



**PLANNING APPLICATIONS WEEKLY LIST NO.1722**  
**Week Ending 9th August 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 29.08.2024.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **14th August 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. 24/00269/LBC - Rayleigh Lodge The Chase Rayleigh pages 2- 12.
2. 24/00328/FUL - 79 Pond Chase Hockley pages 13 – 18
3. 22/00891/FUL - Alexanders Farm Lower Road Hockley pages 19 – 38
4. 24/00178/FUL – 54 Spa Road Hockley pages 39 – 49
5. 24/00385/FUL – 15 Eldon Way Hockley – 50 – 57
6. 23/00253/FUL - Land West Of Laburnum Way Rawreth Lane Rayleigh pages 58 - 66

Application No :	24/00269/LBC      Zoning: No Allocation
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Lodge
Location :	“Rayleigh Lodge” The Chase, Rayleigh.
Proposal :	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.

## **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 but for an area of open land between Copford and Brocksford Avenues to the rear. 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 Essex County Council TPO review.
2. This application is one of four current applications for development at the site. There is a tandem application for full planning permission, 24/00268/FUL, and two further applications relating to advertisement consent (which at the time of writing this report had both recently been approved) which are 24/00288/ADV and 24/00299/LBC.
3. According to the submitted plans and application forms the proposal is for the 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.

## 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 Rayleigh Lodge The Chase Rayleigh Essex SS6 8RW 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. 24/00288/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 – Approved – 12<sup>th</sup> June 2024.

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 – Approved - 12<sup>th</sup> June 2024.

## **MATERIAL PLANNING CONSIDERATIONS**

### Assessment

26. Listed Building Consent (LBC) for the proposed works is required by virtue of the Planning (Listed Building and Conservation Areas) Act 1990. This legislation requires that in considering whether to grant LBC the Local Planning Authority must have special regard to the desirability of the preserving the building or its setting or any features of special architectural or historic interest which it possesses.
27. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 explains that in considering whether to grant listed building consent for any works, the local planning authority or Secretary of State shall 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.
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 (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.
35. It is inferred from the aforementioned policies that proposals should preserve and/or enhance the Listed Building. According to the applicants Design and Access Statement , externally, four modern windows (which are all in late C20th extensions) will be replaced, with the frames being retained. The bottom rail of all four windows is rotten

and beyond repair and full replacement of the casements will not impact heritage significance.

36. Furthermore, the applicant is proposing to improve building lighting which will be upgraded in accordance with the details shown on the elevation drawings. The agent affirms that the fittings are small and discrete and in their opinion are not considered to impact heritage significance.
37. A lintel to a first-floor window in one of the rear gable end additions appears to be rotten and needs to either significant repair (most likely splicing) or replacement. There are cracks in the render above and, if not repaired or replaced, the condition of the lintel could cause structural problems in the future. The agent acknowledges that the full extent of the works (repair or replacement) will not be known until the scaffolding is erected but, in either case, the works are required in order to maintain the integrity of this part of the building. Additionally, the flat roofs on several of the modern extensions are in a poor state of repair and need to be replaced on a like for like basis. Finally, windows and rendered surfaces will be redecorated in complementary colours.
38. Within the grounds of the host building the applicant is proposing that a small dry store and bin enclosure are to be provided to the rear of the property. The dry store (which is a small freestanding structure) will allow more food to be stored on site and thus reduce the number of deliveries that need to be made, whilst the refuse/bin store will allow the requisite number of bins to be provided in accordance with Council guidelines. At the present, the bins are stored in the open.
39. Two existing timber cabins installed during Covid, will be located from the front of the building to the rear garden where they will sit beside a number of existing cabins. The agent contends that this proposal will have a neutral to minor positive impact upon the setting of the listed building.
40. In addition to all of the above, the applicant is proposing a number of internal alterations. The main internal changes concern the proposal to convert the two sets of male and female toilets, into female toilets to the rear and male to the front. The latter are in a modern extension.
41. The proposal includes closing a modern doorway in a former external wall and the creation of a new lobby using, in part, a surviving section of an internal wall. Windows will be blocked on the inside but the frame, casements and glazing will be retained to preserve the external appearance of the building. The case officer considers that these alterations are not considered to have any impact upon heritage significance.
42. The second set of male and female toilets is located at the rear of the historic core, albeit in a less important part of the building. An existing

wall (not considered original) will be removed and new partitions erected in order to create a single female toilet. The impact upon the volume of the space into which the existing toilets have been inserted will not materially change. Windows, again, will be blocked up from the inside. This proposal is, again, not considered to have any adverse impact upon heritage significance.

43. Moreover, the applicant proposes to generally refurbish the modern bar and bar back fittings, and to extend the existing vertical timber boarding, on the wall adjacent to the front female toilets, including over the enclosed entrance. Timber wall cladding is a common feature in the building (albeit most of it is modern) and this is not considered to impact heritage significance. Finally, it is proposed to reconfigure a set of built-in shelves in a front right alcove of the building. This is in a late C20th extension and, again, does not impact heritage significance.
44. Colleagues in Place Services Built Heritage have been consulted and state it is considered that the proposed external works, which involve windows within some of the more modern extensions are proposed for replacement on a like-for-like basis as they are beyond repair. It is considered that as these windows are not historic and their replacement will preserve the appearance of the existing, this is uncontentious. The repair of the lintel to the rear elevation and the replacement of the flat roofed covering on the modern rear extension are also considered to be uncontentious necessary repairs.
45. Whilst colleagues in Essex County Council Place Services Built Heritage had no fundamental objection to the replacement of the damaged windows on a like-for-like basis, they were concerned that there was a lack of detailed information pertaining to both the existing windows and the proposed replacement windows. The Conservation Officer considered a condition requesting the additional information was a proportionate and reasonable method of dealing with this issue. The case officer concurred with this advice. However, the agent wanted to reduce the number of pre-commencement conditions and submitted the window details to be considered as part of the application. The Conservation Officer has been consulted on the additional window detail plans and states that she is *'Happy with the like-for-like approach'*. The case officer agrees with the Conservation Officer in relation to the window details, which will be conditioned accordingly.
46. The relocation of the chalets from the front of the building to the rear will enhance the building's setting by better revealing views of the principal elevation. The proposed bin store is discretely located and will provide a tidier solution to the storage of bins than the current arrangement, however, it is noted that the proposed site layout still shows bins located to the rear of the building, outside of the bin store. The proposed storage unit to the rear of the building is relatively small in size and discrete in its position and is not considered to detract from the setting of the listed building.



47. The proposed internal works, as detailed in the submitted Planning, Design & Access and Heritage Statement, are confined to modern additions to the building and fabric of low significance including modern toilets and bar area. The proposed works to the toilets involve the covering over of existing windows, however, these are in modern extensions to the building and the windows will remain in situ (and visible externally), so the works are reversible. The proposed internal works are therefore not considered to harm the significance of the building.

48. It is considered that the proposed alterations as specified within the supporting documents/plan will not have an adverse impact on the intrinsic quality of the listed building and this opinion is shared by the Council's Conservation Officer. In conclusion, it is considered that the proposed works would not impact upon the significance of the Grade II listed building. This would be in accordance with Section 16 of the National Planning Policy Framework (NPPF) and Section 16(2) and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 or guidance/policies advocated within the NPPF or the Council's Development Management Plan.

## **CONCLUSION**

49. Approve.

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

Rayleigh Town Council: No objections raised.

Essex County Council Place Services Historic Buildings and Conservation Officer:

The proposed internal works, as detailed in the submitted Planning, Design & Access and Heritage Statement, are confined to modern additions to the building and fabric of low significance including modern toilets and bar area. The proposed works to the toilets involve the covering over of existing windows, however, these are in modern extensions to the building and the windows will remain in situ (and visible externally), so the works are reversible. The proposed internal works are therefore not considered to harm the significance of the building.

Externally, windows within some of the more modern extensions are proposed for replacement on a like-for-like basis as they are beyond repair. As these windows are not historic and their replacement will preserve the appearance of the existing, this is uncontentious. The repair of the lintel to the rear elevation and the replacement of the flat roof covering on the modern rear extension are also considered to be uncontentious necessary repairs.

The relocation of the chalets from the front of the building to the rear will enhance the building's setting by better revealing views of the principal elevation. The proposed bin store is discretely located and will provide a tidier solution to the storage of bins than the current arrangement, however, it is noted that the proposed site layout still shows bins located to the rear of the building, outside of the bin store. The proposed storage unit to the rear of the building is relatively small in size and discrete in its position and is not considered to detract from the setting of the listed building.

An application for new signage and lighting has also been made (24/00288/ADV & 24/00299/LBC). As per the advice on these applications (letter dated 17/05/2024), the number of additional lights to the front elevation should be reduced and the agreed revisions shown on the proposed front elevation.

The proposals are not considered to result in any harm to the significance of the listed building, as per Chapter 16 of the NPPF and Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Whilst the like-for-like replacement of the windows is acceptable, there is a lack of information on the proposed and existing windows (there are some photographs provided of the wider elevations in the Planning, Design & Access and Heritage Statement).

Therefore, if the application is approved, it is recommended that a condition requires the submission of new window details and due to the refurbishment and rearrangement of the existing toilets, it is also recommended that a condition showing the position and design of new external pipework, extracts or vents to be submitted.

Place Services Historic Buildings and Conservation Officer: (2nd response – in relation to the detailed window plans): Happy with the like-for-like approach. The reason the glazing bars were questioned is because the usual drawing convention for showing solid glazing bars is to show a solid piece through the window the detail provided looks like bars applied to the internal and external surfaces with a separate fillet in the middle.

Neighbour representations: No responses received.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

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 2537.216 Revision A (Proposed Window Details) (as per date stated on plan June 2024), 2537.204 Revision B (Proposed Site Elevations) (as per date stated on plan March 2024), 2537-202 Revision A (Proposed Site Layout) (as per date stated on plan March 2024), 2537-206 (Floor Plans) (as per date stated on plans March 2024) and 2537-212 (Location Plan) (as per date stated on plan March 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. Details of any necessary repairs in addition to the approved plans shall be submitted to and approved in writing by the local planning authority and the repairs shall then be carried out in accordance with the approved details.

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

4. Details of any necessary new materials in addition to the approved plans shall be submitted to and approved in writing by the local planning authority and the repairs shall then be carried out in accordance with the approved details.

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

5. Notwithstanding the plans hereby approved all the external cylindrical lighting on the host property as shown on the submitted plans shall be painted black and thereafter retained in perpetuity.

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

6. Notwithstanding the plans hereby approved the details of the position and design of any new external pipework, extracts or vents shall be

submitted to and approved in writing by the local planning authority prior to their first installation on site and thereafter retained.

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 :	24/00328/FUL      Zoning : Unknown
Case Officer	Mr Thomas Byford
Parish :	Hockley Parish Council
Ward :	Hockley
Location :	79 Pond Chase Hockley Essex
Proposal :	Change of use of land to use as part of residential garden to No. 79 Pond Chase including the erection of boundary fencing (Retrospective).

## **SITE AND PROPOSAL**

1. This application is to the site of 79 Pond Chase located directly opposite the junction between Pond Chase and Bartlett View, Hockley.
2. The dwelling and curtilage are part of the wider allocated site SER3.
3. The red line site relates to a small area of land to the rear of the approved garden area of the dwelling. The applicant has indicated on the application form that this land is within their ownership and it is understood that the rear boundary fence has been moved to the west by approximately 1.0m.
4. It is noted from the Council's allocations plan, that it is unclear as to whether the site indicated within the red line is within the SER3 allocation or is part of the adjacent Metropolitan Green Belt to the west.
5. The applicant is seeking to regularise retrospectively the change of use of the land to the rear to use as part of their residential garden including the erection of boundary fencing.

## **RELEVANT PLANNING HISTORY**

6. Application No. 15/00599/FUL - Erection of 70 Dwellings, Together With Improvements to Existing Access, Pedestrian Access, Car Parking, Landscaping, Open Space, and Related Works – Permitted
7. Application No. 16/00504/DOC - Discharge of Conditions 3 (materials), 4 (landscaping layout), 7 (visitor parking), 8 (external surfacing, 13 (drainage), 14 (road layout), 15 (lighting and drainage), 16 (trees in the highway), 21 (travel pack), 22 (travel plan), 23 (construction management plan), 26 (levels and tree protection), 27 (tree protection), 29 (ecology), 29 (ecological assessment), 31 (ground investigation), 32 (lighting), 38 (surface water drainage), 39 (surface water run off) as attached to approved application 15/00599/FUL - Discharged

## MATERIAL PLANNING CONSIDERATIONS

8. 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.
9. 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).
10. Considering the unknown allocation of the land in question, it is considered necessary to assess the proposal for its acceptability if it were part of the allocated site SER3 and also if it were acceptable in Green Belt terms. If the proposal is acceptable in both regards, the application will be recommended for approval.

### Acceptability of the proposal if considered within SER3

11. In this case, it is not considered that the land to the rear of the existing garden in question offers any significant or useful purpose, taking into account the SER3 site context as a whole which has been developed. This is not a grass verge seeking to offer designed amenity which would be reflected in the original layout, nor is it visible from the street scene.
12. It cannot be seen that the adjusting of the boundary fence by approximately 1.0m to the west including the change of use of this land would be detrimental to character (considering its siting to the rear and out of sight from the street scene), residential amenity or cause other significant issues to warrant a refusal of the application.

### Acceptability of the proposal if considered within the Green Belt

13. Policy DM22 of the Rochford Council's Development Management Plan states that extensions to domestic gardens onto land within the Green Belt will only be permitted provided that:
  - (i) the proposal includes appropriate boundary treatment and would ensure a defensible and robust Green Belt boundary, for example where the extension would infill the designated residential area in line with other gardens adjacent to the dwelling;
  - (ii) the size of the proposed garden extension is not out of proportion with the size of the existing garden;

- (iii) the proposal would not impact on the openness or undeveloped character of the Green Belt through the erection of fences, additional buildings and other built structures.
- (iv) The proposal would not encroach on high quality agricultural land (particularly Grade 1 or 2)
- (v) The proposal would not adversely impact on other areas of open space; and
- (vi) The proposal would not adversely impact on the conservation value or protection of natural areas of local wildlife value, or sites of national and international importance, or the historic environment.

#### Assessment under Policy DM22

14. Part (i) of Policy DM22 required a robust, defensible and appropriate boundary treatment. Taking into account that prior to moving the boundary fencing, this fence served as robust, defensible and appropriate in the setting, the relocation of this by approximately 1.0m is not considered inappropriate and the fence has remained in the same form as a close boarded fence which was approved as part of the wider development. The proposal therefore is considered to comply with part (i) of Policy DM22.
15. In reference to part (ii) of Policy DM22 above, a garden extension that is not out of proportion to the existing residential garden is not objected to and the extension of the garden area by approximately 1.0m does not pose issues in relation to this Policy from the Development Management Plan or the Green Belt aims given in the National Planning Policy Framework. The extension is minimal and therefore the proposal is considered compliant in regard to part (ii) of Policy DM22.
16. Part (iii) states that this garden extension would not be permitted if it is considered to impact the openness or undeveloped character of the Green Belt through the erection of fences, additional buildings and other built structures.
17. In this case, it is considered that the extension is so minimal and proportionate and therefore the moving of the boundary fence does not impact the openness of the Green Belt. The land in question is within the applicant's ownership and is not considered to directly contribute to openness considered the adjacent developed site and context. The proposal is therefore considered to comply with part (iii) of Policy DM22.
18. The land in question is not high quality (Grade 1 or 2) agricultural land and is not considered to offer significant agricultural value. The proposal would therefore not conflict with part (iv) of DM22.

19. The proposal does not impact or encroach areas of open space. It is considered that this area of land does not offer significant open space value considering its siting and the minimal extension of the garden it is not considered that the proposal would conflict with part (x) of Policy DM22.
20. The proposal is not considered to impact conservation value or protection of natural areas of local wildlife value, or sites of national and international importance, or the historic environment. The proposal does not conflict with Policy DM22 in this regard.
21. Although detail is included within this Policy to condition the removal of permitted development rights for buildings and structures within the curtilage, taking into account this garden extension is only to the depth of approximately 1.0m and the fact that it cannot be ascertained that this is land allocated with the Metropolitan Green Belt and not within SER3, it is considered unreasonable and unnecessary to condition the removal of permitted development rights taking into account the minimal scale and nature of the proposal.

#### Trees and Ecology

22. It is not considered that the proposal would have a significantly detrimental impact trees or other ecology on the site.

#### Other Matters

23. It is noted that there is a scaling discrepancy with the submitted proposed site layout plan and the measurements are understood to be correct on the proposed block plan where the repositioned fence is approximately 1.0m from the original position.

### **CONCLUSION**

24. APPROVE subject to conditions.

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

Hockley Parish Council: 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).

Development Management Plan (December 2014).



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

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

The Essex Design Guide (2018).

**RECOMMENDATION: 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 development shall be undertaken in strict accordance with the plans referenced (24) 04/16c PL01 Rev A (dated 04/24).

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

3. The external facing materials to be used in the construction of the development hereby permitted, shall be those as listed on the application form and or those shown on the approved plans unless alternative materials are proposed in which case details shall be submitted to and agreed in writing by the Local Planning Authority prior to their use.

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.

4. Notwithstanding the submitted proposed site layout plan, the repositioned fence hereby approved shall be in the position as indicated on the proposed block plan and approximately 1.0m from the original position only.

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with details considered as part of the application taking into account the scaling discrepancy with the submitted proposed site layout plan.

The local Ward Members for the above application are Cllr. A. H. Eves, Cllr. J. R. F. Mason and Cllr. P. Capon.

Application No :	22/00891/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Ashingdon Parish Council
Ward :	Hockley And Ashingdon
Location :	Alexanders Farm Lower Road Hockley
Proposal :	Erection of 2 no. three bedroomed bungalows (in lieu of prior approval application ref: 22/00333/DPDP3M, undetermined by the Authority)

## **SITE AND PROPOSAL**

1. The application site comprises a farming enterprise along Lower Road in the Hockley and Ashingdon ward. The site has a detached bungalow that fronts Lower Road and agricultural buildings to the north of the bungalow. The site has two ponds – one located east of the bungalow and the other lying south-west of the bungalow. The site is in the Green Belt and outside the established settlement threshold. The application site is located in the Crouch and Roach Farmland character area, which is made up of low-lying mudflats, salt marsh, and restored marshlands, including grazing marsh, that are connected to narrow estuaries that go far inland. Arable farming lies in an undulating terrain between the estuaries and their immediate margins.
2. Planning approval is requested for the construction of two self-build homes at Alexanders Farm in place of a formal decision approval acquired by default for the conversion of an agricultural building into three homes (reference: 22/00333/DPDP3M). With permission to be converted into three residences, this farm structure is to be replaced with two newly constructed bungalows in the exact same location as the current consent.

## **RELEVANT PLANNING HISTORY**

3. Application No. 84/00185/FUL – Extend permission to site residential caravan – Approved – 23<sup>rd</sup> March 1984.
4. Application No. 86/00571/FUL – Removal of agricultural occupancy condition – Refused – 21<sup>st</sup> November 1986.
5. Application No. 12/00624/LDC - Application for Certificate of Lawfulness for Continued Occupation of Dwelling for at Least 10 Years Without Compliance Agricultural Occupancy Condition – Approved – 7<sup>th</sup> December 2012.

6. Application No. 22/00333/DPDP3M - Application to determine if prior approval is required for a proposed Change of Use of Agricultural Buildings to three Dwellinghouses (Class C3) – Not yet determined.

## **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 Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

### Background Information

9. It is believed by the applicant that prior approval is not necessary because the Council failed to provide a decision notice on the validity of the application for the conversion of the agricultural building at the application site in May 2022, within the legally mandated 56-day time (reference: 22/00333/DPDP3M). To validate this viewpoint, the case officer was then contacted. This was the subject of concerns that led to the formal complaint being escalated to Stage 2 of the Complaints Procedure. The objection was upheld, according to Yvonne Dunn, Planning Manager, in her response dated July 12, 2022. The Local Planning Authority (LPA) acknowledged that the application could have been decided using the information which was originally submitted and determined within the allotted 56 days. The applicant has attached a copy of this response in their Appendix accompanying the Design and Access Statement.

### Principle of Development

10. The latest version of the National Planning Policy Framework (NPPF) was revised in December 2023. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through three overarching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area. The revision increased the focus on design quality, not only for sites individually but for places as a whole.
11. To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the NPPF. Paragraph 11 of the NPPF explains that for decision-

taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, then planning permission should be granted unless the application of policies in the NPPF (rather than those in development plans) that protect areas (which includes habitat sites and/or land designated as Green Belt) or assets of particular importance, provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

#### Green Belt considerations

12. Both policies GB1 and GB2 of the Council's Core Strategy seek to direct development away from the Green Belt as far as practicable and prioritise the protection of the Green Belt based on how well the land helps achieve the purposes of the Green Belt, whilst allowing rural diversification in appropriate circumstances. Both policies pre-date the framework but can still attract weight in proportion to their consistency with it. These policies reflect the aims of those parts of the framework which seek to protect the Green Belt from inappropriate development. However, they do not reflect the exceptions listed within the framework which would also be a material consideration.
13. Consequently, the main issues are:
  - Whether the proposed development is inappropriate development in the Green Belt for the purposes of the NPPF and the Development Plan.
  - The effect of the proposal on the openness of the Green Belt.
14. As previously stated, the application site is located wholly within the Metropolitan Green Belt. Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 repeats the five purposes of the Green Belt, which include:
  - i) To check the unrestricted sprawl of large built-up areas;
  - ii) To prevent neighbouring towns merging into one another;
  - iii) To assist in safeguarding the countryside from encroachment;
  - iv) To preserve the setting and special character of historic towns; and
  - v) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
15. Paragraph 153 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green

Belt, and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

16. Paragraph 154 of the framework states: “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) Buildings for agricultural and forestry;
- b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of original building;
- d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) Limited infilling in villages;
- f) Limited affordable housing for local community needs under policies set out in the development plan (including for rural exception sites) and;
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- Not have a greater impact on the openness of the Green Belt than the existing development; or
- Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

17. By virtue of paragraph 154 of the NPPF, the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to certain exceptions. These exceptions include allowance, subject where appropriate to certain criteria being satisfied, for new buildings, limited infilling in villages, and limited infilling or the partial or complete redevelopment of previously developed land (PDL).

18. As previously stated, the application relates to a site that contains a main bungalow with agricultural buildings north of the site. The topography of the site is of a gentle decline from the east to west. The building that is subject to the current application is the first rectangular building north of the bungalow. There is no built-up frontage along the stretch of Lower Road, instead it has mature hedgerow along the boundary. According to the supporting statement and the accompanying plans, the proposal is for the erection of two self-build bungalows. Given

the above factors, it is considered that the exceptions a) to c) and e) to f) to paragraph 154 do not apply in this application.

19. Paragraph 155 of the NPPF also lists certain other forms of development which are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. It is considered that the proposed development would not fall under any of the exceptions listed.

Assessment Against Exception (d)

20. The exception under part (d) allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
21. Policy DM21 (The Replacement or Rebuild of Existing Dwellings in the Green Belt) of the Council's Development Management Plan (2014) states that the replacement or rebuild of existing dwellings in the Green Belt will be permitted, taking into consideration:
- (i) *the total size of the dwelling should result in no more than a 25% increase in floorspace of the original dwelling;*
  - (ii) *the condition of the original dwelling (derelict or abandoned properties are not considered part of the housing stock, and therefore permission will not be granted for their redevelopment for housing);*
  - (iii) *the visual mass and bulk of the new dwelling should not be significantly larger than that of the existing dwelling (taking into consideration any additional mass allowed for in respect of criterion (i) above). The overall height of the replacement dwelling should not exceed that of the existing dwelling, unless a modest increase in height can be justified on design or visual amenity grounds. Where the existing dwelling is a bungalow, it should be replaced by a bungalow; and*
  - (iv) *the proposed siting of the replacement dwelling. A replacement dwelling should be sited in the same location within the plot as the original dwelling, unless an alternative siting is proposed where it can be demonstrated that it would be a more appropriate siting in the Green Belt in terms of the impact on openness or amenity.*

22. Based on the assessment the buildings that would replace the agricultural buildings would not be in the same use, meaning that they are contrary to exemption (d). It is acknowledged that the proposal abides with the second part of exemption (d) by not being materially larger than the existing building. The extant permission, which is a fall-back scheme, approved a combined floor area of 403m<sup>2</sup>. The current proposal has a reduced floor area of 270m<sup>2</sup>. The replacement dwellings represent an identical external design to the existing agricultural building. There are no significant increases in mass, bulk or height. The

existing prior approval is for three bungalows, whereas the current proposal is for two bungalows.

23. The proposal is considered to not be in accordance with exception (d) as the proposed replacement dwellings present a change of use from the current agricultural use.

Assessment Against Exception (g)

24. The exception under part (g) allows for the partial or complete redevelopment of previously developed land (PDL) where either the development would not have a greater impact on the openness of the Green Belt or where the development would not cause substantial harm and would contribute towards an identified affordable housing need.

25. PDL is defined in the appendix to the NPPF as:

*'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.'*

26. It should be noted that agricultural uses do not form part of PDL. The proposed site is currently occupied in part by seven buildings of various sizes and conditions used for agriculture. The building that is subject to this application is single storey in height.

27. The Green Belt has both a spatial and a visual dimension and the impact on openness has to take account of both. In a spatial sense, any building on land that was previously free of development will have some impact on the openness of the Green Belt. In assessing the harm to openness in a visual sense, the impact on openness may be greater if the site is particularly visible and open to boundaries. The character of the existing site and surroundings would not influence the degree of harm to the Green Belt by way of visual intrusion as it would not be visible when viewed from Lower Road and the topography is a relatively gentle incline.

28. According to the submitted plans the ridge height of the proposed dwellinghouses would be 4.99m whereas the existing agricultural building is 3.21m in height. Although the proposed dwellinghouses would be greater in height than the existing building, the proposed dwellinghouses would have a combined volume of 1012.50m<sup>3</sup> whereas

the existing agricultural building is 1239.36m<sup>3</sup> in volume. This means that the volume would decrease by 18.3%.

29. Paragraph 154 part (g) of the NPPF states an exception may comprise a “partial or complete redevelopment of previously developed land”. As previously stated, it is considered that the site constitutes PDL. Notwithstanding the above, exception g) should be read as a whole and goes onto to state the following:

- *not have a greater impact on the openness of the Green Belt than the existing development; or*
- *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

30. Paragraph 142 of the NPPF states: *“The Government attaches great importance 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 their permanence”*. It is patently obvious from the above paragraph that the Government considers the openness of the Green Belt as one of the fundamental characteristics. Whilst the NPPF does not clearly define openness it is generally accepted from paragraph 142 that openness is a spatial designation, which can also have a visual component.

31. The applicant’s agent justifies that given its placement in the Green Belt; the scheme has been completely reevaluated. Its openness and vistas of the countryside are the main goals of the national and local policies. Given that the scheme only calls for two homes, it fits completely inside the current farmyard curtilage, which is screened by close-boarded fencing. The agent further posits that the proposal conforms with the requirements outlined in Policy DM21 of the Development Management Plan given that the agricultural building's redevelopment is permitted to become three houses, and its replacement will be substantially lesser in size.

32. The development proposal if allowed would result in a decrease in the scale, massing and bulk of the existing form, which will be to the betterment of the aims and character of the Green Belt. In the opinion of the case officer the proposal would not erode the openness of the Green Belt in spatial terms with the development not having a greater impact on the openness of the Green Belt

33. As previously stated, that the proposed scheme would be less in cubic volume than the existing agricultural building and the extant permission however it does not constitute PDL as it is an existing agricultural use. Therefore, the proposed scheme does not comply with exception (g).

Fall Back Position



34. The law on the materiality of fallback positions was summarised in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 at [27]. The fallback position of a particular site will be a material consideration where there is firstly, a possibility of implementation: this is a lower bar than a 'probability' or 'likelihood'. Secondly, whether there is a likelihood or real prospect of such occurring and thirdly that a comparison must be made between the proposed development and the fall-back use. Fall-back cases will be fact-specific, and the role of planning judgment is vital. Consideration is an exercise of broad planning discretion based on the individual circumstances of each case.
35. In relation to point 1, there is lawful ability to undertake the change of use following the deemed prior approval in July 2022. For point 2, there is a real prospect of the conversion of the building being undertaken within the Class Q parameters and would not constitute as a re-build. Finally, point 3 is met as the proposed new build dwellings are on an almost identical siting, the height and materials are comparable to that of the fall-back scheme.
36. As previously stated, the Council approved by default the conversion of an agricultural building into three houses (Application No: 22/00333/DPDP3M), and this may occur without additional approval. The authorisation is contingent upon the demolition of the agricultural building, which has a 403 square metre floor area. Regarding the grounds for considering the notification application—access, floods, design, noise, or contamination—the Council did not express any concerns. The agent confirms that this permission is still extant and could be readily implemented and as such is an important material consideration which should be taken into the planning balance.
37. An important planning consideration should be how the proposed development will affect the openness of the Green Belt and the complete fallback position for three dwellinghouses. Overall, the proposed scheme would improve the site's visual impact to replace the agricultural building with two identical bungalows, enabling more symmetrical and better-proportioned development. This would be consistent with the overarching policy requirement of limiting the invasive effects of sprawl on the Green Belt's openness.
38. Although, the proposed scheme is considered to not abide to exceptions (d) and (g) of paragraph 154 of the NPPF, the fallback position, including the decreased volume of the current proposal from the extant approval is considered to be sufficient justification to not warrant a refusal.

#### Sustainability

39. The Council's Policy DM10 (Development of Previously Developed Land in the Green Belt) elaborates on the Council's approach to the

determination of planning applications involving previously developed land for a number of uses and including residential redevelopment.

40. In particular, proposed residential development of previously developed land in the Green Belt will be permitted provided that the proposal:

- (i) is well related to a defined residential settlement;
- (ii) is well related to local services and facilities;
- (iii) has good connections to the strategic road network;
- (iv) would promote sustainable transport modes;
- (v) would not have a negative impact on areas of international, European and local nature conservation importance, or the historic environment;
- (vi) is located within the South Essex Coastal Towns landscape character area.

41. Despite the reasonably isolated location of the site and wider area. The site is located on Lower Road which connects the area to the centre of Hockley, Battlesbridge and Canewdon. The proposed development site is located approximately 2.8km from Hockley, which offers a full range of services including, health care, entertainment, food and leisure, shops and community facilities. The site is 600m from the nearest bus stop, which connects the area with regular services to Shoeburyness, Rayleigh, Ashingdon, Leigh-on-Sea and Rochford.

42. The site is not located within an area of International, European and local nature conservation importance, or the South Essex Coastal Towns landscape character area, and would not negatively impact the historic environment.

43. The case officer acknowledges that the application site broadly complies with the criteria listed in policy DM10.

#### Design and Impact on the Character of the Area

##### Layout, Scale and Appearance

44. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan are applicable to the consideration of design and layout. The NPPF encourages the effective use of land in meeting the need for homes whilst maintaining the desirability of preserving an area's prevailing character and setting taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk. It also states that housing applications should be considered in the context of the presumption of sustainable development. Good design is a key aspect of sustainable development and is indivisible from good planning and the proposals should contribute positively to making places better for people.

45. Paragraph 139 of the NPPF advises that planning decisions for proposed housing development should ensure that developments do not undermine quality of life and are visually attractive with appropriate landscaping and requires that permission should be refused for development that is not well-designed.
46. There is no common design established for the isolated neighbouring dwellings within the local and wider area. The existing agricultural building to be demolished is of a weatherboard design. Further afield the general vicinity has sporadic residential development, which includes a variety of housing types, such as single and two-storey detached dwellinghouses and a wide-ranging palette of materials has been used to construct them. Furthermore, the roofscape is not homogeneous and is varied with the use of hips and gables.
47. The Council's Supplementary Planning Document 2 (SPD2) for housing design states that for infill development, site frontages shall ordinarily be a minimum of 9.25m for detached dwellinghouses or 15.25m for semi-detached pairs or be of such frontage and form compatible with the existing form and character of the area within which they are to be sited. There should also, in all cases, be a minimum distance of 1m between the outside face of the wall to habitable rooms and the plot boundary. According to the submitted plans the proposal complies with the aforementioned criteria.
48. It is demonstrated that the quantum of development can be accommodated within the site. It is considered that the proposed dwellinghouses will be sited within quite a large plot and as such will not appear cramped. Additionally, the density and character of the proposed dwellinghouses are in keeping with the locality, so the proposed development is still considered compliant with Policy H1 of the Core Strategy.
49. The two dwellinghouses would be rectangular in shape as the existing agricultural building and would measure 13.5m in width by a length of 10m. The proposed dwellinghouses would have a gable roof with eaves and ridge heights of 2.45m and 4.99m respectively. According to the application form, the proposed dwellinghouses would use facing brickwork with part cream render for the walls and would have a roof of slate tiles. Internally, the proposed dwellinghouses would contain an open plan kitchen with dining and sitting areas, a utility room, three bedrooms, a bathroom and a shower room.
50. Overall, it is considered that the design of the proposed dwellinghouses is contemporary in nature, due to their relatively low height they would be screened to a large extent by existing vegetation. However, the case officer considers it prudent to attach a landscaping condition to help assimilate the proposal into the wider environment. It is reasoned that the design of the proposed dwellinghouse is quite unassuming and unpretentious in appearance but generally in keeping with the local

vernacular. Whilst it is seemingly not being innovative in any particular way. It is not considered to be a peculiar built form in the vicinity which is characterized by a broad range of dwelling types such that the proposal could not be considered unacceptable by way of design and appearance. It is considered given the nature and design of the proposal the materials which will be used to construct the dwelling will be pivotal and these will be secured by the imposition of an appropriately worded planning condition. Overall, it is considered that the proposed development in relation to design complies with guidance advocated within the NPPF and policy DM1.

#### Impact on Residential Amenity

51. 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 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. Policy DM3 also requires an assessment of the proposal's impact on residential amenity.
52. Amenity is defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which 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.
53. The existing bungalow on site would be the subject dwellings' immediate neighbour. It is noted that the proposed dwellinghouses will have apertures on their north and south elevations which will mostly serve habitable rooms. Nonetheless, it is considered that due to the 15m separation distance between the proposed development and the existing bungalow and the single storey nature of the building, in addition to the boundary treatment, the proposal is not considered to significantly impact on the residential amenity of neighbouring occupiers in terms of having an overbearing impact, overlooking or overshadowing.
54. Overall, it is considered that the proposed development would not cause any significant impact on residential amenity in respect of noise, light, overlooking or privacy to the surrounding properties, neither would it have a significant overbearing impact.

## Garden Size

55. Policy DM3 of the Development Management Plan requires the provision of adequate and usable private amenity space. In addition, the Council's adopted Housing Design SPD advises a suitable garden size for each type of dwellinghouse. Paragraph 135 criterion (f) of the Framework seeks the creation of 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.
56. The SPD2 requires a minimum 100<sup>2</sup> garden area for all new dwellings. An exception to this requirement will be single storey patio housing or one and two-bedroom dwellings which shall have an area of 50m<sup>2</sup> minimum.
57. The layout submitted shows that the proposed dwellings could be provided with private amenity space in excess of the requirements. It is considered that that amount of private amenity attributable to the proposal exceeds the requirements of policy DM3 and guidance advocated in SPD2.

## Technical Housing Standards

58. The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalize the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access and a new national space standard.
59. Rochford District Council has existing policies relating to all of the above, namely access (Policy H6 of the Core Strategy), internal space (Policy DM4 of the Development Management Plan) and water efficiency (Policy ENV9 of the Core Strategy) and can therefore require compliance with the new national technical standards, as advised by the Ministerial Statement.
60. Until such a time as existing Policy DM4 is revised, this policy must be applied in light of the Ministerial Statement. All new dwellings are therefore required to comply with the new national space standard as set out in the DCLG Technical housing standards – nationally described space standard March 2015.
61. A one storey dwelling which would comprise 3 bedrooms would require a minimum Gross Internal Floor Area (GIA) of 74m<sup>2</sup>. Additionally, the dwelling must have a minimum of 2.5m<sup>2</sup> of built-in storage.
62. A built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements but should not reduce the effective width of the room below the minimum widths indicated.

63. According to the submitted plans, the Gross Internal Floor area of dwellinghouse equates to approximately 135m<sup>2</sup>, and as such in terms of overall GIA the proposal complies with the minimum specified technical standards.

64. The table below shows the Gross Internal Floor area for each of the bedrooms (all measurements are approximate).

Bedroom No. 1	13.3m <sup>2</sup>
Bedroom No. 2	12.5m <sup>2</sup>
Bedroom No. 3	8.5m <sup>2</sup>

65. According to the submitted plans all the bedrooms comply with aforementioned policies and exceed the Internal floor area requirements. Until such a time as existing Policy ENV9 is revised, this policy must be applied in light of the Ministerial Statement (2015) which introduced a new technical housing standard relating to water efficiency. Consequently, all new dwellings are required to comply with the national water efficiency standard as set out in part G of the Building Regulations (2010) as amended. A condition would be recommended to ensure compliance with this Building Regulation requirement if the application were recommended favourably.

66. In light of the Ministerial Statement which advises that planning permissions should not be granted subject to any technical housing standards other than those relating to internal space, water efficiency and access, the requirement in Policy ENV9 that a specific Code for Sustainable Homes level be achieved and the requirement in Policy H6 that the Lifetime Homes standard be met are now no longer sought.

#### Impact on Highway Safety

67. 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.

68. The Parking Standards Design and Good Practice guide (2010) states that for dwellings with two-bedrooms or more, two off-street car parking spaces are required with dimensions of 5.5m x 2.9m.

69. 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.

70. The proposed layout plan indicates that the proposed dwellings would each have two parking spaces.

71. It is considered that any intensification resulting from the provision of two new dwellinghouses in this area is not deemed to be of such severity that would warrant refusal of the application. Furthermore, colleagues in County Highways have been consulted and raise no objection to the proposed development. Highways have outlined, however, that no objection to the application is raised subject to three planning conditions: the provision of car and cycle parking and for areas within the curtilage of to be clear of the highway.

72. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed dwellinghouses. Furthermore, it is not considered that two additional dwellings at this locality will cause demonstrable harm to the highway network. The additional comings and goings of vehicles as a result of this proposal will not result in significant disturbance to neighbours via noise and dust which can be substantiated and warrant a refusal. 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, DM3, DM9 and DM30 of the Development Management Plan and the NPPF.

#### Refuse and Waste Storage

73. The Council operates a 3-bin system per dwelling consisting of a 240l bin for recyclables (1100mm high, 740mm deep and 580mm wide), 140l for green and kitchen waste (1100mm high, 555mm deep and 505mm wide) and 180l for residual waste (1100mm high, 755mm deep and 505mm wide). A high-quality development would need to mitigate against the potential for wheelie bins to be sited (without screening or without being housed sensitively) to the frontage of properties which would significantly detract from the quality of a development and subtly undermine the principles of successful place making. The guidance states that wheelie bins are capable of being stored within the rear amenity areas of properties which have enclosed areas but there is a requirement for each bin to be located within approximately 20m (drag distance) from any collection point. In this case the rear garden space would provide adequate storage space whilst the drag distance would exceed 20m requiring a bin store or collection point for collection day.

#### Flooding and Drainage

74. 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.

75. 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.

#### Ecology and Trees

76. The bat survey declaration form submitted indicates that there is not likely to be harm to bats or their habitat as a result of the proposed works. There are no trees or ecology located within the application site.

#### Off Site Ecology

77. The application site also 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.
78. The development for two 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 two new dwellings.



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

79. As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMs requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbances, when considered 'in combination' with other development. Natural England does not need to be consulted on this Appropriate Assessment.

80. As competent authority, the local planning authority concludes that the proposal is within the scope of the Essex Coast RAMS as it falls within the 'zone of influence' for likely impacts and is a relevant residential development type. It is anticipated that such development in this area is 'likely to have a significant effect' upon the interest features of the aforementioned designated sites through increased recreational pressure, when considered either alone or in combination. It is considered that mitigation would, in the form of a financial contribution, be necessary in this case. According to the submitted documentation the applicant has provided the required RAMs payment.

## **CONCLUSION**

81. Approve.

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

Ashingdon Parish Council: Object for the following reason:

Sustainable development of the site relating to highway concerns. There are no public footpaths and the proposed development is located on a sharp bend with no sight lines and a bus stop within 500m of the entrance to the site

Essex County Council Highways: No objections subject to the imposition of conditions relating to cycle parking, reception and storage of building materials, each dwelling to have a minimum 2 off street parking spaces and standard informatives.

Neighbour representations:

One response has been received from the following address;

Ashingdon Road: 394.

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

- No footpath from the site to the bus stop;
- The existing access and egress to and from the site is concealed and not visible to drivers;
- The access is too narrow for two vehicles;
- Flooding after heavy rains;
- Encroachment into green belt land; and
- The new development will have a larger footprint.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) – CP1, GB1, GB2.

Development Management Plan (December 2014) – DM1, DM3, DM9, DM10, DM21, DM30.

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

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

The Essex Design Guide (2018).

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 Development hereby approved shall be carried out in total accordance with the approved plans numbered Proposed residential development (CAF-02 Revision B), Site location plan (received

25/09/2023) Site location plan (received 06/10/2022) and the visibility plan (received on the 13/09/2022).

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

3. 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.

4. Prior to first occupation of the property, the developer shall provide Electric Vehicle Infrastructure to the following specification:
  - A single Mode 3 compliant Electric Vehicle Charging Point for the property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW Fast charging or the best available given the electrical infrastructure.
  - Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to this office prior to discharge.
  - Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted. The infrastructure shall be maintained and operational in perpetuity.

REASON: To encourage the uptake of ultra-low emission vehicles and ensure the development is sustainable.

5. Prior to first occupation of the development, each dwelling shall be provided with a minimum of two off-street parking spaces. These shall be provided in accordance with the current standards 5.5m in depth and 2.9m in width and shall be retained in the agreed form at all times.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8.

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

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

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

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

8. Prior to its use, details of the positions, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be occupied until the scheme has been implemented in accordance with the approved details.

REASON: To ensure that boundaries within the development are adequately formed and screened in the interests of the appearance of the development and the privacy of its occupants Policy DM3 of the Council's Local Development Framework's Development Management Plan.

9. Prior to the first occupation of the development 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.

10. No site works or development (including any temporary enabling works, site clearance and demolition) shall take place unless a dimensioned tree protection plan and arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. The submitted method statement shall include (but not be limited to)

information about precautions and methods to minimise damage to existing tree(s) during the alteration/installation/renewal of any services and hard surfacing near to retained tree(s) and also details of precautions and protection measures to be put in place to minimise damage to retained tree(s) during construction activities such as access to/from the site.

11. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees on site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

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

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A, B, C, D and E of Part 1 Schedule 2 of the Order shall be carried out.

REASON: To ensure continued control over the extent of further building on the site in the interests of the openness of the Green Belt.

13. No works on site shall commence until a detailed drainage scheme (to include the disposal of surface water by means of sustainable methods of urban drainage systems) has been submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with such approved details.

REASON: To ensure the development does not increase the risk of flooding both on-site and off-site.

14. Prior to the first occupation of the development hereby approved the applicant shall provide a refuse collection point not more than 20m from the highway to allow for the dragging of refuse bins awaiting collection to serve both dwellings hereby approved.

REASON: In order to provide a refuse collection point for collection days within reasonable distance of the highway to reduce the need for refuse vehicle waiting or manoeuvring on the highway in the interests of maintaining the free flow of traffic in the interests of highway safety.

The local Ward Member(s) for the above application is/are Cllr M R Carter Cllr  
Mrs D L Belton Cllr R P Constable

Application No :	24/00178/FUL      Zoning : No allocation
Case Officer	Mr Richard Kilbourne
Parish :	Hockley Parish Council
Ward :	Hockley
Location :	54 Spa Road Hockley Essex
Proposal :	Proposed change of use from residential to use as a children's day nursery within Use Class E(f) including internal alterations.

## **SITE AND PROPOSAL**

1. The subject site is in residential use along Spa Road. The building is a grade II listed building. The surrounding area is predominantly residential to the south and industrial further north with commercial activity along Spa Road. The site is accessible from the front at Spa Road and on the side at Meadow Way which also has car parking.
2. The building was first listed in June 1972. The building is a two-storey building that is stucco faced with a grey slate roof. There are five bays, with the three centre bays breaking forward. There is a heavy moulded cornice and parapet, four Tuscan pilasters to centre bays, 1:3:1 tall windows with semi-circular heads and glazing bars and a central parapet panel with the title Hockley Spa.
3. According to the submitted plans no alterations are proposed to the external fabric of the building. The proposal is for the change of use into a children's nursery. Minimal changes would be made to the interior to make it fit for purpose, such as adding more toilets, however this will not affect any of the external and original interior features.

## **RELEVANT PLANNING HISTORY**

4. Application No. 84/00476/FUL – Vehicular access – Refused – 21<sup>st</sup> August 1984.
5. Application No. 89/00084/COU - Change of Use, Two Storey Side/Rear Extensions and Ground Floor Conservatory to Form Nursing Home and Car Park – Approved – 1<sup>st</sup> August 1994.
6. Application No. 89/02003/LBC – Change of use, 2 storey side/ rear extensions and ground floor conservatory to form nursing home and car park – Approved – 1<sup>st</sup> August 1994.
7. Application No. 94/00400/LBC - Renewal of Application no. ROC/203/89/LB for Change of Use, Two Storey Side/Rear Extensions

and Ground Floor Conservatory to Form Nursing Home and Car Park – Approved – 26<sup>th</sup> September 1994.

8. Application No. 97/00110/FUL - Enclose Front Boundary and Part of Two Return Side Boundaries With 1.4m (4ft 6in) High Railing Fence (Victorian Style) and Gates – Approved – 21<sup>st</sup> May 2002.
9. Application No. 97/00111/LBC - Enclose Front Boundary and Part of Two Return Side Boundaries With 1.4m (4ft 6in) High Railing Fence (Victorian Style) and Gates – Approved – 21<sup>st</sup> May 1997.
10. Application No. 06/00390/COU - Change of Use Spa Works to Residential to be used as a Residential Extension to no. 54 Spa Road – Approved – 22<sup>nd</sup> August 2007.
11. Application No. 24/00179/LBC - Proposed change of use from residential to use as a children's day nursery within Use Class E(f) including internal alterations – Approved – 10<sup>th</sup> July 2024.

## **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).

### Background Information

14. The proposed change of use would constitute changing the current use of class C3 (residential) to Class E (f) non-residential day nursery. According to the applicants Design and Access statement, the nursery proposed would assist in meeting the local authority's goal of providing 32 more places for daycare. An application for Listed Building Consent with the reference 24/00179/LBC dealing with the heritage considerations was subsequently approved on the 10<sup>th</sup> of July 2024. A detailed assessment with regards to the harm concerning the significance the designated heritage asset was undertaken with regards to 24/00179/LBC. The Conservation Officer in Place Services concluded that the proposal would cause no harm to the significance of the listed building and therefore the proposal is acceptable in heritage terms.



## Principle of the Development

15. As previously stated, the subject property is a grade II listed building. According to Historic England, listing marks and celebrates a building's special architectural and historic interest, and also brings it under the consideration of the planning system, so that it can be protected for future generations.
16. Paragraph 200 of the National Planning Policy Framework (December 2023) (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.
17. Whilst 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.
18. 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.
19. According to the Council's Allocations Plan (2014), there are two primary schools in Hockley. Policy CLT2 (Primary Education, Early Years and Childcare Facilities) of the Core Strategy, states that in any redevelopment of the Hockley centre, the Council will aim to include a new early years and childcare facility. In order to guarantee that new primary schools with early childhood and childcare facilities are constructed in a timely manner and are closely linked to residential development, the Council will collaborate with developers and Essex County Council. The development as such would assist the Council in achieving its objective for educational facilities.

## Design and Impact on the Character of the Area

20. The Council's Policy DM1 requires that proposals should promote visual amenity and have a positive relationship with nearby buildings and a scale and form appropriate to the locality. The policy also notes that specific points of consideration must be addressed through design and layout, including impact on the historic environment including Conservation Areas and Listed Buildings, archaeological sites and the wider historic landscape.

21. Along Spa Road, the area is characterised by dwellinghouses, a mix of commercial activity along Spa Road in the form of shops, spas, medical practices to mention a few and mixed-use buildings. The residential area to the rear of the subject property is characterised by single-storey semi-detached dwellings with a mix of render and facing brick and varying roof forms comprising of hip's and gable's. The proposed change of use would have no ramifications for the character of the area given that the proposed changes would only be internal on a road that has buildings with a variety of uses. Therefore, the proposal will preserve the special interest of the listed building in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
22. As a Grade II Listed Building, the host property is a designated heritage asset as defined in the NPPF. The main consideration in the determination of this application is whether the proposed change of use would preserve the character and appearance of the building and any of the features of special architectural or historic interest that it possesses.
23. As previously stated, paragraph 205 of the NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
24. Moreover, paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
25. The Historic building officer's consultation response states:

*"There is no concern regarding the change of use and internal alteration. However, all new pipes in ground and first floor toilets should use the existing runs. Moreover, the new door to the ground floor toilet should match the existing doors in the historic part of the building.*

*Upon the review of submitted documents, I raise no concerns regarding the proposal, which, in my opinion, will cause no harm to the significance of the listed building in terms of the National Planning*

*Policy Framework (NPPF, December 2023). Therefore, the proposal will preserve the special interest of the listed building in accordance with Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990.”*

26. Overall, it is considered that the proposed change of use as specified within the supporting plans would not have an adverse impact on the area’s character and the intrinsic quality of the listed building and this opinion is shared by the Council’s Conservation Officer. In conclusion, it is considered that the proposed development would not impact upon the significance of the Grade II listed building. This would be in accordance with Section 16 of the National Planning Policy Framework (NPPF) and Section 16(2) and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, or guidance/policies advocated within the NPPF or the Local Development Management Plan.

#### Impact on Residential Amenity

27. 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 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.
28. Amenity is defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which 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.
29. Paragraph 180 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment criterion (e) stipulates:

*Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution”. Furthermore, para. 191 states Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; and*
  - *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.*
30. The sounds produced by a use can usually be muffled by high ambient noise levels, but they can be clearly heard in quieter places, like behind stores, on the outskirts of towns where residential development is nearby, and on quieter instances like Sundays and evenings. It is considered to be necessary that the residents should be able to anticipate a period of time, both during the week and on the weekends, during which they can enjoy their properties in a reasonably calm and peaceful manner.
31. The current site is used lawfully for residential purposes. It is expected that the flow of traffic would increase and therefore further congest a road that is already congested with traffic. Therefore, the proposal would have a significant negative effect on the noise and disturbance levels of any nearby neighbours. It is considered given the scale and nature of the proposed development that that the proposal would significantly cause demonstrable harm to the amenities of the neighbouring residents and therefore the proposal does not comply with policy DM1 and advice advocated within the NPPF.

#### Impact on Highway Safety

32. 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.
33. 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.
34. The parking standards as found in the Council's Parking Standards Design and Good Practice SPD (2010) have not been updated since the use class order was revised but given that D1 has been replaced by E(f), the development should meet this criterion. A D1 crèche/ childcare use should provide 1 parking space per full-time equivalent staff and drop-off/ pick-up facilities, 1 cycle space per 4 staff plus 1

space per 10 child places and 1 disabled bay or 5% of total capacity, whichever is greater.

35. The application form indicates that there is a total of 17.50 full-time equivalent staff.
36. The application form states that there are 4 parking spaces existing with another 4 proposed, no additional parking provision is proposed. Regarding drop-off and pick-up, the agent states that parents will be asked to park in the roads next to the building, not on the main road, and walk around to the gate to the side of the front of building and come in through the garden. This is to ensure the safety of children entering and exiting on the main road.
37. Given the nature and scale of the proposal the case officer considered prudent to consult colleagues in Essex County Council Highways Department. The Highways Engineers have assessed the application and state '*The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users...from a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority*'. The Highways Engineer elaborates on the reasons for objecting to the proposal, which are threefold and include:
  - Having regard to the existing traffic use on Spa Road, and the additional traffic which this proposal is likely to generate or attract, the Highway Authority is not satisfied that the proposed 107 place nursery will not have a detrimental impact on the safety and efficiency of the local highway network.
  - The limited onsite parking facilities are likely to lead to vehicles stopping on the Spa Road carriageway in the vicinity of the site for drop-offs and pick-ups. This will cause an obstruction to the through-flow of traffic on Spa Road, which is similarly to the detriment of local highway safety and efficiency.
  - The proposal, if permitted, would set a precedent for similar future developments to the detriment of the safety of all highway users.
38. Generally, the case officer agrees that the proposal would have an adverse impact on highway safety and the road network owing to the lack of sufficient parking within the applicants control. There is no substantive reason or justification for the Local Planning Authority to take an alternative view. Consequently, it is considered that the proposal in its current form is contrary to policy DM30 (Parking Standards) of the Development Management Plan.
39. However, the concerns raised in relation to the third bullet point are noted 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.

## Other Matters

40. Other concerns raised are that if the application is approved that during the construction phase 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 and powers to free the access, the planning system is not here to duplicate other legislation.

## CONCLUSION

41. Refuse.

## CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Hockley Parish Council: Object for the following reasons:

- Due to the volume of children planned to attend for the proposed development and the anticipated number of vehicular movements onto and off of the site members are extremely concerned regarding the safety of all highway users. There is very limited parking on site which does not meet the demands for the proposed staff without vehicular movements from clients using the site. There are also no footpaths leading to the site which does not encourage sustainable transport methods and there is no crossing in the near vicinity of the proposed development. exceptionally busy at all times and directly opposite a very busy industrial estate;
- The Spa Pump Room is a heritage building from 1842 and members are concerned that the proposed development will not enhance the site and preserve its heritage; and
- Should the application be approved members are concerned how deliveries and construction works would be managed, Southend Road is extremely busy at all times with no off-street parking.

Essex County Council Highways Department: The Highway Authority will protect the principle use of the highway as a right of free and safe passage of all highway users. From a highway and transportation perspective the impact of the proposal is NOT acceptable to the Highway Authority for the following reasons:

- Having regard to the existing traffic use on Spa Road, and the additional traffic which this proposal is likely to generate or attract, the Highway Authority is not satisfied that the proposed 107 place nursery

- will not have a detrimental impact on the safety and efficiency of the local highway network;
- The limited onsite parking facilities are likely to lead to vehicles stopping on the Spa Road carriageway in the vicinity of the site for drop-offs and pick-ups. This will cause an obstruction to the through-flow of traffic on Spa Road, which is similarly to the detriment of local highway safety and efficiency; and
- The proposal, if permitted, would set a precedent for similar future developments to the detriment of the safety of all highway users.

Essex County Council Place Services Historic Buildings and Conservation Officer:

Proposed change of use from residential to use as a children's day nursery within use class e(f) including internal alterations.

The building affected by this application is the Grade II listed Hockley Spa Rooms (list entry number: 1112670). It is a stucco faced building with a grey slate roof and heavy moulded cornice and parapet. The building was built in 1842 to the design of James Lockyer.

There is no concern regarding the change of use and internal alteration. However, all new pipes in ground and first floor toilets should use the existing runs. Moreover, the new door to the ground floor toilet should match the existing doors in the historic part of the building.

Upon the review of submitted documents, I raise no concerns regarding the proposal, which, in my opinion, will cause no harm to the significance of the listed building in accordance with Chapter 16 of the National Planning Policy Framework (NPPF, December 2023). Therefore, the proposal will preserve the special interest of the listed building in accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The proposed development is acceptable in heritage terms, subject to the below condition:

- Details of proposed new door to be used by section and elevation at scales between 1:20 and 1:1 as appropriate shall be submitted to and approved in writing by the local planning authority prior to their first installation or construction on site. Works shall be implemented in accordance with the approved details and shall be permanently maintained as such.

Neighbour representations:

Seven responses have been received from the following addresses;

Brackendale Close: 2.

Spa Close: 5 (2 letters received)

Meadow Way: 1A, 28A

Spa Road: 58 (2 letters received)

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

- Increase in noise from the children;
- There are much better locations within the Borough for this type of use;
- The proposal will lead to highway safety concerns;
- There will be increased traffic congestion on an already busy road;
- The noise from the construction will bring a lot of noise and disturbance;
- If approved, the change in use would set a precedent for non-residential development in the area;
- The proposal if allowed may lead to dropped kerbs and drives being blocked; and
- Concerns of where the pick-up and drop-off will be.

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

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) – policies CP1, CLT2.

Development Management Plan (December 2014) – policies DM1, DM7, DM30.

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

The Essex Design Guide (2018).

### **RECOMMENDATION: REFUSE**

Reasons:

1. In the opinion of the Local Planning Authority by reason of the close proximity of the site to nearby residential units it is considered that the proposed development, would result in an increase in general noise associated with the comings and goings resulting from additional vehicular traffic. This increase in general noise and disturbance would be detrimental to the privacy and amenity of the occupiers of these dwellings contrary to Policy DM1 of the Development Management Plan and advice advocated within the NPPF.
2. Insufficient information has been submitted to demonstrate that the increased traffic generated from the proposed change would not have a



detrimental impact on highway safety, contrary to policies DM1, DM3 and DM30 of the Development Management Plan and the NPPF.

3. Insufficient information has been submitted to demonstrate that appropriate on-site parking provision can be achieved without causing an obstruction to the through-flow of traffic on Spa Road. Therefore, the proposal would result in a detrimental impact on highway safety, contrary to policies DM1, DM3 and DM30 of the Council's Development Management Plan and the NPPF.

The local Ward Members for the above application are Cllr. A. H. Eves, Cllr. J. R. F. Mason and Cllr. P. Capon.

Application No :	24/00385/FUL      Zoning : Existing Employment
Case Officer	Mr Richard Kilbourne
Parish :	Hockley Parish Council
Ward :	Hockley
Location :	15 Eldon Way Hockley Essex
Proposal :	Proposed Change of use from B8(industrial/storage) to a Mortuary use (Sui Generis)

## **SITE AND PROPOSAL**

1. This application is re – presented on the list following clarification that the site is not located on the neighbouring Foundry Business Park as may have been previously inferred.
2. The application site is located wholly within the Eldon Way Industrial Estate, Hockley. This part of Hockley is defined largely by the area’s industrial uses. The buildings here are predominately commercial in character, mainly taking the form of bulky two to three storey industrial sheds. The public realm and building frontages are dominated by parking and service areas.
3. As previously stated, the site is within existing employment land in Hockley and in the area covered by the Hockley Area Action Plan. The host site is a two-storey industrial building. To the front of the building is an extensive area of hardstanding which can accommodate several vehicles. The site boundaries are demarcated by 2m high (approximately) palisade fencing. Located immediately beyond the applicant’s boundary are areas of informal parking. To the rear (west) there is a footpath with residential properties on Woodstock Crescent beyond. To the south are numerous industrial and commercial enterprises and to the east are other employment units.
4. The proposal is for a Change of use from B8 (storage and distribution) to a Mortuary use (Sui Generis ( of no use class) ). According to the submitted planning application forms and supporting documents the proposal would involve no alterations to the external façade of the building.

## **RELEVANT PLANNING HISTORY**

5. Application No. 15/00030/FUL - Extension to Existing Distribution Warehouse – Approved - 10.04.2015.
6. Application No. 14/00063/FUL - Flat Roofed Extension Existing Warehouse – Approved - 26.03.2014.

7. Application No. 98/00456/FUL - Variation of Condition 5 of Planning Permission F/0208/90/ROC to Allow Use of Approved Factory Extension for Manufacturing of Metal Fabrications (Class B2) – Approved - 08.04.1999.
8. Application No. 90/00208/FUL - Extension to joinery works – Approved - 21.11.1991.
9. Application No. 87/00054/FUL – Erect Light Industrial Building – Refused - 04.09.1987.
10. Application No. ROC/72/67 Erection of two warehouse units and construction of car park. APPROVED.

## **MATERIAL PLANNING CONSIDERATIONS**

11. 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.
12. 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) and the Hockley Area Action Plan (2014).
13. The site is within the Existing Employment zone in Hockley.  
  
Need considerations
14. According to the applicants Design and Access Statement the proposed mortuary use would be used to support and honour existing contracted overflow storage support in the surrounding community areas for the 3 Mid and South Essex (MSE) hospitals (Broomfield, Basildon and Southend) and also ECC (Essex County Council) that requires mortuary storage facilities. The proposed mortuary use would only be accessed by authorised staff.
15. The applicant stresses that the existing storage facilities are at full capacity and are constantly in use. This has resulted in an urgent requirement for additional capacity whereby the deceased can be stored in a correct temperature-controlled facility. The proposal if allowed would accommodate up to 290 deceased in total.
16. The agent goes on to enunciate that the proposed mortuary use would only be to the warehouse part of the building which is accessed by an existing vehicular front entrance, the ambulance can be reversed in

and the roller shutter would close behind them keeping operations discreet.

#### Principle of Development

17. As previously stated, the current proposal is for the change of use from B8 to a Mortuary use. No alterations are proposed to the external façade of the building. According to the Design and Access statement the proposed mortuary would be used in connection with the applicant's existing funeral home and mortuary, Adam & Greenwood, 185 New London Road, Chelmsford.
18. The application site is located within the Existing Employment zone within Hockley and falls within the core area for the Hockley Area Action Plan. It is sited on Eldon Way within the Eldon Way Industrial Estate, which can be accessed off of Spa Road.
19. Chapter 6 – Building a strong, competitive economy of the National Planning Policy Framework (NPPF) states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. In particular, para 85 states *“Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”*.
20. Whilst Policy H1 of the Core Strategy (2011) seeks the redevelopment of the Eldon Way Industrial Estate, which should also include a mix of employment uses appropriate to the site's central location. Policy ED1 of the Core Strategy (2011) states that the Council will encourage development that enables the economy to diversify and modernise through the growth of existing businesses and the creation of new enterprises providing high value employment, having regard to environmental issues and residential amenity. Furthermore, policy ED3 promotes existing employment sites to be protected from uses that would undermine their role as employment generators and discusses that in the case of Eldon Way Industrial Estate, the nature of any redevelopment will be determined through the Hockley Area Action Plan (HAAP) and will include employment uses. The Hockley Area Action Plan focuses on the development of Eldon Way Industrial Estate for a mixed-use site; however, it does recognise the need to protect some existing employment and leisure uses within the vicinity.
21. Building upon the aforementioned policies is Policy DM32 'Employment Land' of the Council's Development Management Plan which states that employment development will be expected to be predominantly B1 (Business) and/or B2 (General Industrial) employment uses. Alternative uses will be considered having regard to:

- (i) the number of jobs likely to be provided;
  - (ii) the viability of retaining B1 and B2 uses;
  - (iii) the compatibility with existing uses;
  - (iv) the impact on the vitality and vibrancy of the District's town centres;
  - (v) the proportion of alternative uses present; and
  - (vi) wider sustainability issues (such as available transport methods)
22. Employment development should be of a high quality, incorporate safe and inclusive design and any associated infrastructure should be appropriately phased. Potential noise and light pollution generated by proposed uses should be adequately mitigated against.
23. According to policy DM32 'Employment Land' employment development will be expected to be predominately B1 (Business) and/or B2 (General Industrial). The broad objective of this policy (is an attempt to prevent alternative uses becoming the dominant use within the locality) is noted and acknowledged.
24. The case officer observed that the majority of premises within the immediate locality fell within either Class B1 and/or B2 employment uses or B8. It is accepted that the application will not fall within any of the aforementioned use classes. The agent has inferred that the premises have been empty for some time and the proposal will bring an empty and redundant unit back into use, which is an important material planning consideration. According to the applicants Design and Access Statement the proposal will generate 2 full time positions. However, given the nature of the proposal access will be required on a 24-hour basis and access will be strictly controlled. Furthermore, the proposal is located within a sustainable location and will not have a detrimental impact upon the vitality and vibrancy of the district town centres.
25. Considering the above, it is considered that the change of use of a building to a mortuary would allow the building to remain in employment use although low in number. The need to provide overflow storage capacity for the deceased is a material consideration which when balanced (weighed in the planning balance) against the employment objectives of the council justifies the granting of planning permission in this instance. The proposal therefore is considered acceptable in principle, subject to compliance with other development plan policies discussed below.

#### Design

26. Good design is promoted by the National Planning Policy Framework (NPPF) 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.

27. 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'.
28. 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, part (x) refers to establishing a positive relationship with existing and nearby buildings.
29. Furthermore, policy DM1 seeks to ensure that any alterations or extensions are harmonious in character, scale, form and proposed materials with the existing dwelling, have an acceptable relationship with adjacent properties and have an acceptable visual impact in terms of the street scene, whilst the NPPF advocates and infers that proposals should create high quality places which maintain a strong sense of quality and place.
30. There are no external changes to the existing building proposed under the remit of this application. In reference to the submitted plans all of the proposed works are internal. The internal arrangement remains largely similar to the existing, with the exception of the existing mezzanine floor and staircase which will be removed as will the first-floor storage area. Additionally, several internal partition walls will also be removed.
31. The proposal would involve the installation of NHS specification thermal cold rooms (2no. 8m x 7m) which will not require any external or air conditioning units. The cold rooms would be installed to the warehouse part of the premises only.
32. Considering the above, there are no objections from a design perspective as there would be no changes to the character or appearance of the building from the surrounding area and as such the proposal complies with policy DM1 and guidance advocated within the NPPF.

#### Impact on Residential Amenity

33. 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 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.

34. Amenity is defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which 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.
35. Eldon Way Industrial Estate is a long-standing industrial estate, and although borders some residential areas, the building has been in existence for many years. This is reflected by its allocation as employment land. Furthermore, the case officer noted that ambient noise levels were already quite high in the immediate locality due to the existing commercial enterprises on Eldon Way and given the neighbouring roads are heavily trafficked.
36. The application site is discretely located towards the end of Eldon Way. However, given the nature and scale of the proposed development, its location and separation distances from neighbouring residential properties the proposal is not considered to have a detrimental impact upon the amenity of the neighbouring occupiers in terms of overlooking, overshadowing and over-dominance unchanging the existing situation and relationships. The proposal is compliant with DM1 of the Development Management Plan.

#### Highways considerations

37. Policy DM1 of the Council's Development Management Plan requires 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.
38. In accordance with paragraph 111 of the framework, 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.
39. The proposed development would not affect existing parking provision at the site, which is to the front of the building. It is not considered that the proposal would be detrimental to parking or highway safety.

40. Furthermore, Colleagues in Essex County Council Highways Authority have reviewed the submitted information and state “*The proposal will utilise an existing gated vehicle access and loading and unloading will be behind the roller shutter door... the proposal is acceptable to the Highway Authority*”.

41. There is no reason for the Local Planning Authority to take an alternative view and the proposal 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.

#### Flooding considerations

42. 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.

#### Biodiversity Net Gain

43. Biodiversity Net Gain (BNG) is a way of creating and improving biodiversity by requiring development to have a positive impact (‘net gain’) on biodiversity. A minimum 10 percent BNG is now mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021 subject to some exceptions).

44. The applicant has indicated that they consider that the development proposed would not be subject to the statutory biodiversity net gain requirement because one of the exemptions would apply. Following a site visit and assessment of on-site habitat and consideration of the nature of the development proposed officers agree that the proposal would be exempt from the statutory biodiversity gain condition because the development meets one of the exemption criteria, i.e., relating to custom/self-build development or de-minimis development or because the development is retrospective. The applicant has not therefore been required to provide any BNG information.

45. As the proposal is for development to which the statutory biodiversity gain condition would not apply, a planning informative to advise any future developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended.

## **CONCLUSION**

46. Approve.



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

Hockley Parish Council: No objection.

Essex County Council Highways: No objection, the proposal will utilise an existing gated vehicle access and loading and unloading will be behind the roller shutter door.

Cadent Gas: No objection subject to the imposition of standard informative.

Neighbour representations : No responses received.

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

National Planning Policy Framework (December 2023).

Core Strategy Adopted Version (December 2011) Policies CP1, H1, ED1, ED3.

Development Management Plan (December 2014) Policies DM1, DM30, DM32.

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

Hockley Area Action Plan (adopted February 2014).

The Essex Design Guide (2018).

### **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 Development hereby approved shall be carried out in total accordance with the approved plans numbered 2741/3 (Proposed Floor Plans and Block Plan) (as per date stated on plan May 2024) and 2741/1 (Location Plan) (as per date stated on plan April 2024).

REASON: For the avoidance of doubt and to specify the plans to which the permission/consent relates.

The local Ward Members for the above application are Cllr. A. H. Eves, Cllr. J. R. F. Mason and Cllr. P. Capon.

Application No :	23/00253/FUL      Zoning: SER1
Case Officer:	Mr Arwel Evans
Parish:	Rawreth Parish Council
Ward:	Downhall And Rawreth
Location:	Land West Of Laburnum Way Rawreth Lane Rayleigh
Proposal:	Variation of Condition no. 2 (approved plans) and Condition no. 17 (powered two-wheeler/cycle parking) pursuant to Reserved Matters approval 20/01041/REM to allow for alteration to the building to incorporate a sub-station including installation of condenser units to flat roof and for re-positioned cycle parking and omission of powered two-wheeler parking provision relating to Reserved Matters for the appearance, landscaping, layout and scale of a care home development (phase 7) in relation to outline planning application 15/00362/OUT, with associated means of access, parking provision, landscaping, drainage solution, and utilities required in connection with the proposed care home.

## **SITE AND PROPOSAL**

1. The site constitutes a flat area of land located to the north east extremity of the wider strategic site located immediately south of Rawreth Lane and east of the highway which serves Rawreth Industrial Estate which accesses onto Rawreth Lane. The south east extremity of the site is located approximately 130 metres north of Rawreth Industrial Estate. The east of the site is flanked by a public footpath being 83 metres in length and which runs from the south east corner of the site to the north east corner parallel to an overgrown hedge which is located within the planning application site. This hedge forms a boundary between the footpath and the rear aspects of residential properties located at Laburnum Way. The site has no water courses present and consists of a grassed area framed by a post and rail fence.
2. The site has now been developed out further to the grant of reserved matters approval on 27<sup>th</sup> September 2021 (in respect of design, appearance, landscaping, layout and scale) relating to the care home development (phase 7). The site is not operating as a care home as of yet but hand over to the care operator in anticipated in the very near future.
3. The reason for this application is that minor adjustments are required to account for the use of an area previously annotated on the Ground Floor Plan as a Scooter and Cycle Store now to be assigned to a substation that was not anticipated in this location on the originally

approved Ground Floor Plan. There is no actual change to the actual footprint of this area of ground floor space located at the south east extremity of the ground floor plan area, this space being and remaining 23.9m<sup>2</sup> in floor area. The originally approved Ground Floor Plan, reference AL (I) 100 Rev C is to be replaced by the new Ground Floor Plan reference AL (I) Rev E. Coinciding with this there is also a plan relating to the substation details which is plan reference AL (9) 907 Rev C which was the latest plan submitted in this regard.

4. The cycle storage displaced by the requirement for a substation is shown to be located on a revised Site layout Plan reference AL (9) 901 Rev H which shows a cycle shelter located at the north east aspect of the site adjacent to parking bay 10 and this plan replaces the previously approved Site Layout Plan reference AL (9) 901 Rev G. Coinciding with this there is a plan providing details of the cycle store (location and technical details) which is now plan reference AL (9) 906 Rev B which replaces an earlier plan reference (Proposed Scooter and Cycle Store) AL (9) 906 Rev A which is no longer relevant.
5. The application does not seek to change any other material plans and although elevation drawings have been submitted with this Section 73 application the application does not seek to vary these other than where accounted for in the plans above where there are details of the elevation of the section where the substation will be sited and it is the case that where previously referenced, these plans are the plans by which the development has been undertaken in accordance with.
6. A covering letter submitted with the application provides some background and indicates that 'during the original reserved matters application, the proposals included a new sub station to provide power to the development. During the consultation phase it was requested to remove this building and look for an alternative way of providing power to the building'. The case officer clarifies that the reason for this was due to the impact of the originally proposed substation at the south east corner of the site upon the root protection area of a protected oak tree. And it was omitted from the plans during the application process. The applicant now indicates that following extensive discussions with TriConnex a substation was still required on site as the surrounding stations did not have the capacity for the proposals. In order not to have an external building as this would not be allowed, the new substation needed to be re-housed within the existing proposals and the only location this would fit would be in the proposed scooter and bike store. Barchester noted that they no longer required an external scooter store and an alternative location for the cycle store is now proposed.
7. The application also requests that condition 17 be reworded to state "The cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at

all times". This compares to the originally worded condition which read as follows: 'The powered two-wheeler/cycle parking facilities as shown on the approved plan are to be provided prior to the first occupation of the development and retained at all times. The proposed change to the condition relates in essence to the omission to reference to powered two-wheelers. The condition is re - worded as considered appropriate by the case officer now at condition 13.

## **RELEVANT PLANNING HISTORY**

There is significant planning history relating to the site, not all of which is directly relevant to this particular application. The wider site history is cited as follows:

8. Application No. 14/00627/OUT - Outline Planning Application (with all Matters Reserved apart from Access) for the erection of Residential Development with associated Open Space, Landscaping, Parking, Servicing, Utilities, Footpath and Cycle Links, Drainage and Infrastructure Works, and Primary School. Provision of Non-Residential Floor Space to Part of Site, Uses including any of the following: Use Class A1 (Retail), A3 (Food and Drink), A4 (Drinking Establishments), C2 (Residential Institutions), D1a (Health or Medical Centre) or D1b (Crèche, Day Nursery or Day Centre). REFUSED on 10th February 2015.
9. Application No. 15/00362/OUT - Outline Planning Application (with all Matters Reserved) for the erection of Residential Development with associated Open Space, Landscaping, Parking, Servicing, Utilities, Footpath and Cycle Links, Drainage and Infrastructure Works, and Primary School. Provision of Non-residential Floor Space to Part of Site, Uses including any of the following: Use Class A1 (Retail), A3 (Food and Drink), A4 (Drinking Establishments), C2 (Residential Institutions), D1a (Health or Medical Centre) or D1b (Crèche, Day Nursery or Day Centre). APPROVED on 3 June 2016.
10. Application for the approval of Reserved Matters, namely design, appearance, landscaping, layout and scale in respect of a care home development (phase 7) in relation to outline planning application 15/00362/OUT, with associated means of access, parking provision, landscaping, drainage solution, and utilities required in connection with the proposed care home. Granted Planning Permission 27<sup>th</sup> September 2021.

## **MATERIAL PLANNING CONSIDERATIONS**

11. 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.

12. 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).

### **Procedural Matters**

13. This application is limited to the subject matters highlighted within the planning application. From a procedural perspective if granted, this section 73 consent would constitute a further consent to be read in conjunction with the earlier approved reserved matters approval reference 20/01041/REM. Other than the plans subject of this application where they are necessary and relevant to vary particular details, the plans as previously approved remain unaffected. Relevant conditions attached to this Section 73 approval include compliance conditions and those conditions requiring information or an action to be instigated to satisfy the conditions which if not discharged in their entirety pursuant to the 20/01041/REM approval must be included or if necessary re worded / reconstructed accordingly as part of the new Section 73 planning permission.
14. Section 73 of The Town and Country Planning Act indicates that applications such as the one in question, are applications to develop land without compliance with conditions previously attached to previous planning permissions. The statute advises that on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions, which conditions are necessary to uphold the original consent.
15. The original planning permission must have been lawfully implemented or still be capable of implementation. The amendment cannot have the effect of extending the time within which a development must be commenced. The amendment cannot display the biodiversity gain condition which will automatically be imposed on every planning permission granted in England for a future date to be appointed. If an amendment to a scheme cannot be facilitated through an amendment to a condition, the use of s.73 would be inappropriate, and a fresh planning application will need to be submitted to the local planning authority. The planning permission granted will be a new planning permission, however it will expire on the same date as the original permission. The new permission sits alongside the original permission, which remains intact and unamended. It is up to the applicant to decide whether to implement the new planning permission or the original permission granted.

## **Acceptance of the revisions**

16. The revisions are considered acceptable as they have no policy implications. As the development is nearing completion and due to the fact that the contractors are working towards hand over it is not considered necessary to re-attach those conditions already discharged as the development has met the obligations of those conditions requiring discharge which include conditions 8, 16, 18 and 19. A condition is however attached relating to the ongoing management of the hedge boundary to the east which this development is bound by. Due to detritus and rubbish noted as of the last time the case officer visited the site the originally worded condition is re-constructed to ensure that this detritus is cleared up and to ensure continued control by condition to the treatment of this area in the interests of visual and residential amenity.

## **CONCLUSION**

17. The development is acceptable subject to the recommended conditions. Some of the conditions attached to the original Reserved Matters application need to be re-imposed to ensure that where needed that the conditions are capable of being enforced.

## **CONSULTATIONS AND REPRESENTATIONS**

Rawreth Parish Council: No response received.

Neighbour representations: None received.

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

National Planning Policy Framework (December 2023).

Rochford District Council Local Development Framework Allocations Plan SER 1.

Rochford District Council Local Development Framework Core Strategy (2011) Policies: T1 (Highways), T3 (Public Transport), T5 (Travel Plans) T6 (Cycling and Walking) T8 (Parking Standards), H2 (Extension to Residential Envelopes and Phasing), CP1 (Design), ENV 3 (Flood Risk), EN4 (Sustainable Drainage Systems SuDS), ENV 8 (On Site Renewable and Low Carbon Energy Generation), ENV 10 (BREEAM), CLT 4 (Healthcare).

Rochford District Council Local Development Framework Development Management Plan Policies: DM 1 (Design and New Developments), DM2 (Density of New Developments), DM25 (Trees and Woodland), DM26 (Other Important Landscape Features), DM27 (Species and Habitats Protection), DM28 (Sustainable Drainage Systems), DM30 (Parking Standards).

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

## **RECOMMENDATION: APPROVE**

Conditions:

1. The development hereby permitted shall be begun before the expiration of the 27<sup>th</sup> September 2024 (the original date of grant of Reserved Matters Approval)

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 development shall be undertaken in strict accordance with the submitted plans referenced: AL (9) 910 Rev – Site Location Plan, AL (9) 901 Rev H Proposed Site Plan, AL (9) 902 Rev B Proposed Boundary Treatments, AL (9) 904 Rev B Proposed Post and Panel Entrance Signage, AL (9)903\_2 Artstone Entrance Walling & Signage, EX-100 Rev P03 External Lighting Layout, AL (1) 100 Rev E Proposed Ground Floor Plan (as re annotated Substation), AL (1) 101 Rev D Proposed First Floor Plan, AL (1) 102 Rev D Proposed Second Floor Plan, AL (9) 903\_1 Rev B (1 of 3) Artstone Entrance Walling & Signage, AL (9) 903\_3 (3 of 3) Artstone Entrance Walling & Signage, AL (9) 904 Rev A Proposed Post & Panel Entrance Signage, AL(9) 905 Rev A Proposed Refuse Store, AL (9) 906 Rev B Proposed New Cycle Store Details, AL (9) 907 Rev C (New Substation Details), , RLR L1 Rev B Landscape Plan (omitting however the details of the substations as reflected by plan reference AL (1) 140 Rev E Proposed Elevation (1 of 2), AL (1) 141 Rev E Proposed Elevation (2 of 2), AL (1)142 Rev C (Proposed Coloured Elevations) (1 of 1), AL (1) 143 Rev C ( Proposed Coloured Elevations) (2 of 2), Al (1) 150 Rev B Site Sections, AL (1) 103Rrev E Proposed Roof Plan, CGI Visual (North Elevation), CGI Visual (West Elevation), CGI Visual (East Elevation), AL (9) 904 Rev A Proposed Post & Panel Entrance Signage and AL(1) 110 Rev C Building Materials Plan.

REASON: To ensure that the development is undertaken in accordance with the approved plans as considered.

3. The materials used within the development hereby permitted shall be those detailed within the approved drawings as listed within condition 2.

REASON: To ensure that the suitable materials are used in the interests of visual amenity and in accordance with policy DM1 of the Development Management Plan 2014.

4. Notwithstanding the details approved pursuant to the originally imposed condition 4 relating to landscaping and management of the hedge boundary to the east of the footpath, within 2 months of the date of this approval the detritus and rubbish which as accumulated within this vegetated area shall be cleared up and shall be kept free of detritus over the lifetime of the use of the development approved. The previously approved and discharged details relating to the ongoing management of this hedgerow shall remain in force and enforceable over the lifetime of the development. The ongoing

management of the hedge shall be implemented in accordance with the details of the agreed 'Management Plan'.

REASON: To ensure that the retention and management of this hedge contributes to the development over the lifetime of its use in providing visual screening and a backdrop to the site the same time as promoting biodiversity in accordance with the principles embodied within the National Planning Policy Framework (July 2021) and the council's Local Development Framework Development Management Plan policies DM1 and DM25 and DM 26.

5. All hard landscaping, including the surfacing of all vehicular access ways and pedestrian footways, shall be fully constructed and completed in accordance with the details of the approved Landscape Plan prior to the occupation of the development.

REASON: To achieve an inclusive design which promotes choice and to ensure that the development provides opportunities for pedestrians and cyclists to move freely between this development and the adjacent development in order to access designated open space and play areas in accordance with the Principles laid out by The Essex Design Guide and Chapter 12 of the National Planning Policy Framework (July 2023).

6. All soft landscaping as shown by the approved Landscape Plan reference RLR L1 Rev B shall be undertaken within the first planting season following the first occupation of the Care Home. (October to March inclusive) or in any other such phased arrangement as may be agreed prior in writing by the Local Planning Authority. Any tree, shrub, or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same type, size and in an agreed location, in the first available planting season following removal.

REASON: To ensure adequate control over design and to ensure a satisfactory appearance in the interests of visual amenity in compliance with policy DM1 of Rochford District Council's Local Development Framework Development Management Plan (adopted December 2014).

7. Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4metres by 43 metres in both directions, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

REASON: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in compliance with Rochford District Council's Local Development Framework Development Management Plan policy DM1.



8. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in compliance with Rochford District Council's Local Development Framework Development Management Plan policy DM1.

9. There shall be no discharge of surface water onto the Highway.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety in compliance with Rochford District Council's Local Development Framework Development Management Plan policy DM1.

10. Any new boundary planting shall be planted a minimum of 1 metre back from the highway boundary and any visibility splay.

REASON: To ensure that the future outward growth of the planting does not encroach upon the highway or interfere with the passage of users of the highway, to preserve the integrity of the highway and in the interests of highway safety in compliance with Rochford District Council's Local Development Framework Development Management Plan policy DM1.

11. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in compliance with Rochford District Council's Local Development Framework Development Management Plan policy DM1.

12. Prior to occupation of the proposed development, the existing PROW footway no. 57 on the eastern boundary of the site from the junction of Rawreth Industrial Estate in a northerly direction to the junction of Rawreth Lane shall be upgraded and resurfaced with associated infrastructure. Details to be submitted to and agreed with the Planning Authority in consultation with the Highway Authority.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy DM1 of the Development Management Plan 2014.

13. The cycle parking facilities including the shelter as shown on plan reference AL (9) 906 Rev B is to be provided prior to the first occupation of the development and retained in perpetuity over the lifetime of the use.

REASON: To ensure appropriate powered two-wheeler and bicycle parking is provided in accordance with Rochford District Council's Local Development Framework Development Management Plan Policy DM30.

14. Prior to first occupation of the proposed development, the Developer shall submit a workplace travel plan to the Local Planning Authority for approval in consultation with Essex County Council. Such approved travel plan shall be actively implemented for a minimum period of 5 years. It shall be accompanied by a monitoring fee of £6,000 (plus the relevant sustainable travel indexation) to be paid before occupation to cover the 5-year period.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy DM1 of the Development Management Plan 2014 and policy T5 of the Core Strategy 2011.

15. Prior to first occupation the bus stops, in both directions, on Rawreth lane immediately to the east of the proposed development shall be upgraded to include raised kerbs, flagpole and timetable to the satisfaction of the Highway Authority.

REASON: To make adequate provision within the highway for the additional pedestrian traffic generated and promoting sustainable travel as a result of the proposed development in alignment with the provisions of the National Planning Policy Framework (July 2023)

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