



PLANNING APPLICATIONS WEEKLY LIST NO.1727
Week Ending 13th September 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 26/09/2024.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **18th September 2024** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team pbctechnicalsupport@rochford.gov.uk .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

Note

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

Index of planning applications: -

- 1. 24/00290/FUL - Stewards Elm Farm Stewards Elm Farm Lane
Stambridge pages 2 – 19
- 2. 24/00445/FUL - Outbuildings Rear Of 2 Shopland Hall Cottages
Shopland Hall Road Sutton pages 20 - 41

Application No :	24/00290/FUL Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Stambridge Parish Council
Ward :	Roche North And Rural
Location :	Stewards Elm Farm Stewards Elm Farm Lane Stambridge
Proposal :	Construct 2no. replacement fishing lodges and form new access track and parking area.

SITE AND PROPOSAL

1. The application site comprises a farm in the Roche North and Rural ward of the Rochford District Council. The site lies west of Stambridge Road and is accessed via Stewards Elm Farm Lane. The site has its main dwelling at the centre which is a two-storey detached dwelling with various outbuildings towards the rear. There are ponds at the east and south-west of the main dwelling. The site has two old fishing lodges in close proximity to the pond lying south-west of the main dwelling. The surrounding area is predominantly open space used for farming. Further east of the site is the Stambridge residential area. The site area is approximately 8.7 hectares and is in the Metropolitan Green Belt. The site is also in flood zone 3.
2. The existing fishing lodges, which are in a poor condition, are proposed to be demolished and replaced with new modern lodges. The new lodges would be slightly closer to the pond compared to the existing and would incorporate a fishing deck for anglers over the pond. A parking area that would accommodate three vehicles is proposed along with an access track further east of the pond.

RELEVANT PLANNING HISTORY

3. Application No. 97/00224/FUL - Construct Earth Embankment (Revised Application Following Withdrawal of F/0099/97/ROC) – Approved – 30/06/1997.
4. Application No. 97/00298/FUL - Single Storey Rear Extension. Alterations to Existing Garage (to Form Habitable Accommodation) – Refused – 14/10/1997.
5. Application No. 02/00140/FUL - Single Storey Rear Extensions, Chimney Stack and Construction of Swimming Pool – Withdrawn – 24/04/2012.
6. Application No. 18/01192/FUL – Proposed house and detached garage – Refused – 19/07/2019.

7. Application No. 21/00663/LDC - Application for a Lawful Development Certificate for existing use of site as Equine Facility and Riding Stables (use class D2) – Refused – 11/08/2021.
8. Application No. 22/00025/LDC - Lawful Development Certificate for existing use of Stewards Elm Farm as Equine Facility and Riding Stables D2 Use – Permitted LDC -08/03/2022.
9. Application No. 24/00383/FUL - Demolish existing buildings and construct 6 No. dwellings with associated landscaping, access, refuse store and car and cycle parking provision including 1 No. detached garage and a detached garage block to serve the existing dwellinghouse Stewards Elm Farm – Not Yet Determined.

MATERIAL PLANNING CONSIDERATIONS

10. 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.
11. 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).

Green Belt considerations

12. 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.
13. 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.

14. The Council's Core Strategy addresses the Green Belt under Section 6. In order to support and encourage the local rural economy and help realise the goal of developing green tourism in the District, the Strategy strikes a balance between protecting the openness and character of the District's Green Belt and allowing businesses to operate and contribute to the local economy. Outdoor recreation and leisure activities are deemed appropriate in the Green Belt according to Policy GB2 (Rural Diversification and Recreational Uses). It states: "*The Green Belt provides leisure opportunities for the District's residents and visitors. Development that is essential for outdoor sport and recreation activities considered appropriate in the Green Belt (e.g. changing rooms connected with a sports use) will be permitted. Such essential facilities will be expected to have a minimal impact on the openness of the Green Belt.*"
15. Both policies GB1 and GB2 of the 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 NPPF which seek to protect the Green Belt from inappropriate development. However, they do not reflect the exceptions listed in the NPPF which would also be a material consideration.
16. Consequently, the main issues are:
 - Whether the proposed development is inappropriate development in the Green Belt for the purposes of the NPPF and Development Plan.
 - The effect of the proposed development on the openness of the Green Belt.
17. Paragraph 142 of the NPPF expresses that the primary goal of the Green Belt policy is to stop urban sprawl by maintaining open space on land; the openness and longevity of Green Belts are their key characteristics. Paragraph 143 outlines the purposes of Green Belts, which are:
 - 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.*

18. Paragraph 154 of the NPPF states that local planning authorities should consider the development of new buildings as inappropriate in the Green Belt. Exceptions 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.*

19. 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 *inter alia* the provision of appropriate facilities in connection with the existing use of land for outdoor sport, outdoor recreation, cemeteries, 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. The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The final identified relevant exception is limited infilling or the partial or complete redevelopment of previously developed land (PDL). The proposed development would be assessed against exceptions (b), (d) and (g) of paragraph 154 of the NPPF.

20. The site is relatively open with existing lawful recreational uses such as the equestrian facilities at the north of the site and the angling facilities to which the current proposal is related to. The existing fishing lodges were constructed using timber. The design of the new lodges would

match the existing in appearance along with the materials. With the proposal being for the replacement of 2No. historic fishing lodges. Given the factors cited above, it is considered that the exceptions of a, c and e to f do not apply in this instance.

Assessment against exception (b)

21. The exception under part (b) of para 154 allows for the provision of appropriate facilities for outdoor recreation as long as the facilities preserve the openness of the Green Belt.
22. Furthermore, policy GB2 (Rural Diversification and Recreational Uses) considers outdoor recreation and leisure activities appropriate in the Green Belt. It states: *“The Green Belt provides leisure opportunities for the District’s residents and visitors. Development that is essential for outdoor sport and recreation activities considered appropriate in the Green Belt (e.g. changing rooms connected with a sports use) will be permitted. Such essential facilities will be expected to have a minimal impact on the openness of the Green Belt.”*
23. Policy DM10 (Development of Previously Developed Land in the Green Belt) of the Rochford District Development Management Plan accepts that leisure facilities are acceptable in the Green Belt. Policy DM12 (Rural Diversification) generally supports rural activity and diversification.
24. As previously mentioned, the site has an existing recreational use in the form of the equestrian facilities at the north for horse riding and a football field at the south. In this aspect, the development is appropriate for the site since this scheme would replace the current fishing lodges that have historically matched a leisure area with a fishing pond. The new lodges would offer economic advantages and support rural diversification as they are functionally connected to an established rural attraction. In this case, the planned lodges will cater to anglers fishing in the nearby lake, establishing a useful connection with the current establishment. Furthermore, the overall development will be appropriate for the size and scope of the fishing lake given the modest nature of this project, especially when accounting for the current recreational use. Although the proposed development would complement existing outdoor activities. Whilst it is acknowledged that the proposal complies with the first limb of para 154 criterion b) which states *“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”*.
25. However, this criterion needs to be addressed in the whole. The second limb of criterion b) para. 154 specifically states that *“as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it”*. According to the applicants Design and Statement the proposed fishing lodges will

increase the footprint from 15m² to 24m², which in the opinion of the case officer is a substantial increase. Furthermore, the existing lodges measure approximately 2.88m high, the proposed lodges will each measure 3.43m high – a difference of 550mm. The applicant's agent contends that these increases in height and floor area are not materially larger than the ones which they replace.

26. In the opinion of the case officer, the proposed fishing lodges would be significantly larger than the ones which are currently in-situ. The applicant has failed to provide any very special circumstances of particular merit to justify the proposal other than the new lodges aesthetically will be an improvement and they are more modern providing anglers with improved accommodation, neither of these factors are disputed. However, the amount of weight given to them by case officer is minimal. Furthermore, the agent considers given the scale, mass and design of the lodges they will not have a detrimental impact on the openness of the Green Belt. In the opinion of the case officer due to the increased size of the proposed fishing lodge they would fail to preserve the openness of the Green Belt and as such detract from all of its intrinsic qualities and the proposal is contrary to the provisions of para. 154 exception b).

27. Overall, officers consider the floorspace would increase by 60% (as may be compared to the Council's 25% approach for domestic extensions in the MGB) given the significant increase in terms of footprint and height, the proposed lodges will be materially larger than the ones which are replaced. Due to their size, they will have a detrimental impact on the openness on Green Belt both in terms of visual and spatial aspects. Consequently, they are considered not to preserve the openness of the Green Belt and are therefore not in accordance with exception (b).

Assessment against exceptions (d) and (g)

28. Exception (d) provides for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Whereas (g) provides for the partial or complete redevelopment of previously developed land whether redundant or in continuing use.

29. The proposed lodges would be bigger than the existing. The ridge height of the proposed lodges would be 3.43m from the ground making them taller than the existing lodges by roughly 550mm. The total built area would increase from 15m² to 24m² with the addition of a fishing deck and the general enlarging of the lodges including the proposed new wash basin and shower, a 60% increase. The volume would increase from 45m³ to 72m³ which is a 60% increase. The proposed lodges would be materially larger than the existing and are therefore contrary to exception (d).

30. 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.
31. To qualify as 'very special', circumstances do not have to be other than 'commonplace', i.e. they do not have to be rarely occurring (R (Wildie) v Wakefield MDC [2013] EWHC 2769 (Admin) at [29]). A number of factors combined can together amount to very special circumstances, and the weight to be given to each factor is a matter for the decision-maker. The planning balance will be considered qualitatively rather than quantitatively, as a value judgment made by the decision-maker. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The applicant must therefore demonstrate that very special circumstances exist to outweigh the harm to Green Belt openness and any other harm for the Council to be able to grant planning permission for the proposal. In making those judgments, it is relevant to assess both the extent of harm caused, and then the nature of the very special circumstances that exist to outweigh that harm. As previously alluded to, it is well-established that very special circumstances may arise by reason of cumulative factors, even if those factors are not "very special circumstances" in their own right.
32. The applicants Planning Statement includes the following justifications:
- These are fishing lodges that are in a previously developed site. As part of this application, the current lodges will be replaced, and in general, they will balance the loss of spatial openness that the planned development would bring about. Although the current buildings differ in form, their general spatial dimensions are quite similar. Although the suggested capacity of the lodges is acknowledged to be larger, this is only a little uplift. That being the case, the before and after situation would be largely comparable in terms of spatial openness;
 - In terms of visual openness, it is considered that the proposed works are comparatively modest in bulk and scale, have a single story, and have a restricted height. It is believed that the proposed development would have no significant impact on the Green Belt's visual openness;
 - Regarding the green belt purpose, it states: "To check unrestricted sprawl of large built-up areas - This is concerned with the occurrence of development within the Green Belt where it is extending from a town or other large urban area. For development to be harmful to this purpose, it would need to be seen as associated with and extending from a town or other large urban area. The degree of harm may then be determined by the degree of influence, on the appearance and perception of openness, that it would have in this urban sprawl context. The proposed

development could not be said to be extending from the built-up areas of the District. The proposed development would have no material implications for the merging of neighbouring towns and therefore no registerable harm.”

33. Exception (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.

34. 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.’

35. The proposed lodges would be on PDL. As previously mentioned, the wider site has existing recreational uses. The planning statement mentions that the fishing pond and lodges have been used historically for more than 30 years. Public fishing stopped when the current owner of Stewards Elm Farm purchased the site. The presence of the fishing lodges is lawful and the current proposal is to reactivate and enhance a historical use that had been redundant.

36. 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 will influence the degree of harm to the Green Belt by way of visual intrusion.

37. Paragraph 154 part (g) of the framework states an exception may comprise an “partial or complete redevelopment of previously developed land”. As previously stated, it is accepted 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.

38. 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 is 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.
39. The proposed development would involve the demolition of the existing lodges and replace them with new modern ones. The new lodges would coalesce with the existing land uses on site. The site is relatively flat with isolated buildings and the proposed lodges would not be near the boundary and would therefore not be visible from Stambridge Road owing to its significant distance from the main road and the hedges that border the road which provide additional screening. In addition, the proposed lodges are within existing trees and when viewed aerially would be mostly covered by the trees. As previously mentioned, the proposed lodges would be higher than the existing by 550mm, larger in area and volume by 60%. With such a significant increase, the proposed lodges are considered to harm the openness of the Green Belt both spatially and visually and there are no very special circumstances that justify the approval of the development.

Sustainability

40. Policy DM10 of the Development Management Plan states:
41. The Council will favour proposals for the redevelopment of previously developed land in the Green Belt which accord with Policy GB2 of the Core Strategy.
42. Proposals for the development of residential, retail and other uses not promoted by Policy GB2 of the Core Strategy, such as office, commercial, leisure, and community uses, on previously developed land that is located in the Green Belt may be appropriate if it can be demonstrated that it would constitute sustainable development (i.e. all of the below criteria are met).
43. 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.

44. Although the above criteria relates particularly to residential development, the current proposal may also be assessed on this sustainability criteria as it is proposed on previously developed land. The site is within reasonable distance to the residential area to the east. Concerning the site being well related to local services and facilities, the site is a small rural settlements which benefits from rural tourism with the nearest town being Rochford.

45. In respect of connections to the road network, Stewards Elm Farm Lane is accessed from Stambridge Road, which connects interspersed dwellings and businesses on the outskirts of Rochford to roads within the defined settlement area. The area is serviced by public transport as there are bus stops along Stambridge Road within the settlement.

46. 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. The application site broadly complies with the criteria listed in policy DM10.

Design and Impact on the Character of the Area

47. 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 (paragraph 131).

48. According to Chapter 12 of the NPPF, achieving high-quality structures and environments is essential to the goals that the planning and development process should pursue. It also says that a crucial component of sustainable development is excellent design.

49. The current, dated, tiered fishing lodges would be replaced with appealing, contemporary lodges under the remit of the current planning application. According to the submitted plans the footprint of the proposed lodges would subsume the footprint of the original lodges,

and each of the new lodges would measure approximately 24m². Furthermore, the height of the lodges would equate to 3.43m as measured to the apex of the pitched roof. Each of the lodges would incorporate a veranda on the front facing aspect allowing anglers to fish off them. Furthermore, on the front elevation will be a set of bi-fold doors allowing access into the lodges. Whilst on the rear will be a small window, providing ventilation to the shower room. No other apertures are proposed on the remaining elevations. The proposed lodges will be constructed predominately out of timber under a felt roof. It is considered that the use of this material is in keeping with the rural vernacular and will not cause any demonstrable harm to the character and appearance of the locality.

50. The proposal overall is considered to not significantly harm the character and appearance of the area and in design terms it is considered expedient to secure appropriate material to ensure the external finishes assimilate into the site and wider landscape. Nevertheless, this does not outweigh the harm cited earlier in this report.

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. 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.*

54. 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.

55. It is not considered that the proposal will see a significant intensification of vehicles accessing/egressing the site. As previously stated, there are already 2 No. fishing lodges in-situ and the proposal seeks to replace these lodges with similar, albeit larger. The inflow and outflow of guests from the departing lodges are probably going to be similar to the planned development.

56. Overall, it is believed that the works would not significantly affect the occupants of any nearby residential properties' ability to enjoy their amenity spaces because of the restricted height of the proposed development and the buildings' remote setting.

Impact on Highway Safety

57. 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.

58. 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.

59. Given that the proposal is for two replacement fishing lodges, it is not likely that the traffic these two replacement units would create in addition to the current activities on the larger site will negatively affect highway safety. It is not believed that the proposed development would negatively affect the local highway system or the unimpeded flow of traffic, given the site's current, authorised use.

Flooding and Drainage

60. According to the Environment Agency flood risk map, the application site is located wholly within flood zone 3. The Environment Agency website goes on to state that Land within flood zone 3 has a high probability of flooding from rivers and the sea. The applicant has submitted the standardized flood risk assessment form.
61. It is considered that fishing is seen as a water-based recreational activity; and the planned development is designated as a water compatible development. In addition, the Councils Emergency Planner has been consulted and states that *'I have no objections from an Emergency Planning point of view. The Lodges are not residential so there is not a risk to residents from flooding'*.
62. The existing historic fishing lodges have a toilet and wash basin facilities. The foul water waste pipe and waste pipe from the sink discharge into the existing ground. The drainage statement states: *"The foul drainage connects into a cesspool located approximately 6m away from the fishing lodges and 17.5m away from the closest water course. The foul water waste pipe will be extended to suit the relocation of the fishing lodges and any drainage permits will be applied for prior to works starting on site and issued to the council for approval. It is the intention of the applicant to discharge all surface water into the existing pond which is located approximately 2m away."*

On-Site Ecology

63. The National Planning Policy Framework at paragraph 180 indicates the importance of avoiding impacts on protected species and their habitat where impact is considered to occur appropriate mitigation to offset the identified harm. The council's Local Development Framework Development Management Plan at Policy DM27, requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.

64. Following the production of Publicly Available Specification (PAS 2010) by the British Standard Institute (BSI), local governments now have clear guidelines by which to take action to ensure that they help halt the loss of biodiversity and contribute to sustainable development.
65. Section 40 of the Natural Environment and Rural Communities (NERC) Act (2006) places a duty on public authorities to have regard for the purpose of conserving biodiversity. PAS 2010 aims to reduce the varied applications of this obligation, ensuring that all parties have a clearer understanding of information required at the planning stage. Section 41 of the NERC Act (2006) identifies habitats and species which are of principal importance for the conservation of biodiversity in England. There are 56 habitats and 943 Species of Principal Importance in England (SPIE), and most of the UK's protected species are listed under Section 41. Whilst the possible presence of a protected species is accompanied by legal obligations and will remain the first consideration of planning departments, the total biodiversity value of a site must now be considered.
66. To accompany the planning application the applicant has submitted a Preliminary Ecological Appraisal (PEA) which was produced by Abtech Ltd. which is dated March 2024 relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.
67. As the proposal involves the erection of 2No. fishing lodges adjacent to a mature pond within a rural locality, there is the possibility that protected species may potentially be present. The case officer considered it prudent to consult the Councils Ecologist. Colleagues in Essex County Council Place Services Ecology state that:

"The Preliminary Ecological Assessment (Arbtech Ltd, March 2024) appears to have been completed for a different application. As a result, the survey / habitat map (UK Habitats Classification assessment) does not match the red line boundary of this scheme. Furthermore, the report contains recommendations for protected species, including presence / likely absence surveys for Great Crested Newt and Water Vole and Otter, which may or may not be applicable for this application. Consequently, we recommend that an updated ecological assessment (Ecological Impact Assessment) is completed for this application, with all relevant protected species surveys completed.

This further information is required prior to determination because the Local Planning Authority must consider the guidance under paragraph 99 of the ODPM Circular 06/2005. This advises that the presence or otherwise of protected species, and the extent to which they might be affected by the proposed development, must be established before planning permission is granted. Therefore, if there is a reasonable likelihood of protected species being present and affected by the

development, the surveys should be completed and any necessary measures to protect the species should be in place before the permission is granted.

This information is therefore required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998”.

68. In light of the aforementioned comments received from the Councils Ecologist the application will be recommended for refusal due to the PEA relating to a different site and insufficient ecological information has been submitted to make an informed decision.

Trees

69. Policy DM25 of the Development Management Plan seeks to protect existing trees particularly those with high amenity value. In particular policy DM25 states:

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

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

70. The proposed development does not require the removal of any trees and as such complies with policy DM25 of the Development Management Plan.

Biodiversity Net Gain

71. Biodiversity Net Gain is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity. 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). This statutory framework is referred to as 'biodiversity net gain' in Planning Practice Guidance to distinguish it from other or more general biodiversity gains.

72. In light of the above, the case officer considered it prudent to consult the Councils Ecologist who states that:

'We are not satisfied that pre-development baseline calculations outlined within the Statutory Biodiversity Metric (April 2024). This is because the Preliminary Ecological Assessment (Arbtech Ltd, March 2024) outlines the site as containing 'wet woodland', 'other neutral grassland' with scattered trees in the area which is relevant to this application. Furthermore, a linear watercourse is identified within and adjacent to the red line boundary for this application, meaning that watercourse units must also be considered for pre-development calculations. As a result, it is considered highly unlikely that the pre-development baseline contains 0.004ha of 'developed land sealed surface' and 0.1638ha of 'modified grassland'. As a result, we recommend that a competent person, which has completed professional Morph River Condition Assessment training, must provide an updated pre-development baseline using the Statutory Biodiversity Metric.

With regard to the post development calculations, it is indicated that proposed habitats will likely need to be updated based on the conclusions of the updated pre-development baseline. However, this can be supplied as a pre-commencement requirement. Nevertheless, it is indicated that we do not support the proposal to provide 'Rhododendron scrub', as whilst recorded within the local area, many species are recorded as invasive species under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

Once sufficient pre-development baseline information has been provided, it is highlighted that the planning authority will be required to secure a biodiversity gain condition as a pre-commencement requirement. The biodiversity gain condition has its own separate statutory basis, as a planning condition under paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990. As a result, government have recommended that it is not included in the list of conditions imposed in the written notice when granting planning permission. However, it is highlighted that biodiversity gain condition could be implemented via a separate section of the decision notice. The biodiversity gain condition should secure the provision of a Biodiversity Gain Plan, as well as the finalised full Small Sites Metrics or Statutory Biodiversity Metric – Calculation Tool.

In addition, a Habitat Management and Monitoring Plan should be secured for all significant on-site enhancements, as well as off-site enhancements. This should be in line with the approved Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 2, 5, 10, 15, 20, 25, 30 any remedial action or adaptive management will then be

agreed with the LPA to ensure the aims and objectives of the Biodiversity Gain Plan are achieved'.

73. In light of the comments received by the Councils Ecologist this will form an additional reason for refusal.

CONCLUSION

74. Refuse.

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Stambridge Parish Council: Object as the application is an overdevelopment in the green belt.

Rochford District Council Emergency Planner: I have no objections from an Emergency Planning point of view. The Lodges are not residential so there is not a risk to residents from flooding.

Essex County Council Place Services Ecology: Object. We have reviewed the submitted documents, including the Preliminary Ecological Assessment (Arbtech Ltd, March 2024) relating to the likely impacts of development on designated sites, protected species and Priority species & habitats and identification of appropriate mitigation measures.

In addition, we have reviewed the Statutory Biodiversity Metric (April 2024) in relation to mandatory biodiversity net gains.

We are not satisfied that there is sufficient ecological information available for determination. This is because insufficient ecological information has been provided with regard to protected and Priority species and mandatory biodiversity net gains.

Neighbour representations: No responses received.

Relevant Development Plan Policies:

National Planning Policy Framework (December 2023).

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policies CP1, GB1, GB2, and ENV9

Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM1, DM10, DM12, DM25, DM26, DM27 and DM30.

Essex County Council and Essex Planning Officers Association Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010).

The Essex Design Guide (2018).

Natural England Standing Advice.

RECOMMENDATION: REFUSE

1. The proposed development would result in inappropriate development in the Metropolitan Green Belt. The larger scale, mass and bulk of the proposed fishing lodges would have a greater impact on the openness of the Green Belt than the existing built form. The development is not considered to meet the criteria and exceptions outlined in the Council's Development Management Plan and the National Planning Policy Framework. There are no considerations of sufficient weight that would clearly outweigh the harm to the Green Belt and very special circumstances do not exist. The proposed development would therefore fail to comply with Policy of the Local Plan and the National Planning Policy Framework and if allowed would cause an incremental loss of openness detrimental to the character of the Metropolitan Green Belt.
2. Upon review of the Biodiversity Net Gain Statement produced by Arbtech Ltd dated March 2024 submitted in support of the application, it is the opinion of the Local Planning Authority it has not been demonstrated, through the submission of robust or cogent information that the submitted BNG statement sufficiently justifies the habitats on-site and that the development is therefore exempt from mandatory biodiversity net gains. As such the proposal is contrary to guidance advocated within Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.
3. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The Preliminary Ecological Assessment produced by Arbtech Ltd and dated March 2024 has been completed for an alternative application. Consequently, the survey / habitat map (UK Habitats Classification assessment) does not correspond with the red line boundary of the current proposal. Furthermore, the report contains recommendations for protected species, including presence / likely absence surveys for Great Crested Newt and Water Vole and Otter, which may or may not be applicable for this application. It can therefore not be determined whether the proposal would result in harm to protected species. Insufficient information has been submitted to support the development, contrary to Policy DM27 of the Development Management Plan and relevant parts of the NPPF which seek to ensure that development appropriately mitigates impacts on biodiversity.

The local Ward Members for the above application are Cllr. S. Wootton, Cllr. Phil Shaw and Cllr. Mrs. L. Shaw.

Application No:	24/00445/FUL Zoning: MGB
Case Officer	Mr Richard Kilbourne
Parish:	Sutton Parish Council
Ward:	Roche South
Location:	Outbuildings Rear Of 2 Shopland Hall Cottages Shopland Hall Road Sutton
Proposal:	Demolition of buildings in use as an aviary breeding centre and demolition of a detached garage and a stable building. Erection of one 4-bed dwellinghouse (self-build) with attached annexe and detached garage incorporating office and hobby room for use incidental to the dwellinghouse. Form new driveway with new vehicular access off Shopland Hall Road.

SITE AND PROPOSAL

1. The application site comprises a dwellinghouse and a collection of five buildings used as aviary breeding centres within a rural location on the outskirts of Southend-on-Sea's administrative district. To the immediate south of the site is a residential dwelling. The site is bounded by green fields to the west and north, with a small former churchyard to the east (Shopland Churchyard Conservation Area). Further south from the site is the Shopland Hall Equestrian Centre. The site is located within the designated Metropolitan Green Belt.
2. The site is within the Crouch and Roach Farmland character area which is characterised by long narrow river estuaries with bands of flat low lying marshlands; rolling or gently undulating arable farmland between the estuaries. Regular fields of variable size and thick or intermittent hedgerow boundaries and small villages, a scattering of hamlets, farmsteads, and newer suburban properties that are concentrated along the lanes on higher ground.
3. Two Grade II Listed Buildings are located nearby; recorded as "Barn about 90 metres south of Shopland Hall" (located approximately 140m south of subject building) and "2 Adjacent Head and Foot Stones, Shopland Churchyard" (located approximately 150m south-east of the subject building).
4. Planning permission is requested for the erection of one 2-storey 4-bedroom self-build dwellinghouse with an attached 2-storey annex and a detached garage. A new driveway with new vehicular access off Shopland Hall Road is proposed with demolition of the buildings currently in use as aviary breeding centres.

RELEVANT PLANNING HISTORY

5. Application No. 23/01026/FUL - Erection of one 4-bed dwellinghouse – 6th March 2024.
6. Application No. 23/00612/FUL - Conversion of Aviary Breeding Centre building to one 2-bed dwellinghouse. Demolition of one aviary cage – Approved - 16th November 2023
7. Application No. 23/00170/LDC - Application for a Lawful Development Certificate for an existing change of use from a dwellinghouse garden (Use Class C3) to an avian breeding centre (Use Class Sui Generis) to include the erection of 5 x aviary buildings, stables and a residential garage. Permitted 30th May 2023.
8. Application No. 08/00300/FUL - Two storey pitched roof front extension, single storey sloped roofed side extension, form hip end to main roof and external alterations to windows and exterior to provide oak beams and render. Permitted 25th June 2008.
9. Application No. 06/00023/FUL - Erect single storey rear and side extensions. Demolish existing detached garage and erect double garage. Permitted 10th March 2006.
10. Application No. 05/00822/FUL - Erect single storey rear and side extensions. Demolish existing detached garage and erect triple garage. Refused.
11. Application No. 97/00617/FUL - Part two storey and part first floor rear extension. Permitted 12th January 1998.
12. Application No. 97/00618/FUL - Part two storey and part first floor rear extension. Permitted 12th January 1998.

MATERIAL PLANNING CONSIDERATIONS

13. 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.
14. 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

15. The site has an extant permission (planning reference 23/01026/FUL) for the erection of a new house in place of the existing buildings and this in planning terms potentially constitutes a fallback position. The applicant feels that the extant permission is a very basic scheme that lacks exceptional design and would not optimally utilise the site. The current proposal proposes a higher quality design.
16. The Aviary Breeding Centre consists of five aviary buildings. The application for a Lawful Development Certificate for an existing change of use (23/00170/LDC), which was approved on May 30, 2023, stated that the buildings are exempt from planning enforcement and represent a change of use from residential to suis generis. It also verified that the structures were impervious, as were the nearby stables and garages.

Principle of Development

17. 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.
18. 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

19. Both policies GB1 and GB2 of the 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 NPPF which would also be a material consideration.

20. Consequently, the main issues are:

- Whether the proposed development is inappropriate development in the Green Belt for the purposes of the Framework and the Development Plan;
- The effect of the proposal on the openness of the Green Belt; and
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify the development.

21. 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:

- vi) To check the unrestricted sprawl of large built-up areas;
- vii) To prevent neighbouring towns merging into one another;
- viii) To assist in safeguarding the countryside from encroachment;
- ix) To preserve the setting and special character of historic towns; and
- x) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

22. 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.

23. Paragraph 154 of the NPPF states that “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.

24. 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). This proposal is assessed against exception (g), paragraph 154 of the Framework.
25. The application relates to a site which is in the shape of a trapezium and contains several buildings in various states of repair. The topography of the land is relatively flat. The buildings which are subject of this application are located to the north-west of the application site and comprise 5 buildings which are single storey in nature and are constructed primarily out of facing brick and are used as aviary breeding centres. There are 2 buildings to the north of the site which comprise a garage and a barn. The case officer considers that the buildings appear to be relatively sound structurally and given their method of construction and how they are fixated to the ground are afforded a degree of permanence. Located to the east of the subject buildings is an existing garage and stable block, whilst to the south is no. 2 Shopland Cottages, which is a relatively large detached dwellinghouse. A private drive traverses the eastern aspect of the application site running in a north to south direction and serves 2 Shopland Cottages and an equestrian centre beyond. For the most part, the subject site is delineated by post and rail fencing and there are sections of mature native hedgerow which are punctuated at intermittent sporadic intervals by mature trees.
26. There is no built-up frontage along this stretch of Shopland Hall Road, it has mature hedgerow along both sides (albeit patchy in some places)

with sporadic views of the countryside beyond. There is a relatively large detached dwellinghouse situated directly to the south of the buildings which are the subject of this application. This existing dwellinghouse is owned by the applicant. According to the supporting statement and accompanying plans the proposal is for the demolition of buildings in use as an aviary breeding centre and the demolition of a stable. The secondly element relates to the erection of one 4-bedroom dwellinghouse with attached annexe and a detached garage incorporating an office and hobby room for use incidental to the dwellinghouse. The third element is the formation of a new driveway with new vehicular access off Shopland Hall Road. Given the factors cited above it is considered that the exceptions a) to f) do not apply in this instance.

27. To qualify as 'very special', circumstances do not have to be other than 'commonplace', i.e. they do not have to be rarely occurring (R (Wildie) v Wakefield MDC [2013] EWHC 2769 (Admin) at [29]). A number of factors combined can together amount to very special circumstances, and the weight to be given to each factor is a matter for the decision-maker. The planning balance will be considered qualitatively rather than quantitatively, as a value judgment made by the decision-maker. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The applicant must therefore demonstrate that very special circumstances exist to outweigh the harm to Green Belt openness and any other harm for the Council to be able to grant planning permission for the proposal. In making those judgments, it is relevant to assess both the extent of harm caused, and then the nature of the very special circumstances that exist to outweigh that harm. As previously alluded to, it is well-established that very special circumstances may arise by reason of cumulative factors, even if those factors are not "very special circumstances" in their own right when considered in isolation .

28. The very special circumstances are dealt with in detail in the applicants Planning Statement and include the following:

- There exists a fall-back position from the extant permission of application 23/01026/FUL that allows for residential development of the site and as such is a material consideration.

Assessment Against Exception (g)

29. It is agreed by the Council and the planning agent, that only part (g) requires consideration in relation to the current proposal. 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.

30. 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.'

31. The proposed site is currently occupied by 8 buildings of various size and condition comprising the main dwellinghouse, a garage, barn and 5 buildings used for aviary breeding. The majority of the buildings are constructed out of facing brick and some elements are clad in horizontal timber boarding. Attached to several of the buildings are large metal cages forming an enclosure, which were used for breeding/keeping of birds in connection with the aviary business. All the buildings on site were of simple utilitarian appearance. In the opinion of the case officer the existing built form is stark and solid and does not contribute positively to the wider rural vernacular. All the buildings subject to this application are single storey in height. When the case officer conducted his site visit the buildings did not appear to be structurally unsound, there was no obvious signs of cracking or other forms of failure. In the opinion of the case officer, the presence of these buildings/structures on site is a negative feature to the Green Belt and their removal would result in a positive visual improvement to the Green Belt. The applicant's agent infers that the proposal would tidy up a poorly laid out site by coalescence of the built form. Having visited the site, it was patently evident that the majority of these structures/buildings had been on site for a considerable amount of time, well in excess of 10 years.

32. 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.

33. In the justification for the proposal as part of the applicants Design and Access Statement and accompanying plans the agent infers that the proposal complies with part (g) of paragraph 149 of the NPPF as the proposal would constitute the partial or complete redevelopment of previously developed land. The agent also intimates that the proposal would not have any adverse impact on the openness of the Green Belt either visually or spatially due to the existing built form, which will be

demolished in order to make way for the proposed development described.

34. According to the submitted plans the ridge height of the proposed dwellinghouse is proposed to be higher than the existing structures at 8.56m above ground level. The existing Aviary Buildings range in height from 3.35m to 3.55m, the stable block is 3.25 m in height and the detached garage 5.69m in height. The existing buildings that are subject to this application provide 603m² of built footprint and 2215m³ of built volume. By contrast, the proposed development increases the built footprint to 677m², and the built volume to 2694m³.
35. Paragraph 154 part (g) of the framework states an exception may comprise an “partial or complete redevelopment of previously developed land” (PDL). It is accepted 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.
36. Paragraph 142 of the Framework 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 is one of the fundamental characteristics. Whilst the Framework does not clearly define openness it is generally accepted from para. 142 that openness is a spatial designation, which can also have a visual component as attested to by various Court cases (referred to below).
37. 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 will influence the degree of harm to the Green Belt by way of visual intrusion.
38. The applicant’s agent infers that the application site adds limited benefit to the public realm, and it is intimated due to the juxtaposition and orientation of the existing neighbouring properties that the proposed development for 1 detached dwellinghouse (as shown on the layout plan) would not cause demonstrable harm to the openness of the

Green Belt. Bearing this in mind, it is relevant to refer to recent case law, in particular, *Timmins and Lymn v Gelding Borough Council* 2014 and *Goodman v SSCLG* 2017. Another important case is *John Turner v SoS CLG* [2016] EWCA Civ 466 the Court of Appeal held that: “The concept of “openness of the Green Belt” is not narrowly limited. The word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents”. The Supreme Court ruled authoritatively on the meaning and application of the concept of “openness” within the Green Belt, in *R (Samuel Smith Old Brewery) v North Yorkshire County Council* [2020] UKSC 3. The case law confirms that:

- The visual quality of the landscape is not in itself an essential part of the openness for which the Green Belt is protected.
- Rather, openness is the counterpart of urban sprawl, linked to the purposes of the Green Belt, and not necessarily a statement about the about the visual qualities of the land. Applying this broad policy concept is a matter of planning judgment, not law.
- Nor does openness imply freedom from any form of development.
- The concept of openness means the state of being free from buildings. It is open-textured and a number of factors are capable of being relevant.

39. In conclusion, the aforementioned cases were all related to proposed developments within the Green Belt, and it was concluded that materiality of visual consideration to openness as well as spatial impact were integral factors when assessing applications. Therefore, to fully appreciate the impact of the proposal on the Green Belt it is important to address other factors, which (not limited to) includes footprint, built volume and height.

40. In terms of openness of the Green Belt, the proposal would involve the demolition of numerous buildings/structures which are spread across the application site and replaced with the construction of 1 two-storey detached dwelling with an annex. It is considered that the existing built form is quite disparate and incongruent resulting in a built form that is spread across a wide section of the application site. The proposal seeks permission to demolish these buildings/structures and coalescence of the built form. This concept is understood.

41. As previously stated, the ridge height of the proposed dwellinghouse is proposed to be higher than the existing structures at 8.56m above ground level. The existing buildings that are subject to this application provide 603m² of built footprint and 2215m³ of built volume. By contrast, the proposed replacement dwelling increases the built

footprint to 677m², and the built volume to 2694m³. This means that the built footprint would increase by 12.27% and the volume by 21.63%.

42. The development proposal would result in an increase in the scale, massing and bulk of the existing form, which spatially and visually would conflict with Green Belt policy and fundamentally undermine its objectives. In the opinion of the case officer the proposal would erode the openness of the Green Belt in spatial and visual terms. Although the demolition of the existing buildings/structures within the application site and the coalescence of the built form, by erecting a detached dwellinghouse with an annex would cluster development together this in itself would address or overcome the harm identified.

Fall Back Position

43. 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.
44. As previously stated, there is a previously approved application with the reference 23/01026/FUL for the demolition of an aviary breeding centre and the erection of one 4-bedroom dwellinghouse.
45. There is lawful prospect that the fall-back position and the 23/01026/FUL development can be implemented but this in itself is not determinant. There is a real prospect of the development being undertaken and it would constitute a re-build. The approved application under consideration was proposed to have a total area and volume of 499.9m² and 1550mm³ respectively. The approved height is 3.1m. The current application has a proposed area of 677m² a volume of 2694m³ and the ridge height at the highest part of proposed development would be 8.56m. This presents a 5.46m increase in height from the extant permission. In addition, the proposed development would have a greater area and volume than the extant permission.
46. It is considered that the proposed development would result in a significant increase in the scale, massing and bulk of the existing form, and as compared to the development approved under the 23/01026/FUL case. The fall-back position as such can be afforded no weight as the effects of the fall-back position if implemented would be far less in Green Belt openness terms than the development proposed in this instance. For a fall-back position to have real validity the

implementation and outcomes of the fall-back position would need to be equal or worse in Green Belt effect terms than the development proposed by this current planning application. In conclusion because there is no valid fall-back position there are no prevailing “very special circumstances” that justify the development in the light of the other harm identified.

Sustainability

47. Policy DM10 (Development of Previously Developed Land in the Green Belt) of the Development Management Plan (2014) outlines the Council’s approach to the determination of planning applications involving previously developed land for a number of uses and including residential redevelopment.

48. 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.

49. Despite the rural setting the site is within reasonable distance to Southend-On-Sea. The site is in close proximity to the borough boundaries, but through reviewing Southend-On-Sea City Council’s adopted Development Management Plan, the subject site is approximately 850m from the defined settlement boundaries. In respect of the site being well related to local services and facilities, the preamble to policy DM10, as a guide, considers that residential proposals would be considered well related to local services and facilities provided they are within 800m walking distance of at least one of the following: allocated town centre; doctors’ surgery; school (primary or secondary); or convenience retail store. The site is located approximately 950m north-east from a nearby Waitrose convenience store, and while this is beyond the example 800m, it is noted that this example is cited as a guide rather than an explicit policy provision. In addition, this aspect of the policy has already been accepted given the extant permission.

50. In respect of connections to the road network, Shopland Hall Road is accessed from Shopland Road, which connects interspersed dwellings and businesses on the outskirts of Southend-On-Sea to roads within the defined settlement area. Whilst there appears to be no bus stops along Shopland Road and therefore the site is not particularly well

serviced by public transport, there are some bus stops on roads linking to Shopland Road, such as Barling Road further east of the site.

51. 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.
52. The case officer acknowledges that the application site broadly complies with the criteria listed in policy DM10. It is also acknowledged that a small-scale development such as that proposed would be capable of being delivered relatively quickly.
53. The agent has also inferred that the proposal would achieve a high-quality modern architectural design which addresses the Green Belt context. Furthermore, it will remove unsightly buildings with limited architectural merit and replace them with a well-designed home which seeks to reflect the context in which it will be sited. The agent goes on to state that the proposal will be sensitively landscaped which helps to integrate the proposed development into its surroundings and results in visual enhancements. In the opinion of the case officer any development should be sensitively landscaped so that it fits into the local environ and this is not a sufficient justification on its own to warrant an approval.

Design and Impact on the Character of the Area

Layout, Scale and Appearance

54. 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 (paragraph 131).
55. The NPPF also 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 (paragraph 139).
56. There is no common design established for the isolated neighbouring dwellings within the local and wider area. The existing dwelling on-site

is of a mock Tudor design with part red brick, part black timber and part red brick extension, with part black timber and part red brick garage and stables buildings. Further afield the general vicinity is punctuated by sporadic residential development, which includes a variety of housing types such as two-storey detached and terraced properties 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.

57. The 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.
58. It is demonstrated that the quantum of development can be accommodated within the site. It is considered that the proposed dwelling will be sited within quite a large plot and as such it will not appear cramped. The proposed development is considered compliant with Policy H1 of the Core Strategy.
59. The proposed development incorporates 3 parts which are the main house, annex and garage. The main house is proposed to be in the form of a T shape and would have a total area of 501m². The main house has different parts that vary in height, but the main ridge height is proposed to be 8.56m. The annex is connected to the main house at the south elevation and would present itself in a rectangular shape with an area of 114m² and a ridge height of 6.47m. The garage would retain its position and height and be extended by 7.14m in width. All parts of the proposed development would incorporate gable roofs.
60. The proposed development comprising the main house, annex and garage would be constructed out of timber, brick and zinc under a peg clay tile roofing system. The apertures will be formed using aluminium. It is considered that this relatively simple palette of materials is in keeping with the wider vernacular and will not cause any demonstrable harm to the character and appearance of the wider street scene. The proposal incorporates apertures of various sizes. The new driveway proposed would be surfaced in loose rolled gravel and is considered to be a congruous addition to the rural vernacular.
61. As noted previously, the subject site is located in close proximity to the Shopland Churchyard Conservation Area to the east, designated in 1992 and formed by the boundary of the churchyard and former church (demolished in 1957). Despite its relatively small-scale, isolation, and lack of buildings, the associated appraisal notes the area is worthy of

appropriate protection given the combination of elements that contribute to its special character. Given the design, scale and separation distances involved and the intervening buildings on-site and the access road that separate the subject building from the boundaries of the Conservation Area, it is considered that the proposal will have no material impact on the historic area.

62. Overall, it is considered that the design of the proposed dwellinghouse is quite modern and contemporary in nature. It is reasoned that the design of the proposed dwellinghouse is quite unassuming and. 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

63. 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.
64. Amenity is defined as a set of conditions that one ought reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be in terms of overlooking, loss of light or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.
65. The existing dwelling on-site would be the subject dwelling's immediate neighbour, in addition to the dwelling directly to the south of the existing dwelling, and the dwelling approx. 240m north of the subject building.
66. It is noted that the proposed dwellinghouse will have apertures on all of its elevations which will serve habitable rooms. Nonetheless, it is considered that due to the separation distance between the proposed development and the surrounding residential dwellings in addition to the boundary treatment, the proposal will not significantly impact on the residential amenity of neighbouring occupiers by way of overbearing impact, overlooking or overshadowing.
67. 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.

Living Conditions for Future Occupiers

Garden Size

68. 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 NPPF 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.
69. The SPD2 requires a minimum 100m² 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 50m² minimum.
70. The layout submitted shows that the proposed dwelling could be provided with private amenity space in excess of the requirements. It is considered that amount of private amenity attributable to the proposal exceeds the requirements of policy DM3 and guidance advocated in SPD2.

Technical Housing Standards

71. The Ministerial Statement of the 25th of 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.
72. 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.
73. 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.
74. A two-storey dwelling which would comprise four bedrooms would require a minimum Gross Internal Floor Area (GIA) of 97m².

Additionally, the dwelling must have a minimum of 3m² of built-in storage.

75. The two-storey annex would have 2 bedrooms and would require a minimum GIA of 70m². Additionally, there must be a minimum of 2m² of built-in storage.

76. 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.

77. According to the submitted plans the Gross Internal Floor area of the proposed dwellinghouse equates to approximately 501m², and as such in terms of overall GIA the proposal complies with the minimum specified technical standards.

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

Bedroom No. 1	41.08m ²
Bedroom No. 2	15m ²
Bedroom No. 3	13.04m ²
Bedroom No. 4	15.28m ²

79. The table below shows the GIA for each of the bedrooms in the annex.

Bedroom No. 1	18.64m ²
Bedroom No. 2	14.91m ²

80. According to the submitted plans all the bedrooms comply with aforementioned policies and exceed the Internal floor area requirements. Furthermore, it was noted that no storage area was identified on the submitted plans; however, the proposal substantially exceeds the recommended minimal GIA for a four bedroomed property and as such it is considered insufficient justification for the slight shortfall in storage space to warrant a refusal and substantiate it at any future Appeal.

81. 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.

82. 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 Setting of Listed Building and Shopland Churchyard Conservation Area

83. The application site is located on the west side of Shopland Hall Road, to the rear of 2 Shopland Hall Cottages. To the east of the application site is Shopland Churchyard Conservation Area, which comprises the churchyard of the former parish church of Shopland (now demolished). To the south of the site is the historic farmstead of Shopland Hall and the Grade II listed Barn about 90 metres south of Shopland Hall (List Entry Number: 1113358); a circa early eighteenth century timber framed and weatherboarded barn.
84. When considering application reference (23/01026/FUL) colleagues in Place Services Historic Buildings were consulted and raised no objections to the development. As the current proposal is based on the same site and given its nature and distance to the Conservation Area, the case officer concludes that the proposed works would not result in any harm to the setting or significance of the heritage assets.

Impact on Highway Safety

85. 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.
86. 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.
87. 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.
88. The application form indicates that there are 8 existing parking spaces thus the site has ample parking space and a large garage proposed that would accommodate 3 vehicles. According to the submitted plans the proposal site is located in a private road that is shared with a Public Right of Way footpath.

89. It is considered that any intensification resulting from the provision of 1 new dwelling in this area is not deemed to be of such severity that would warrant refusal of the application. Furthermore, colleagues in Highways have been consulted and raise no objection to the proposed development subject to conditions imposed. Purely in relation to Highways matters there is no reason for the Local Planning Authority to take an alternative view.

90. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed dwelling. Furthermore, it is not considered that one additional dwelling at this locality will cause demonstrable harm to the highway network. The additional traffic movements which are likely to take place as a result of this proposal would not result in significant disturbance to neighbours by way of noise and dust. 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 in this aspect accords with the Parking Standards and policies DM1, DM3, DM9 and DM30 of the Development Management Plan and the Framework.

Refuse and Waste Storage

91. The Council operates a 3-bin system per dwelling consisting of a 240l bin for recycle (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 dwelling to be located within approximately 20 m (drag distance) from any collection point. In this case the rear garden space would provide adequate storage space whilst the drag distance is below 20m which is considered satisfactory.

Flooding & Drainage

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

93. 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.

Trees

94. Policy DM25 of the Development Management Plan seeks to protect existing trees particularly those with high amenity value. In particular policy DM25 states: -

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

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

95. The Councils Arboricultural Officer has been consulted regarding the proposal and raises no objections subject to conditions imposed.

Ecology

96. To accompany their planning application the applicant has submitted a Preliminary Ecological Appraisal (PEA) Report, produced by Johns Associates and dated 16th March 2023.

97. The Report outlines that the subject site is within 2km of two statutory designated sites of European/International importance; Essex Estuaries Special Area of Conservation (SAC), and Crouch & Roach Estuaries SPA (Mid-Essex Coast Phase 3) and Ramsar Site. It also outlines the subject site is within 2km of one statutory designated site of National importance for nature conservation; Crouch and Roach Estuaries SSSI.

98. Furthermore the report outlines there is one Local Wildlife Site (LOWS) within 2km of the subject site; Sutton Ford Bridge Pasture LOWS, and five priority habitats within 2km of the subject site (none in immediate vicinity).

99. The Report outlines there is no requirement for a Habitat Regulations Assessment as all likely significant effects have been screened out.

100. The Report concludes that sensitive clearance works should be implemented under a Method Statement for reptiles, amphibians, and nesting birds to ensure no legal offences are committed during site preparation/pre-commencement works, and emergence/re-entry bat surveys to establish appropriate mitigation measures. The Report also outlines enhancements within the redline boundary to provide biodiversity net gain as a result of the development.
101. Colleagues in Place Services Ecology were consulted on the proposal and raised no objections subject to conditions imposed.

Biodiversity Net Gain

102. 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.
103. 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. The applicant has not therefore been required to provide any BNG information.

Other Matters

104. Concerns have been raised by the adjoining neighbour that the proposed development will encroach onto their land and the red line has been drawn incorrectly. According to the submitted planning application forms the applicant has completed Certificate A which states that *"21 days before the date of this application nobody except myself/ the applicant was the owner of any part of the land or building to which the application relates"*. A planning application is a legal document and if the incorrect Certificate has been completed then there is a risk that the permission granted may be made invalid and it is possible that the High Court may quash any permission. In any event, the granting planning permission does not remove or negate the rights of the legal land owner.

CONCLUSION

105. Refuse

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Sutton Parish Council: Object to the application for the following reasons - overdevelopment in the Green Belt, overdevelopment adjacent to a conservation site and the increase in the footprint percentage from the existing site.

Essex County Council Highways: The proposal site is located in a private road that is shared with a Public Right of Way footpath. The proposal includes the demolition of buildings and construction of a residential dwelling, a new access is included on the private road and adequate room is available for off-street parking. The applicant should seek permission from the landowner for the installation of the vehicle crossover and the applicant must ensure that adequate visibility is available between users of the Public Right of Way footpath and the new access. No objection subject to the imposition of the following conditions the public's rights and ease of passage over public footpath no. 14 (Sutton) shall be maintained free and unobstructed at all times, cycle parking provision and standard informatives.

Natural England: No objection based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England's generic advice on other natural environment issues is set out at Annex A.

Arboricultural Officer: No objection subject to the imposition of a condition relating to tree protection measures.

Place Services Ecology: We have reviewed the documents supplied by the applicant, including the Preliminary Ecological Appraisal Report (Johns Associates Ltd, March 2023), the Precautionary Method of Works Statement (December 2023) and the Bat Emergence Survey Report (July 2024), relating to the likely impacts of development on designated sites, protected & Priority habitats and species and identification of proportionate mitigation. We are satisfied that there is sufficient ecological information available for determination of this application. No objection subject to the imposition of a condition relating to ecological mitigation and enhancement measures.

Neighbours: 1 response from the following address;

Shopland Road: Shopland Hall House

- I am the owner of the main road/drive into Shopland Hall that runs pass this site to the east. I was surprised to see a new access onto my road. The road has been shown included in the red line around the site which I believe indicates ownership. The road is not owned by Mr Jason St Romaine. There is right of way for 2 Shopland Hall Cottages. The same red line has been shown incorrectly in planning application 23/01026/FUL.

- There doesn't appear to be provision in the plans for the main water supply that crosses diagonally across this site from the road to the rear of my house for all of the businesses, including a livery yard of 30 horses, with in Shopland hall.

Relevant Development Plan Policies:

National Planning Policy Framework (December 2023).

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policies CP1, GB1, GB2, ENV9, T3, T6

Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM1, DM2, DM3, DM4, DM25, DM30, DM26, DM27.

Essex County Council and Essex Planning Officers Association Parking Standards: Design and Good Practice Supplementary Planning Document (December 2010).

Rochford District Council Local Development Framework Supplementary Planning Document 2 (January 2007) – Housing Design.

The Essex Design Guide (2018).

Shopland Churchyard Conservation Area Appraisal and Management Plan (2007)

Natural England Standing Advice.

RECOMMENDATION: REFUSE

1. The proposed development constitutes inappropriate development in the Metropolitan Green Belt as it would result in an increase in the scale, massing and bulk of the existing form as compared to the existing development, which spatially and visually would conflict with Green Belt policy and fundamentally undermine its objectives eroding the areas sense of openness in spatial and visual terms thereby conflicting with paragraph 154 of the National Planning Policy Framework and the councils Local Development Plan Policy DM10 and the Core Strategy GB1. The fall-back position set out by the applicant can be afforded no weight as the effects of the fall-back position if implemented would be far less in Green Belt openness terms than the development proposed in this instance and as such there is no prevailing “very special circumstances” that justify the development in the light of the other harm identified.

The local Ward Member(s) for the above application is/are Cllr Angelina Marriott Cllr M J Steptoe Cllr A L Williams