq. m by 2040. For comparison retail, this is forecast to be stronger reduction in demand, with there only being a positive need for floorspace in Rayleigh by 2035-2040. However, for food and beverage, this will be a strong positive need for 475-530 sq. m by 2023; 1,207-1,389 sq. m by 2030; 1,841-2,149 sq. m by 2035; and 2,469-2,947 sq. m by 2040. This suggests that, on balance, there is likely to be a need for additional Class E space in Rayleigh, particularly further into the future.

We also note the potential the new units bring for creating new employment directly at the units, as well as enabling businesses to grow and find new accommodation, given Class E in the broad sense lends itself not only to retail but to a range of services, food & drink and office-based activities.

Notwithstanding the possible issues about loss of informal parking (which would hopefully be counteracted by additional convenience of more local retail in walking distance of newer residential areas), on balance this proposal is a positive that could enhance the existing retail and service amenity provision in an area that has grown considerably in recent years and therefore we would support the proposal.

Relevant Development Plan Policies:

National Planning Policy Framework December 2023

Core Strategy Adopted Version (December 2011)

Development Management Plan (December 2014)

Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010)

RECOMMENDATION: APPROVE

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed in the application, unless otherwise agreed in writing by the local planning authority.

REASON: To ensure the external appearance of the development is appropriate to the locality in accordance with policy DM1 and DM3 of the Development Management Plan.

- 3 The development hereby permitted shall be carried out in complete accordance with the following approved plans (excluding the siting of the bin storage area):
 - Proposed Ground Floor Layout and Elevations reference 4040-09-1 (as per date stated on plan September 2023)
 - Existing site and Location Plan reference 4040-09-2 (as per date stated on plan September 2023)
 - Proposed Section, Proposed Site, Existing and Proposed Levels reference 4040-09-3 (as per date stated on plan September 2023)

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with the details considered as part of the planning application.

- 4 Prior to the first use of the development hereby permitted details of the proposed bin storage area and store, including siting, shall be submitted to and approved by the Local Planning Authority. Such details as may be approved shall be retained in perpetuity over the lifetime of the use.

REASON: To enable the Local Planning Authority to retain adequate control over the siting of the refuse store, in the interests of amenity.

- 5 Prior to first occupation of the development hereby approved , the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

6. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.

REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

- 4 Prior to occupation, plans and particulars showing precise details of the hard and soft landscaping which shall form part of the development hereby permitted, have been agreed in writing by the Local Planning Authority. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority and include details of:

- schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted;
- areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
- paved or otherwise hard surfaced areas;

- means of enclosure and other boundary treatments;
- minor artifacts and structures (e.g. refuse or storage units, signs, lighting etc)

REASON: To enable the Local Planning Authority to retain adequate control over the landscaping of the site, in the interests of visual amenity.

The local Ward Members for the above application are Cllr. J. Newport, Cllr. C. Stanley and Cllr. J. E. Cripps.

Application No :	23/00706/FUL Zoning : MGB
Case Officer	Mr Thomas Byford
Parish :	Canewdon Parish Council
Ward :	Roche North And Rural
Location :	The Paddock Lambourne Hall Road Canewdon
Proposal :	Removal of condition no. 3 (roof space usage restriction) and 4 (extensions restriction) of application ref: 07/00759/FUL to allow rooms in the roofspace.

SITE AND PROPOSAL

1. The property is a detached bungalow situated on a large plot within the Metropolitan Green Belt.
2. The submitted plans referenced 23-080-PP-01 and application form in effect indicate that this application is seeking retrospective permission under Section 73 b of The Town and Country Planning Act 1990 in respect of internal works involving the provision of 2 bedrooms, a bathroom, landing and the insertion of rooflights which were not approved as part of the original planning permission reference 07/00759/FUL granted full planning permission on the 2nd of October 2007. The application form indicates that the works were undertaken during 2023, being complete by the 31st of December 2023. These works by reason of their undertaking entail that many years later following first lawful implementation that the development current day is not in accordance with and is in actual breach of 2 conditions which were attached to the original planning permission which are conditions 3 and 4 which prohibits the use of any roof space as habitable accommodation (condition 3) and which removes permitted development rights relating to any extensions and also additions and / or alterations to the roof.
3. This application therefore seeks to remove conditions no.3 and 4 of the consented 07/00759/FUL permission which granted permission to demolish the existing dwelling on the site and construct one detached two bedroomed bungalow.
4. Condition 3 of the consent reads as follows:

3. No part of the roof space to the development hereby permitted shall at any time be used as habitable accommodation (incidental or otherwise).

Reason: In the interests of the character and openness of the Metropolitan Green Belt.

5. Condition 4 of the consent reads as follows:

4. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A B and/or C of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or reenacting that Order, with or without modification) no extensions shall be erected on any elevation or any part of the roof of the dwelling hereby permitted, including any dormers or installation of any rooflights or windows at first floor level.

Reason: To enable the Local Planning Authority to retain adequate control over such extensions, in the interest of protecting the open character of the Metropolitan Green Belt.

RELEVANT PLANNING HISTORY

6. 06/00398/FUL - Demolish Rear Conservatory, Provide New Pitched Roof With Front Covered Walkway and Gabled Entrance Porch and Construct Single Storey Pitched Roofed Rear Extension – Refused

06/00720/FUL - Construct Pitched Roofed Rear Extension, New Raised Roof to Dwelling and Canopy to Front – Permitted

07/00425/FUL - Demolish Existing Dwelling and Construct One Detached Two Bedroomed Bungalow – Refused

07/00759/FUL - Demolish Existing Dwelling and Construct One Detached Two Bedroomed Bungalow - Permitted

23/00062/COND_B – Enforcement Enquiry – Planning Received.

CONSIDERATION

Legal Scope of Section 73 applications

7. This application is limited to the subject matters highlighted within the planning application. Up until the time the internal works took place and the external works in the form of roof lights to serve the first floor loft space the implemented development was and remained in compliance with the relevant conditions. As a consequence of the works undertaken the development is non-compliant with both conditions 3 and 4. From a procedural perspective if granted, this section 73 consent would be approving a dwelling no greater in bulk and massing than that previously approved but it would be approving the additional floor area created in the roof void and the plan (showing first floor details whereas previously absent) now submitted which shows this

and also the elevation and roof plan which shows the insertion of 3 rooflights installed to the roof elevation.

8. Section 73 of The Town and Country Planning Act indicates that applications such as the one in question, are applications to develop land without compliance with conditions previously attached to previous planning permissions. The statute advises that on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions, which conditions are necessary to uphold the original consent which may differ to those previously granted. The key issue for any Section 73 application is that of whether by revising a planning condition or introducing additional conditions which is within the power of a Local Planning Authority or by its omission this would fundamentally undermine the objective of policy and the reason for its imposition in the first place. If the answer is no then a development is acceptable subject to revised conditions where necessary or by means of omission of any conditions which no longer serve a useful planning purpose or which on review were not reasonable or which did not serve any 'real' planning purpose in the first place.
9. The original planning permission must have been lawfully implemented or still be capable of implementation. The amendment cannot have the effect of extending the time within which a development must be commenced. The amendment cannot display the biodiversity gain condition which will automatically be imposed on every planning permission granted in England for a future date to be appointed. If an amendment to a scheme cannot be facilitated through an amendment to a condition, the use of s.73 would be inappropriate and a fresh planning application will need to be submitted to the local planning authority.
10. The Planning Practice Guidance (hereafter PPG) explains that when used properly, conditions can enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable.
11. The PPG also explains that conditions should be tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary conditions.
12. The National Planning Policy Framework and PPG are clear that conditions should be kept to a minimum. Planning conditions should satisfy all 'six tests', not just one of the 'tests' which are listed below:
necessary;
relevant to planning;

relevant to the development to be permitted;
enforceable;
precise; and
reasonable in all other respects

13. It is also of importance to note any changes in local or national policy guidance since the time that application was approved.
14. It is noted that the planning consent was issued during the period of the old Development Management Plan. Since this decision, the Council has adopted a new Development Management Plan in which Green Belt Policy was revised. It is therefore important to assess whether the proposal, if approved today, would have those same or similar conditions imposed on that consent.
15. Addressing the first test 'necessary', condition 3 as explained by the reason provided on the decision notice is 'In the interests of the character and openness of the Metropolitan Green Belt.'
16. In this case, it is not considered that the use of the internal roof space of the dwelling for habitable accommodation would lead to impact on the character or openness of the Metropolitan Green Belt and it is unlikely that this condition would be placed on any similar consents if issued at the time of writing this report. It would be a different matter if the condition was seeking to restrict the floor space to 130 m² as often is the case for exception dwellings in the open countryside with the objective of keeping the dwelling within the realms of affordability to future occupiers within a restricted occupancy eligibility (Local Needs Dwellings or Agricultural Workers or Rural Enterprise Dwellings).
17. It is noted that the reason for the condition was in the interest of Green Belt which is not affected by what activity takes place within the envelope of the originally consented structure. It is considered that when applied condition 3 did not meet the key tests of the old circular which related to planning conditions and it was not a reasonable condition given that its objective was to preserve Green Belt openness which is unaffected by the creation of this loft space within the existing envelope of the building which has not been extended.
18. It is therefore concluded that condition 3 can be removed from this consent such that the new plan as submitted reflecting this floor area is acceptable.
19. In reference to condition 4, it is standard practice when granting planning permission for dwellings in the Green Belt to remove permitted development rights relating to certain classes of development as conferred by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or its predecessor. In this case condition 4 which removed Class A (extensions), B (roof additions) and C (other roof alterations such as are the roof lights)

permitted development rights and the reasons for it were sound in that any further extension including extensions / additions to the roof of the dwelling would add further built form which would by very reason of presence have an impact on the Green Belt. Class C relating to other alterations covers a number of possibilities whilst the rooflights are captured within this class.

20. In consideration of whether condition 4 should be omitted, it is a view that although the rooflights give rise to no greater bulk and any harm in Green Belt terms and are acceptable there are other aspects covered under class C which could have some impacts upon the Green Belt in particular development permitted under classes C 1 (b) and (c). Therefore, condition 4 as written and as intended then still has a policy purpose (reflected by current policy DM 21 of the Development Management Plan) in controlling development which unless controlled via withdrawal of permitted development rights would have consequential impacts upon Green Belt openness.
21. The Local Planning Authority has the legal scope under Section 73 to redefine a condition such that it enables certain matters to be rendered acceptable the same time as redefining the limitations which are still pertinent current day based on current planning policy. The condition cannot be lifted altogether. In summary a bespoke condition would be considered appropriate enabling the provision of the rooflights as installed but redefining the condition such that it still remains intact to achieve the fundamental objective of the condition and the policies which underpin consideration in this regard.
22. Given that this consent if granted will be a new consent, for consistency of approach in recognition of current policy DM21 and the updated Framework there should also be an additional condition recommended to include the removal of Class E permitted development rights relating to incidental garden buildings which in the opinion of the case officer should have been included on the original planning permission as garden buildings alone or in proliferation can have a significant impact on Green Belt openness. It is recommended that what was condition 4 should read as follows:

Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A,B and C of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), with the exception of the 3 rooflights already installed to the rear elevation of the dwelling, no extensions, roof alterations or roof additions shall be constructed on the dwellinghouses hereby approved.

The reason for this condition is in the interest of preserving Green Belt openness in compliance with Policy GB1 of the Councils Local Development Framework's Core Strategy and Chapter 13 of the National Planning Policy Framework (July 2021).

23. Furthermore a further separate condition is recommended withdrawing Class E permitted development rights which is standard practice.

This additional condition is to be read as follows:

Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes E of the Town, and Country Planning (General Permitted Development) Order 2015 (as amended 2018) (including any Order revoking or re-enacting that Order, with or without modification) no buildings shall be erected within the curtilage of any established residential planning unit permitted without the prior consent of the Local Planning Authority.

The reason for this condition is in the interest of preserving Green Belt openness in compliance with Policy GB1 of the Councils Local Development Framework's Core Strategy and Chapter 13 of the National Planning Policy Framework (July 2021).

24. These conditions are considered to satisfy all six tests of the Planning Practice Guidance, and are necessary to facilitate the delivery of the Council's Development Management Plan, Core Strategy and the National Planning Policy Framework.

CONCLUSION

25. APPROVED removal of Condition 3 and variation of Condition 4.

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Parish Council:

The planning permission granted for a replacement dwelling under ref. 07/00759/FUL was itself a revised proposal following a refusal of planning permission on grounds of floorspace in excess of the maximum policy allowance. The conditions 3 and 4 imposed on 07/00759/FUL were clearly intended to control any future use of the roofspace to ensure that no additional floorspace could be created without express permission from the LPA. Canewdon Parish Council objects to the removal of Conditions 3 and 4 and also to the creation of additional residential accommodation in the roofspace and to the insertion of rooflights, all of which appears to have already been carried out in breach of the conditions. Canewdon Parish Council would also support formal enforcement action by the LPA to remedy the breach of planning control, as certainly has happened previously at other sites in Canewdon Parish and beyond.

Neighbours: No responses received.

Relevant Development Plan Policies:

National Planning Policy Framework 2023

Core Strategy Adopted Version (December 2011)

Development Management Plan (December 2014)

Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010)

Supplementary Planning Document 2 (January 2007) – Housing Design

The Essex Design Guide (2018)

RECOMMENDATION: APPROVED removal of Condition 3 and variation of Condition 4.

- As conditions 1, 2 and 5 relate to commencement and the submission of details prior to commencement which has already taken place as there has been implementation the only conditions required on this consent is a condition approving the plans as submitted (condition 1) and a condition upholding the objectives of the originally included condition 4 now condition 2 together with a further condition at condition 3 withdrawing Class E permitted development rights.

The local Ward Member(s) for the above application are Cllr S Wootton
Cllr I A Foster Cllr Mrs L Shaw