



**PLANNING APPLICATIONS WEEKLY LIST NO.1714**  
**Week Ending 7th June 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 27<sup>th</sup> June 2024.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **12th June 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](mailto: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. 24/00131/FUL - 15 Sheridan Close Rayleigh pages 2 - 10
- 2. 24/00299/LBC - Rayleigh Lodge The Chase Rayleigh pages 11- 18
- 3. 24/00288/ADV - Rayleigh Lodge The Chase Rayleigh pages 19 – 27
- 4. 23/00138/FUL - Land Opposite 2 Goldsmith Drive Rayleigh pages 28 – 55.
- 5. 24/00153/FUL - Shopland Hall Equestrian Centre Shopland Road Sutton pages 56 - 64

Application No :	24/00131/FUL      Zoning : No allocation
Case Officer	Mr Thomas Byford
Parish :	Rayleigh Town Council
Ward :	Lodge
Location :	15 Sheridan Close Rayleigh Essex
Proposal :	Enclose part of existing grass verge by re-positioning of part of the existing boundary fence to incorporate land into the garden of No. 15 Sheridan Close.

## **SITE AND PROPOSAL**

1. The application site is located on Sheridan Close, Rayleigh. Many of the dwellings south of the application site share form and typing. There is a set character here with an estate like feel. The dwellings to the north also share typing and form although they are mostly chalet bungalow style dwellings.
2. The application dwelling is a detached dwelling, although with a garage link to the neighbouring dwelling to the south. An emergency access point and Barrymore Walk is located just north of the application site. The application site includes its own attached garage to the north and adjacent to Barrymore Walk.
3. The applicant seeks planning consent for a change of use of part of the existing grass verge to the north of 15 Sheridan Close, and the enclosure of this including repositioning of the boundary fence some 1.8m further to the north. Some off this verge would remain as grass outside of the new fence line.
4. It is noted that this verge includes a sign which states 'EMERGENCY ACCESS POINT. KEEP CLEAR'.

## **RELEVANT PLANNING HISTORY**

5. Application No. 18/00726/FUL - Proposed Single Storey Rear Extension with Roof Lantern and Convert Garage to Habitable Accommodation – Approved.
6. Application No. 22/00788/FUL - Single storey rear extension – Approved.

## **MATERIAL PLANNING CONSIDERATIONS**

7. 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.

8. The relevant parts of the adopted Development Plan are the Rochford District Council Local Development Framework Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

#### Principle of Change of Use

9. Good design is promoted by the National Planning Policy Framework (hereafter referred to as 'the Framework') as an essential element of sustainable development. It advises that planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.
10. Policy CP1 of the Rochford District Council Core Strategy (2011) promotes high quality design, which has regard to the character of the local area. Design is expected to enhance the local identity of an area. This point is expanded in Policy DM1 of the Development Management Plan (2014) which states 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'. Policies DM1 and CP1 advise that proposals should have regard to the detailed advice and guidance in the Councils Supplementary Planning Document 2 (SPD2).
11. Policy DM1 seeks a high standard of design requiring that developments promote the character of the locality to ensure that development positively contributes to the surrounding built environment. Part (ix) of this policy specifically relates to the promotion of visual amenity and regard must also be had to the detailed advice and guidance in Supplementary Planning Document 2- Housing Design (hereafter SPD2), as well as to the Essex Design Guide.

#### Impact on Character

12. Paragraph 128(e) of the Framework outlines that planning decisions should take into account the importance of securing well-designed, attractive and healthy places. Paragraph 131 expands on this by stating that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning process should achieve. Good design is therefore a key aspect of sustainable development in order to create better places to live and work.
13. Furthermore, paragraph 135 of the Framework discusses that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

14. Section 16 of the Council's SPD2 explains that grass verges and amenity areas contribute to the character and appearance of housing estates and are intended for public benefit. It is considered that such areas are better retained as open areas with soft landscaping, but there may be occasions when the enclosure within an adjacent private garden is acceptable, particularly where there is a history of neglect.
15. Grass verges and open amenity areas were usually intended to be an integral part of estate design and layout. Where such areas continue to make an important contribution in this respect and where neglect is not a problem, the local planning authority would prefer to see the retention of such areas rather than enclosure and lost form the public realm to residential garden. Change of use of such areas can result in a significant change in the overall design, layout and symmetry of an estate or locality to the detriment of the amenity of the residents.
16. No information has been provided by the applicant to suggest that there has been a history of neglect here. There is no evidence to suggest that this amenity area offers no value in terms of its openness or fails to add any contribution to the character of the area.
17. There is also no clear evidence of any other immediate dwellings enclosing grass verges, with the large verge to the west of No. 1 Barrymore Walk giving the area a clear open character.
18. In this case, it is considered that an enclosing of part of this grass verge, would not only limit the emergency access to Barrymore Walk, but also mean that this access would become more of an alleyway, to

the detriment to visual amenity and conflicting with the guidance in SPD2.

19. The adjusting of the boundary fencing to the north is considered to dilute the existing design layout of the immediate area, with the grass verges considered of importance in terms of the local character and local distinctiveness. The enclosing of this grass verge is considered to impact the general openness and pleasant character of the area and would be detrimental to visual amenity, and conflicting with paragraphs 128 (e) and 135 (a, b, d and f) of the NPPF.

#### Impact on Residential Amenity

20. The proposed change of use of the verge is not considered to give rise to overlooking, overshadowing or overdominance upon neighbouring properties and would not give rise to a great degree of noise or disturbance that would be out of character for the context of the area. The proposal would be considered to comply with Policy DM1 relative to its impact upon neighbouring properties.

#### Impact upon Highway Safety

21. Essex County Highway Authority have been consulted on the application and have provided their recommendation with the following below information:
22. Barrymore Walk is a footway with a wide margin of highway verge. This is all publicly maintainable highway. The footway and verge is to be kept clear for emergency access and for the use by the general public. An adjacent section of highway verge appears to have already been enclosed with a fence and it is not known if that fence or boundary change received the relevant planning permission or whether it was stopped up in accordance with either the Town and Country Planning Act Section 247 or Removal of Highway Rights under Section 116/117 of the Highways Act 1980. The plans do not address the existing encroachment.
23. The highway record has been examined and it was confirmed that as proposed the new fence to the north would be constructed on land which has highway rights over it and is considered to form part of the publicly maintainable highway. Highway rights are protected by the Highways Act 1980. The Highway Authority has a responsibility to protect the highway and as such this Authority cannot sanction any development on land where highways rights exist over it. Land which has highway rights over it must always remain free of enclosure and encroachments. Encroachment and enclosure of highway land is unlawful, and all structures must be re-positioned behind the highway boundary. Until all such encroachments are re-positioned clear of highway land, the applicant is vulnerable to enforcement action by the Highway Authority.

24. The Highway Authority therefore cannot support the proposal and the Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. The proposal will encroach and enclose additional highway land.

25. The proposal is not acceptable for the following reasons:

1. As far as can be determined from the submitted plans, the proposed development would encroach on and enclose an area of publicly maintainable highway.

2. The proposed enclosure would obstruct highway land that is required for emergency access which is detrimental to the safety of all residents in Barrymore Walk and all highway users.

3. The proposal if permitted would lead to an obstruction on the highway and would set a precedent for future similar developments which is detrimental to the safety of all highway users.

The proposal is therefore contrary to policy DM1 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011 and Policies DM1 and DM30 of the Rochford Council Development Management Plan.

26. Section 16 of the Council's SPD2 explains that many grass verges or open areas were provided specifically to ensure adequate vision at junctions for motorists and pedestrians alike. The Local Planning Authority will resist proposals for the enclosure of verges originally intended for this purpose. Although in this case, the verge's purpose is not understood to be that of providing a wider visibility splay but is to ensure suitable emergency access to emergency response vehicles attempting to access Barrymore Walk.

27. The proposal seeks to enclose a portion of this grass verge area in a new boundary treatment that could impact the access of these response vehicles.

## **CONCLUSION**

28. REFUSE.

## **CONSULTATIONS AND REPRESENTATIONS (summary of responses):**

Rayleigh Town Council: No objection.

Neighbour representations:

Two responses from the below addresses have been summarised below:

1 Barrymore Walk:

*'The reason that we will be objecting to planning permission is, originally brought of council and was told they could buy this bit of land but could not fence it off, as this would make Barrymore Walk look like an alley way which is a access for emergency vehicles, also there is mature trees there'*

3 Barrymore Walk

*'I live directly opposite the proposed area. We were told many years ago that this piece of land could be bought but not built upon even by placing a fence to its boundaries, hence the fence where it is, is at its maximum limit that it could go to. Back then, planning was denied and the fence that was placed there was on the understanding that they could not fence it off any further towards the path due to access and emergency access and I believe it should be denied again now. The main point to my objection is that this is first and foremost an emergency access route and by placing a 6ft fence at its boundaries (or even 1 meter in) would limit the emergency vehicles getting to not only my house but the houses just beyond myself. A fire engine or ambulance certainly would not be able to get through if this was done. The grounds are kept low and the trees that are there are maintained to a degree that emergency vehicles could access this walk way in due need. It would be horrific, if needed, that an emergency vehicle could not access a property due to not being able to drive directly to the front of the property that it is needed to get to. The residents of this application do not need to worry about that though, as they have full access to their front door and would not never need to consider these situations, but we would as we do not have this luxury and rely on this area being kept clear from high fences and I would have to object very strongly about having a fence placed to any other position than to where it is now. I have seen the struggle on numerous occasions whereby an ambulance and fire engine have struggled due to lack of space and width and they only just make it through. If a fence was to be placed then they most definitely would not be able to make it through. This is an emergency access area for these reasons alone and I wouldn't want anything to inhibit a person's life in an emergency. Secondly, it would definitely decrease the privacy if the trees were chopped down and a fence installed this would reduce our privacy as our bedrooms overlook the trees and provide a decent amount of privacy especially in the summer when windows and curtains are open the most. If the plum tree (which has been there since we moved in back in 1999), could possibly have a TPO assigned to it so it may not be able to be chopped down so placing a fence around that area would certainly inhibit space for vehicles.'*

Essex County Council Highway Authority:

*'The information that was submitted in association with the application has been fully considered by the Highway Authority.'*

*The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. The Highway Authority confirms that the proposal will encroach and enclose additional highway land as explained in the notes below, therefore:*

*From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:*

- 1. As far as can be determined from the submitted plans, the proposed development would encroach on and enclose an area of publicly maintainable highway.*
- 2. The proposed enclosure would obstruct highway land that is required for emergency access which is detrimental to the safety of all residents in Barrymore Walk and all highway users.*
- 3. The proposal if permitted would lead to an obstruction on the highway and would set a precedent for future similar developments which is detrimental to the safety of all highway users.*

*The proposal is therefore contrary to policy DM1 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.*

*Notes: The site currently features a dwelling with off-street parking. Situated to the immediate north is Barrymore Walk which is footway with a wide margin of highway verge. This is all publicly maintainable highway. The footway and verge is to be kept clear for emergency access and for use by the general public. The proposal includes enclosure of part of this area of highway verge, by moving the existing fence further towards the footway.*

*An adjacent section of highway verge appears to have already been enclosed with a fence, it is not known if that fence/boundary change received the relevant planning permission or if the highway land was stopped up in accordance with either the Town and Country Planning Act Section 247 or Removal of Highway Rights under Section 116/117 of the Highways Act 1980. The plans do not address the existing encroachment.*

*Highway Rights & Fence: The highway record has been examined and it was confirmed that as proposed the new fence to the north would be constructed on land which has highway rights over it and is considered to form part of the publicly maintainable highway. Highway rights are protected by the Highways Act 1980.*

*The Highway Authority has a responsibility to protect the highway and as such this Authority cannot sanction any development on land where highways rights exist over it. Land which has highway rights over it must always remain free of enclosure and encroachments.*



*Encroachment and enclosure of highway land is unlawful, and all structures must be re-positioned behind the highway boundary. Until all such encroachments are re-positioned clear of highway land, the applicant is vulnerable to enforcement action by the Highway Authority.*

*It is not uncommon for land to be under the ownership of a third party, i.e. the sub-soil, but also be public highway.*

*The applicant can seek a highway boundary plan from ECC Highway Records. For more information on this service please follow this link: <https://www.essexhighways.org/highway-schemes-and-developments/adoptions-and-land/highway-status-enquiries.aspx> and please contact [highway.status@essexhighways.org](mailto:highway.status@essexhighways.org) who will be able to provide details.*

*The Highway Authority may consider a revised proposal, that addresses the reasons for refusal.'*

**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).

Supplementary Planning Document 2 (January 2007) – Housing Design.

The Essex Design Guide (2018).

County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

**RECOMMENDATION: REFUSE**

Reasons for Refusal;

1. In this case, there has been no evidence submitted to suggest the grass verge in question is subject to neglect to warrant an enclosing of part of this grass verge. The enclosing of this verge would adversely impact the general openness and pleasant character of the area and would be detrimental to visual amenity, conflicting with the guidance in the Council's SPD2 and paragraphs 128 (e) and 135 (a, b, d and f) of the National Planning Policy Framework.

2. As far as can be determined from the submitted plans, the proposed development would encroach on and enclose an area of publicly maintainable highway. The proposed enclosure would obstruct highway land that is required for emergency access which is detrimental to the safety of all residents in Barrymore Walk and all highway users. The proposal if permitted would lead to an obstruction on the highway and would set a precedent for future similar developments which is detrimental to the safety of all highway users. The proposal is therefore contrary to policy DM1 contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

The local Ward Members for the above application are Cllr. I. H. Ward, Cllr. R. Milne and Cllr. R. Lambourne.

Application No :	24/00299/LBC      Zoning : No allocation
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Lodge
Location :	Rayleigh Lodge The Chase Rayleigh
Proposal :	Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting, and repainting of exterior windows and doors.

## **SITE AND PROPOSAL**

1. Rayleigh Lodge is a public house/restaurant located within a large plot on the eastern side of The Chase. The building is Grade II listed with original parts dating to the sixteenth century and later additions. There is surrounding residential development on all sides. The site contains a number of trees and many of these are protected by a Tree Preservation Order TPO/00049/08 having been previously protected by ECC TPO 5/57 and re-served as part of the ECC TPO review.
2. This application is one of four current applications for development at the site. There is a tandem application for advertisement consent, 24/00288/ADV, and two further applications relating to works to refurbish the building and site 24/00268/FUL and 24/00269/LBC.
3. The proposal is for the Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting at Rayleigh Lodge, The Chase, Rayleigh.

## **RELEVANT PLANNING HISTORY**

4. Application No. 84/00543/ADV – Erect internally illuminated notice board – Refused - 11.10.1984.
5. Application No. 86/00231/ADV – Internally illuminated and non illuminated signs – Withdrawn.
6. Application No. 86/00296/LBC – Internal Alterations – Approved - 06.06.1986.

7. Application No. 88/00938/FUL - Ground Floor Rear (kitchen) and side (restaurant) extensions, enclosed storage area (fenced) and add parking spaces – Approved - 01.08.1989.
8. Application No. 88/02025/LBC – Ground Floor Rear (kitchen) and side (restaurant) extensions, enclosed storage area (fenced) and add parking spaces – Approved - 01.08.1989.
9. Application No. 90/00033/FUL - Demolish and rebuild kitchen and store and revised detailing to side extension and other alterations under application ROC/938/88 – Approved - 04.04.1990.
10. Application No. 90/00465/ADV - Replace four free standing illuminated signs and add gold leaf lettering to building illuminated by cowl and spot lights – Approved - 03.09.1990.
11. Application No. 90/02002/LBC - Demolish and rebuild kitchen store and revised detailing of side extension and other alterations under application ROC/2025/88/LB – Approved - 04.04.1990.
12. Application No. 92/00612/ADV - Replace Menu Board and Add Roundel Sign and Free Standing Sign Board to Front Elevation With 4ft 6in High Post Board Sign to Rear Boundary – Approved - 09.12.1992.
13. Application No. 00/00413/LBC - Install Heritage Plaque – Approved - 07.09.2000.
14. Application No. 07/00464/FUL - Creation of External Patio Area with 2 x 4m x 4m Jumbrellas with Lighting and Heating to the Rear of Main Building – Refused - 03.09.2007.
15. Application No. 07/00823/LBC - Internal Refurbishment of Existing Public House, Removal of Screens and Bar Served, Repaint Existing Render and Timber Work to Match Existing Colours, New Paved Area to Rear Garden With Seating, Parasols and New Freestanding Pergola – Approved - 14.11.2007.
16. Application No. 07/00824/FUL - New Paved Area to Rear Garden with Seating, Parasols and New Freestanding Pergola – Approved - 14.11.2007.
17. Application No. 07/01015/ADV - Non-Illuminated Signage Comprising One Set of Individual Letters with Secondary Letters, 1 no. Menu Case to Front of Building 2 no. Single Sided Remote Signs and 1 no. V Shaped Sign to Site Frontage – Refused - 16.01.2008.
18. Application No. 07/01016/LBC - Non-Illuminated Signage Comprising One Set of Individual Letters with Secondary Letters, 1 no. Menu Case to Front of Building 2 no. Single Sided Remote Signs and 1 no. V Shaped Sign to Site Frontage – Refused - 16.01.2008.

19. Application No. 15/00044/FUL - Proposed internal and external refurbishment including external lighting alterations – Approved - 23.04.2015.
20. Application No. 15/00045/LBC - Proposed internal and external refurbishment including external lighting alterations and removal of several internal modern lightweight sections of walling – Approved - 22.04.2015.
21. Application No. 15/00107/ADV - 3 No Externally illuminated post signs, 1 No Externally illuminated set of letters, 1 No Non illuminated door plaque, 2 No Non illuminated panel signs, 1 No Non illuminated area of signwriting, 1 No Lantern – Approved - 15.04.2015.
22. Application No. 15/00108/LBC - Remove Existing Signs And Install New – Approved - 15.04.2015.
23. Application No. 24/00268/FUL - Proposed refurbishment including external works including replacement of 4 no. windows, repair/replacement of lintel above 1 no. window, replace flat roofs on modern extensions, redecorate windows and rendered surfaces and install new external lighting; internal works to include reconfiguration of toilets and built-in shelves/cabinets, re-fitting of bar area and installation of vertical timber boarding. Proposed works in the grounds of the buildings to include the relocation of chalets, siting of new drystore and creation of larger bin store enclosure – Not Yet Determined.
24. Application No. 24/00269/LBC - Proposed refurbishment including external works including replacement of 4 no. windows, repair/replacement of lintel above 1 no. window, replace flat roofs on modern extensions, redecorate windows and rendered surfaces and install new external lighting; internal works to include reconfiguration of toilets and built-in shelves/cabinets, re-fitting of bar area and installation of vertical timber boarding. Proposed works in the grounds of the buildings to include the relocation of chalets, siting of new drystore and creation of larger bin store enclosure – Not Yet Determined.
25. Application No. 24/00288/ADV - Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting, and repainting of exterior windows and doors – Not Yet Determined.

## MATERIAL PLANNING CONSIDERATIONS

26. 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.
27. 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).

### Material Considerations

28. The application property is a Grade II listed building and this application for Listed Building Consent is made in respect of section 10 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). This legislation imposes a duty on the local planning authority in the determination of such an application to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
29. As a Grade II Listed Building, the host property is a designated heritage asset as defined in the National Planning Policy Framework December 2023 (NPPF) and Planning Practice Guidance (PPG). The main consideration in the determination of this application is whether the proposed extensions and alterations would preserve the character and appearance of the building and any of the features of special architectural or historic interest that it possesses.
30. As previously stated, the building to which the signs relate is a Grade II Listed Building which is known as 'Rayleigh Lodge'. The List Entry No. is 1112647 and the list description states: -

*"House, now a hotel. C16 or earlier origin with later alterations and additions. Timber framed. C18 red brick front. Grey slate hipped roof. Right, left and rear red brick chimney stacks. Rear wings. The original 3 window range building breaks forward with single bays to right and left. Stone parapet. 3 small paned vertically sliding shutters with gauged brick arches and shutters to first floor, similar window to ground floor left, C19 bay to ground floor right. Central pedimented porch with dentilled soffit supported by plain columns and pilasters with moulded capitals and bases, double 6 panelled doors. Most internal features concealed but heavy flat section ceiling beams and stop chamfered bridging joists visible, also solid arched braces to ground floor bridging joist. Carved 3 panel overmantel dated 1641 with figures to panels. No inspection of first floor at time of resurvey but said to contain part of exposed timber frame. Reputed to have been a Tudor hunting lodge".*

31. Paragraph 200 to the NPPF states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of new development making a positive contribution to local character and distinctiveness.
32. Paragraphs 203 onwards provide guidance for considering the potential impacts. Paragraph 205 states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This should be proportionate to its significance: the more important the asset, the greater the weight should be. This is irrespective of whether the harm is substantial, total loss, or less than substantial.
33. Paragraph 206 goes on to state that any harm to, or loss of, the significance of a designated heritage asset, including through development within its setting, should require clear and convincing justification.
34. Paragraphs 207 and 208 deal with instances of substantial harm to a designated heritage asset. Development causing substantial harm should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or other criteria are met. Paragraph 209 guides that where a development would lead to less than substantial harm to a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.

#### Impact upon the character and appearance of the Listed Building

35. Policy CP2 of the Council's Local Development Framework Core Strategy and Policy DM37 (Advertisements) of the Council's Local Development Framework Development Management Plan indicate that the design and siting of adverts must have regard to the access and visual impacts of the buildings on which they will be displayed and the character of the surrounding area. Advertisements will be permitted provided that they do not add to the visual clutter or detract from the visual amenity of the area. They should be appropriately designed and sited within the context of the area and well related to the buildings to which they are attached. Illumination should not result in light pollution or compromise highway safety.
36. Additionally, the proposal will be assessed against Policy DM38 (Advertisements affecting Conservation Areas and Listed Buildings) which states that Advertisements will be permitted on Listed Buildings, in appropriate circumstances, where it can be demonstrated that

adverse harm to the character or structure of the building would not result. Where permitted on Listed Buildings and in Conservation Areas, advertisements should adhere to Policy DM37, and should be sensitive to the character of the area, visually unobtrusive, well designed, well located and should not create access issues. Traditional wooden, painted fascias and hanging signs for example will be preferred to coloured plastic fascias and boxes.

37. The policy states that applications should not include inter alia: internally illuminated or other projecting fascia signs, prominent externally illuminated signs etc. The policy goes on to enunciate that advertisements and other external items (especially illuminated signs, where permitted) should be unobtrusive and benefit rather than detract from the value of the Conservation Area and character of the Listed Building, such as spot lighting of hanging signs or other discreet forms of lighting. The quantity of advertisements within Conservation Areas and on Listed Buildings will be kept to the minimum necessary to identify the building and its function in order to protect the appearance of the area and individual buildings as appropriate.
38. It is inferred from the aforementioned policies that proposal should preserve and/or enhance the Listed Building. According to the submitted plans the existing 'Rayleigh Lodge' sign which is situated on the front of the building will be retained and will be externally illuminated by 5 No. brass cowl lights. A number of directional signs which are located around the periphery of the building will be replaced. The main post mounted signs at the front of the building will be retained and refurbished. Moreover, additional slats added to the lower part of the sign giving additional directional information. The sign will be externally illuminated by a slimline trough light, which will be painted black to match the rest of the sign. A number of existing signs on the front of the property, will be removed giving this façade a less cluttered appearance.
39. In addition to the above the applicant was proposing to install a number of external cylindrical up/down lighters on the front façade of the building. The Conservation officer states that "*I raise no objection to the proposed external swan-neck lighting to illuminate the existing signage on the building's front elevation. However, I do not consider the eight proposed additional lights (floodlights at first floor and down/up lights at ground floor) to be sympathetic to the traditional appearance of the building*". The Conservation officer concludes "*that if the additional lighting noted above is removed from the scheme, the proposals in my opinion will cause no harm to the significance of the listed Rayleigh Lodge. The proposals will be in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 16 of the NPPF*".
40. Following on from these comments the applicant has submitted amended plans reducing the amount of external lighting. According to



the amended plans the applicant is now proposing to install 2No. cylindrical up and down lighters (one on either side of the main entrance door). It is considered that the proposed lighting scheme is less incongruous and more subdued and as such will not have detrimental impact on the character and appearance of the host property.

41. Overall, it is considered that the signage, by itself, is of a scale and colour scheme that would be acceptable and would for the most part replace existing signage of a similar scale. The proposal is for the installation of various replacement illuminated and non-illuminated signs to the exterior of the building. It is not considered there would be any additional adverse impact on the setting and appearance of the Listed Building the proposed signage/lighting is proportionate and in keeping with the character and nature of the host building. Colleagues in Place Service Built Heritage have been consulted on the amended plans and raise no objections.

## **CONCLUSION**

42. Approve.

## **CONSULTATIONS AND REPRESENTATIONS (summary of responses):**

Rayleigh Town Council: No reply received.

Essex County Council Place Services Built Heritage Conservation Officer: No objections to raise.

Neighbour representations: No comments received.

## **Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) – policy CP1.

Development Management Plan (December 2014) – policies DM1, DM37, DM38.

Planning (Listed Buildings and Conservation Areas) Act 1990.

## **RECOMMENDATION: APPROVE**

Conditions:

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

REASON: To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (As amended).

2. The development hereby permitted shall be carried out in complete accordance with the following approved plans 183452 Revision C Sheet 1 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 2 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 3 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 4 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 5 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 6 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 7 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 8 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024) and 183452 Revision C Sheet 9 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024).

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.

3. Notwithstanding the plans hereby approved all the external cylindrical lighting on the front elevation of the host property as shown on plan reference 183452 Revision C Sheet 4 of 9 (as per date stated on plan 30<sup>th</sup> May 2024) shall be painted black and thereafter retained in perpetuity.

REASON: To preserve the special architectural and historic interest of the listed building

The local Ward Members for the above application are Cllr. I. H. Ward, Cllr. R. Milne and Cllr. R. Lambourne.

Application No :	24/00288/ADV      Zoning : Unallocated
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Lodge
Location :	Rayleigh Lodge The Chase Rayleigh
Proposal :	Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting.

## **SITE AND PROPOSAL**

1. Rayleigh Lodge is a public house/restaurant located within a large plot on the eastern side of The Chase. The building is Grade II listed with original parts dating to the sixteenth century and later additions. There is surrounding residential development on all sides. The site contains a number of trees and many of these are protected by Tree Preservation Order TPO/00049/08 having been previously protected by ECC TPO 5/57 and re-served as part of the ECC TPO review.
2. This application is one of four current applications for development at the site. There is a tandem application for advertisement consent, 24/00299/LBC, and two further applications relating to works to refurbish the building and site 24/00268/FUL and 24/00269/LBC.
3. The proposal is for the Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting at Rayleigh Lodge, The Chase, Rayleigh.

## **RELEVANT PLANNING HISTORY**

4. Application No. 84/00543/ADV – Erect internally illuminated notice board – Refused - 11.10.1984.
5. Application No. 86/00231/ADV – Internally illuminated and non illuminated signs – Withdrawn.
6. Application No. 86/00296/LBC – Internal Alterations – Approved - 06.06.1986.
7. Application No. 88/00938/FUL - Ground Floor Rear (kitchen) and side (restaurant) extensions, enclosed storage area (fenced) and add parking spaces – Approved - 01.08.1989.

8. Application No. 88/02025/LBC – Ground Floor Rear (kitchen) and side (restaurant) extensions, enclosed storage area (fenced) and add parking spaces – Approved - 01.08.1989.
9. Application No. 90/00033/FUL - Demolish and rebuild kitchen and store and revised detailing to side extension and other alterations under application ROC/938/88 – Approved - 04.04.1990.
10. Application No. 90/00465/ADV - Replace four free standing illuminated signs and add gold leaf lettering to building illuminated by cowl and spot lights – Approved - 03.09.1990.
11. Application No. 90/02002/LBC - Demolish and rebuild kitchen store and revised detailing of side extension and other alterations under application ROC/2025/88/LB – Approved - 04.04.1990.
12. Application No. 92/00612/ADV - Replace Menu Board and Add Roundel Sign and Free Standing Sign Board to Front Elevation With 4ft 6in High Post Board Sign to Rear Boundary – Approved - 09.12.1992.
13. Application No. 00/00413/LBC - Install Heritage Plaque – Approved - 07.09.2000.
14. Application No. 07/00464/FUL - Creation of External Patio Area with 2 x 4m x 4m Jumbrellas with Lighting and Heating to the Rear of Main Building – Refused - 03.09.2007.
15. Application No. 07/00823/LBC - Internal Refurbishment of Existing Public House, Removal of Screens and Bar Servery, Repaint Existing Render and Timber Work to Match Existing Colours, New Paved Area to Rear Garden With Seating, Parasols and New Freestanding Pergola – Approved - 14.11.2007.
16. Application No. 07/00824/FUL - New Paved Area to Rear Garden with Seating, Parasols and New Freestanding Pergola – Approved - 14.11.2007.
17. Application No. 07/01015/ADV - Non-Illuminated Signage Comprising One Set of Individual Letters with Secondary Letters, 1 no. Menu Case to Front of Building 2 no. Single Sided Remote Signs and 1 no. V Shaped Sign to Site Frontage – Refused - 16.01.2008.
18. Application No. 07/01016/LBC - Non-Illuminated Signage Comprising One Set of Individual Letters with Secondary Letters, 1 no. Menu Case to Front of Building 2 no. Single Sided Remote Signs and 1 no. V Shaped Sign to Site Frontage – Refused - 16.01.2008.

19. Application No. 15/00044/FUL - Proposed internal and external refurbishment including external lighting alterations – Approved - 23.04.2015.
20. Application No. 15/00045/LBC - Proposed internal and external refurbishment including external lighting alterations and removal of several internal modern lightweight sections of walling – Approved - 22.04.2015.
21. Application No. 15/00107/ADV - 3 No Externally illuminated post signs, 1 No Externally illuminated set of letters, 1 No Non illuminated door plaque, 2 No Non illuminated panel signs, 1 No Non illuminated area of signwriting, 1 No Lantern – Approved - 15.04.2015.
22. Application No. 15/00108/LBC - Remove Existing Signs And Install New – Approved - 15.04.2015.
23. Application No. 24/00268/FUL - Proposed refurbishment including external works including replacement of 4 no. windows, repair/replacement of lintel above 1 no. window, replace flat roofs on modern extensions, redecorate windows and rendered surfaces and install new external lighting; internal works to include reconfiguration of toilets and built-in shelves/cabinets, re-fitting of bar area and installation of vertical timber boarding. Proposed works in the grounds of the buildings to include the relocation of chalets, siting of new drystore and creation of larger bin store enclosure – Not Yet Determined.
24. Application No. 24/00269/LBC - Proposed refurbishment including external works including replacement of 4 no. windows, repair/replacement of lintel above 1 no. window, replace flat roofs on modern extensions, redecorate windows and rendered surfaces and install new external lighting; internal works to include reconfiguration of toilets and built-in shelves/cabinets, re-fitting of bar area and installation of vertical timber boarding. Proposed works in the grounds of the buildings to include the relocation of chalets, siting of new drystore and creation of larger bin store enclosure – Not Yet Determined.
25. Application No. 24/00299/LBC - Installation of replacement signs to include 5x brass cowl lights to existing house name letters, 1x sign written welcome sign, 1x directional sign to fence, 2x refurbished post mounted corex signs each with 2x additional slats - with new trough lighting, and repainting of exterior windows and doors – Not Yet Determined.

## **MATERIAL PLANNING CONSIDERATIONS**

26. 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.

27. 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).

#### Policy considerations

28. This application seeks express consent for an externally illuminated wall sign submitted under the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
29. The regulations referred to indicate that a local planning authority shall exercise its powers under these regulations in the interests of amenity and public safety, taking into account – (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest and factors relevant to public safety include; the safety of persons using any highway and whether the display of the advertisement in question is likely to obscure or hinder the ready interpretation of any traffic sign.
30. The application seeks advertisement consent. Adverts are acceptable as a matter of principle. Paragraph 141 of the National Planning Policy Framework (2021) (NPPF) states that: -
- ‘The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts’.*
31. Policy CP2 of the Council’s Core Strategy and Policy DM37 (Advertisements) of the Council’s Local Development Framework Development Management Plan indicate that the design and siting of adverts must have regard to the access and visual impacts of the buildings on which they will be displayed and the character of the surrounding area. Advertisements will be permitted provided that they do not add to the visual clutter or detract from the visual amenity of the area. They should be appropriately designed and sited within the context of the area and well related to the buildings to which they are attached. Illumination should not result in light pollution or compromise highway safety.

32. Additionally, the proposal will be assessed against the Council's Policy DM38 (Advertisements affecting Conservation Areas and Listed Buildings) which states that Advertisements will be permitted on Listed Buildings, in appropriate circumstances, where it can be demonstrated that adverse harm to the character or structure of the building would not result. Where permitted on Listed Buildings and in Conservation Areas, advertisements should adhere to Policy DM37, and should be sensitive to the character of the area, visually unobtrusive, well designed, well located and should not create access issues. Traditional wooden, painted fascias and hanging signs for example will be preferred to coloured plastic fascias and boxes.
33. The policy states that applications should not include inter alia: internally illuminated or other projecting fascia signs, prominent externally illuminated signs etc. The policy goes on to enunciate that advertisements and other external items (especially illuminated signs, where permitted) should be unobtrusive and benefit rather than detract from the value of the Conservation Area and character of the Listed Building, such as spot lighting of hanging signs or other discreet forms of lighting. The quantity of advertisements within Conservation Areas and on Listed Buildings will be kept to the minimum necessary to identify the building and its function in order to protect the appearance of the area and individual buildings as appropriate.
34. The building to which the signs relate is a Grade II Listed Building which is known as 'Rayleigh Lodge'. The List Entry No. is 1112647 and the list description states: -
- "House, now a hotel. C16 or earlier origin with later alterations and additions. Timber framed. C18 red brick front. Grey slate hipped roof. Right, left and rear red brick chimney stacks. Rear wings. The original 3 window range building breaks forward with single bays to right and left. Stone parapet. 3 small paned vertically sliding shutters with gauged brick arches and shutters to first floor, similar window to ground floor left, C19 bay to ground floor right. Central pedimented porch with dentilled soffit supported by plain columns and pilasters with moulded capitals and bases, double 6 panelled doors. Most internal features concealed but heavy flat section ceiling beams and stop chamfered bridging joists visible, also solid arched braces to ground floor bridging joist. Carved 3 panel overmantel dated 1641 with figures to panels. No inspection of first floor at time of resurvey but said to contain part of exposed timber frame. Reputed to have been a Tudor hunting lodge".*
35. It is inferred from the aforementioned policies that the proposal should preserve and/or enhance the Listed Building. According to the submitted plans the existing 'Rayleigh Lodge' sign which is situated on the front of the building will be retained and will be externally illuminated by 5 No. brass cowl lights. A number of directional signs which are located around the periphery of the building will be replaced. The main post mounted signs at the front of the building will be retained

and refurbished. Moreover, additional slats added to the lower part of the sign giving additional directional information. The sign will be externally illuminated by a slimline trough light, which will be painted black to match the rest of the sign. A number of existing signs on the front of the property, will be removed giving this façade a less cluttered appearance.

36. In addition to the above the applicant was proposing to install a number of external cylindrical up/down lighters on the front façade of the building. The Conservation officer stated that *“I raise no objection to the proposed external swan-neck lighting to illuminate the existing signage on the building’s front elevation. However, I do not consider the eight proposed additional lights (floodlights at first floor and down/up lights at ground floor) to be sympathetic to the traditional appearance of the building”*. The Conservation officer concludes *“that if the additional lighting noted above is removed from the scheme, the proposals in my opinion will cause no harm to the significance of the listed Rayleigh Lodge. The proposals will be in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Chapter 16 of the NPPF”*.
37. Following on from these comments the applicant has submitted amended plans reducing the amount of external lighting. According to the amended plans the applicant is now proposing to install 2No. cylindrical up and down lighters (one on either side of the main entrance door). It is considered that the proposed lighting scheme is less incongruous and more subdued and as such will not have detrimental impact on the character and appearance of the host property.
38. Overall, it is considered that the signage, by itself, is of a scale and colour scheme that would be acceptable and would for the most part replace existing signage of a similar scale. As the proposal is for the installation of various replacement illuminated and non-illuminated signs to the exterior of the building, it is not considered there would be any additional adverse impact on the appearance of the Listed Building. The proposed signage/lighting is proportionate and in keeping with the character and nature of the host building. Colleagues in Essex County Council Place Service Built Heritage have been consulted on the amended plans and raise no objections in their specialist advice.

#### Public safety

39. According to advice advocated within the NPPF and local plan policy states that consent for advertisements will normally be granted provided that the proposal would not materially harm public safety. The proposed signage is considered to be appropriately scaled and positioned in order to ensure no adverse impact on public safety. Further to this, it is considered that the signage or lighting would not result in a traffic hazard as a distraction to road users, impair sight



lines, traffic signals, or vehicular or pedestrian maneuverability. Nevertheless, the case officer considered it prudent to consult colleagues in Essex County Council Highways Department and the Engineer states "...the application has been fully considered by the Highway Authority. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority".

#### Impact on Residential Amenity

40. The nearest residential properties are approximately 16m away from the subject building. The case office notes that two letters of objection have been received from adjacent residential properties. The main concern of the objectors is issues with existing lighting and that the external lighting will have a detrimental impact upon their amenity. As previously alluded to, the amount of external lighting has been reduced following negotiations with the applicant's agent, which is welcomed. The proposed lighting will all be situated on the front of the building or the main sign, which is also located at the front of the building. The proposed signs would be static illumination lit; and it is considered that the advertisement proposals would be unlikely to adversely impact residential amenities of neighbours or visual amenities of pedestrians or highway users.
41. Overall, it is not considered that the proposed illuminated signs and additional lighting proposed would be so significantly detrimental to residential amenity to the surrounding neighbours to warrant a refusal in this case. The signs are otherwise compliant with Policies DM1 and DM37 of the Development Management Plan (2014) and therefore acceptable.

#### **CONCLUSION**

42. Approved.

#### **CONSULTATIONS AND REPRESENTATIONS (summary of responses):**

Rayleigh Town Council: No comments received.

Essex County Council Place Services Built Heritage Conservation Officer: No objections.

Essex County Council Highways Authority: No objections.

Neighbour representations: 2 responses from the following addresses;

Lodgelands Close: 7 and 8.

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

- I already find the lighting at the back of the pub intrusive lighting up my back bedrooms at night, so I am very concerned. So therefore, I hope that any new lighting will not be so invasive as I oppose to any extra flood lighting and that care and consideration is given to the neighbouring properties;
- The lights on the building are already 24/7 any additional lighting will have a detrimental impact upon my residential amenity.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

Development Management Plan (December 2014) – policy DM37, DM38.

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

Schedule 2, Regulation 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Schedule 2, Regulation 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

**RECOMMENDATION: APPROVE**

Conditions:

1. This consent shall expire at the end of a period of five years from the date of this decision notice.

REASON: Required to be imposed pursuant to Regulation 14 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007.

2. (i) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
- (ii) No advertisement shall be sited or displayed so as to:- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military); (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

- (iii) Any advertisement displayed, and any site used for the display of advertisements shall be maintained in a condition that does not impair the visual amenity of the site.
- (iv) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
- (v) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

REASON: Required to be imposed pursuant to Schedule 2, Regulation 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

- 3 The development hereby permitted shall be carried out in complete accordance with the following approved plans 183452 Revision C Sheet 1 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 2 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 3 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 4 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 5 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 6 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 7 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024), 183452 Revision C Sheet 8 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024) and 183452 Revision C Sheet 9 of 9 (as per dated stated on plan 30<sup>th</sup> May 2024).

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

The local Ward Members for the above application are Cllr. I. H. Ward, Cllr. R. Milne and Cllr. R. Lambourne.

Application No :	23/00138/FUL      Zoning : Metropolitan Green Belt
Case Officer	Mr. Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Downhall And Rawreth
Location :	Land Opposite 2 Goldsmith Drive Rayleigh
Proposal :	Proposed change of use of land for the siting of 3 no. additional Gypsy/Traveller pitches comprising the siting of 3 mobile homes, 3 touring caravans, the erection of 2 dayrooms and other associated works. 5no. pitches total in conjunction with those approved under application ref: 17/01240/FUL

## **SITE AND PROPOSAL**

1. The application site is located wholly within the Metropolitan Green Belt. The application site is broadly rectangular in shape, having an area of some 3675m<sup>2</sup>. According to plan reference J004306-DD-05 Revision A the application site measures roughly 108m long by 42m deep (as measured at the widest points). The site is located on Goldsmith Drive, which is an unmade road located in an area of scattered plot-land development.
2. The access serving the application is located on the south side of Goldsmith Drive and in close proximity to No.2 Goldsmith Drive (which is situated on the opposite side of the road). An access road serves the application site constructed out of stone chippings and runs parallel to the western boundary and is delineated by a simple post and rail fence, which then opens out into a large area of hardstanding. The case officer noted that located within this area of hardstanding were 2No. static caravans and touring caravans, which were all granted planning permission upon Appeal (APP/B1550/W/18/3212735). The remainder of the frontage of the site is planted with a wildflower meadow and native hedgerow, which is punctuated at sporadic intervals by trees.
3. The southern boundary of the site is demarcated by a 1.8m high close boarded timber fence and beyond this fence is a bridleway, public right of way running parallel to the rear boundary of the site, beyond this track are open fields. To the east of the site is an apparently vacant plot of land, and to the west of the site is a poly-tunnel and an outbuilding.
4. According to the applicants Design and Access statement the proposal seeks planning permission to create a total of 3 additional Pitches for residential occupation by a Gypsy/Traveller family, comprising the siting of 1 mobile and 1 touring caravan per pitch. For clarity, the proposal is

seeking to provide accommodation for 3 Households only, and each individual caravan would not be occupied as a separate residential unit, only as a part of the residential use of the "Pitch", which in this instance is defined to mean 1 Mobile Home and 1 Touring Caravan. The application also proposes the erection of 2no. dayrooms, which would be used as an ancillary facility to the residential use of the Pitches.

## **RELEVANT PLANNING HISTORY**

5. Application No. 87/00140/OUT – Outline Application to erect 5 bed House and Detached Garage – Refused -24.04.1987.
6. Application No. 05/00610/OUT - Demolish Existing Buildings and Construct One Dwelling on Part of Site – Refused - 27.09.2005.
7. Application No. 08/00173/FUL - Construct Polytunnel for Plant Propagation – Approved - 29.04.2008.
8. Application No. 11/00741/COU - Change Use of Land to Form Site for Travelling Showpeople – Refused - 06.03.2012.
9. Application No. 13/00118/COU - Change Use of Land to Form Site for Travelling Show People – Refused - 11.06.2013.
10. Application No. 16/00679/FUL - Proposed Stable Building Housing 2 Stalls and a Tack Room. New Gated Access Road From Goldsmith Drive with Parking Area and Turning Circle and Fenced off Areas to Create a Holding Pen and Grazing Area – Refused - 07.09.2016.
11. Application No. 16/01084/FUL - Construct stable and tack room hard standing and turning area and use land for grazing of horses – Refused - 30.01.2017.
12. Application No. 17/01240/FUL - Use of land as a Traveller Site comprising 2 mobile homes, day room and touring caravans together with access, hardstanding and cesspit – Refused - 19.09.2018. The Applicant Appealed the Decision which was Allowed (Ref: APP/B1550/W/18/3212735) on 9<sup>th</sup> September 2021.
13. Application No. 19/00514/FUL - Construct 1 bedroom bungalow – Refused - 07.10.2019.
14. Application No. 20/00863/FUL - Extension to existing storage cabin for better storage and occasional overnight stay for security at certain times – Withdrawn - 09.12.2020.

15. Application No. 21/01169/FUL - Construction of a single storey building to provide staff facilities and storage, a polytunnel and formation of a vehicle access track in connection with the use of the site as a horticultural nursery – Approved - 13.01.2022.
16. Application No. 21/01182/DOC - Discharge of Conditions 4 (site development scheme) and 5 (maintenance schedule) relating to planning consent reference 17/01240/FUL – Approved - 31.05.2022.

## **MATERIAL PLANNING CONSIDERATIONS**

17. 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.
18. The relevant parts of the adopted Development Plan are the Rochford District Council Local Development Framework Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

### Background Information

19. The applicant submitted a planning application (ref: 17/01240/FUL:) which was for Use of land as a Traveller Site comprising 2 mobile homes, day room and touring caravans together with access, hardstanding and cesspit and was subsequently refused planning on the 19<sup>th</sup> September 2018 for the following reason:

*“The proposal would result in inappropriate development within the Metropolitan Green Belt, as identified in the Rochford District Council Local Development Framework Allocations Document (2014). No exceptional circumstances have been demonstrated by the applicant to justify such development within the Metropolitan Green Belt”.*

20. The applicant subsequently Appealed against the decision (Ref: APP/B1550/W/18/3212735), which was allowed on the 9<sup>th</sup> September 2021. The Inspector concluded that “...*that the very special circumstances that are necessary to justify inappropriate development in the Green Belt exist in this case. It follows that in terms of Policy GB1 of the Core Strategy it is not practicable to direct this particular development away from the Green Belt and in this respect the development accords with Policy GB1*”.

## Green Belt considerations

21. Section 13 – Protecting Green Belt land of the National Planning Policy Framework (NPPF) states that great importance is attached to Green Belts. 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 permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate except for in a limited number of circumstances. Development that does not fall to be considered under one of these categories will be considered inappropriate development and is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. The National Planning Policy for Gypsy and Traveller Sites (2023) document, which sits alongside the NPPF, considers Gypsy and Traveller sites (temporary or permanent) in the Green Belt to be inappropriate development. In addition, the document states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to outweigh the harm to the Green Belt so as to establish very special circumstances.
23. The National Planning Policy for Gypsy and Traveller Sites document states the following in relation to the supply of Gypsy and Traveller sites:

"If a local planning authority cannot demonstrate an up-to-date 5 - year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt; sites protected under the Birds and Habitats Directives and / or sites designated as Sites of Special Scientific Interest; Local Green Space, an Area of Outstanding Natural Beauty, or within a National Park (or the Broads)."
24. The National Planning Policy for Gypsy and Traveller Sites (2023) requires that in addition to the above, when making decisions on such planning applications the following criteria are taken into account:

- a) The existing level of local provision and need for sites.
- b) The availability (or lack) of alternative accommodation for the applicants.
- c) Other personal circumstances of the applicant.
- d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites.
- e) that they should determine applications for sites from any gypsy and travellers and not just those with local connections.

25. Policy H7 contained within the Council's Core Strategy (2011) document states that the Council will allocate 15 pitches for gypsy and traveller accommodation by 2018. Policy GT1 of the Council's Allocations Document (2014) allocates a site of 1 hectare (removed from the Green Belt) for gypsy and traveller accommodation in the Western part of the district. Policy GB1 of the Core Strategy (2011) seeks to protect Green Belt land by directing development away from Green Belt land so far as is practicable.

#### Impact on Character and Openness of the Green Belt

26. To the southern boundary of the application site the case officer observed that close boarded timber fencing demarcated the periphery. Post and rail fences have been erected along the side and front boundaries and to define the edges of the access track. To the rear of the site the close boarded fence is positioned in dense undergrowth adjacent to a bridleway. Given its location it is not considered to have a detrimental impact on the openness of the Green Belt. Furthermore, there is an area of land to the front of the site which has been seeded with wildflowers and rough grassland (part of this area of land is the subject of this application) and the front boundary are demarcated by native hedgerow and post and rail fencing. Located within the area edged red is an extensive area of hardstanding which accommodates 2No. static caravans and touring caravans.

27. According to the submitted plans the applicant is proposing to extend the area of hard standing by roughly 360m<sup>2</sup>, which will then accommodate 3No. static caravans. The proposed extension of the hardstanding, will be located to the north of the existing hardstanding and adjacent to the access road which serves the application site. In addition, there will 2No. day rooms located towards the rear of the site and 3No. additional touring pitches. The touring pitches and day rooms will be sited on the existing hardstanding.



28. In the opinion of the case officer the additional dayroom, hardstanding, the siting of 3 No. static caravans and other associated paraphernalia such as fencing etc. is considered to constitute urban sprawl within the Green Belt, contrary to Policy GB1 and the NPPF. The proposal would be considered as inappropriate development unless it can be demonstrated that there are very special circumstances which outweigh the harm to the green belt. These very special circumstances will be explored below.
29. Notwithstanding the above, Policy H of the National Planning Policy for Gypsy and Traveller Sites (PPTS) document states that potential traveller sites should be well planned and soft landscaped, that positively enhance the environment and increase openness. They should not be enclosed by hard landscaping to such a degree that a site could be seen as deliberately isolated from the rest of the community.

#### Very Special Circumstances

30. Policy B of the PPTS requires local planning authorities, in preparing local plans, to set targets which address the likely permanent and transit site accommodation needs of gypsies and travellers in their area. Local planning authorities are encouraged to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets whilst, amongst other things, protecting local amenity and the environment.
31. Policy H7 of the Council's Core Strategy seeks to allocate 15 pitches by 2018 and indicates these are to be provided by 2018. This commitment is reflected through an allocation of a site at Michelin's Farm (Ref: Policy GT1) in the Council's Allocations Plan. However, the possible development of this site has encountered various difficulties, including contamination, issues of land ownership and highway access. Development has yet to commence, neither has the Council exercised its power to compulsory purchase the site and despite pre - application enquiries, no application for planning permission has been submitted or granted. The case officer has consulted colleagues in the Policy section that state *"There is no update or movement on the Core Strategy allocation for 15 pitches at Michelins Farm"*. Additionally, there are no other known alternative sites available for development. There are no other allocated sites in the district, and no public sites available for occupation.
32. The Council's latest formal assessment of the need for additional Gypsy or Traveller pitches is set out in the South Essex Gypsy, Traveller and Travelling Showpeople Accommodation Assessment

Update 2019. The South Essex GTAA 2019 identified a need for 32 additional pitches (2016 to 2038), 18 for those who met the 2015 PPTS definition, 11 that did not and 3 'unknown'. Furthermore, the more recent "Lisa Smith" ruling and subsequent December 2023 PPTS amendment, to no longer exclude those who had or who have permanently ceased to travel by reason of infirmity or advancing years, means no distinction is now drawn. Colleagues in the Policy section have advised that "9 pitches have been permitted / allowed at appeal since 2019. This would mean the outstanding need for pitches for those meeting the pre December 2023 planning definition is 9, whereas in total it is 23, counting all categories (those meeting the revised definition and those unknown)".

33. Paragraph 27 of the government issued Planning Policy for Gypsy and Traveller Sites document states the following: If a local planning authority cannot demonstrate an up-to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission. The exception is where the proposal is on land designated as Green Belt. However, an appeal relating to a proposed traveller site at the Pumping Station, Watery Lane (app ref: APP/B1550/C/16/3162651) was allowed in 2017. The Planning Inspector in relation to this site stated that as the vast majority of the district is designated Green Belt (tightly drawn to existing settlements) any potential traveller site would have to be on land that is currently designated Green Belt, meaning that the application site being on Green Belt land does not necessarily mean that the application should be refused on this basis, as any other future traveller site for the Rochford District would also have to be on land that is currently Green Belt.
34. The Inspector for the appeal, which was allowed in February 2021 at Pudsey Hall Lane, Canewdon (ref: APP/B1550/C/18/3209438) stated that the Council has an under supply of pitches and the position has not improved since permissions were granted for the above appeal sites. The Inspector goes onto state that in fact, the position is worse than in the 2018 timescale in which a 15-pitch allocation was to be delivered but has now long expired with no realistic prospect of an application coming forward as things currently stand.
35. In referring to the need for sites in the district, the Planning Inspector for the appeal (app ref: APP/B1550/C/16/3162651) in relation to the traveller site at the Pumping Station, Watery Lane Rawreth, stated the following in regards to the lack of traveller site provision in the district: "Delay in delivery of [policy] GT1 means that currently no provision of pitches is being realised through the development plan process. The

only way at the moment (and for the last 6 years following the adoption of a 15-pitch requirement) is in response to a planning application. Given the existing situation, the Council accepted at the hearing that it did not have a 5-year supply of specific deliverable sites as required by paragraph 10 of the PPTS. Neither does it have a supply of sites or broad locations for growth for years 6 to 10 also required by that same paragraph. Given the extent of Green Belt in the District, ad hoc sites coming forward are more likely than not going to be within it.”

36. More recently, the Inspector for the appeal at Land Opposite 2 Goldsmith Drive (app ref: APP/B1550/C/18/3212763) made the following observations in relation the supply of gypsy and traveller sites:

[40.] The Council witness confirmed that although he had recently learned that there was potential for the Michelins Farm site to be the subject of a compulsory purchase order, there was no certainty that the site would move forward. He explained that options were going to be considered, potentially in September 2021, for addressing the supply of sites, and that this has been hampered by other factors including staff availability in the Council’s planning policy team. In summary while the Michelins Farm site, which is the only allocated site, has not been ruled out by the Council, there is no certainty that it will deliver the necessary supply of sites and there are no other options currently available.

[41.] The Council officer also confirmed that the Council has no criteria based policy which would address ‘windfall’ sites, neither had it had such a policy for several years. Taken together with the significant and as yet unresolved delay in bringing forward the Michelins Farm site, this amounts not only to an absence of supply of sites but also a failure in terms of policy provision. These factors also weigh significantly in favour of the development.

37. This view was also supported by the Inspector for the appeal at Pudsey Hall Lane, Canewdon (app ref: APP/B1550/C/18/3209438) whereby it was discussed that in the absence of a 5-year supply, significant weight is warranted to the deficit in supply which has remained unchanged for some years. Taking into account the above, it is clear that despite the residential development for use as a Gypsy and Traveller site is deemed inappropriate development in the green belt, there is an absence of a five year supply of sites and this should be given significant weight.

Lack of alternative site(s)

38. There are no pitches that have been delivered through the Council's policy provision and there are no public sites currently available in the district. No other suitable and available sites accessible to the applicant have been identified. At present there are a total of 15 authorised traveller sites providing a total of 25 pitches. These are separate to the 2 unauthorised sites, although 3 of the authorised sites currently have an unlawful increase in the number of pitches. Whilst there have been a number of sites granted planning permission recently (as detailed above), none of these are available.
39. Further, the Court of Appeal (*South Cambridgeshire District Council v the SOS and Julie Brown, 2008*) found that it is not for the applicant to establish there are no available alternative sites.
40. It is considered by officers and demonstrated by the applicant, that there is a lack of alternative provision, and this weighs heavily in favour of the development attracting very significant weight.

#### Gypsy and Traveller Status

41. The ethnicity and the personal circumstances of an applicant would not normally be a material consideration of a planning application as they would not ordinarily be accorded any significant weight compared to local development plan and national policy considerations. It is, however, recognised that the needs of those who can substantiate Gypsy and Traveller status for planning purposes do call for special consideration and are a material consideration in planning decisions. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community, as clearly highlighted by the production of the National Planning Policy for Traveller Sites (NPPTS).
42. The NPPTS defines "gypsies and travellers" as:
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."*
43. The NPPTS further sets out that when determining whether persons are "gypsies and travellers" for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a. Whether they previously led a nomadic habit of life;
- b. The reasons for ceasing their nomadic habit of life;
- c. Whether there is intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

44. However, the Court of Appeal (*Smith v Secretary of State for Levelling Up, Housing & Communities & Anor*, 2022) has recently (November 2022) held that the Government's definition of gypsies and travellers within the NPPTS is unlawfully discriminatory. This is because (amongst other reasons) Romany Gypsies are members of an ethnic group, the defining feature of which was not being nomadic but "the act of living in caravans". It was apparent from the Public Sector Equality Duty analysis of this definition that the equality objectives set out at s149(1) of the Equality Act 2010 were not met, with The Court concluding that the exclusion of this definition by the Government was to reduce the number of gypsies and travellers who can obtain permanent or temporary planning permission.
45. The applicant claims Gypsy and Traveller status stating that he has spent his life travelling round various parts of the country and still travels to various fairs and shows. His status was accepted by the Inspector at the previous Appeal hearing and as such is not for debate. The applicant confirms that his family and extended family currently reside in the 2No. static caravans that are on site. Bearing this in mind, the agent states that pitches 3 and 4 would be occupied by applicant's daughters and their husband and fiancé. The agent also states that one of the applicants' daughters who would reside in pitch No. 3 has 2No. small young children who are too young at the moment to attend school. The remaining pitch would be occupied by applicant's niece and her husband. The application details infer that both the applicant's daughter and niece have resided at the site for approximately six years. Furthermore, the agent enunciates that the husbands/fiancé of the applicant's daughters/niece all work in the local area. The husband of the niece currently has no fixed abode and lives on the roadside, which is taking a toll on him.
46. Consequently, the applicant wishes to provide a lawful and permanent family home for his family and extended family in an area where they have associations and already engage with local services. The agent inferred that the application site would not be used for business purposes.
47. The applicant's daughters are of an age whereby they require their own space and the cramped living conditions that they currently reside in are having a detrimental impact. One of the daughters has a young family and the other daughter and niece are hoping to start their own

family in the near future. Consequently, refusing the application would contribute towards loss of the family's potential home, thus interfering with their private and family life, and the apparent lack of immediately available alternative accommodation makes such interference more serious. In the absence of other available sites, there would be a possibility of a roadside existence. These matters are relevant to the proposed occupants' rights under Article 8 of the European Convention on Human Rights in relation to respect for private and family life, and also to Article 1 of the First Protocol in relation to peaceful enjoyment and protection of property, and as incorporated by the Human Rights Act 1998.

48. Furthermore, Policy E, paragraph 16 of the PPTS confirms that Traveller sites, whether temporary or permanent are inappropriate development in the Green Belt. Policy E carries on saying that "Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances".
49. Case law is clear that there is a duty on both the LPA and Secretary of State to treat the best interests of the child (including unborn children) as a primary consideration, and that no other consideration is inherently more important. This was established in the case of *AZ v SSCLG & South Gloucestershire Council* [2012] and *Collins v SSCLG* [2013]. As such, the best interests of the children occupying the site are a paramount consideration which must be taken into account by the final arbiter, which in this case is the LPA.
50. Furthermore, the best interests of the children arise from the duty set out under Article 3.1 of the United Nations convention on the right of the child. The Court of appeal in the case of *Collins v Secretary of State for Communities and local Government and Fylde Borough Council* 2013 EWCA 1193 confirmed that inspectors must apply the principles set out by Mr. Justice Hickinbottom out at paragraph 69 of *Stevens v SSCLG and Guildford* [2013] EWHC 792 which states as follows:-
- "69. From these authorities, in respect of the approach of a planning decision-maker, the following propositions can be derived.
- i) Given the scope of planning decisions and the nature of the right to respect for family and private life, planning decision making will often engage article 8. In those circumstances, relevant article 8 rights will be a material consideration which the decision-maker must take into account.

- ii) Where the article 8 rights are those of children, they must be seen in the context of article 3 of the UNCRC, which requires a child's best interests to be a primary consideration.
- iii) This requires the decision-maker, first, to identify what the child's best interests are. In a planning context, they are likely to be consistent with those of his parent or other carer who is involved in the planning decision-making process; and, unless circumstances indicate to the contrary, the decision-maker can assume that that carer will properly represent the child's best interests, and properly represent and evidence the potential adverse impact of any decision upon that child's best interests.
- iv) Once identified, although a primary consideration, the best interests of the child are not determinative of the planning issue. Nor does respect for the best interests of a relevant child mean that the planning exercise necessarily involves merely assessing whether the public interest in ensuring planning controls is maintained outweighs the best interests of the child. Most planning cases will have too many competing rights and interests, and will be too factually complex, to allow such an exercise.
- v) However, no other consideration must be regarded as more important or given greater weight than the best interests of any child, merely by virtue of its inherent nature apart from the context of the individual case. Further, the best interests of any child must be kept at the forefront of the decision-maker's mind as he examines all material considerations and performs the exercise of planning judgment on the basis of them; and, when considering any decision he might make (and, of course, the eventual decision he does make), he needs to assess whether the adverse impact of such a decision on the interests of the child is proportionate.
- vi) Whether the decision-maker has properly performed this exercise is a question of substance, not form. However, if an inspector on an appeal sets out his reasoning with regard to any child's interests in play, even briefly, that will be helpful not only to those involved in the application but also to the court in any later challenge, in understanding how the decision-maker reached the decision that the adverse impact to the interests of the child to which the decision gives rise is proportionate. It will be particularly helpful if the reasoning shows that the inspector has brought his mind to bear upon the adverse impact of the decision he has reached on the best interests of the child, and has concluded that that impact is in all the circumstances

proportionate. I deal with this further in considering article 8 in the context of court challenges to planning decisions, below.”

51. In light of the above, the best interests of the children must carry at least as much weight as any other material considerations and that the balancing exercise must be an exercise of substance rather than form.
52. The applicant's family who res at the site include a couple of children under the age of five. It is important to the applicant and his daughter that her children obtain a good education and would need a permanent address in order to register the children and prevent disruption to their education.
53. The family are registered at local doctor surgeries. It is clear that the applicant and his family have ties and links to extended family members within Essex. Culturally such family ties are important and cannot and will not be lightly put aside.
54. The application site would continue to provide stability and enable consistent access to medical and education services, notably for the children, through a settled base in an area not far from other family members. The applicant has stated that if the application were refused it is likely that they will be forced to travel continually on the roadside and double up on other friends' and family members' pitches. This is also supported by the identified lack of alternative available and affordable sites. As such, any alternative would not be in the best interest of the children who would not have access to a fixed education or health care.
55. Taking account of all of these factors, the personal circumstances of the applicant and his family, including the best interests of children, weigh significantly in favour of the development.

#### Green Belt balance

56. It has been identified that harm to the green belt would result from the proposal which should be given substantial weight. However, significant weight is attached to the need for gypsy and traveller sites, the lack of supply of sites particularly the uncertainty in bringing forward the only allocated site, the absence of policy and the lack of available alternative accommodation for the applicant and his extended family (which includes a couple of children under the age of 5) and the accessibility to health and education services which a stable base provides.



57. Given the lack of availability and delivery for gypsy and traveller sites within the district and the extent of Green Belt land within the district, it is inevitable that these will need to be accommodated within the Green Belt. The best interests of the children are a primary consideration, and no other consideration is inherently more important, however, they are not a determinative factor. In this case, the best interest of the children would weigh significantly in favour of granting planning permission.
58. Policy E of the PPTS states that, subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm. The NPPF makes it clear that any harm to the Green Belt must be clearly outweighed by other considerations. In this case, there are a number of matters which are considered to weigh significantly in favour of the application and this conclusion would be consistent with the outcome of the appeal decisions discussed. Subsequently, the cumulative weight of these other considerations clearly outweighs the substantial harm arising from inappropriateness and urban sprawl in the Green Belt.

#### Design

59. In 2008 the Department for Communities and Local Government produced a good practice guide for designing gypsy and traveller sites. Whilst this was withdrawn in 2015 and replaced by the NPPTS this replacement policy does not provide as helpful guidance on day rooms as its predecessor.
60. As previously stated, the applicant is proposing to erect 2 No. detached dayrooms which will be situated towards the rear of the site. According to plan reference J004306-DD-04 the proposed day rooms will measure approximately 9.2m long by 4.6m wide and are 2.6m high to the eaves and 4.1m high to the apex of the pitched roof. The footprint of each of the proposed day rooms will measure roughly 43m<sup>2</sup>. The day rooms will be constructed on a brick plinth and the remainder would be constructed out of block (presumably) and rendered under a concrete interlocking tile roof. Located on the front elevation will be 1 no. personnel door and 2 no. windows. Whilst on the rear elevation will be a similar arrangement. No other apertures are proposed. Paragraph 7.17 of the Designing Gypsy and Traveller Sites: a Good Practice Guide (DGTS) outlines that the amenity building must include as a minimum: hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bath/shower room; a kitchen and dining area. The access to the toilet should be through a lobbied area.
61. Paragraph 7.19 of the DGTS Guidance states that the inclusion of a living room within this building for family meals is recommended. The

living room could be combined with the kitchen area to provide a kitchen/dining/lounge area. The guidance states that the inclusion of these facilities would replicate the provision of a living room as enjoyed by other sectors of the community.

62. According to the submitted plans the internal accommodation will comprise utility, bathroom and dayroom. It is understood from the DGTS Guidance that the day room would be used for cooking and eating as it is not part of the traditional way of life for the gypsy and traveller community to do anything other than sleep within their mobile homes. Recently, the Council granted permission for a 65m<sup>2</sup> day room at Land North of 172 Rawreth Lane (ref: 23/00222/FUL). This day room would serve one pitch and one family.
63. In contrast the proposal, will comprise of 2No. day rooms which would serve 5No. pitches and 5No. families. Cumulatively the external footprint of the proposed day rooms will measure 86m<sup>2</sup> (approx.). Consequently, it is considered that this scale would not be unreasonable. The DGTS Guidance is clear that an amenity building should be provided on each pitch and can be provided as two separate and entirely self-contained semi-detached units. The scale of the proposed day rooms is considered to be reflective of the scale recommended to serve the pitches by the former DGTS Guidance. The scale proposed is appropriate for each family to utilise as is traditional to do so for the gypsy and traveller community.
64. Taking into account the applicant's culture and necessity for day rooms to serve the pitches and the requirement by the NPPF for planning decisions to not exclude any part of the community, it is considered that there are very special circumstances which exist that outweigh the harm to the Green Belt in this situation.

#### Impact on Residential Amenity

65. Paragraph 135 (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 the Council's 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.
66. Amenity is defined as a set of conditions that one ought 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 would 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.

67. It is considered that the development of the site for the permanent siting of 3No. caravans for residential use and the laying of hardstanding and erection of dayrooms ancillary to that use is unlikely to result in noise, air or water pollution. A principal consideration in determining this application is its effect upon the residential amenity of adjacent properties.

68. According to the submitted plans the nearest residential property is located towards the north west of the application site. There is a distance of approximately 60m separating the proposed static caravans from this residential property. Furthermore, the case officer noted that this property was located on the opposite side of Goldsmith Drive and the boundaries demarcating the application site (on the northern boundary) consisted of mature native hedgerow. In the opinion of the case officer given the separation distances, boundary treatment/landscaping (subject to the imposition of conditions) will all help to mitigate any negative externalities caused by the proposed development. Furthermore, given the nature and scale of the proposed development, it is considered that the proposal will not result in any over domination, over bearing or loss of privacy issues and as such the proposal broadly complies with policy DM1.

#### Surface/Foul Drainage

69. Development on sites such as this can generally reduce the permeability of at least part of the site and changes the site's response to rainfall. Advice advocated within the NPPF states that in order to satisfactorily manage flood risk in new developments, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. Therefore, it is considered reasonable to attach a condition to the Decision Notice requiring the submission of a satisfactory drainage scheme in order to ensure that any surface water runoff from the site is sufficiently discharged.

70. It is understood from the application form that the applicant proposes that foul sewage will be disposed of by a cess pit. However, the applicant has indicated unknown when answering the following question on the application forms - Are you proposing to connect to the existing drainage system? is marked unknown. A development of this scale would not warrant significant consideration of the foul drainage

proposed and the Environment Agency has not been consulted on this basis. As such, it is considered reasonable that a condition can be imposed to require further details of how foul sewage will be controlled to ensure that it would comply with the general binding rules and EA foul drainage guidance.

#### Flooding

71. According to the Environment Agency's Flood Risk Map the application site is located entirely in Flood Zone 1, where there is the lowest probability of flooding from rivers and the sea and to where development should be directed. As such, the development is compatible with the advice advocated within the NPPF.

#### Highways considerations

72. Policies DM1 and DM3 of the Council's Development Management Plan require sufficient car parking whereas Policy DM30 of the Development Management Plan aims to create and maintain an accessible environment, requiring development proposals to provide sufficient parking facilities having regard to the Council's adopted parking standards.
73. In accordance with paragraph 111 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
74. The application site would be accessed via an existing access onto Goldsmith Drive. There is sufficient space within the application site for several vehicles to be parked clear of the public highway and so that they can manoeuvre and access/egress the site in a forward propelling gear. Colleagues in Essex County Council Highways Authority have reviewed the submitted information and state "*The proposal is located in Goldsmith Drive which is a private road that is shared with a Public Right of Way bridleway. The existing shared access will be utilised, and adequate room is available for off-street parking for each pitch*". The Highways authority has no objection to the proposal subject to the adjacent bridleway remaining free and unobstructed, which will be conditioned accordingly, in the event that planning permission is approved.
75. There is no reason for the Local Planning Authority to take an alternative view and any intensification resulting from the provision of 3No. dwellings in this area is not deemed to be of such severity that would warrant refusal of the application.
76. Overall, it considered that the proposal subject to the aforementioned conditions complies with the relevant policies contained within the

Development Management Plan and the NPPF, and as such there is insufficient justification to warrant a refusal.

#### Refuse and Waste Storage

77. The Council operate a 3-bin refuse and recycling system. According to the submitted plans there is sufficient space within the applicant's curtilage to accommodate the refuse bins.

#### Trees

78. 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.'*

79. There are no trees within the application that will be affected by the proposed development.

#### On Site Ecology

80. The scale of the development, even alongside other proposed developments in the vicinity (cumulative impacts) would be such that the proposal would not fall to be considered under the Town and County Planning (Environmental Impact Assessment) Regulations 2017.
81. The NPPF, policy ENV1 and policy DM27 do however require that effects on biodiversity are considered in the determination of planning applications. The NPPF requires that distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with status and that appropriate weight is attached to their importance and the contribution that they make to wider ecological networks.
82. Planning Practice Guidance relating to the natural environment advises that Section 40 of the Natural Environment and Rural Communities Act

2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Planning authorities need to consider the potential impacts of development on protected and priority species, and the scope to avoid or mitigate any impacts when considering site allocations or planning applications. PPG guidance also advises that planning decisions should encourage biodiversity net gain.

83. As previously stated, the majority of the site is covered in existing hardstanding. It is noted that a small proportion of the site will be sectioned off and covered in hardstanding which will then be used for the siting of the 3No. static caravans. As previously mentioned, the amount of land which will be covered in loose bound permeable hardstanding amounts to approximately 360m<sup>2</sup>. This area of land is currently covered by low grade grassland that appears to have been regularly maintained. Furthermore, given the surrounding land uses it is unlikely that any protected species will be on site and as such the proposal will not have a detrimental impact on ecological species in the area.

#### Off Site

84. The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMs). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressures of future residents to the dwelling proposed.
85. The development for three dwellings falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

#### HRA Stage 1: Screening Assessment – Test 1 – the significant test

Is the development within the zone of influence (Zol) for the Essex Cost RAMS?

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for three residential units.

Proceed to HRA Stage 2: Appropriate Assessment - Test 2 – the integrity test Is the proposal for 100 houses + (or equivalent)?

- No

Is the proposal within or directly adjacent to one of the above European designated sites?

- No

86. The current proposal has been considered in respect of the Habitat Regulations, taking account of advice submitted by Natural England and the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) developed by Essex County Council which seeks to address impacts (including cumulative impacts) arising from increased recreational activity. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) was adopted by Rochford District Council on the 20 October 2020. Advice from Natural England in August 2018 has been followed and the HRA record template completed.

87. The conclusion of the HRA is that, subject to securing appropriate mitigation, the proposed development would not likely result in significant adverse effects on the integrity of the European site along the Essex coastline.

88. The applicant has paid the suggested financial contribution per new dwelling to contribute towards longer term monitoring and mitigation along the coastline, to mitigate adverse impact from the proposed development on the European designated sites by way of increased recreational disturbance.

Other Matters

89. Comments have been received that by allowing this proposal will exacerbate cultural differences between the settled community and the traveller community. It is not indicated what these cultural differences are and how they may or may not cause any tensions between the G&T and settled communities. In any event, this is not considered to be a material planning consideration.

90. Numerous objectors have stated that the plans which have been submitted are incorrect and the applicant is attempting to develop land which they do not own. The case officer has spoken to the applicant's agent and he acknowledges that when the plans were originally submitted included a portion of land outside of their clients ownership. However, once they realised this mistake, they submitted a revised plan which only included land owned by the applicant. The case officer is satisfied that the amended plans are a true reflection of the land

owned by the applicant and that the correct Certificate has been completed.

91. Several local residents have stated the mobile homes have been rented out on the open market to people that are not members of the travelling community. The case officer has raised these concerns with the applicants agent. The agent disputes these assertions and states *“I have of course heard nothing that would indicate this is the case from our client, who has throughout displayed a great urgency for permission to be forthcoming for his family members, all of which I have also spoken to and heard similar”*. In any event, if planning permission is granted for the proposal, the description of development stipulates that the proposal is for Gypsy/Traveller pitches, if a third party is using the pitches and does not meet the G&T definition this is clearly in breach of the permission. The LPA will then need to consider whether it is expedient to initiate any enforcement proceedings. Nevertheless, the case officer notes concerns raised by neighbours and to reaffirm and assure local residents that the pitches will not be available to third parties, it is considered prudent to attach a personal condition. The agent is aware that a personal condition will be attached to the Decision Notice and is accepting of this.
92. The Rayleigh Town Council are concerned that if the application is approved, the private road which forms Goldsmith Drive will be damaged due to an intensification caused by additional traffic accessing and using the proposed pitches. Whilst the concerns of the Town Council are noted this is a private matter and is not a sufficient justification to warrant a refusal. It is not considered that the proposal will have a significant detrimental impact on utility services/infrastructure in the locality.
93. Concerns raised by the objectors are that if the development is permitted it will set a precedent and similar proposals may come forward. However, every planning application must and will be judged on local/national policies and any other material planning considerations.
94. Other concerns raised are that if the application is approved that during the construction there will be significant disruption due to builder's vans, equipment, noise and mess. Again, the case officer notes the concerns of the objector and appreciates that it is not uncommon for such problems to occur during the construction phase although these tend to be for a limited period of time and are therefore not considered sufficient grounds for refusal of a planning application. Furthermore, if vehicles are causing an obstruction, for example blocking peoples drives, this is a matter which can be dealt with by the Police who have the appropriate legislation. Issues concerning anti-social behaviour again can be dealt with by the Police, the planning system is not to duplicate better placed other legislation.



95. Concerns have raised that if the application is approved it will lead to a loss of a view and devaluation of their property. Government Guidance on what can constitute a material planning consideration is very wide and so the Courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of view could not be material considerations. Consequently, in light of the above, issues do with the loss of a view and devaluation of a property are not considered to be material planning considerations.

## **CONCLUSION**

96. Approve.

## **CONSULTATIONS AND REPRESENTATIONS (summary of responses):**

Rayleigh Town Council:

The Town Council objects to this planning application due to a number of concerns. These include: the sufficiency of space to accommodate the amount of mobile homes and caravans as stated in the application; the ambiguity of the application in relation to the usage of the day room - this needs to be clarified along with the other specified works; the maintenance of the unmade road and the demand caused on it by other bigger vehicles whether that be for construction or mobile homes which will cause wear and tear; the plan says temporary but again nothing is specified in the plan; the land is also on green belt

Rochford District Council Planning Policy Section:

There are a total of 15 authorised traveller sites providing a total of 25 pitches. These are separate to the 2 unauthorised sites. Although 3 of the authorised sites currently have an unlawful increase in the number of pitches.

The South Essex GTAA 2019 identified a need for 32 additional pitches (2016 to 2038), 18 for those who met the 2015 PPTS definition, 11 that did not and 3 'unknown'. Clearly, the more recent "Lisa Smith" ruling and subsequent December 2023 PPTS amendment, to no longer exclude those who had who have permanently ceased to travel by reason of infirmity or advancing years, means no distinction is now drawn. It is my understanding, based on email correspondence on this subject for earlier cases, that 9 pitches have been permitted/allowed at appeal since 2019. This would mean the outstanding need for pitches for those meeting the pre December 2023 planning definition is 9, whereas in total it is 23, counting all categories(those meeting the revised definition and those 'unknown').

There is no update or movement on the Core Strategy allocation for 15 pitches at Michelins Farm.

A new Essex-wide GTAA has been commissioned, with fieldwork having taken place in 2023. This will provide an updated need figure for the period 2023-2042, based on the latest methodologies and also including the update to the definition. Although the draft report was due to be shared with LPAs in April 2024 by consultants ORS, this has not yet been received by us. This will inform the future need figures the Emerging Local Plan will need to address and based on it, officers will be producing a site assessment paper and assessing if there is sufficient supply to meet needs through existing sites or if a call for further sites is needed. The next Local Plan consultation stage (Regulation 18) is scheduled for Q3 2024, with the intention of submitting a draft Local Plan for examination by 30th June 2025.

Clearly in the absence of an allocated site the proposal has the potential help to address some of the unmet need on a site where there are already pitches, however having read through a few of the consultation responses you will want to be satisfied that the pitches are genuinely intended to be occupied by members of the G&T community (rather than being advertised for open market rental), and considered in the balance alongside all the other important arrangements re Green Belt, access etc.

Essex County Council Highways: No objections subject to a condition ensuring the public's rights and ease of passage over public bridleway No. 83 (Rayleigh) shall be maintained free and unobstructed at all times.

Rochford District Council Housing Allocations officer :

We have no comments on the application.

Neighbour representations:

13 responses from the following addresses;

Goldsmith Drive: The Nook (2 letters received), The Nest, No. 2.

M<sup>c</sup>Calmont Drive: M<sup>c</sup>Calmont Manor (4 letters received).

Maple Drive: Pengelly (2 letters received).

3 addresses unknown.

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

- The plans are misleading.
- Devalued our property.
- There are two extra illegal homes being advertised on the internet for open market rental to the non-travelling community.
- There is no street lighting.

- The three mobile homes are very close to the boundary and are a potential fire risk.
- The proposal will add to the existing traveller community conflicting the balance of cultures with the settled community.
- There are numerous Traveller sites within close proximity of the proposal.
- The site is wholly in the Green Belt and inappropriate for Travellers site and will set a precedent if approved.
- There is a foul smell emitting from the site due to foul sewage.
- There is a lot of anti-social behaviour happening as a result of the proposal.
- There is no mention of the size of the cess pit.
- The plans do not show any parking on site. Any parking on Goldsmith Drive will impede residents and emergency vehicles etc.
- There is no information regarding where the refuse bins will be stored.
- The plot never has been an existing gypsy or traveller site.
- The site floods every winter.
- The polytunnel is in a good state of repair and the Nursey is a thriving business.
- Not all the land is owned by the applicant and the agent has committed plagiarism copying extracts from the Councils Statement of Case in relation to the Appeal.
- Many planning conditions have been breached already.
- The Council should have taken enforcement action earlier and have continued to fail in this respect.
- The road cannot cope with the additional traffic and will cause congestion and safety concerns in the area.
- There is no drainage.
- The area is well used by joggers, horse riders, walkers and cyclists.
- The proposal will have a detrimental impact on the settled community.
- The proposal is an unnecessary development within the Green Belt.
- The site can not accommodate all the caravans and associated paraphernalia.
- There are no very special circumstances The applicant already has 2 large mobile homes.

### **Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) Policy GB1, H7, T8

Allocations Plan 2014 – GT1.

Development Management Plan (December 2014) Policy DM1, DM5, DM25, DM27, DM30.

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

Planning Policy for Traveller Sites (2023).

Natural England Standing Advice.

**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 use hereby permitted shall be carried out only by Mr. Patrick O'Brien and Mrs. Ellen O'Brien and their resident dependents, Ms. Mary O'Brien and Mr. William Cash, and Mr. Bradley Hemingway and Ms. Kathleen Cash.

When the land ceases to be occupied by Mr. Patrick O'Brien and Mrs. Ellen O'Brien and their resident dependents, Ms. Mary O'Brien and Mr. William Cash, and Mr. Bradley Hemingway and Ms. Kathleen Cash, the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.

REASON: Due to the personal circumstances of the applicant being considered to outweigh the harm to the green belt.

3. The development hereby permitted shall be carried out in complete accordance with the following approved plans J004306-DD-05 Revision A (as per date stated on plan February 2023), J004306-DD-04 Revision A (Proposed Block Plan) (as per date stated on plan February 2023), J004306-DD-01 Revision A (as per date stated on plan February 2023) and J004306-DD-04 (Proposed Dayroom Elevations and Floor Plan) (as per date stated on plan February 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. No more than ten caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, comprising no more than five static caravans and five touring caravans.

REASON: To ensure that the development on the site is in accordance with the details considered within the application.

5. The amenity / day rooms hereby approved shall be solely used as dayrooms for purposes ancillary to the residential use of the site. The dayrooms shall not at any time be used for independent living accommodation.

REASON: To enable the Local Planning Authority to retain adequate control over the development hereby permitted and that the development serves an ancillary use only, in the interests of the green belt very special circumstances which have found the development acceptable.

6. 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.

7. No development involving the use of any facing or roofing materials shall take place until details of all such materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless any variation is agreed in writing by the Local Planning Authority.

REASON: To ensure the external appearance of the building/structure is acceptable having regard to Policy DM1 of the Council's Local Development Framework's Development Management Plan.

8. Prior to the installation of any fencing, gates, walls or other means of enclosure, their appearance (including height, material and colour) shall be submitted to and agreed in writing by the local planning authority. Any means of enclosure as may be agreed by the local planning authority, shall be installed in complete accordance with those details agreed and maintained in perpetuity, unless otherwise agreed in writing by the local planning authority. Notwithstanding the provisions of Article 3, Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended)

(including any Order revoking or re-enacting that Order, with or without modification) no gates, fences, walls or other means of enclosure shall be erected without the written agreement of the local planning authority.

REASON: In the interest of the visual amenity of the character of the area, preserving the openness of the green belt and to prevent the site becoming isolated from the rest of the community, in compliance with the requirements of the NPPF and National Planning Policy for Traveller Sites.

9. Prior to the caravans being brought onto site, details of the foul drainage system to serve the development hereby approved and a foul drainage maintenance plan shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority and maintained in the approved form thereafter.

REASON: To ensure that the foul drainage of the development is sufficiently disposed of on the site and will avoid contamination of any nearby water course.

10. Prior to the caravans being brought onto site a scheme of landscaping for the site indicating inter alia the positions of all existing trees and hedgerows within and around the site, indications of any to be retained together with measures for their protection during the course of development, also the number, species, heights on planting and positions of all additional trees, shrubs and bushes to be planted shall be submitted to and approved by the Local Planning Authority, and shall be carried out in the first planting season following the commencement of the development,. Any trees or plants which within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

REASON: To secure a high standard of landscaping in the interests of the appearance of the development in the locality.

11. The public's rights and ease of passage over public bridleway No. 83 (Rayleigh) shall be maintained free and unobstructed at all times.

REASON: To ensure the continued safe passage of the public on the definitive right of way and accessibility in accordance with Policies DM1 and DM11.

12. Prior to the development hereby approved being first brought into use, details of the onsite provision for refuse storage for users of the development shall be submitted to the Local Planning Authority and

approved in writing. The approved facilities shall be provided prior to the first occupation of the development hereby permitted and thereafter retained.

REASON: To ensure the provision of adequate refuse storage

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

Application No :	24/00153/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Sutton Parish Council
Ward :	Roche South
Location :	Shopland Hall Equestrian Centre    Shopland Road Sutton
Proposal :	Change of use to Commercial Use (Use Class E(g)), external alterations and parking.

## **SITE AND PROPOSAL**

1. The site is located within the Metropolitan Green Belt and within a rural area southeast of Rochford, recognised in planning policy terms as forming part of the 'Roach Character Area'. The site is located south of Shopland Hall within a cluster of buildings and hardstanding which together form a substantial range of outbuildings which are associated historically and currently with that property and Shopland Hall Equestrian Centre.
2. The site as edged in red leads from Shopland Hall Road from the north, includes a building and a car park further to the south within the complex for 15 vehicles. The building is single storey, pitched roofed and previously used for stabling, tack room and shop.
3. On the east side of the building and edge of the application site edged red is a Grade II Listed Threshing Barn (asset Number 1113358) which is an Early C18 structure indexed as (109779 Listing 334). The site is located outside of the Shopland Church Yard Conservation Area.
4. In its wider context Shopland Hall is located to the south of Shopland Road. The property is located to the district's Southern Boundary, sharing this with the Garrons Golf Club which is located within Southend City administrative area. The Golf Club provides a manicured landscape to the south, whilst farmland dominates to the east, west and north with residential clusters set within.
5. The site is accessed via an established vehicular access from Shopland Road which serves the existing equestrian uses, a Camp Site, Tack Shop and Golf Club with agricultural and residential uses.
6. Planning permission is sought for the change of use of the vacant shop and stables to a small-scale commercial use in use Class E(g) (office, research and development and former light industrial type uses). The application includes external changes to the building and identifies parking to be used by the proposed use(s). It is anticipated the space within the building could include a workshop or small offices.



## **RELEVANT PLANNING HISTORY**

7. Application No. 21/00929/COU - Change of use of land for use as holiday camping site including the construction of two yurts – Approved - 6<sup>th</sup> July 2022.
8. Application No. 21/00771/COU - Proposed Change of Use to Open Storage (Use Class B8) to Include Storage for Skips, Caravans, Fencing and Shipping Containers. Construct New Banks and Sleeper Walls - Refused - 8<sup>th</sup> December 2021.
9. Application No. 21/00606/FUL: Roof Extension, Installation of Solar Panels and External Alterations to Existing Barn – Approved - 22<sup>nd</sup> June 2022.
10. Application No. 20/00790/FUL - Change of use of existing equestrian/agricultural barn to B8 storage and distribution with associated office space. Installation of replacement cladding and fenestration – Approved – 9<sup>th</sup> December 2020.
11. Application No. 92/00177/LBC - Conversion of Grade II Listed Building to Equestrian Centre, Administration and Reception Building: PER – Approved – 6<sup>th</sup> April 1993.

## **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. The National Planning Policy Framework ( NPPF) provides the overarching guidance to support a prosperous rural economy. At Paragraph 88 it is advocated that planning decisions should enable sustainable growth and expansion of all types of business in rural areas through conversion of existing buildings and the development and diversification of agricultural and other land-based rural businesses.
15. NPPF Paragraph 89 is pertinent to this case whereas planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or

beyond existing settlements, and in locations that are not well served by public transport. In such instances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The approach to using previously developed land is advocated.

16. The Council's Core Strategy Policy GB2 although maintaining a restrictive approach to development within the Green Belt, provides some relaxation for rural diversification. Forms of rural diversification that might be considered acceptable in appropriate circumstances in the Green Belt include the conversion of existing buildings for small-scale employment use.
17. The Council's Policy DM11 will support existing lawfully established businesses in the Green Belt, allowing extensions to existing business premises, replacement of existing business premises, and changes of use to enable diversification. Policy DM12 states rural diversification will be supported so long as it involves an appropriate form of rural activity. Policy DM13 provides consideration criteria for the reuse or adaptation of existing agricultural and rural buildings.
18. The building is currently vacant and it not proposed to increase the footprint or height of the building shell. The submitted plans show minor enabling work with the majority of the shell and supporting elements remaining in situ which suggests the building is capable of easy conversion to facilitate the change of use. Given these factors it is considered the proposal would not have a greater impact on the openness of the green belt than the existing building. Furthermore, as the site is hard surfaced for use by the existing business the proposed conversion for the change of use would not be detrimental to nature conservation interests or indeed the wider landscape character.
19. The use of the area for the car park is within the existing complex of buildings currently used for parking and storage. The formalisation and allocation of this space for the proposed use(s) would not be significantly different to how the space is used. Whilst the introduction of a new business may increase traffic flows these would use the existing means of access to the equestrian centre complex and given the limited floorspace such flows would not be significantly higher than as existing. As such it is considered the increased activity would not materially and adversely affect the openness of the Green Belt.
20. As such it is considered the principle of the change of use would be consistent with Policy GB2 of the Core Strategy Adopted Version 2011, Policies DM11, DM12 and DM13 and Chapter 6 of the National Planning Policy Framework.

## Design and Impact on Heritage Asset

21. Policies DM11, DM12 and DM13 have similarities by ensuring that development does not have an undue impact on the character of the countryside, visual amenity and the historic environment. Regard has been had to Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan which relate to design and layout.
22. The proposed changes to the building comprise a change of door access on the front elevation, new wall section to fully enclose the existing covered yard on the side elevation and replacement of a door and surround with a new door and wall section on the rear elevation. In isolation the external work to the exterior to the building is minimal and subject to a condition to ensure materials match the existing building it is considered it would not harm the character of the green Belt or indeed the visual amenity of the site. According to plan reference 24.112/01 Revision B the majority of the proposed work is internal.
23. The building proposed to be converted is opposite facing the Grade II listed barn with the application site immediately adjacent to its edge. Therefore, the proposal would be within the immediate setting of the listed building.
24. Part of the existing was used as a shop and the proposed change to a commercial unit and intensification by reason of the second proposed unit (occupying the existing stable and yard) is considered to not harm the setting of the listed building. Although some exterior work is proposed to the existing building it is considered the alterations would have a negligible effect on the setting and the listed building itself. Given that the application is within the setting of a Listed Building, the case officer considered it prudent to consult colleagues within Place Services Built Heritage. The Conservation Officer has appraised the application and states "*The proposed building is not considered to contribute to the significance of the listed Barn. Therefore, I do not consider the minor changes to the external appearance of the building to result in harm to the significance of the setting of listed Barn. There is also no objection to the proposed change of use*". However, the Conservation Officer does state that if the application is to be recommended for approval conditions relating to external materials and detailed drawings of the door/windows shall be submitted to the LPA, these will be secured by the imposition of appropriately worded planning conditions, in the event that planning permission is approved.
25. Furthermore, located approximately 110m away to the north west of the application site is Shopland Churchyard Conservation Area, which comprises the churchyard of the former parish church of Shopland (now demolished). It is considered given the separation distances, intervening buildings/vegetation and the nature and scale of the

proposal, the proposal will not cause any demonstrable harm to the Conservation Area. Furthermore, the Conservation Officer has not indicated any concerns.

26. Overall, it is considered the Local Planning Authority has exercised its duty under Section 66 (1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act to ensure the effect on the setting has been considered. In reaching the conclusion regard has been had with Chapter 16 of the NPPF and Policies DM11, DM12 and DM13.

#### Impact on Amenity

27. The Council's Policy DM1 seeks to ensure that new developments avoid overlooking, ensuring privacy and promoting visual amenity, and create a positive relationship with existing and nearby buildings. Policies DM11, DM12 and DM13 echo the consideration of amenity resulting from conversion and diversification of buildings. Paragraph 135 (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.
28. It is considered given the nature and scale of the proposed development and separation distances between the application site and neighbouring residential properties, that there would be no adverse impact on the amenities of nearby residents. The proposed commercial uses would assimilate with the existing operations within the site.

#### Parking and Impact on Highway Safety

29. Policy DM1 of the Council's Development Management Plan require sufficient car parking, whereas Policy DM30 of the Development Management Plan aims to create and maintain an accessible environment, requiring development proposals to provide sufficient parking facilities having regard to the Council's adopted parking standards.
30. The proposal is for uses which fall into Class E(g). For the purposes of the Parking Standards Design and Good Practice guide (2010) the standards for B1 (light industrial) uses have been used. For B1 uses the maximum standard is 1 car parking space per 30sqm of floor space with a minimum of two bays or 5% of total capacity (whichever is greater) for disabled drivers. Furthermore, 1 cycle parking space per 100 sqm for staff plus 1 space per 200sqm for visitors. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

31. The proposal equates to 180 sqm metres of floorspace which would require a maximum of six spaces (of which should be two disabled bays) and two cycle spaces (when rounded up). Although exceeding the maximum standard the overprovision is not considered to be a reason to refuse the application and the proposed car park could be used by others within the wider complex. Although the disabled bays have not been identified and no information has been submitted in respect of cycle provision there is space within the car park area to accommodate these measures to be incorporated into the scheme. It is considered expedient to secure the provision by planning condition. Moreover, colleagues in Essex County Council Highways have been consulted and state that *“the proposal includes change of use of an existing shop and livery stables to use class E (g); the existing shared access will be utilised, and off-street parking is included, therefore, the Highway Authority has no objections to the proposal”*. In light of the above, it is considered that the proposed development complies with Policies DM1 and DM3, and the Parking Standards Design and Good Practice guide (2010) in regard to off street parking.
32. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed change of use. It is not considered that the proposed uses would cause demonstrable harm to the highway network. The comings and goings of vehicles as a result of this proposal will not result in significant disturbance to nearby residential neighbours and given the floorspace any disturbance would assimilate with the existing site operations. Generally, it is considered that the proposal is acceptable in highway terms and would not have an adverse impact upon highway safety. The proposed development therefore accords with the Parking Standards and policies DM1, DM11, DM12, DM13 and DM30 of the Development Management Plan and the NPPF.

#### Refuse and Waste Storage

33. There is ample space within the site to provide sufficient provision for the storage of waste. Details can be secured by planning condition.

### **CONCLUSION**

34. Approve.

### **CONSULTATIONS AND REPRESENTATIONS (summary of responses):**

Sutton Parish Council: No comment received.

Essex County Council Highways:

The proposal includes change of use of an existing shop and livery stables to use class E (g); the existing shared access will be utilised, and off-street

parking is included, therefore, the Highway Authority has no objections to the proposal.

Essex County Council Place Services Built Heritage:

The proposed building is not considered to contribute to the significance of the listed Barn. Therefore, I do not consider the minor changes to the external appearance of the building to result in harm to the significance of the setting of listed Barn. There is also no objection to the proposed change of use subject to conditions relating to materials and detailed drawings of the doors and windows.

Neighbour representations: No responses received.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) – policies GB1, GB2.

Development Management Plan (December 2014) – policies DM1, DM11, DM12, DM13, DM30.

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

The Essex Design Guide (2018).

Natural England Standing Advice.

**RECOMMENDATION: APPROVE**

Conditions:

1. The development must be begun not later than the expiration of three years from the date of this permission.

REASON: To comply with the requirements of 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 development hereby permitted shall be carried out in accordance with the following approved plans numbered 24.112/01 Revision B (as per date stated on plan February 2024) and 24.112/02 Revision E (as per date stated on plan February 2024).

REASON: For the avoidance of doubt and in the interests of proper planning.

3. Prior to the commencement of development, a schedule of the types and colour of the materials to be used in the external finishes shall be submitted to and approved in writing by the Local Planning Authority prior to their first use on site. The development shall be implemented in accordance with the approved details and thereafter retained, unless first agreed in writing with the Local Planning Authority.

REASON: In order to ensure a satisfactory relationship with the character of the host building.

4. Prior to the use(s) first being brought into use a scheme for the layout, design, construction (including surface treatment) and drainage of the parking area shall be submitted to and approved in writing by the Local Planning Authority. The parking area shall be constructed and marked out in accordance with the duly approved scheme before it is first brought into use and shall be retained as such thereafter.

REASON: To ensure that adequate provision is made for vehicle parking and manoeuvring, to ensure appropriate surface treatment and an adequate standard of engineering works to hardstanding areas and that satisfactory provisions are made for the disposal of surface water.

5. Prior to the use(s) first being brought into use, a scheme for the provision of bicycle parking spaces on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the siting, size, design and materials to be used in the construction of any bicycle stores. The bicycle parking spaces shall be provided and made available for use in accordance with the duly approved scheme before the building first being brought into use, and shall be retained as such thereafter.

REASON: In order to promote modal shift and increased use of sustainable methods of travel.

6. Prior to the use(s) first being brought into use, details for the collection arrangements and storage for refuse shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the siting, size, design and materials of any bin store(s). The bin store(s) shall be constructed in accordance with the duly approved scheme and made available for use before the building is first brought into use and retained as such thereafter.

REASON: To ensure the provision of satisfactory facilities for the storage of refuse in the interests of the amenity of future occupiers and to ensure the appropriate siting and design of any refuse storage facilities within the site.

7. Before the windows and doors hereby approved are installed, details of their material, design, specification, method of opening, method of fixing and finish, in the form of drawings and sections of no less than

1:20 scale, shall be submitted to and agreed in writing by the Local Planning Authority. The works shall be carried out only in accordance with the agreed window and door details and thereafter retained.

REASON: Inadequate details of these matters have been submitted with the application in order to ensure that the works preserve the special architectural and historic interest of the adjacent listed building.

The local Ward Members for the above application are Cllr. Angelina Marriott, Cllr. M. J. Steptoe and Cllr. A. L. Williams.