



**PLANNING APPLICATIONS WEEKLY LIST NO.1747**  
**Week Ending 7th March 2025**

**NOTE:**

- (i). Decision Notices will be issued in accordance with the following recommendations unless **ANY MEMBER** wishes to refer any application to the Development Committee on the 27 March 2025
  
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **12th March 2025** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team [pbctechnicalsupport@rochford.gov.uk](mailto:pbctechnicalsupport@rochford.gov.uk) .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
  
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

**Note**

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

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Application No :	24/00763/FUL      Zoning : No allocation
Case Officer	Mr Thomas Byford
Parish :	Hawkwell Parish Council
Ward :	Hawkwell East
Location :	497A Ashingdon Road Ashingdon Essex
Proposal :	Proposed first floor extension and loft conversion with rear dormer

## **SITE AND PROPOSAL**

1. The applicant seeks planning consent to construct a first floor extension and a loft conversion with a rear dormer to No 479A Ashingdon Road.
2. It is noted that a rear extension was proposed under application reference 21/00507/FUL, however this consent has not been implemented and has now lapsed.
3. It is noted that the existing site was granted permission to form two flats in which one is understood to occupy the ground floor and one the first floor.
4. The proposal would be constructed over the existing ground floor rear extension which would form a new lounge and an additional bedroom within the proposed dormer within the roof slope.
5. The first floor element would be finished in render to match the existing dwelling, presenting in a rear projected gabled form. Internal changes are proposed in terms of altering the floor plan. A new bathroom would be formed, with an obscure glazed window proposed serving this. To the first floor element, a window is proposed to serve the lounge here and two new windows proposed to the rear of the dormer at second floor level.

## **RELEVANT PLANNING HISTORY**

6. Application No. 89/00078/FUL - Convert existing dwelling into two self-contained flats with parking to rear for 4 cars, access onto Alexandra Road – Permitted.
7. Application No.02/00950/FUL - Conversion of roof, including rear dormer window, together with first floor rear extension – Permitted.
8. Application No.20/00199/FUL - Demolish existing additions and construct rear extension to provide a new 1 bedroom dwelling – Refused.

9. Application No.21/00003/FUL - Proposed single storey rear extension – Refused.
10. Application No.21/00507/FUL - Proposed single storey rear extension. – Permitted.

## **MATERIAL PLANNING CONSIDERATIONS**

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

### Impact on the Character of the Area

13. The street scene along Ashingdon Road is mixed, with the street presenting a range of dwelling sizes, styles, age and forms. These range from two storey semi-detached dwellinghouses, to single storey dwellings , a public house and some shops.
14. The main thrust of National and Local Planning Policy is to achieve a high standard of design, respect the pattern, character and form of the surrounding environ, whilst not adversely affecting the street scene by reason of scale, height, proportions or materials used.
15. Guidance advocated within the National Planning Policy Framework places a greater emphasis upon Local Planning Authorities to deliver good designs and not to accept proposals that fail to provide opportunities to improve the character and quality of an area. It specifically states that “development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”. Building upon this is Policy CP1 of the Rochford District Council Core Strategy (2011) that promotes high quality design which has regard to the character of the local area. Design is expected to enhance the local identity of an area. Furthermore, this point is expanded in the Council’s Policy DM1 of the Development Management Plan (2014), which states that “Design of new developments should promote the character of the locality to ensure that the development positively contributes to the surrounding natural and built environment and residential amenity, without discouraging originality innovation or initiative”. Both policies DM1 and

CP1 advise that proposals should have regard to the detailed advice and guidance in Supplementary Planning Document 2 (SPD2).

16. Policy DM1 seeks a high standard of design requiring that developments promote the character of the locality to ensure that development positively contributes to the surrounding built environment. Part (ix) of this policy specifically relates to the promotion of visual amenity and regard must also be had to the detailed advice and guidance in Supplementary Planning Document 2 – Housing Design, as well as to the Essex Design Guide.
17. The Council's Housing Design SPD seeks to ensure that any alterations or extensions are harmonious in character, scale, form and proposed materials with the existing dwelling, have an acceptable relationship with adjacent properties and have an acceptable visual impact in terms of the street scene. As previously stated, the application site is located within a predominantly residential area within the settlement boundary of Rochford; where house alterations and extensions are generally acceptable in principle, subject to appropriate design, scale and massing, appropriate use of facing materials and sympathetic to neighbour amenity, in accordance with Policy DM1.
18. The issue is therefore whether this proposal is appropriate in terms of scale, height, position, materials and relationship with the surrounding area.
19. According to the submitted planning application forms/plans the proposed extension would be constructed in appropriate external materials (matching render) and would flow harmoniously from the host dwelling.
20. The proposed extension is typical of many extensions within the locality and across the district generally. It is considered that the proposal represents an acceptable level of development which remains commensurately scaled in context to the proportions of the main dwelling. Furthermore, the proposal is considered to positively contribute to the existing dwelling by way of external finishes and is of appropriate, scale, mass and design and would not give rise to a detrimental impact on the character of the area or application site. The extension, by virtue of its siting at the rear of the dwelling and at the proposed height, the extension would not be overtly visible from the street scene. The proposal is therefore not considered to have a significant impact on character. Overall, it is considered that the proposal complies with policy DM1 and guidance advocated within the SPD and NPPF.

#### Impact on Residential Amenity

21. 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.

22. Although some concern has been raised from the Council's consultation, it is not considered that the proposal would be of such mass and scale that would be overbearing nor would it dwarf other properties close by. The street scene on Ashingdon Road is mixed and it is not considered that the resultant building would be so impactful on neighbours or street scene to refuse the application. SPD2 (Supplementary Planning Document 2) includes guidance on the impact of first floor extensions on neighbouring sites. The guidance states that a 45 angle can be used to assess the impact of first floor extensions on the rear habitable ground floor windows of adjoining dwellings. Although the extension would just minimally breach this by a matter of degrees, it is not considered that this is so unreasonable to refuse the application, nor has this neighbour at No. 495 commented on the scheme with concerns. Considering the orientation and location of the site, that this neighbour at 495 would have its own morning sun in the garden blocked by its own dwelling, and it would still receive the same amount of afternoon and early evening sunshine as it did previously, with the proposal located to the north. The dormer would be constructed within the roof slope, similar in scale to what most dwellings can achieve under permitted development rights. It is therefore not considered that this is so unreasonable to refuse the application. There would be new openings located to the rear, at first and second floor however due to the orientation of the dwelling, it would look primarily onto the driveways of those closest on Alexandra Road. This is not considered significantly detrimental. There is a side elevation window proposed at first floor level; however this is proposed to be obscure glazed as it would serve a bathroom.
23. Overall, the proposal is not considered to have any significant detrimental impact upon the residential amenities of other properties in the locality in terms of overlooking, overshadowing, and over dominance. Therefore, it is considered that the proposal is compliant with policy DM1 of the Development Management Plan

#### Garden Space

24. SPD2 provides guidance in relation to amenity areas for flats. Paragraph 3.3 states that when built, schemes should provide a minimum balcony area of 5m<sup>2</sup>, with the ground floor dwelling having a minimum patio garden of 50m<sup>2</sup> or the provision of a useable communal resident's garden on the basis of a minimum area of 25m<sup>2</sup> per flat.
25. It is acknowledged that this guidance relates to flats when built and that the first floor flat in this instance does not have any existing garden area. The above guidance does not stipulate that an increase of

bedrooms requires more space. It is however considered that the site is opposite King Georges Field (Ashingdon Park) which offers a children's playground and other facilities. It is therefore considered that this is acceptable to provide a suitable outside area for the use of the occupants, and that the amenity area to the rear at ground floor level which is used by the ground floor flat, is not encroached upon by the development.

#### Parking

26. The Council has recently adopted the Essex Parking Guidance (2024), which now supersedes the previous 2009 guidance for Rochford.
27. This dwelling is considered to be in an area of low connectivity.
28. The above parking standards state that two bedroomed dwellings within areas of low connectivity require 2 parking spaces meeting the 5.5m deep x 2.9m wide requirement.
29. After correspondence with the agent, it is understood that to the rear of the site, with access of Alexandra Road, the site has a hardstanding parking area, used for the residents of both flats. It is understood that this land is owned by the applicant. This area does not have the width suitable for the parking of four cars required (two for each flat) as each space would need to be 2.9m wide. It does however have the width to provide 3 spaces as per the above parking bay sizes.
30. Looking at the planning history and the application approved under 21/00507/FUL, it is noted that the previous extension approved encroached into this hardstanding area, reducing the parking for the flats from 3 spaces to 2. To address this issue, conditions were imposed to construct a vehicle crossover from Alexandra Road to the front curtilage which is currently grassed / soft landscaped to provide hardstanding for an additional 2 bays meeting the required bay size. A landscaping scheme was also conditioned to be agreed here to offset the loss of grass and openness of this area.
31. After correspondence with the agent and the Highway Authority, it has been agreed that the same conditions can be imposed on this current scheme, so that the site overall for both flats would have 3 bays to the rear, and 1 bay to the frontage to total 4 bays required for both flats. This has been agreed by the agent and a full reconsultation has taken place.
32. With the imposed conditions it is considered that the site will be able to accommodate the required parking on the site (4 bays in total), meeting the required bay sizes. The crossover from Alexandra Road has also been agreed by the Highway Authority and it is considered this is fundamental to the scheme to provide a bay within the front curtilage.

As a result, it is not considered the proposal would lead to highway safety issues.

33. It is noted that the neighbour has raised concerns relating to construction vehicles causing noise and disturbance, however it is noted that the works will be temporary and therefore any noise and disruption caused by vehicles is generally considered accepted within this level of development.

#### Ecology

34. There are no ecological considerations that would be impacted by the proposed development.

#### Biodiversity Net Gain

35. 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 for most development).
36. The proposal includes additional hardstanding over a small portion of the existing grassed area to the site frontage. The hardstanding serving the proposed frontage parking space would affect under 25m<sup>2</sup> of habitat and therefore is considered to be de minimis. It is however considered that any hardstanding greater than 25m<sup>2</sup> in area would require a resubmission, and this will be conditioned as is necessary.

#### Equalities and Diversity Implications

37. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:
- To eliminate unlawful discrimination, harassment, and victimisation.
  - To advance equality of opportunity between people who share a protected characteristic and those who do not.
  - To foster good relations between those who share a protected characteristic and those who do not.
38. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.

39. Taking account of the nature of the proposed development and representations received, it considered that the proposed development would not result in any impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

## **CONCLUSION**

40. Approve subject to conditions.

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

Hawkwell Parish Council – No objection to raise.

Southend Airport – No objection to raise.

Essex Highway Authority (informally consulted) - No objection subject to conditions.

Neighbour representations:

Two Comments have been received from 6 Alexandra Road, summarised as follows:

- Not in keeping with existing area
- Will dwarf surrounding houses
- Overdevelopment of the site – trying to convert 2 dwelling property into 3 dwellings
- Building work will cause noise and inconvenience.
- Parking and congestion issues.

## **Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

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

Development Management Plan (December 2014) – policies DM1, DM3, DM25, DM27, DM30.

Essex Parking Guidance (2024).

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

The Essex Design Guide.

Natural England Standing Advice.



**RECOMMENDATION: APPROVE**

Conditions:

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

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

- 2 The external facing materials to be used in the construction of the development hereby permitted, shall match (i.e. be of an identical appearance to) those of the corresponding areas of the existing building unless alternative materials are proposed in which case details shall be submitted to and agreed in writing by the Local Planning Authority prior to their use.

REASON: In order to ensure that the development harmonises with the character and appearance of the existing building, in the interests of visual amenity.

- 3 The development hereby permitted shall be carried out in complete accordance with the following approved plans: 24.182/06 dated December 2020, 24.18206 Rev A dated October 2024, 24.182/03 Rev A dated October 2024, 24.182/05 dated October 2024, 24.182/04 dated October 2024, 24.182./02 dated October 2024 and 24.182/01 dated October 2024.

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

- 4 Notwithstanding the drawings on plan 24.182/06 dated December 2020, the proposed vehicular access shall be provided at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall be 3.6 metres and the access shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge and footway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.

5 Prior to occupation, plans and particulars showing precise details of the hard and soft landscaping which shall form part of the development of the front curtilage hereby permitted, have been agreed in writing by the Local Planning Authority. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority, which shall show the retention of existing trees, shrubs and hedgerows on the site and include details of:

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

Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

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

6 Prior to first use of the extension and dormer hereby permitted, details of the hardsurface (including extent of hardsurfacing and materials) to be used to accommodate the parking space to the front curtilage shall be submitted and agreed by the Local Planning Authority. The details as agreed shall be implemented in full and retained thereafter in perpetuity.

REASON: To maintain sufficient car parking spaces in connection with the residential occupation in compliance with the requirements of policy DM30 of the Local Development Frameworks Development Management Plan and to ensure the development remains within the deminimis exemption in relation to Biodiversity Net Gain on the site, in compliance to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021)

7. Prior to first use of the extension and dormer hereby permitted, details relating to the boundary treatment to be used surrounding the site frontage and the visibility splays associated with the vehicle crossover hereby permitted shall be submitted and agreed by the Local Planning Authority. The details as agreed shall be implemented in full and retained thereafter in perpetuity.

REASON: To maintain sufficient car parking spaces in connection with the residential occupation in compliance with the requirements of policy DM1 and DM30 of the Local Development Frameworks Development Management Plan.

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

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety.

The local Ward Members for the above application are Cllr. Mike Webb, Cllr. Mrs. D. P. Squires-Coleman and Cllr. E. O. Mason.

Application No :	25/00051/ADV      Zoning: Conservation Area AND Town Centre
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Wheatley
Location :	67 High Street Rayleigh Essex
Proposal :	Installation of externally illuminated fascia sign, projection sign and internally illuminated menu board

## **SITE AND PROPOSAL**

1. The application site relates to a commercial building in the Rayleigh town centre along High Street which is an commercial activity corridor comprising many shopfronts. The surrounding area is predominantly commercial with many shops, restaurants and banks. The site is in the Rayleigh Conservation Area.
2. The proposal is for the installation of an externally illuminated fascia sign, projection sign and internally illuminated menu board at 67 High Street, Rayleigh.

## **RELEVANT PLANNING HISTORY**

3. Application No. 87/00520/FUL – New shop front and side elevations – Approved – 20/11/1987.
4. Application No. 88/00513/COU – Change of use to Office for Professional and Financial Services – Withdrawn - 07.07.1988.
5. Application No. 00/00317/ADV - Display 3 Internally Illuminated Fascia Sign – Refused – 10/04/2001.
6. Application No. 24/00459/FUL - Alterations to front elevation to create new shop front including infilling of existing open canopy entrance and

installation of re-positioned windows and doors. Alterations to side and rear elevations including the installation of new windows and doors to facilitate the formation of larger retail floorspace. – Approved – 12/09/2024.

7. Application No. 24/00721/FUL - Install 4no. air conditioning units and an air supply grille and extract terminal grilles in relation to a mechanical ventilation system – Approved - 08.01.2025
8. Application No. 24/00794/ADV - Installation of internally illuminated fascia signage, internally illuminated projection sign and internally illuminated menu board – Refused - 16.01.2025. Reason for refusal: -

*“It is considered that the proposed method of internal illumination of the signage would have a detrimental impact on the character and appearance of the Rayleigh Conservation Area where methods of external lighting is more traditional and sensitive in approach. The public benefits that the development would bring do not outweigh the harm that the development would bring to the conservation area. As such, the proposal is contrary to policies DM37 and DM38 of the councils Development Management Plan and section 16 of the National Planning Policy Framework”.*

## **MATERIAL PLANNING CONSIDERATIONS**

9. 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.
10. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

### Principle of Development

11. This application seeks express consent for signage, a projecting sign and menu board submitted under the provisions of the Town and Country Planning (control of advertisements) (England) Regulations 2007.
12. The regulations referred to indicate that a local planning authority shall exercise its powers under these regulations in the interests of amenity and public safety, taking into account –
  - (a) the provisions of the development plan, so far as they are material; and
  - (b) any other relevant factors.

13. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest and factors relevant to public safety include the safety of persons using any highway and whether the display of the advertisement in questions is likely to obscure or hinder the ready interpretation of any traffic sign.
14. Policy DM5 of the Council's Development Management Plan (2014) outlines the Council's guidance pertaining to light pollution. It seeks to ensure that proposed schemes are appropriately designed and installed to minimise the impact of light pollution on residential and commercial areas, important areas of nature conservation interest, highway safety and/or the night sky through avoiding unnecessary light spillage and trespass.
15. Policies DM37 and DM38 of the Council's Development Management Plan relate to proposed advertisements in the district. Policy DM37 (Advertisements) requires that the design and siting of advertisements throughout the district must have regard to access and visual impact of the buildings on which they are to be displayed and the character of the surrounding area. The key objective is to ensure that adverts do not add to visual clutter or detract from the visual amenity of the area whilst being well related to the building to which they would be attached in terms of size.
16. Policy DM38 relates specifically to adverts proposed to Listed Buildings and within Conservation Areas. Adverts should be sensitive to the character of the area, visually unobtrusive, well designed and well located. Adverts should not include prominent lettering, lighting, material or colour or prominent externally illuminated signs amongst other things. Illuminated signs should be unobtrusive and benefit rather than detract from the value of the Conservation Area and the character of any Listed Building. The quantity of advertisements within Conservation Areas and on Listed Buildings should also be kept to the minimum necessary to identify the building and its function in order to protect the appearance of the area and individual buildings.
17. Local policy reflects national planning policy which at section 16 of the National Planning Policy Framework (NPPF) seeks to conserve and enhance heritage assets. In determining applications national policy requires that account should be taken of the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Impact on the Character of the Area

18. Number 67 High Street (the site) forms part of a modern, three-storey commercial block located on the south-east side of High Street. The application building is situated within the Rayleigh Conservation Area and in proximity to several listed buildings. Rayleigh is a traditional market town, the original framework and structure of which remain legible today. Advertisement consent is sought for the following:
- Internally illuminated fascia sign to front measuring approximately 4.28m x 0.3m and 2.50m from the ground. According to drawing No. LNG4872.06C, the fascia sign would have white letters with chrome returns in Chakra Petch Bold font. The signage would be illuminated via concealed 'halo' illumination.
  - According to the submitted plans the projecting sign will be situated on the corner of the fascia sign. According to the submitted plans the sign will measure 700mm x 451mm to a depth of 70mm. The sign would incorporate a chrome frame/surround and a lightbox insert. The projection sign would be light green with honey yellow lettering. Illumination to be provided to letters only. The sign would be affixed to the host building via a bracket finished in chrome.
  - A menu board at the front measuring 700mm x 560mm to a depth of 70mm. The menu board would have a stainless steel finish with a laminated glass and openable. The sign would be illuminated via a LED light strip fixed to upper internal edge of menu board, which would be concealed by the frame.
19. This application has been submitted in an attempt to overcome the previous concerns raised by the County Conservation Officer and the LPA, which culminated in a reason for refusal. The case officer can confirm that when he conducted his site visit the proposed signage had already been installed and as a consequence this application is retrospective in nature.
20. The site is within the Rayleigh town centre where retailer adverts are to be expected, including some which are illuminated. This part of High Street has many adverts. The main adverts along High Street are a number of window vinyls and a mix of illuminated and non-illuminated retailer signs.
21. The conservation officer was consulted to comment on the proposal and responded as follows:
- “Previous advice outlined that the use of internally illuminated signage would not be in keeping with the traditional character and appearance of the conservation area and would detract from its special interest, therefore resulting in a low level of harm. Although the description of the proposals for this current application state that the fascia sign and projection sign will be externally illuminated, the submitted ‘Proposed Shopfront & Signage’ drawing details that these signs will be lit by ‘halo’ illumination. The light source for ‘halo’ illumination is contained within the sign structure itself and therefore is internal illumination, which*

*would not be appropriate. Accordingly, the internal illumination for this signage should be replaced with trough lighting or spotlights, which would be more sympathetic to the significance of the conservation area, as set out in our previous advice.*

*In conclusion, the proposals in their current form would fail to preserve or enhance the character and appearance of Rayleigh Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. With regards to the National Planning Policy Framework (NPPF, December 2024), there would be a low level of less than substantial harm, therefore Paragraph 215 would be relevant”.*

22. Paragraph 215 of the NPPF states: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
23. The design and layout of the works are considered to be acceptable. Nevertheless, the nature of the revised ‘halo illumination’ of the signage whereby the illumination source would still be contained within the sign structure itself and therefore internal illumination, is considered to bring harm to the Conservation Area. The case officer agrees with the opinion of the Conservation Officer that the method of illumination will have a detrimental impact on the character and appearance of the Conservation Area. In light of paragraph 215 of the NPPF, the public benefits that the proposal are considered to be limited, and it is considered that benefits (albeit limited) do not outweigh the harm that the development would bring to the conservation area and as such the development is contrary to advice advocated within the NPPF.
24. Overall, the internal illumination of the advertisement is considered to be harmful to the character of the conservation area and is therefore contrary to policies DM37 and DM38 of the Development Management Plan (2014).

#### Impact on Highway Safety

25. Policy DM5 of the Council’s Development Management Plan requires sufficient provisions to be made pertaining to highway safety. In accordance with paragraph 115 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.
26. Colleagues from Essex County Council Highways were consulted to comment on the proposal and stated *“The application has been fully considered by the Highway Authority. From a highway and*

*transportation perspective the impact of the proposal is acceptable to the Highway Authority". The Highways Engineers have no objection to the proposal subject to the imposition of standard informatives. Overall, it is considered that the provision of the new signage in this area would not have an adverse impact on highway safety and as such complies with policy DM5 and provisions in the NPPF in this aspect.*

#### Equalities and Diversity Implications

27. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:

- To eliminate unlawful discrimination, harassment, and victimisation.
- To advance equality of opportunity between people who share a protected characteristic and those who do not.
- To foster good relations between those who share a protected characteristic and those who do not.

28. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.

29. Taking account of the nature of the proposed development and representations received, it is considered that the proposed development would not result in any impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

#### **CONCLUSION**

30. Refuse.

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

Rayleigh Town Council: No reply received.

Essex County Council Historic Buildings Officer (Place Services): Object re proposed internal illumination, recommends trough or spot lighting.

Essex County Council Highways Authority: No objections to raise .

Neighbour representations: No comments received.

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

National Planning Policy Framework (December 2024).

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policy CP1.



Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM5, DM37 and DM38.

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

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

Rochford District Council Local Development Framework Supplementary Planning Document 6 (January 2007) – Design Guidelines for Conservation Areas.

Rayleigh Conservation Area Appraisal and Management Plan (2007).

**RECOMMENDATION: REFUSE**

1. It is considered that the method of internal illumination of the signage would have a detrimental impact on the character and appearance of the Rayleigh Conservation Area where alternative methods of external lighting are more traditional and sensitive in approach. The public benefits that the development would bring do not outweigh the harm that the internally illuminated advertisements would bring to the conservation area. As such, the proposal would be poorly designed and insensitive to the Rayleigh Conservation Area contrary to policies DM37 and DM38 of the councils Development Management Plan and section 16 of the National Planning Policy Framework.

The local Ward Members for the above application are Cllr. R. C. Linden, Cllr. Mike Sutton and Cllr. A. G. Cross.

Application No :	25/00027/FUL      Zoning : No allocation
Case Officer	Mr Thomas Byford
Parish :	Rayleigh Town Council
Ward :	Wheatley
Location :	Land Adjacent 31 Kingswood Crescent Rayleigh
Proposal :	Subdivide site and construct 1no. 1-bed self-build dwelling attached to No. 31 Kingswood Crescent. Extend 2no. existing vehicular accesses. Additional hard standing to create additional driveway parking. Construct pitched roof dormers, part two/part single storey rear extension and infill porch to No 31. (Revised proposal from previously approved application, Reference 24/00534/FUL)

## SITE AND PROPOSAL

1. The site is located to the south of No. 31 Kingswood Crescent, within the existing curtilage of the aforementioned dwellinghouse.
2. No. 31 Kingswood Crescent is a two storey chalet style dwellinghouse, featuring a first floor level at the rear, with a large turfed garden area set to the south of the site. The immediate street scene presented is somewhat mixed, with dwelling styles ranging from bungalows to large two storey dwellinghouses. The immediate street scene has a clear residential character, with the dwellings to the east, sited further back from the highway with substantial green verges to their site frontages.
3. Planning consent was originally sought and granted for the construction of a new 1 bedroom dwelling to the side of and attached to the existing dwelling at 31 Kingswood Crescent (ref: 24/00534/FUL). The dwelling would have a private garden and off-street parking. The proposal also includes two pitched roofed front dormers, a single storey rear extension and a new porch to No 31. Both dwellings (the existing 31 and the proposed 31a) have been included within the red lined site. The two existing vehicular accesses are proposed to be extended with the proposal, with the inclusion of additional hardstanding to create new parking for No. 31a.
4. This application is a revised application following the granting of planning consent (ref: 24/00534/FUL).
5. The approved application followed pre-application advice in which a new two bedroomed 1.5 to 2 storey dwelling to the side of and attached to, the existing dwelling at 31 Kingswood Crescent is proposed. It was advised on the case officers site visit and the following advice letter that the scheme proposed significant challenges and that a 1 bedroomed dwelling may be more appropriate in the setting and to comply with the Council's local policies and guidance. A second letter of pre-application advice was then requested and issued, in which the proposal here follows an almost identical scheme. The letter was followed up with correspondence clarifying the Council's position and that the proposal is likely to be acceptable in principle.
6. This revised proposal seeks the following alterations and amendments to the approved scheme under 24/00534/FUL:
  - The addition of a two storey rear gabled element to the rear of No. 31.
  - Slight alteration of the front and rear window design.
  - The addition of a larger, enclosed porch proposed to No. 31.
  - An increase in size of the rear dormer proposed to No. 31a.
  - An increase in the size of the two front dormers proposed to No. 31.
  - An increase to the size of the front dormer proposed to No. 31.
  - The addition of front rooflights to the roof slope of No. 31 and No.

- 31a.
  - Corrected boundary locations.
- 7. The existing site features its parking towards the rear / west of the site, with a detached garage sited adjacent to the garden area with a small access road and crossover providing access.
- 8. The proposed dwelling would be attached to the existing dwelling, converting the existing semi-detached pair into a trio of terraced houses with the proposed dwelling being at the end of the terrace and closest to the adjacent highway.

## **RELEVANT PLANNING HISTORY**

- 9. Application No. 24/00534/FUL - Subdivide site and construct 1No. 1-bed self-build dwelling attached to No. 31 Kingswood Crescent. Extend 2No. existing vehicular accesses. Additional hard standing to create additional driveway parking. Construct pitched roof dormers, single storey rear extension and new porch to No. 31 – Permitted.

## **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).

### Principle of Development – Infill, Residential Intensification & Impact on Character

- 12. The National Planning Policy Framework 2024 (NPPF) advises that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Whilst the development of under-utilised land and buildings is encouraged, this must be balanced against the visual and other impacts of development.
- 13. The application site is located within a residential area, and more efficient use of land for housing provision is considered acceptable in principle. However, the Council's Core Strategy Policy H1 confirms that, in order to protect the character of existing settlements, the intensification of smaller sites within residential areas will be resisted,

but that limited infilling will be acceptable provided that it relates well to the existing street pattern, density and character of the locality.

14. Core Strategy Policy CP1 and Policy DM1 of the Council's Development Management Plan (DMP) both seek to promote high quality design in new developments that would promote the character of the locality. In this context, Policy DM3 provides specific criteria against which infilling and residential intensification are considered. This report will start by looking at the acceptability of the scheme and whether it would be considered to comply with Policy DM3.

#### Policy DM3 – Infilling and Residential Intensification

**Reference to Policy DM1 alongside other local and national policy has also been made within this assessment.**

15. Proposals for infilling, residential intensification or 'backland' development must demonstrate that the following have been carefully considered and positively addressed.
  - (i) The design of the proposed development in relation to the existing street pattern and density of the locality;
16. Although the immediate street scene is mixed, the character of the existing dwellings adjoining the application site consist of similarly designed semi-detached dwellings facing Kingswood Crescent which although featuring dormers, retain an open character with the most southern dwelling of the semi-detached pair (No.31), retaining an open character to the site frontage and to the side. Other similar dwellings in terms of layout and design include those to the west of the application site which face the western bend of Kingswood Crescent. It is noted that the southmost of these dwellings has undertaken an extension with dormers which extends to the south and onto the former area which previously would have been open. This extension is considered within character and is complementary to the form and design of the dwelling on the site.
17. The National Planning Policy Framework which sets out the government's planning policies for England was revised on 20th July 2021 and more recently in December 2024. The revisions increased the focus on design quality, not only for sites individually but for places as a whole. Terminology is also now firmer on protecting and enhancing the environment and promoting a sustainable pattern of development. The Framework at Chapter 2 highlights how the planning system has a key role in delivering sustainable development in line with its 3 overarching objectives (Economic, Social and Environmental) which are interdependent, and which need to be pursued in mutually supportive ways such that opportunities can be taken to secure net gains across each of the different objectives.

18. The social objective of national policy is to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful, and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. The National Planning Policy Framework at Chapter 12 emphasises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
19. Policy CP1 of the Core Strategy and policies DM1 and DM3 of the Development Management Plan are applicable to the consideration of design and layout. Policy DM1 specifically states that *“The design of new developments should promote the character of the locality to ensure that the development positively contributes to the surrounding natural and built environment and residential amenity, without discouraging originality, innovation or initiative”*. It also states inter alia that proposals should form a positive relationship with existing and nearby buildings.
20. 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 in favour 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.
21. As previously stated, 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.
22. Policy H1 of the Council's Core Strategy states that in order to protect the character of existing settlements the Council will resist the intensification of smaller sites within residential areas. Limited infill will be considered acceptable and will continue to contribute towards housing supply, provided it relates well to existing street patterns, density and character of the site locality. 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 is no measurement here dictated for terraced dwellings and therefore each case should be considered on its own merits taking into account the proposed dwelling size. The proposed site frontage is considered quite narrow in the context of the area. It is however considered that this is not so far shy of the 7.625m in width which each plot would be required to have if this application were for a pair of semi-detached dwellings. It is of course noted this is proposed as a one bedroomed dwelling and therefore only requiring one parking space and a reduced garden size, would likely be designed to fit a narrower plot size than a two bedroomed dwelling or greater. In this case, it is not considered, taking into account the orientation of the three resultant dwellings which are not highway fronting, that this end of terrace dwelling and the row of resultant dwellings as a whole would be so jarring and detrimental to the street scene to refuse the application, taking into account a development of similar bulk which has occurred to the west. Consideration to the proposed materials and roof tiles are considered to mitigate significant impact into relation to this and this has been included within this assessment later in this report.

23. The redevelopment of existing private gardens, especially where it provides a significant contribution to local character, often disrupts the grain of development and will be considered unacceptable.
24. This site is adjacent to several grass verges to the east which presents an area of openness alongside the existing open area just south of the application dwelling.
25. Of relevance is also the existing area to the site frontage, which faces the grass verges to the east. To the site frontage, the existing dwelling comprises a narrow footpath, with a soft landscaped area which again, creates an open and soft appearance with this being turfed, with attractive bushes and small trees which lines the boundaries. This is a result of the parking being located towards the rear of the existing dwelling which enables the site to currently benefit from an attractive soft landscaped frontage.
26. Although this is the case, it is considered that much of the existing soft landscaped area would remain in front of the existing dwelling, a small proportion would be lost with the development in front of the new dwelling for parking. Much of this existing area however is enclosed within the existing boundary fencing and therefore it is considered that there is suitable development which could occur on this site, as well as an acceptable hardstanding area for parking for the new dwelling. It is not considered that the loss of a small proportion of the frontage would warrant a refusal of a planning application on these grounds.

27. The proposal would see a need for additional parking with an additional dwelling proposed and this would be sited to the frontage of the new dwelling. In this case, this would create some urbanising effect to this edge, however the single space proposed means this is minimal compared to the two parking bays which have been previously proposed. Further comment on the parking proposed at the site will be included in the parking section of this report.
28. The design of the dwelling, in principle, is considered to meet the guidance in the Essex Design Guide in terms of form and external finishes. Discussions during pre-application advice proposed a dwelling set back further into the site which would create a dwelling that would not be considered complimentary to its terraced neighbours however the proposed dwelling, now smaller, would sit flush with the existing neighbour and is not considered detrimental to the existing dwelling. It is noted that the proposed development would have similar materials, to the existing with this proposed to be finished in render. It is also stated that the tiles of the proposed dwelling would match those of No. 31 which again would lead to a more seamless and harmonious development as a whole and with the adjacent neighbours at No. 31 and 33.
29. Although concern was raised within the previous application from a neighbour regarding the dormers to the front, it is considered that the scheme is acceptable with or without the proposed dormers or single storey rear extension proposed to No. 31. If the front dormers to No. 31 were not constructed and the scheme partially implemented, a lack of complete symmetry between the proposed dwelling and its adjoined neighbours is not a reason solely for refusal taking into account the lack of local policy relating to this. Taking into account the lack of local policy regarding symmetry is it not considered necessary to impose a condition relating to the construction of these dormers to the front roof slope, and therefore any such condition is considered to fail at least one of the six tests regarding the appropriate imposing of conditions on a planning consent. The revisions to the front dormers, increasing in height is considered moderate and is not considered detrimental to the scheme overall, local character or street scene. The same is said for the single storey rear extension proposed. The consideration in terms of overshadowing from the new dwelling to No. 31 has been included within the residential amenity assessment and in this case, it is considered that because of the chalet form and low eaves height, the resultant dwelling would not cause unreasonable overshadowing impacts on No 31, whether this single storey rear extension was constructed or not. Again, in this case a condition in relation to the construction of this prior to any development starting for No. 31a is not considered necessary and will therefore not be imposed on any granting of planning consent. Revisions have added a two storey gabled element to No. 31, however this is in line with the rear elevation of the new dwelling No 31a and therefore is not considered to have

significant overshadowing impacts. This extension does not span the entire width of the dwelling and therefore at this moderate width and depth, it is not considered to significantly overshadow the neighbouring dwelling No. 33. This neighbour has not objected to the most recent revisions which include this two storey element. The proposal also includes a larger, enclosed porch to No. 31 which in the context of the dwelling and site as a whole is considered modest and of good design. The porch proposed to the new dwelling, is smaller than that proposed at No. 31, however it is considered that this reflects the dwellings smaller size and plot width overall. This is considered acceptable.

30. The rear dormer to the proposed No. 31a has also been increased in size as well as rooflights added to the front roof slope to No. 31 and No. 31a. Neither of these alterations are considered significantly detrimental to the scheme to warrant a refusal.
31. Due to the smaller dwelling proposed, the amenity space of the new dwelling on the site would exceed 50m<sup>2</sup>, complying with the requirement for a 1 bedroomed dwelling. The area in front of the garage and the part of the area to the south of the proposed dwelling which is less than 2m in width, is not considered within the amenity space calculations with this not being a suitable area that can be enjoyed as part of the garden. Sideways are generally not considered as part of the residential garden where they act more as pathways incapable of sitting out than usable amenity space. The existing dwelling would have a garden area exceeding 100m<sup>2</sup> which would also comply with the guidance for a dwelling of this size.
32. Policy DM1 seeks a high standard of design requiring that developments promote the character of the locality to ensure that development positively contributes to the surrounding built environment. Part (ix) of this policy specifically relates to the promotion of visual amenity and regard must also be had to the detailed advice and guidance in Supplementary Planning Document 2 – Housing Design, as well as to the Essex Design Guide.
33. It is noted that the proposed parking space to No. 31a is close to the proposed porch of the dwellinghouse proposed, however generally the bay sizes provided within the guidance are generous in order to allow clearance for doors opening and occasional working on or around the vehicle. This parking space is not considered to significantly impact access into the dwelling from the porch and it is considered unreasonable to refuse the application on these grounds.
34. In this case, the site is considered of sufficient scale and context to house an additional one bedroomed dwelling of this size and therefore taking into account the built form of a similar dwelling set to the west of the application site (albeit this has been extended by virtue of a side extension and not an additional dwelling) the proposal is not



considered so out of character with the existing street pattern to warrant a refusal. Consideration has been given to the proposed materials and the sites ability to meet the parking, garden and technical space standards criteria in which the new dwelling complies.

(ii) whether the number and type of dwellings being proposed are appropriate to the locality having regard to existing character;

35. The local area has a mix of bungalows, chalets and two-storey dwellings. The proposed dwelling itself is of a scale that is considered appropriate, with sufficient land available to accommodate a dwelling of this size with existing and proposed garden areas, meeting the minimum required by the Council's standards. The application is for one additional dwelling which is considered appropriate.

(iii) the contribution to housing need, taking into account the advice and guidance from the Council, based on the most up-to-date evidence available;

36. The Council cannot demonstrate a five year supply of deliverable housing sites and therefore it is considered that an additional dwelling, albeit a one bedroomed dwelling would assist in contribution to housing need.

(iv) an assessment of the proposal's impact on residential amenity

37. This will be considered in a separate section later in this report.

(v) avoiding a detrimental impact on landscape character or the historic environment;

38. The location of the site means that the proposal would have no material impact on landscape character or the historic environment.

(vi) avoiding the loss of important open space which provides a community benefit and/or visual focus in the street scene;

39. As an enclosed private garden and side amenity area within the ownership of the applicant, the site has no significant community benefit, nor significant visual focus in the street scene. Although neighbouring residents may currently benefit from an outlook across this area which provides an open appearance, in planning terms there is no right to a view across land owned by a third party.

(vii) the adequate provision of private amenity space for the proposed dwelling as set out in Supplementary Planning Document 2: Housing Design;

40. The proposed dwelling would meet the amenity space requirement as would that retained to the host dwelling.

- (viii) the availability of sufficient access to the site and adequate parking provision;
41. The highway authority have been consulted on the application and have no objection to the proposal.
42. The existing dwelling would include suitable parking that would meet the parking standards with two bays measuring 5.5m x 2.9m as well as the new dwelling which comprises a suitably sized parking bay meeting the current standards.
- (ix) avoiding a tandem relationship between dwellings, unless it can be satisfactorily demonstrated that overlooking, privacy and amenity issues can be overcome as set out in Supplementary Planning Document 2: Housing Design.
43. The proposal would not generate a tandem relationship whereby one dwelling looks immediately upon the private rear space of another which is more common in backland development proposals.
44. In general design terms, the proposal would not be considered to unbalance the semi-detached pairing in such a significant way that would be detrimental or jarring, with the proposal flowing harmoniously from the host dwelling.

#### Impact on Residential Amenity

45. The NPPF (2024) 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.
46. I note that the applicant has stated that they currently live in No. 31, but the impact on future occupiers of the property should also be taken into account alongside adjacent neighbours.
47. The extensions to the rear of No. 31 ensures that the proposal would comply with the Council's guidance in terms of overshadowing (SPD2), if that were to be applied, which looks at the impacts of first floor extensions on the ground floor rear facing habitable windows of adjacent neighbours. It is not considered that these extensions would impact the neighbour at No. 31 or No. 33 significantly in terms of overshadowing. The advice stated in SPD2 relates to extensions only and is guidance and therefore applications should be determined with consideration given to this.

48. The outlook to the rear of the proposed dwelling is considered acceptable, with a separation distance of approximately 33.5m to the rear elevations of the neighbouring dwellings to the west. The Essex Design Guide generally accepts that a distance of 25m is acceptable between rear elevations of dwellings and therefore this is considered an acceptable distance where significant overlooking would not result. It is noted that none of the neighbouring dwellings to the west have objected to the proposed. The dormers to the front elevations look onto the grass verges to the east and the highway. It is considered that the outlook here is of public realm and not significantly detrimental to neighbouring amenity. Similarly, the side elevation window proposed would serve a bathroom and will be conditioned to be obscure glazed for the privacy of the future occupiers.
49. It is not considered that the alterations to window design would have a material impact on the scheme leading to unreasonable overlooking.
50. In this case, it is not considered that the proposed dwelling would have a detrimental impact on residential amenity.
51. With a low potential for both overlooking and overshadowing, the proposal is considered to have positive relationship with existing and nearby buildings, complying with this element of Policy DM3.

#### Garden Area

52. The Council's SPD2 requires two bedroomed properties to provide 50m<sup>2</sup> of garden area with three bedroomed properties providing 100m<sup>2</sup>. The resultant dwellings would both have the required garden sizes as per the guidance in SPD2. No. 31 would have a garden in excess of 100m<sup>2</sup>, whilst the proposed dwelling (No 31a) would have a garden area of 83m<sup>2</sup> and in excess of 50m<sup>2</sup>. Both of these garden areas are considered suitable amenity spaces for the proposed dwellings and in a suitable arrangement and layout.

#### Sustainability

53. The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalise 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.
54. 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.

55. 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.
56. The proposed dwelling would be a 1 bedroomed, two person dwelling.
57. A dwelling of this size would need a gross internal area of 58m<sup>2</sup>, with 1.0m<sup>2</sup> of built in storage to meet the above standards. The proposed dwelling would exceed the GIA required, with this far exceeding the 58m<sup>2</sup> required and also having built in storage in excess of the required 1.0m<sup>2</sup>.

#### Impact upon Highway Safety

58. The Essex Parking Guidance (2024) states that 3 bedroomed dwellings (No. 31) require two car parking spaces with dimensions of 5.5m x 2.9m and garage spaces should measure 7m x 3m to be considered usable spaces. No. 31a would require a single parking space. Policy DM30 has adopted the EPOA parking standards. Quality urban design dictates that care should be taken that the parking layout does not result in streets dominated by parking spaces in front of dwellings or by building facades with large expanses of garage doors.
59. The proposal includes a new extended crossover to the south of the garden areas, which would serve two parking spaces which would each have a bay size of 5.5m deep by 2.9m wide. This is therefore considered adequate and in line with the parking standards for No. 31 which has at least two bedrooms. A street light is proposed to be relocated to facilitate this new extended crossover and access. The proposed dwelling would only have one bedroom and therefore this requires just one parking space. The existing frontage of No. 31 would be used for parking for the new dwelling. A parking space proposed here also meets the parking requirements being 2.9m wide and 5.5m deep. The existing crossover which serves dwellings to the north east is also proposed to be extended to allow access.
60. The Highway Authority have been consulted on the scheme and have no objection subject to conditions.
61. The proposal is considered to comply with Policies DM1 and DM30 in this regard and the proposal would not be of detriment to highway safety.

Ecology regarding development within the zone of influence (Zol) for the Essex Coast RAMS (Recreational Disturbance Avoidance Mitigation Strategy)

62. The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMs). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressures.

63. The development for one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

- Yes

Does the planning application fall within the following development t types?

- Yes. The proposal is for one additional dwelling

Proceed to HRA Stage 2: Appropriate Assessment - *Test 2 – the integrity test*

Is the proposal for 100 houses + (or equivalent)?

- No

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

- No

64. The current proposal has been considered in respect of the Habitat Regulations, taking account of advice submitted by Natural England and the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) developed by Essex County Council which seeks to address impacts (including cumulative impacts) arising from increased recreational activity. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) was adopted by Rochford District Council

on the 20 October 2020. Advice from Natural England in August 2018 has been followed and the HRA record template completed.

65. The conclusion of the HRA is that, subject to securing appropriate mitigation, the proposed development would not likely result in significant adverse effects on the integrity of the European site along the Essex coastline.
66. The applicant has paid the required financial contribution to contribute towards longer term monitoring and mitigation along the coastline, to mitigate adverse impact from the proposed development on the European designated sites by way of increased recreational disturbance.

### Ecology

67. The National Planning Policy Framework indicates the importance of avoiding impacts on protected species and their habitat where impact is considered to occur appropriate mitigation is required 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.
68. 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.
69. Given the site characteristics, it is not considered that the proposal would impact or harm protected species or habitats.

### Trees

70. Policy DM25 (Trees and Woodlands) of the Council's Development Management Plan indicates that development should seek to conserve and enhance existing trees and woodlands, particularly Ancient Woodland. Development which would adversely affect, directly or indirectly, existing trees and/or woodlands will only be permitted if it can be proven that the reasons for the development outweigh the need to

retain the feature and that mitigating measures can be provided for, which would reinstate the nature conservation value of the features. There are no trees subject to Tree Preservation Orders that would be affected by the proposal. It is therefore concluded that the proposal would be acceptable in this regard.

71. Given the site characteristics, there are no other ecological considerations of note that would be impacted by the development.

#### Refuse and Waste

72. 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).
73. According to the submitted plans there is sufficient space within the applicant's curtilage/garage to accommodate the refuse bins.

#### Flood Risk

74. The site is located within Flood Zone 1 with low risk of flooding and is indicated on the Environment Agency Flood Maps that the site does not present a significant risk for surface water flooding.

#### Biodiversity Net Gain

75. 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).
76. 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, with the development stated on the planning application form being a custom/self-build development.
77. The applicant has not therefore been required to provide any BNG information.
78. As the proposal is for development to which the statutory biodiversity gain condition would not apply, an informative would advise any future

developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended.

79. It is however recommended that a condition be imposed on any granting of planning consent to secure the discharging of the statutory gain condition if the development and resultant dwelling no longer meets the custom/self build exemption.

#### Foul drainage

80. Development on sites must ensure that the foul drainage on the site is dealt with safely and effectively and in a way that would not lead to contamination.

81. In this case and due to the nature of the proposal which includes a new dwelling – it is considered that there is capability of the site to dispose the foul drainage and the method for this would be covered and agreed during the application for Building Regulations that would be required for the proposal.

#### Equality and Diversity Implications

82. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:

- To eliminate unlawful discrimination, harassment, and victimisation.
- To advance equality of opportunity between people who share a protected characteristic and those who do not.
- To foster good relations between those who share a protected characteristic and those who do not.

83. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.

84. Taking account of the nature of the proposed development and representations received, it is considered that the proposed development would not result in any impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

## **CONCLUSION**

APPROVE subject to conditions.



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

Rayleigh Town Council: No comments received.

Rochford District Council Recycling Officer: No comments received.

Essex County Council Highway Authority:

The information that was submitted in association with the application has been fully considered by the Highway Authority. This recommendation reflects the previous one for the original application.

This application includes subdivision of the site and addition of an attached one-bedroom dwelling. A new vehicle access and an extension to the existing vehicle access are included. Both the host and proposed dwellings will be provided with off-street parking spaces, therefore:

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

1. Prior to first occupation of the development, and as shown in principle on planning drawing 007 Rev F, the vehicle accesses shall be constructed at right angles to the highway boundary and to the existing carriageway and shall be provided as follows:

- i. Plot 31, the existing vehicle access shall be widened to the east to no more than 6 metres at its junction with the highway to accommodate the proposed parking layout.
- ii. Plot 31A, the new vehicle access shall be provided by extending west from the existing access for No.35 and shall be a minimum width of 3 metres at its junction with the highway. Each access shall be provided with an appropriate dropped kerb vehicular crossing of the footway and highway verge. Full details to be agreed with the Highway Authority.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the highway in the interests of highway safety in accordance with policy DM1.

Informative regarding the access: Utility apparatus.

The plans acknowledge that relocation of utility apparatus including the lamp column in the highway and any other associated utilities that may be underground. Any relocation shall be fully at the applicant's expense.

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

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

3. Prior to first occupation of the development and as shown in principle on planning drawing 007 Rev F, the host dwelling 31, shall be provided with two off-street parking spaces and the proposed dwelling 31A, shall be provided with one off-street parking space. Each parking space shall have dimensions in accordance with current parking standards and shall be retained in the agreed form at all times.

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

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

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

5. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10.

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

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

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance and the NPPF 2024.

Informative:

- Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the carriageway.
- The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

- The requirements above shall be imposed by way of negative planning condition or planning obligation with associated legal framework as appropriate.
- \* All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.
- The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

Neighbour Representations: No replies received.

**Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

Core Strategy Adopted Version (December 2011) – H1, CP1.

Development Management Plan (December 2014) DM1, DM2, DM3, DM4, DM25, DM30.

Essex Parking Guidance (2024).

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

The Essex Design Guide (2018).

Natural England Standing Advice.

**RECOMMENDATION: APPROVE**

Conditions:

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

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

2. The development shall be undertaken in strict accordance with the plans referenced 23509 –005 (Rev E) dated 30.08.2023, 23509 – 006 (Rev H) dated 30.08.2023, 23509 – 007 (Rev F) dated 15.01.2024, 23509 – 008 (Rev D) dated 10.07.2024 and 23509 – 009 (Rev B) dated 30.08.2023.

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

3. The external facing materials to be used in the construction of the new dwelling hereby permitted, shall be those as listed on the approved plan

23509- 006 Rev H dated 30/08/23 with roof tiles to match the existing dwelling (No. 31 Kingswood Crescent), unless alternative materials are proposed in which case details shall be submitted to and agreed in writing by the Local Planning Authority prior to their use.

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

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

- schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted;
- existing trees to be retained;
- areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
- paved or otherwise hard surfaced areas;
- existing and finished levels shown as contours with cross-sections (including level-thresholds) if appropriate;
- means of enclosure and other boundary treatments;
- car parking layouts and other vehicular access and circulation areas;

shall be implemented in its entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be agreed in writing by the Local Planning Authority. Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same type, size and in the same location as those removed, in the first available planting season following removal.

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

5. Prior to first occupation of the development hereby permitted, as shown in principle on planning drawing 007- Rev F, the vehicle accesses shall be constructed at right angles to the highway boundary and to the existing carrieway and shall be provided as follows:
  - i. Number 31, the existing vehicle access shall be widened to the east to no more than 6 metres at its junction with the highway to accommodate the proposed parking layout.

- ii. Plot 31A, the new vehicle access shall be provided by extending west from the existing access for No.35 and shall be a minimum width of 3 metres at its junction with the highway.

Each access shall be provided with a dropped kerb vehicular crossing of the footway and highway verge prior to first occupation of No 31a.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interests of highway safety in accordance with policy DM1 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

6. The dwelling hereby approved shall be first occupied by the applicant for a period of not less than 3 years from the date of first occupation.

REASON: The development hereby approved was declared to be exempt from the mandatory Biodiversity Net Gain (BNG) condition as a result of the dwellings being self-build. The dwellings must be delivered as self-build dwellings because otherwise the mandatory BNG condition would apply as would have the need for the applicants to supply the necessary pre-planning consent BNG information which was not provided in relation to the planning application.

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

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

8. Prior to first occupation of the new dwelling hereby permitted, new driveways shall be provided for both dwellings (31 and 31a) as shown on plan 007 Rev F, accommodating two car parking spaces each measuring 5.5m deep x 2.9m in width for No 31 and one car parking space for No 31a measuring the same. The driveways and spaces shall be retained for the use solely for the parking of vehicles in perpetuity thereafter.

REASON: To ensure the site can accommodate the required parking spaces in compliance with the EPOA parking standards in the interests of highway safety and in accordance with policy DM1 and DM30 of the Rochford Council Development Management Plan.

9. The driveways hereby approved and shown in drawing 23509 -007 Rev F should be constructed in either porous materials or details of sustainable urban drainage measures shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of No 31a. The details relating to driveway surfaces shall be implemented as agreed.

REASON: In the interests of the appearance of the development in the locality and drainage of the site.

10. The highway shall not be used for the purpose of the reception and storage of building materials.

REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

11. The side elevation window serving the first floor bathroom to the new dwelling (No 31a) shall be obscure-glazed and shall be of a design not capable of being opened below a height of 1.7 metres above finished floor level. Thereafter, the said windows shall be retained and maintained in the approved form.

REASON: To enable the Local Planning Authority to retain adequate control over the approved fenestration, in the interest of privacy.

The local Ward Members for the above application are Cllr. R. C. Linden, Cllr. Mike Sutton and Cllr. A. G. Cross.

Application No :	24/00887/FUL      Zoning: Unallocated
Case Officer	Mr Richard Kilbourne
Parish :	Ashingdon Parish Council
Ward :	Hockley And Ashingdon
Location :	Land Adjacent 29 Newton Hall Gardens Rochford
Proposal :	Application to vary planning conditions 2 (approved plans) and 3 (external materials) pursuant to planning permission 24/00088/FUL (Sever land and erect a detached, 3 bed dwelling with associated access and car parking).

## SITE AND PROPOSAL

1. The existing street scene consists predominantly of semi-detached chalet-style bungalows with long-sloped pitched roofs. A common architectural feature on each of the semi-detached properties are front and rear flat-roofed dormers that are set well within the dwelling's roof slope. It is evident from the street scene that most of the semi-detached properties were symmetrical in design and many still share that commonality. However, many properties have extended dormers, added front porches and have carried out other architectural works. The area is predominately residential in character and is located wholly within the settlement zone of Rochford.

2. The application site is No.29 Newton Hall Gardens. The existing property is constructed out of facing brick under a concrete interlocking tile roof. The property has an extensive garden which is relatively flat and wraps around the rear/side of the dwellinghouse and is demarcated by 1.8m (approx.) panel fencing sited on concrete gravel boards. Located adjacent to No.31 Newton Hall Gardens is a garage, which will be demolished to make way for the proposal.
3. The proposal seeks planning consent for the variation of condition 2 (approved plans) and condition 3 (external materials) pursuant to planning permission reference 24/00088/FUL Sever land and erect a detached, 3 bed dwelling with associated access and car parking to allow for revised plans including increasing ridge height and the inclusion of 2no. pitched roof dormers (1no. on front facing roof plane and 1no. on rear facing roof plane) and using alternative facing materials to construct the proposed dwellinghouse.

## **RELEVANT PLANNING HISTORY**

4. Application No. 24/00088/FUL - Sever land and erect a detached, 3 bed dwelling with associated access and car parking – Approved - 03.04.2024
5. Application No. 23/00413/FUL - Sever land and erect a detached, 3-bed dwelling with associated access and car parking – Refused - 12.07.2023. Reasons for refusal: -

*“The proposed development by virtue of its layout and minimal frontage on to the street, would result in a building plot out of character with the established pattern of development within this area of Newton Hall Gardens. The development would not successfully reference the prevailing character of the area proving to be out of keeping to the character and appearance of the site and the surrounding area. The proposal would therefore lack local flavour contrary to Policy CP1 of the Council’s Core Strategy and fail to achieve a positive relationship with nearby dwellings contrary to Policies DM1 and DM3 of the Council’s Development Management Plan and would fail to accord with the overall quality of the area in conflict with paragraph 130(a) of the National Planning Policy Framework”.*

*“The proposed first floor window in the principal elevation of the dwelling proposed by reason of minimal separation distances, orientation and siting would give rise to an unreasonable amount of overlooking and loss of privacy, harmful to residential amenity of the occupiers of No.31 Newton Hall Gardens contrary to guidance stipulated within the Essex Design Guide, SPD2 and Policy DM1 of the Council’s Development Management Plan”.*

6. Application No. 90/00370/FUL – Pergola – Approved - 17.07.1990

7. Application No. 86/00708/FUL – Erect Garden Shed and Pergola – Refused - 21.11.1986

## **MATERIAL PLANNING CONSIDERATIONS**

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

### Principle of Development

10. As previously stated, this application is solely a Section 73 application. Section 73 of the 1990 Act applies to applications to develop land without complying with conditions that are attached to a previous planning permission.
11. Section 73 of the 1990 Act specifically provides that an application cannot be made under this section if the previous planning permission has already expired, nor can it be used to extend the time limit within which the development must be begun. Moreover, the LPA shall consider only the question of conditions subject to which planning permission should be granted (so not its acceptability).
12. Furthermore, a S.73 application cannot be used to vary the description of the development nor to impose any new or amended conditions that are inconsistent with the description of development – see *Finney v. The Welsh Ministers* [2019] EWCA. In this case planning permission was granted for (amongst other things) for “*The installation and 25-year operation of two wind turbines, with a tip height of 100m*”. The application was subsequently approved with a condition requiring the proposal be constructed in accord with the approved plans. The developer submitted a S.73 application seeking to vary this condition to substitute the approved plans with a new plan which showed the wind turbine with a tip height of 125m. The Court ruled that Section 73 could not be used to vary the original planning permission in this way as to do so would either require a change in the description of the development to increase the height from 100m to 125m or would result in a condition that was inconsistent with the description of development – the condition would refer to a wind turbine 125m in height but the description of development would refer to a turbine 100m in height.



13. It is also important to add that the scope of a S.73 can be limitless as in *Armstrong v. Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 142 where it was held that providing a variation is only proposed to the conditions of a planning permission and such variations neither require a change of description of the development nor is inconsistent with the description of development, there is no limit to the scope of change under Section 73.
14. In *Armstrong*, planning permission had been granted for “Construction of one Dwelling”. One of the conditions attached to the permission required compliance with various approved plans. The applicant submitted a S.73 application seeking to substitute the approved plans with new plans which proposed a building in a different form and style to the originally approved. The LPA refused the application stating that it sought to completely alter the nature of the development resulting in a development that would materially differ from the originally approved planning permission.
15. However, the Court ruled that there is nothing within S.73 which limits any application to vary or remove a condition to “minor material amendments” or “non-fundamental variations”. Providing that the application was limited to the non-compliance with a condition (and does not require a change in the description of the development nor is inconsistent with it) then it fell within the scope of Section 73.
16. Moreover, in granting permission under section 73, the Local Planning Authority may also impose new conditions provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.
17. The general powers for Local Planning Authorities to impose conditions on the grant of planning permission are set out in sections 70 and 72 of the Town and Country Planning Act (TCPA) 1990, although statutory powers to impose conditions are set out in TCPA 1990, ss 73, 73A, 96A and Sch. 5 Pt.1. The Secretary of State (SoS) also has powers to impose conditions on Appeal in TCPA 1990, ss 77, 79, 177 and Sch. 6.
18. TCPA 1990, s.70 provides that where an application is made to the LPA for planning permission, the LPA may grant planning permission, either unconditionally or subject to such conditions as they think fit or refuse planning permission.
19. TCPA 1990, s. 72 provides that, without prejudice to the generality of TCPA 1990, s 70, conditions can be imposed on the grant of planning permission:
  - For regulating the development or use of any land under the control of the applicant (whether or not it is land in respect of which the application was made) or requiring the carrying out of works on any

such land, so far as appears to the local planning authority to be expedient for the purposes of or in connection with the development authorized by the permission;

- For requiring the removal of any buildings or works authorized by the permission, or the discontinuance of any use of land so authorized, at the end of a specified period, and the carrying out of any works required for the reinstatement of land at the end of that period.

20. Furthermore, Paragraph 56 of the NPPF states that planning conditions may be used to make otherwise unacceptable development acceptable. Additionally, para. 57 of the National Planning Policy Framework states planning conditions should only be imposed where they are:

- Necessary;
- Relevant to planning and to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

21. In determining a s.73 application the LPA may:

- Grant the application with different conditions;
- Grant the application unconditionally (save for s91. S92 commencement)
- Refuse the application.

22. The principle of development on this site has already been accepted as part of application 24/00088/FUL. This is solely a Section 73 application which seeks to either vary or remove conditions 2 (approved plans) and 3 (external materials) attached to 24/00088/FUL. According to the submitted plans and accompanying planning application form the applicant is proposing to increase the ridge height and incorporate 2No. pitched roofed dormer windows (one on the front facing roof plane and one on the rear facing roof plane). Additionally, the applicant is proposing to alter the materials used to construct the proposed dwellinghouse.

#### Background Information

23. Under the remit of planning application (23/00413/FUL) it was proposed to sever the residential curtilage in order to construct a detached dwellinghouse on the newly formed plot. The case officer was concerned that proposed layout would not provide a frontage and form congruent with the existing layout and character of the area and which would appear contrived and awkward at odds with the layout of the other properties. Moreover, that original application included 2No. flat roofed box dormers (1No. on the front facing roof plane and the other

on the opposing roof plane) it was considered due to the separation distances and location and orientation of the proposal and the neighbouring properties, the resultant development would give rise to an unreasonable amount of overlooking and loss of privacy and consequently the application was refused planning permission for these two reasons.

24. Following the receipt of the refusal the applicant submitted a new application (24/00088/FUL) which was for the erection of a detached 3-bedroomed dwelling and associated access and car parking. In reference to this application the applicant altered the siting of the proposed dwelling so that it sat more comfortably within the plot and appeared less convoluted and contrived. Furthermore, the design, scale and massing of the proposal was altered reducing the overall height by over 2m which helped to ameliorate any negative externalities; consequently, the application was approved on the 3<sup>rd</sup> April 2024.

25. As previously alluded to the applicant seeks to vary Condition 2 (Approved Plans) of 24/00088/FUL.

26. This condition states: -

*“The development hereby permitted shall be carried out in complete accordance with the following approved plans: Drawing No. 29NHG SK05 Revision C dated 09.02.2024; Existing and Proposed Drawings Drawing No. 29NGH 0.1 Revision B dated 02.02.2024; Existing Location Plan Drawing No. 29NGH EX.00 Revision A dated 02.02.2024*

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

27. According to the approved plans the proposed dwellinghouse would measure roughly 5.6m high to the apex of the pitched roof and 11.2m long by 12.7m deep (as measured at the widest points). The approved dwellinghouse had a simple T-shaped footprint and did not incorporate any dormers in either of the roof planes.

28. In reference to the submitted plans (plan ref: 4177-11-1C) the footprint of the proposed dwellinghouse will be similar to the footprint of the recently approved dwelling. The proposal will measure approximately 11.2m long and will be 12.7m deep (which is commensurate with the approved dwelling). However, under the remit of the current application the applicant is proposing to increase the ridge height by roughly 500mm and incorporate 1 No. pitched roofed dormer on the front and

rear facing roof planes (2No. dormer windows in total) and 2No. roof lights on the rear roof plane. However, following concerns raised by the case officer in relation to potential overlooking and loss of privacy in regards to No.31 Newton Hall Gardens attributable to the proposed dormer window in the front facing roof plane, this dormer has since been omitted. In order to comply with Building Regulations several additional roof lights are proposed.

29. The Essex Design Guide states that dormers should be incidental to the roof space and should be used to light the roof space rather than to add headroom over any great width. The Council's Supplementary Planning Document 2 (SPD2) supports the Essex Design Guide by stating that for proposals involving rooms in the roof of the dwellings, any projecting walls or windows shall respect the scale, form and character of the existing or proposed dwelling and shall ensure that substantial roof verges are maintained at the sides and below any projecting dormer. The guidance goes on to advise that front dormers shall have pitched roofs and that dormers projecting above the ridge line or beyond the roof/hip will be refused.
30. According to the revised plans the proposed pitched roofed dormer window would be sited on the rear facing roof plane and would have a width of approximately 2.5m, with a maximum height of approximately 2.3m as measured from the top of the pitched roof to the lowest point of the dormer. The dormer would project approximately 3.3m from the existing roof at the greatest point. According to the submitted planning application forms and accompanying plans, the cheeks and face of the dormer will be formed using render (to match the elevations of the host property – see below). The proposed rear dormer would be set down from the ridge and set back from the eaves/verge of the host property. The proposed dormer will serve bedroom No.2 The case officer considers that the proposed dormer is relatively large but given the size of neighbouring dormer windows, it will not appear out of context with the surrounding environ and given its location on the rear facing roof plane will not be overtly visible from the public realm, as such the proposal accords with policy DM1 and guidance advocated within the NPPF.
31. In addition to the above, the applicant is proposing to install 3No. roof lights on the rear roof plane and 3No. roof lights on the front facing roof plane. According to the submitted plans on the rear facing roof plane one of the roof lights will serve a bathroom and the remaining 2 apertures on this elevation will serve bedroom No.3. Whilst on the front facing roof plane 1No. roof light will serve bedroom No.3 and the remaining 2No. roof lights will serve bedroom No.2. The case officer has no objections to these roof lights, as they are not expected to negatively impact the character and appearance of the host dwelling.
32. As noted earlier, the applicant also intends to increase the ridge height of the proposed dwellinghouse by approximately 500mm. Given the

character and scale of the surrounding properties, the proposed dwellinghouse is commensurately scaled and will not appear as over dominating or overbearing within the context of the local vernacular. The case officer notes concerns have been raised regarding the scale and mass of the proposed dwelling. However, it is confirmed that the ridge of the dwelling as proposed in the current application is substantially lower by 1.64m than the ridge height of the dwelling refused under application 23/00413/FUL.

#### Impact on Residential Amenity

33. Paragraph 135 (f) of the NPPF seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is reflected in Policy DM1, which seeks to ensure that new developments avoid overlooking, ensuring privacy and promoting visual amenity, and create a positive relationship with existing and nearby buildings.
34. Amenity is defined as a set of conditions that one ought reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be in terms of overlooking, loss of light or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.
35. The proposed dwellinghouse would project some 5.8m beyond the rear building line of its adjoining occupier No. 29. The proposed dwellinghouse is of limited height and is sited some 4.2m south of this dwelling, with car parking provision to No. 29 between the flank walls. It is considered that the proposed dwellinghouse would not give rise to an unreasonable impact on the residential amenities of No. 29 and 27 Newton Hall Gardens with regards to overshadowing and overlooking.
36. According to the submitted plans there will be one window in the flank elevation of the proposed dwellinghouse facing No.29, which will serve the kitchen/dining room. Furthermore, the case officer witnessed that there were several windows on the flank elevation of No. 29 at ground floor and first floor level levels. Generally, side windows are commonly overshadowed in residential areas due to the proximity of neighbouring properties. The case officer considers it prudent to attach a condition requiring boundary treatment to be erected along the common boundary, which will help to mitigate any negative externalities. Furthermore, no letters of objection have been received from the occupiers of this property in relation to the proposal, and whilst not a determinative factor it is an important consideration.

37. The case officer noted that there are residential properties located at the rear of the application site (Nos. 25 and 27 Canewdon View Road). Furthermore, the case officer witnessed that these properties were roughly at a 90° angle in relationship to the proposed dwellinghouse. According to the submitted plans there is a distance in excess of 20m separating the properties. The considerable degree of separation and angle in siting relationship will mitigate any negative externalities caused by the proposed development. Overall, it is not considered that the proposed development would cause any significant issues with regard to loss of light or privacy to these neighbouring occupiers or that it would have an overbearing impact.
38. Turning to No.31 Newton Hall Gardens, which is located directly to the west of the application site, the proposed dwellinghouse would be situated approximately 7.8m increasing to 15.4m (due to the orientation and juxtaposition of the properties and the intervening boundary which is splayed) to the west boundary. According to the submitted plans, the principal elevation of the proposed dwellinghouse would face the rear garden of this property (No.31). The case officer observed that within the residential curtilage of No.31 there was a detached garage, which was located adjacent to the common boundary separating it from the application site. Furthermore, the case officer noted that there were several windows on the flank elevation of No.31 (at ground and first floor). It is not considered that the proposed dwellinghouse will have a detrimental impact on these windows as the property No.31 is set further north into its plot in relation to the proposed dwellinghouse. There is also not considered to be a breach of the Council's 45-degree guidance as would be applied to rear facing windows and due to the dwellings siting to the east of the site, and relatively modest scale and height, the dwellinghouse No. 31 is considered would receive sufficient light during the peak hours of the day as it has a mostly south facing rear elevation and amenity area. It is not considered that the proposed roof lights, facing this property, will result in any demonstrable harm, given the degree of separation. As such, there will be no loss of privacy or undue overlooking.
39. In relation to other properties in the vicinity it is considered that the proposed development would not give rise to material overlooking or overshadowing of neighbouring properties, nor would it over dominate the outlook enjoyed by neighbouring occupiers given the good separation distances maintained between properties. Overall, it is considered that the proposal will not result in significant demonstrable harm attributable to loss of privacy, overbearing impact, over domination or overshadowing and the proposal complies with policy DM1 and advice advocated within the NPPF.

#### Highways

40. 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.

41. The Council has recently adopted the Essex Parking Guidance (2024), which now supersedes the previous 2009 guidelines used by Rochford District Council. The guidance 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. Garage spaces should measure 7m x 3m to be considered usable spaces.
42. In accordance with paragraph 111 of the framework, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
43. The proposed site has sufficient space within the proposed curtilage to provide at least two car parking spaces at the required dimensions as stated in the EPOA parking standard. Properties of this size would be required to provide two off street parking spaces and therefore no objections are raised regarding parking. It is noted numerous neighbouring properties have hard-surfaced their frontages in order to provide vehicular parking. Notwithstanding the above, the case officer considered it prudent to consult colleagues in Essex County Council Highways Authority regarding the proposal and they state that *"This application is in relation to conditions 2 and 3 of the approved application 24/00088/FUL. Therefore, the basis of the mitigation measures agreed in support of the previous approval must be transferred to this application if approved. The recommended conditions below reflects the Highway Authority's previous recommendation for an earlier associated application. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority"*.
44. The Highways Engineer goes on to state that they have no objections to the proposal subject to conditions relating to unbound materials, the shared driveway and vehicle parking areas to be provided prior to occupation, cycle parking, residential travel information pack, storage and reception of building materials and standard informatives.
45. Overall, it is considered that the proposal subject to the aforementioned conditions complies with the relevant policies contained within the Development Management Plan and the NPPF, and as such there is insufficient justification to warrant a refusal.

Drainage considerations

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

#### Flooding considerations

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

#### Other Matters

48. The case officer confirms that the proposal adheres to the standards outlined in the Housing Technical Guidance 2015 regarding floor area, bedroom sizes, and storage provision. Therefore, there is insufficient justification to refuse the application on these grounds. Furthermore, the proposal provides an adequate of private amenity space, in accordance with the guidance set forth in SPD2.

49. In addition to the above the applicant seeks to vary Condition 3 (External Materials) of 24/00088/FUL.

50. This condition states: -

*"The external surfaces of the development hereby approved shall be constructed of materials and finish as detailed in the application, unless alternative materials are proposed in which case details shall be submitted to and agreed in writing by the Local Planning Authority prior to their use.*

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

51. The case officer notes that a rich palette of materials has been used to construct the neighbouring properties which include render, cladding and facing brick (of various colours and textures). The previously approved plans indicate that the proposed dwelling was to be constructed using facing brick, with a roof featuring concrete



interlocking tiles. However, the current plans indicate that the proposed dwelling will be constructed using block (presumably), with all elevations rendered, and a concrete interlocking tile roof. In the case officer's opinion, the materials proposed for the construction of the dwelling will not result in any noticeable harm to the character and appearance of the street scene or the local vernacular, particularly given the diverse range of materials used in the construction of the neighbouring properties, and as such the proposal accords with policy BE.1 and guidance advocated within the NPPF.

#### Equalities and Diversity Implications

52. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:

- To eliminate unlawful discrimination, harassment, and victimisation.
- To advance equality of opportunity between people who share a protected characteristic and those who do not.
- To foster good relations between those who share a protected characteristic and those who do not.

53. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.

54. Taking account of the nature of the proposed development and representations received, it is considered that the proposed development would not result in any impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

#### **CONCLUSION**

55. Approve.

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

Ashingdon Parish Council: Objection to the proposed variations in the planning application due to concerns about overlooking and loss of privacy for neighbouring properties.

Essex County Council Highways Authority: No objection subject to conditions relating to no unbound materials, two off street parking spaces per dwelling, cycle parking, residential travel information pack, reception and storage of building materials and standard informatives.

Neighbour representations:

2 responses have been received from the following addresses;

Newton Hall Gardens: 31, 33.

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

- The Council has already considered and refused a planning application for a house on this site. The new proposal is fundamentally the same as the rejected scheme and does not address the concerns raised in the previous refusal;
- The proposed changes would significantly increase the scale, height, and massing of the building, making it an overdevelopment of the site. The original approval was for a bungalow, which was appropriate, while a house would be excessive and out of proportion with its surroundings;
- The increased height of the development would result in a loss of privacy for the neighbouring properties, particularly due to overlooking from upper-floor windows to properties in 25 and 27 Canewdon View Gardens. The additional massing would also have an overbearing impact on nearby homes, reducing natural daylight and creating an intrusive presence to properties at 31 and 33 Newton Hall Gardens.
- Increased on street parking pressure with larger dwelling proposed.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2024)

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) - Policies CP1, H1, H6, ENV9

Rochford District Council Local Development Framework Development Management Plan (December 2014) - Policies DM1, DM3, DM4, DM27, DM30

Essex County Council and Essex Planning Officers Association Parking Standards: Design and Good Practice Supplementary Planning Document (adopted January 2025).

Supplementary Planning Document 2 (January 2007) – Housing Design

The Essex Design Guide (2018)

Natural England Standing Advice

**RECOMMENDATION: APPROVE**

Conditions:

1. The development hereby permitted shall be begun before the 2<sup>nd</sup> April 2027 (3 years from the date of grant of the original consent).

REASON: To comply with Section 91(1) of The Town & Country Planning Act 1990 (as amended) by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in complete accordance with the following approved plans: 4177-11-1C (Elevations, Floor Plans, Roof Plan, Section) (as per date stated on plan November 2024), 4177-11-3 (Site Plan) (as per date stated on plan November 2024) and 4177-11-2 (Location Plan) (as per date stated on plan November 2024).

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

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

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

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

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

Any tree, shrub or hedge plant (including replacement plants) removed, uprooted, destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title, with species of the same

type, size and in the same location as those removed, in the first available planting season following removal.

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

5. Prior to commencement of the development hereby permitted, a drainage plan and details of the sustainable drainage scheme shall be submitted to the Local Planning Authority and agreed in writing.

REASON: In the interests surface water drainage in order to ensure that any surface water runoff from the site is sufficiently discharged.

6. No boundaries, fences, walls or other means of enclosure shall be erected within the front curtilage of the site to the proposed new dwelling and No. 29 Newton Hall Gardens. The areas of hardstanding and vehicular access shared by the dwellings shall remain in perpetuity.

REASON: In order to prevent enclosure and separation of the shared vehicular access and safeguard sufficient manoeuvrability for the parking of vehicles for each dwelling.

7. Prior to first beneficial occupation of the proposed dwelling hereby permitted, a 1.8m high intervening boundary shall be erected on the north site boundary between the proposed new dwelling and No. 29 Newton Hall Gardens and maintained in perpetuity. Details of the boundary treatment shall be submitted to the Local Planning Authority and agreed in writing.

REASON: In order to secure privacy between adjoining occupiers and in the interests of visual amenity.

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

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance. .

9. Prior to first occupation of the development, the shared driveway and vehicle parking areas shall be provided. This includes two off-street parking spaces for each dwelling. Each parking space shall have dimensions in accordance with current parking standards and shall be retained in the agreed form at all times.

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

DM8 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance. .

10. Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

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

REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

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

Application No :	24/00879/FUL          Zoning : Green Belt
Case Officer	Mr John Harrison
Parish :	Ashingdon Parish Council
Ward :	Hockley And Ashingdon
Location :	Wychwater The Chase Ashingdon
Proposal :	Demolition of existing outbuildings and construction of 1no. 3 bedroom, single storey self build dwelling with associated parking and landscaping.

## SITE AND PROPOSAL

1. The Chase is a Y-shaped cul-de-sac off Ashingdon Road, Ashingdon, built as plotland. It is on the north side of Ashingdon and adjacent to the edge of the town, so its location is where town and country meet. There are a number of houses and bungalows along its length, detached properties with their own reasonably large plots. Wychwater is situated in the fork of the "Y" and has a particularly large plot compared with its neighbours. It is a bungalow with some dormer

accommodation. It is located at the eastern end of the plot and to the south-east are a range of single-storey outbuildings of permanent construction. The remainder of the land to the west is open with a number of trees on it. The main access to the property is at the “Y” junction, but there is a second vehicular access over a brook that runs along the boundary roughly central on the northern boundary.

2. The proposal is to divide Wychwater’s plot not quite equally into an eastern and western half and to build a bungalow facing the northern boundary towards the north-west corner of the site. This would be occupied by the current residents of Wychwater who wish to downsize. Access to it would be using the existing access on the northern boundary. The bungalow would be approximately 15 metres x 12.4 metres. It would have two prominent gables on the front and rear elevations with what could be described as pitched-roof rustic-style canopy over the front door between the two on the front elevation. The house would be built of brick with a plain-tile roof and uPVC windows and doors. To justify the proposal in terms of Green Belt policy, the existing outbuildings on the site would be demolished apart from the garage to the east of the property and the shed close to the northern boundary. An interesting architectural feature on the bungalow would be the provision of a belvedere tower taken from one of the outbuildings in the centre of the roof. Three parking spaces on the north-east corner of the bungalow plot are shown on the proposed plan.

## **RELEVANT PLANNING HISTORY**

Application No. 84/00831 - Single Storey Side Extension – granted.  
Application No. 09/00210/FUL - Raise Ridge and Construct First Floor and New Roof to Extend Rooms in Roofspace and Provide Pitched Roofed Front and Rear Dormers. Extend Pitched Roof to Conservatory – refused.

Application No. 09/00611/FUL - Raise Ridge and Form Rooms in the Roofspace Incorporating Side Dormers. Construct New Roof to Conservatory – refused.

Application No. 10/00130/LDC - Application for a Certificate of Lawfulness for Single Storey Pitched Roofed Rear and Side Extensions – granted.

## **MATERIAL PLANNING CONSIDERATIONS**

3. 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.

4. 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

5. The proposal has to be considered in the context of the National Planning Policy Framework (NPPF) guidance on development in the Green Belt, policy GB1 in the Council's Core Strategy and DM10 of the Council's Development Management Plan relating to previously developed land in the Green Belt. The application has been justified as appropriate development in the Green Belt as redevelopment of rural gardens outside of built up areas qualify as previously developed land which these policies allow for. The outbuildings were constructed many years ago as permitted development and the proposal is to demolish these to justify this bungalow. The agent has supplied figures to compare their sizes. The area of the outbuildings is 197 sq. metres and their volume is 644 cu. metres. The respective figures for the proposed bungalow are 195 sq. metres and 632 cu. metres. Thus, the bungalow would be slightly smaller than the outbuildings which would be demolished. The ground around the bungalow is not flat but the plans show its maximum height as 4.8 metres which is acceptable.
6. The bungalow would be on a different part of the site from the outbuildings, but this is acceptable. They are both on the same overall plot. Had the bungalow been proposed on a more prominent part of the site than where the outbuildings are located this would be likely to be an issue, but this is not the case here. Both parts are adjacent to the roads. Though neighbours have expressed a desire for any new dwelling to be on the site of the buildings to be demolished, this application has to be considered on the basis it was submitted and is considered to be policy compliant. A condition removing permitted development rights for both the proposed bungalow and the existing dwelling would be appropriate given the relationship between the removal of outbuildings to favour the development now proposed and the potential without control for such buildings to be merely replaced further urbanizing the Green Belt.

#### Impact on Character

7. The character of the site would be changed quite significantly by the development. The impact on the Green Belt has been addressed above. The dwellings in the vicinity of the site are built in a variety of styles as is the case with plotlands and this means the design of the proposed new bungalow is not constrained as having to be of a certain style. What is proposed is considered acceptable. The rustic-style canopy is slightly incongruous on a modern bungalow, but this is not considered sufficiently incongruous to justify refusing the application – that is presumably an expression of the applicants' taste. The

belvedere on the roof does add to the character of the building. The subdivision of the plot would still leave two substantial plots. Larger than some in the vicinity. The proposal is considered to comply with the relevant design policies CP1 of the Core Strategy and DM1 of the Development Management Plan.

8. Although policy DM3, Infilling and residential intensification normally applies to development in settlements, it also applies to this proposal in the Green Belt. This lays down a number of criteria against which the proposal needs to be assessed:
  - (i) the design of the proposed development in relation to the existing street pattern and density of the locality; - This is a low density area with houses in large plots. The proposed bungalow fronts the road and both the existing dwelling and the new one would have substantial plots.
  - (ii) whether the number and type of dwellings being proposed are appropriate to the locality having regard to existing character; - See (i) above.
  - (iii) the contribution to housing need, taking into account the advice and guidance from the Council, based on the most up-to-date evidence available; - The Council lacks a five-year housing land supply. This proposal would provide a new dwelling which would make a small contribution to reducing the deficiency.
  - (iv) an assessment of the proposal's impact on residential amenity; - The proposal is sufficiently far from neighbours not to unduly affect them in terms of loss of light or overlooking.
  - (v) avoiding a detrimental impact on landscape character or the historic environment; - As the outbuildings would be demolished, the proposal does not have a detrimental impact on landscaping character. It does not affect the historic environment.
  - (vi) avoiding the loss of important open space which provides a community benefit and/or visual focus in the street scene; - It does not.
  - (vii) avoiding the loss of private amenity space for neighbouring dwellings to ensure adequate provision as set out in Supplementary Planning Document 2: Housing Design; - The existing dwelling would have adequate private amenity space.



- (viii) the adequate provision of private amenity space for the proposed dwelling as set out in Supplementary Planning Document 2: Housing Design; - The proposed dwelling would have adequate private amenity space.
- (ix) the availability of sufficient access to the site and adequate parking provision; - This is achieved.
- (x) avoiding a tandem relationship between dwellings, unless it can be satisfactorily demonstrated that overlooking, privacy and amenity issues can be overcome as set out in Supplementary Planning Document 2: Housing Design. – Not relevant.

#### Impact on Residential Amenity

9. The proposed bungalow would be set sufficiently far from neighbouring properties including Wychwater itself for them not to be unduly affected by it in terms of loss of light or overlooking. There would be a loss of view from some neighbouring dwellings, but loss of view cannot justify refusing a planning application. There will be some additional traffic generated, but apart from construction traffic which will be temporary this will be very limited. This would also not warrant refusing the application.

#### Parking and Traffic

10. Although this site is some distance from the adopted public highway network, it is still appropriate to consider these matters. Apart from during construction, the proposal would not generate significant vehicle movements and, although The Chase is not a made-up road, it will be able to take the traffic generated. Adequate provision is shown for parking on site.
11. Neighbours have expressed concern regarding the impact of construction traffic. The approach is somewhat tortuous and the access road could be blocked by lorries unloading, etc. It is therefore recommended that a condition be imposed requiring a construction management plan to be agreed. This is more for residents' convenience than for road safety reasons.

#### Floorspace Standards

12. Under the provisions of Development Management Plan policy DM4, the proposed dwelling should comply with the government's Technical Housing Standards. On the basis this is a three-bedroomed five-person bungalow, the gross internal floor area should be a minimum of 86 sq. metres and the actual area is approximately 175 sq. metres.

Approximately 3.5 sq. metres of internal storage area is provided, whereas the standard requires 2.5 sq. metres. The single bedroom has a floor area of 11.4 sq. metres whereas the standard is 7.5 sq. metres and the smaller of the double bedrooms has a floor area of 14.6 sq. metres when the standard requires 11.5 sq. metres. Thus, the proposal more than meets the standards and policy DM4 is complied with.

#### Flood Risk

13. A flood risk assessment has been submitted with the application. The site is in flood zone 1 to where development should be directed. Whilst parts of the site of Wychwater might be affected by surface water flooding, this is not the part of the site where the new dwelling is proposed which is raised up. Thus, there is no cause to object to this application on the basis of flood risk. A neighbour has expressed concern regarding the adequacy of the ditch in front of the site. The flood risk assessment submitted with the application does not indicate this is likely to be a problem and the Environment Agency's extent of surface water flooding map does not show this as an area liable to flooding. The issue is more likely related to maintenance by landowners.

#### Tree Impacts

14. There are a number of trees scattered across the site, both on the plot where the new dwelling is proposed and where the existing dwelling is. An arboricultural impact assessment has been submitted with the application. Four young trees situated towards the northern end of the proposed boundary line between the plots of the existing and proposed dwellings, comprising three Norway spruces and a Caucasian fir. Also, a small branch would need to be removed from an Ash tree at the front of the site towards its western end to give adequate working height for construction. The report includes a method statement for the demolition of the buildings to minimize damage to trees and a scheme for providing tree protection during construction works. To comply with policy DM25 of the Development Management Plan, conditions to require the implementation of these and a landscaping scheme to provide replacement planting for the trees to be felled are recommended.

#### Ecology Issues

15. As this is a proposal for a self-build or custom build dwelling, the 10% biodiversity net gain provisions of the Environment Act 2021 do not apply. It is nevertheless necessary to consider ecological issues under the provisions of policies ENV1 of the Core Strategy and DM27 of the Development Management Plan. An ecology report has been submitted with the application. The site of the proposed dwelling is mainly mown grass of limited ecological value, but the trees and hedges are more likely to attract wildlife. Furthermore, the surrounding

area includes more diverse habitat, so the site has potential to be used by animals, birds, bats, etc for commuting and foraging. There is no evidence of protected species on the site itself. The report includes a number of recommendations for nesting boxes, bat boxes, etc. and these are incorporated in a condition recommended below.

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

The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for a new dwelling

Proceed to HRA Stage 2: Appropriate Assessment - Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)?

- No

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

- No

18. As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbances, when considered 'in combination' with other development. Natural England does not need to be consulted on this Appropriate Assessment.
19. As competent authority, the local planning authority concludes that the proposal is within the scope of the Essex Coast RAMS as it falls within the 'zone of influence' for likely impacts and is a relevant residential development type. It is anticipated that such development in this area is 'likely to have a significant effect' upon the interest features of the aforementioned designated sites through increased recreational pressure, when considered either alone or in combination. It is considered that mitigation would, in the form of a financial contribution, be necessary in this case. A payment for the new dwelling under the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been made.

## **EQUALITIES AND DIVERSITY IMPLICATIONS**

20. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:
- To eliminate unlawful discrimination, harassment, and victimisation.
  - To advance equality of opportunity between people who share a protected characteristic and those who do not.
  - To foster good relations between those who share a protected characteristic and those who do not.
21. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.
22. It is considered that the proposed development would impact on one or more protected groups as defined under the Equality Act 2010 and an Equality Impact Assessment (EIA) has been completed. This indicates that the proposal would have a disproportionately adverse impact on any people with a particular protected characteristic.

## **CONCLUSION**

23. Though it is unusual to allow a new dwelling in the Green Belt, in these circumstances as it is previously developed land the proposal complies with national planning policy and approval is recommended. Whilst two neighbours have objected, their objections are not considered to justify refusal, but a condition requiring the approval of a construction management plan is recommended to address one of their objections.

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

Ashingdon Parish Council: No comments received.

Neighbour representations:

Three responses have been received from the following addresses:

The Chase: "Cherry Trees" "Hawkmoor" and one unaddressed reply

Which in the main make the following comments and objections:

- Overdevelopment.
- understood no new development would be permitted in Green Belt, had to compromise when extending own property as Green Belt.
- proposal would halve the distance to neighbouring dwelling.
- undesirable precedent.
- asks for policies to be applied consistently.
- suggests building on site of existing outbuildings would be more in line with policy.
- access totally unsuitable, construction traffic could block road, vehicles would not be able to turn into access.
- adjacent drainage ditch is at or beyond capacity, unsuitable to accommodate further building.
- difficulty for vehicles turning into north branch of The Chase.
- suggest any further building should be restricted to the site of the existing outbuildings.
- problems to contractors and delays.
- Green Belt so negative impact on countryside and neighbours.
- new dwelling in Green Belt is contrary to government regulations.
- applicant has built storage sheds without permission so cavalier attitude should be considered a concern to any application [these sheds were permitted development so did not need planning permission]
- expects noise surveys, traffic impact, bio-diversity concerns, sewage treatment survey to inform decision.
- concerned it has been assumed application would be granted as a large tree was felled some months ago and a new access two years ago.
- precedent for further development.
- had to demolish own dog grooming parlour as in Green Belt.
- do not want to live on a housing estate.

## Essex County Council Highways:

The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal is in a private road and off-street parking and turning is included within the curtilage, therefore: From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority as it is not contrary to the following Development Management policies: A) Safety: Policy DM 1 of the Highway Authority's Development Management Policies February 2011 B) Accessibility: Policy DM 9 of the Highway Authority's Development Management Policies February 2011 C) Efficiency/Capacity: Policy DM 1 of the Highway Authority's Development Management Policies February 2011 D) Road Hierarchy: Policy DM 2-4 of the Highway Authority's Development Management Policies February 2011 E) Parking Standards: Policy DM 8 of the Highway Authority's Development Management Policies February 2011

## Rochford District Council Council Arboriculturalist:

An arboricultural impact assessment has been supplied by Greenlight Environmental Consultancy.

The tree works recommended – removal of TG24 and raising the crown to T27 - will not have a negative impact to local landscape character or tree based visual amenity for the surrounding area. The report provides suitable mitigation in order to protect the retained tree stock during the demolition and construction phases of development. I would recommend a condition to ensure compliance, the council should receive photographic evidence (date stamped) that the tree protection and ground protection as shown in plans reference 1046 301 and 1046 302, is in place from start to completion of the project.

## **Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

Core Strategy Adopted Version (December 2011) – H6, CP1, GB1, ENV1, ENV2, ENV3, T8.

Development Management Plan (December 2014) – DM1, DM3, DM10, DM27, DM30.

Essex Parking Guidance (2024).

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

The Essex Design Guide (2018).

**RECOMMENDATION: APPROVE**

Conditions:

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

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

2. The development shall be carried out in full accordance with the following approved plans; unnumbered location plan, 002 revision P2, 003 revision P3, FRNT.24.620-120-P5-PROPOSED-A1 revision P5 and FRNT.24.620-120-P2-STREET SCENE-A1 revision P2.

3. REASON: For the avoidance of doubt and to define the scope of the permission.

4. Prior to the commencement of any work on site including demolition a construction management plan shall be submitted to and approved by the Local Planning Authority. All subsequent work on site shall be carried out in full accordance with the construction management plan.

REASON: To minimise the impact of the work on surrounding residential properties. This is necessary as such work could adversely affect neighbours particularly if The Chase is blocked by construction traffic given the restrictions in size of the street.

5. Prior to the commencement of any work on site including demolition the tree and tree root protection schemes set out in the arboricultural impact assessment report by Messrs. greenlight project ref: 1046 Version 2 and dated 15<sup>th</sup> November 2024 shall be put in place as indicated in that report. It shall then be retained in place until all demolition and construction work is complete. No construction work shall take place inside the tree protection areas and no materials shall be stored. When the outbuildings adjacent to "Wychwater" are demolished, the tree protection scheme shall be amended in accordance with Appendix 5 of the report.

REASON: To protect the trees on site. This is necessary as any work on site without this protection could result in damage to these trees.

6. Prior to any above-ground construction work details of a tree planting scheme to replace the trees which are to be felled on site shall be submitted to and approved by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved scheme in the first planting season following the first occupation of the proposed dwelling. They shall then be maintained for a period of five years during which time any trees that die or become diseased or

damaged shall be replaced and any replacement trees that die or become diseased or damaged shall also be replaced.

REASON: To provide for replacement planting and to protect the appearance of the area.

7. Prior to any above-ground construction work, full details of the proposed external finishes for the proposed building and the material to be used for the parking area shall be submitted to and approved by the Local Planning Authority. The proposed building shall then be constructed using the approved materials.

REASON: To ensure a satisfactory appearance for the proposed development.

8. Prior to any above-ground construction work, a scheme for providing a bird nesting box, a swift box, a bat box and the provision of a bee brick in the proposed dwelling shall be submitted to and approved by the Local Planning Authority. These shall be provided prior to the first occupation of the proposed dwelling and thereafter shall be permanently retained.

REASON: To encourage the provision of wildlife on the site in the interests of enhancing bio diversity with redevelopment.

9. Prior to the first occupation of the proposed dwelling, the parking area shown on the approved plans shall be constructed with hardstanding as shown on the approved plans. It shall thereafter be permanently retained and kept available for parking in connection with the occupation of the dwelling.

REASON: To ensure adequate parking is provided for the proposed dwelling.

10. Within one month of the first occupation of the proposed dwelling, the outbuildings indicated to be demolished as part of the application shall be demolished and, apart from any materials which might be used in the construction of the proposed dwelling, all materials shall be removed from the site.

REASON: To ensure compliance with Green Belt policy and the terms of the application considered.

The local Ward Members for the above application are Cllr. M. R. Carter, Cllr. Mrs. D. L. Belton and Cllr. R. P. Constable.



Application No :	24/00373/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Rawreth Parish Council
Ward :	Downhall And Rawreth
Location :	Moat Farm Chelmsford Road Rawreth
Proposal :	Demolish existing outbuildings and change of use from motor vehicle repair, storage, breaking, sales, painting, sales of parts, build specialist vehicles and storage of salvage vehicles to residential and construct 1 no. detached self-build dwelling. Revised proposal.

## **SITE AND PROPOSAL**

1. The application site is located on the south side of Old Chelmsford Road, to the east of the A1245 and to the south of View Garden Centre. It is immediately adjacent to the moated site of Moat Farm and to the north is the Grade II listed building of Witherdens Farm. The site itself is made up by two buildings and a large area of hard standing which facilitate the B8/B2 uses on site. The hard-standing is currently occupied for storage by a number of disused cars which serve the business on site CJ's Specialist Vehicles.
2. The proposal is for the demolition of the existing outbuildings and change of use from the current commercial business of vehicle salvage, change the use of the site to residential usage and construct a new single detached dwelling.
3. The application is a resubmission following a previous refusal (ref: 22/00783/FUL) on the site for a similar proposal.

## **RELEVANT PLANNING HISTORY**

4. Application No. 23/00914/DPDP2 - Application for prior approval of a proposed: enlargement of a dwellinghouse by construction of additional storey: original height 8.90m proposed height 10.90m – Approved.
5. Application No. 22/00783/FUL - Demolition of existing buildings and structures. Construction of detached dwellinghouse (revised application). – Refused for the following reason:

*“The application site is located within Flood Zone 3 and the NPPF is clear that all new development in Flood Zone 3 must pass the sequential test, which seeks to steer development to the lowest flood risk zones. The application site would fail to pass the sequential test as the development has failed to demonstrate that the proposal could not be located within a lower area of flood risk. Subsequently, the scheme*

*would unnecessarily locate a more vulnerable use within an area at risk of flooding. The proposal would also fail the subsequent exception test given that it would not provide sustainability benefits for the community and may result in an increased risk of flooding. The proposed development would be contrary to Section 14 of the NPPF and Policy ENV3 to the Council's adopted Core Strategy."*

6. Application No. 22/00134/FUL – Demolish existing workshop outbuildings and construct detached 6 bedroomed dwelling including basement with associated hard and soft landscaping – Refused. The application was refused for following reasons:

*"The Allocations Plan (2014) shows the site to be within the Metropolitan Green Belt within which planning permission should not be granted for inappropriate development unless very special circumstances exist to clearly outweigh the harm by definition of inappropriateness and any other harm. The proposed development would amount to inappropriate development within the Metropolitan Green Belt which is harmful by definition. The application site would not be considered to meet any of the exceptions listed within paragraph 149 of the NPPF as the development would conflict with part (g) as it would be considered to have an adverse spatial and visual impact upon the openness of the Green Belt given its materially larger scale and footprint than the existing buildings and developed land. No very special circumstances have been presented that clearly outweigh the harm to the Green Belt, and any other harm, and the proposal would therefore conflict with Green Belt policy contained within Section 13 of the NPPF".*

*"The proposed development would obstruct Public Right of Way Footpath 13. The fencing for the proposed garden, driveway and dwelling would result in an unacceptable degree of hazard to all users of the Footpath to the detriment of highway safety. The proposal is therefore contrary to policy DM11 contained within the Essex County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011".*

*"The application site is located within Flood Zone 3 and the NPPF is clear that all new development in Flood Zone 3 must pass the sequential test, which seeks to steer development to the lowest flood risk zones. The application site would fail to pass the sequential test as the development has failed to demonstrate that the proposal could not be located within a lower area of flood risk. Subsequently, the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding, contrary to paragraph 162 of the NPPF and Policy ENV3 to the Council's adopted Core Strategy".*

*"The application does not include a mechanism to secure suitable mitigation in the form of a standard contribution towards the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy*

*(RAMs) or otherwise. Based on the precautionary principle, it is considered that the proposed scheme would be likely to have a significant adverse effect on the SAC and SPA due to the potential increased disturbance through recreational activity. The proposal would therefore fail to comply with the requirements of the Regulations. It would also fail to accord with Policy ENV1 of the Rochford District Council, Local Development Framework Core Strategy which seeks to maintain, restore and enhance sites of international, national and local nature conservation importance. It would also be contrary to Paragraph 175(a) of the National Planning Policy Framework which states that where significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused”.*

7. Application No. 19/00038/LDC – application for a certificate of lawfulness for existing use of land and buildings for motor vehicle repair, storage, breaking, sales, painting, sales of parts, build of specialist vehicles and storage of salvage vehicles – Permitted.

## **MATERIAL PLANNING CONSIDERATIONS**

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

### Principle of Development

10. The latest version of the National Planning Policy Framework (NPPF) was revised in December 2024. Like earlier versions it restates that the purpose of the planning system is to contribute to the achievement of sustainable development, through three overarching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area. The revision increased the focus on design quality, not only for sites individually but for places as a whole.
11. To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the Framework. Paragraph 11 of the Framework 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 Framework (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 Framework taken as a whole.

#### Green Belt considerations

12. Policy GB1 of the Council's Core Strategy seeks 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. The policy pre-dates the NPPF but can still attract weight in proportion to the consistency with it. The policy reflects the aims of those parts of the NPPF which seek to protect the Green Belt from inappropriate development. However, it does not reflect the exceptions listed within the NPPF which would also be a material consideration.

13. Consequently, the main issues are:

- Whether the proposed development is appropriate development in the Green Belt for the purposes of the NPPF and the Development Plan;
- The effect of the proposal on the openness of the Green Belt; 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 it.

14. As previously stated, the application site is located wholly within the Metropolitan Green Belt. Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 repeats the five purposes of the Green Belt, which include:

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

15. Paragraph 153 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
16. Paragraph 154 of the 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 the 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 (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
17. By virtue of paragraph 154 of the NPPF, the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to certain exceptions. These exceptions include allowance, subject where appropriate to certain criteria being satisfied, for new buildings, limited infilling in villages, and limited infilling or the partial or complete redevelopment of previously developed land (PDL). The proposal would be assessed against exception (g), paragraph 154 of the Framework.
18. The application relates to a site which has a workshop building and chicken shed. The topography of the land is relatively flat. The buildings would be located to the east and west of the application site and are single storey in nature. The case officer considers that the buildings appear to be relatively sound structurally and given that the workshop is predominantly built of corrugated iron sheets by the side and rear walls and roof and the front of the workshop has brickwork. The chicken shed is a largely unused timber building in poor condition.

As such, their method of construction are afforded a degree of permanency. The photos attached in the applicant's design and access statement indicate that the salvage vehicles located within the site are there on a permanent basis.

19. There is no built-up frontage along Chelmsford Road, it has mature hedgerow along both sides (albeit sporadic in some places) with limited views of the Green Belt. According to the design and access statement and accompanying plans, the proposal is for the demolition of the workshop and chicken shed and to remove the current commercial business of vehicle salvage, change the use of the site from industrial (class B) to residential (class C3) usage by constructing a new 6-bedroomed single detached dwelling. Given the factors cited above it is considered that the exceptions a) to f) and h) do not apply in this instance.
20. Paragraph 154 (h) 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. These are: mineral extraction; engineering operations; local transport infrastructure which can demonstrate a requirement for a Green Belt location; the re-use of buildings provided that the buildings are of permanent and substantial construction; material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and development, including buildings, brought forward. It is considered that the proposed development would not fall under any of these exceptions listed.
21. There is no extant approval for the planning permission from previous application for the application site. Notwithstanding that there is extant prior approval with reference 23/00914/DPDP2, the approval relates to the western part of Moat Farm which has a dwellinghouse whereas the current application's proposal is based on the eastern side of Moat Farm which comprises the vehicle salvage business.

#### Assessment Against Exception (g)

22. 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.

23. 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.'*

24. The proposed site is currently occupied by 2 rectangular buildings of various size and vehicles. All the buildings on site are different in materials. In the opinion of the case officer and applicant, the commercial business of salvage vehicles is not attractive to the nature of the open green belt and as such does not contribute positively to the wider rural setting and character. 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 but there were obvious signs of cracking or other forms of failure on the chicken shed. In the opinion of the case officer, the presence of these buildings/structures on site is a negative feature to the Green Belt and the removal would be a positive improvement to the Green Belt.
25. 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, it would be fair to say that the impact on openness may be greater if the site is particularly visible and open to boundaries.
26. In the justification for the proposal as part of the applicants Design and Access Statement and accompanying plans the agent infers that the change of use and proposed new dwelling would be a vast improvement to the nature of the Green Belt as the commercial vehicles would be removed and the site will have a pleasing landscaped area.
27. According to the submitted plans, the height of the proposed dwellinghouse is proposed to be higher than the existing buildings as it would be a 2-storey dwellinghouse. The two existing buildings that are subject to this application provide a total of 894.5m<sup>2</sup> of built footprint and 3118m<sup>3</sup> of built volume. By contrast, the proposed development increases the built footprint to 921.52m<sup>2</sup>, and the built volume to 3300m<sup>3</sup>. This means that the built footprint would increase by 3.02% and the built volume by 5.84%.
28. 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.

29. 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 as attested to by various Court cases (see below).

30. The applicant’s agent has stated that the increase in volume is justified due to the removal of all salvage vehicles and as such 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.
31. 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.
  32. In terms of openness of the Green Belt, the proposal would involve the demolition of two structures which are spread across the application site and replaced with the construction of one two-storey detached dwelling. It is considered that the existing built form is quite disparate and incongruous, and the inclusion of the salvage vehicles results in a built form that is spread across a wide section of the application site.
  33. The agent has inferred that the salvaged vehicles should be taken into account in regards to volume calculations. It is acknowledged that the storage of the cars is considered to have an apparent impact upon openness of the green belt and are part and parcel of the lawful use. As these are not permanent structures and are not classified as operational development under s.55 of the Town and Country Planning Act 1990; consequently, their volume cannot be considered, however, their existing visual impact can be taken into account when considering the impact of the proposal.
  34. The proposal seeks permission to demolish these buildings and coalesce the built form by erecting the detached dwelling. The development proposal would result in an increase in the scale and massing of the existing form, which will be to the detriment of the aims and character of the Green Belt as the sizeable increase in built area and volume would adversely affect the Green Belt's openness. In the opinion of the case officer the proposal would erode the openness of the Green Belt in spatial and visual terms with the development having an adverse impact on the openness of the Green Belt. Although the demolition of the existing buildings and removal of salvage vehicles within the application site and the coalescence of the built form, by erecting a detached dwellinghouse would enhance the visual openness of the Green Belt, the proposed development would not comply with policy GB1 in the Core Strategy and paragraph 154 of the NPPF.
  35. In relation to paragraph 154 exception g). there is no requirement for the use to be the same and thus the general principle of replacing existing buildings is acceptable. This is subject to the provision that any redevelopment should not cause substantial harm to the openness of the Green Belt.

36. Therefore, crucial to the assessment of this application, is whether or not the proposed dwelling would cause substantial harm to the openness of the Green Belt. The NPPF does not define the term 'substantial'; however, the ordinary definition according to Cambridge English Dictionary means "large in size, value, or importance".
37. In terms of openness of the Green Belt, the proposal would involve the demolition of the two existing buildings, due to the construction of a detached two-storey dwellinghouse. The existing outbuildings which are to be demolished are all single storey in height (the maximum height of these structures is roughly 5.1m for the workshop building and 4.4m for the chicken shed) and the proposal would introduce a two-storey dwelling (the maximum height of the proposed dwellinghouse would be 9.4m – a difference of 4.3m when compared to the current highest building which is the workshop). In the opinion of the case officer a difference in ridge heights of approximately 4.3m between the existing and proposed structures is significant and not inconsequential. The resulting dwelling would have a scale and mass which is significantly different and appear materially larger, and as such will have a substantial detrimental impact on the openness of the Green Belt in comparison. However, it is noted that the proposed dwellinghouse would be constructed on the footprint of one of the former outbuildings.
38. Additionally, as stated previously, the agent has submitted floor area/volume calculations of the original buildings, which are currently in-situ and these have a combined floor area/volume of 894.5m<sup>2</sup>/3118m<sup>3</sup>. According to the submitted plans, the area/volume of the proposed dwellinghouse will be larger at 921.52m<sup>2</sup>/ 3300m<sup>3</sup>. This means that the built footprint would increase by 3.02% and the built volume by 5.84%. The development proposal would result in an increased scale, massing and bulk to the detriment of the aims and character of the Green Belt. In the opinion of the case officer the proposed dwelling would erode the openness of the Green Belt in spatial and visual terms with the development having a substantially greater impact on the openness of the Green Belt and so would not benefit from exception g) of the NPPF.

#### Very Special Circumstances

39. 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.

40. As established by the Lawful Development Certificate granted in 2019 (ref: 19/00038/LDC), the application site is lawful for uses within B2 and B8. As a result, there is a fallback position available to the applicant in the event that residential development is not allowed. Given the potential spread and height of materials associated with both uses, the effect on the openness of the Green Belt could be to a similar extent in spatial terms to that of the proposed dwelling. In addition, the Class B2 and B8 uses can be carried out on the land without any limitations or conditions restricting the nature of activities, materials being stored, heights of such storage or hours of operation.
41. Although this argument has not been developed by the applicant, it is considered to be a realistic and plausible fallback position as the applicant has not ceased use of the site for his business in the duration of the planning application process. It is considered likely that were permission for residential development refused the applicant may choose to (and could substantially) expand his business on the site. The existence of the fallback position is something to which affords substantial weight.
42. Whilst the circumstances of the application site have not altered since the previous refusal and no very special circumstances were identified at the time of that application, an appeal decision (Land Rear of 128 Rawreth Lane ref: APP/B1550/C/21/3275229) has identified a similar very special circumstance. This is therefore a material consideration in this planning application.
43. As such, it is concluded that although the proposed dwelling would impact the openness of the Green Belt by way of increased scale, bulk and mass, very special circumstances exist which justify the development. The development therefore complies with paragraph 153 of the NPPF.

#### Other Matters

44. Rochford District Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the National Planning Policy Framework (NPPF). Consequently, in accordance with paragraph 11(d) of the NPPF, the 'tilted balance' is engaged. This means that the presumption in favour of sustainable development applies, and planning permission should be granted unless 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.

45. An important material planning consideration is exception b) of paragraph 155 which states that development within the Green Belt for homes, commercial and other development within the Green Belt should not be regarded as inappropriate where there is a demonstrable unmet need for the type of development proposed. Unmet need is further explained in the footnote, which states the following *“in the case of applications involving the provision of housing, means the lack of a five-year supply of deliverable housing sites, including the relevant buffer where applicable, or where the Housing Delivery Test was below 75% of the housing requirement over the previous three years”*.
46. The proposal posits the demolition of numerous outbuildings and replacing them with 1 No. detached single storey dwelling. The recent Annual Monitoring Review for Rochford Council states that the Authority has a 5-year housing land supply of 4.53 years and as such the Authority lacks a five-year supply of deliverable housing sites. By allowing this proposal there will be a NET increase in the number of dwellings (albeit by 1 No.) and as such if the proposal was permitted it would contribute to the existing shortfall. Consequently, the proposal will have a positive impact on housing land supply and in the opinion of the case officer exception b) of paragraph 155 is engaged.

#### Sustainability

47. Policy DM10 of the Development Management Plan requires the following criteria to be adhered to for PDL to be considered acceptable:
- (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.*
48. It is considered that the development is well related to a residential settlement, local services and facilities with good highway connections, linking directly to the A1245. The A1245 (Chelmsford Road), Rawreth Lane and London Road all include direct bus routes which are in walking distance of the application site. The site is located within the South Essex Coastal town landscape character area. In addition, Policy DM10 does seek to ensure that the design, scale and siting does not harm the openness of the Green Belt and character of the countryside, this has relevance within the section below.

## Design and Impact on the Character of the Area

### Layout, Scale and Appearance

49. 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 in favour 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).
50. 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).
51. There is no common design established as the site is relatively isolated from neighbouring dwellings within the wider area. The neighbouring dwelling to the west has facing brick walls and a slated roof. Further afield across Chelmsford Road is a residential dwelling to the west and a commercial business to the east. Furthermore, the roofscape is not homogeneous and is varied with the use of hips and gables.
52. The proposed dwelling would include three floors; a basement that includes a swimming pool, gym and sauna. Then the ground and first floors. Given that the basement would be below ground level, this is not taken into account within the calculations of the proposed floorspace.
53. The proposed dwelling would measure a total width of 34.6m by a length of 16.2m to a primary ridge height of 9.4m. The two side projecting gables at the front would be 8.3m in height while the middle projecting gable would be 7.6m in height. The materials for the proposed dwelling would be white render and brickwork for the walls, UPVC for the windows and red tiles for the windows. According to drawing 4136-02-1, the proposed dwelling would be of a modern design with mock Tudor finishing at the front elevation.
54. The proposed dwelling along with the proposed driveway would be considered to form an attractive appearance. Whilst it would not be similar in design to the two nearby dwellings, the dwelling would be set back from the street and would not be considered to detract from the rural character given the level of architectural interest proposed. The

proposal would be considered compliant with Policy DM1 of the Development Management Plan in this regard.

55. It has been demonstrated that the quantum of development can be successfully accommodated within the site and that additionally the proposed dwelling would be sited within reasonably a large plot and as such it will not appear cramped. The proposed development is considered to accord with Policy H1 of the Core Strategy.

#### Impact on Residential Amenity

56. 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.
57. Amenity can be 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 overlooking, loss of light or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.
58. It is noted that the proposed dwellinghouse will have apertures on its north, east and south 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 is not considered to significantly impact on the residential amenity of neighbouring occupiers in terms of having an overbearing impact, overlooking or overshadowing.
59. The application site is adjoined only by Moat Farm to the west. No fenestration is proposed along the western flank elevation and it is therefore not considered that any significant overlooking would occur. In addition, the application site and Moat Farm would be separated by the moat and therefore substantial distance would be maintained between the two dwellings as to not result in an overbearing or overlooking impact. The proposal would be compliant with Policy DM1 and DM3 in this regard.
60. 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. The proposal would be compliant with Policy DM1 and DM3 in this regard.

#### Living Conditions for Future Occupiers

##### Garden Size

61. 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.
62. The SPD2 requires a minimum 100m<sup>2</sup> garden area for all new dwellings. An exception to this requirement will be single storey patio housing or one- and two-bedroom dwellings which shall have an area of 50m<sup>2</sup> minimum.
63. The layout submitted shows that the proposed dwelling could be provided with private amenity space way 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

64. 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.
65. 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.
66. 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.
67. A two-storey dwelling which would comprise six bedrooms would require a minimum Gross Internal Floor Area (GIA) of 123m<sup>2</sup>.

Additionally, the dwelling must have a minimum of 4m<sup>2</sup> of built-in storage.

68. 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.
69. The Gross Internal Floor area of the proposed dwellinghouse equates to approximately 1293.89m<sup>2</sup>, and as such in terms of overall GIA the proposal complies with the minimum specified technical standards.
70. 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	56.20m <sup>2</sup>
Bedroom No. 2	44.12m <sup>2</sup>
Bedroom No. 3	39.25m <sup>2</sup>
Bedroom No. 4	51.76m <sup>2</sup>
Bedroom No. 5	33.87m <sup>2</sup>
Bedroom No. 6	32.97m <sup>2</sup>

71. 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 six 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.
72. 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.
73. In light of the Ministerial Statement which advises that planning permissions should not be granted subject to any technical housing standards other than those relating to internal space, water efficiency and access, the requirement in Policy ENV9 that a specific Code for Sustainable Homes level be achieved and the requirement in Policy H6 that the Lifetime Homes standard be met are now no longer sought.



## Impact on Highway Safety and PRow

74. 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.
75. 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.
76. In accordance with paragraph 116 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.
77. The application form indicates that there are 10 existing parking spaces and 5 proposed for the new development thus the site has ample parking space and a large garage proposed that would accommodate 2 vehicles. According to the submitted plans the application site is shared with a Public Right of Way (PRow) footpath.
78. The public footpath crosses the site from the north to the south in a skewed alignment between the two existing buildings and to the east of the proposed dwelling. A footpath is a highway over which the public has a right of way on foot only. It is illegal to obstruct a public right of way and is a criminal offence. The footpath statement states that fencing can be placed at the west side of the public footpath to prevent members of public from accessing the applicant's garden.
79. Policy DM11 of Essex County Council (ECC) Development Management Policies seeks to safeguard the existing network of PRow by ensuring that it remains protected and open for use by the public.
80. It is considered that any intensification resulting from the provision of one 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. They state:

*"A site visit has been previously undertaken and the information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal includes subdivision of the site, demolition of buildings and construction of a dwelling. The existing vehicle access shall be shared and adequate room for a minimum of two off-street parking spaces is included."*

*There is an existing Public Right of Way footpath that connects to Chelmsford Road and crosses the land in the application site, the first recommended condition protects the footpath.*

*However, the Public Right of Way team advise that legal route is currently obstructed, the applicant should work with the relevant department at Essex Highways to resolve this issue.”*

81. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed dwelling. There is sufficient space for vehicles to manoeuvre so that access/egress the site is possible in a forward propelling gear. Furthermore, it is not considered that one dwelling at this locality will cause demonstrable harm to the highway network. The additional comings and goings of vehicles because of this proposal would not result in significant disturbance to neighbours via noise and dust which can be substantiated and warrant a refusal. Generally, it is considered that the proposal is acceptable in highway terms and would not have an adverse impact upon highway safety and the public footpath. 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 NPPF.

#### Refuse and Waste Storage

82. 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 and Drainage

83. Rochford District Council's Core Strategy contains Policy ENV3 which relates to flood risk; this states that the Council will direct development away from areas at risk of flooding by applying the sequential test and where necessary, the exceptions test. The application site is located within Flood Zone 3.

84. Paragraph 181 of the NPPF requires that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere. A site specific flood risk assessment is required for all development in Flood Zones 2 and 3 and in Flood Zone 1 where the proposal relates to a site of 1 hectare or more.

*“Development should only be allowed in areas at risk of flooding where (subject to the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”*

85. However, the NPPF would require that in the first instance the sequential test must be passed; this test seeks to steer development preferentially to the lowest flood risk zones (paragraph 181).

86. The application site is located entirely within Flood Zone 3 and therefore to pass the sequential test, it must be identified whether the proposed development could be located entirely outside of an area of flood risk. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites. ‘Reasonably available sites’ are those in a suitable location for the type of development with a reasonable prospect that site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered ‘reasonably available’ (NPPG ref ID: 7-028-20220825).

87. A Flood Risk Assessment prepared by Evans Rivers and Coastal dated January 2022 and Sequential and Exceptions Test assessment prepared by Southwest Environmental Limited dated May 2023 were submitted with the application. It is worth noting that these are the same documents that were submitted for the previously refused application 22/00783/FUL that were deemed insufficient. The Sequential and Exceptions Test report discusses that it will look at allocated sites, sites granted planning permission and windfall sites. The assessment ultimately concludes that a 6-bed detached house,

within a rural location could not be provided anywhere else in the district.

88. The reports scoping for the 'type of development' remains questionable. Typically, sequential tests for residential development submitted to the LPA have classified the 'type of development' as the number of dwellings proposed, in this instance one dwelling. Whereas the submitted Sequential Test looks at sites based on their characteristics. Previous officers have raised this with the agent and flood risk consultant who prepared the report (an email sent on 26th June 2023); no response has been received to provide clarification on this matter.
89. There are a number of allocated sites and other consents which have been granted planning permission that have not been considered. Even if it were agreed that the 'type of development' were that described within the Sequential Test Assessment (6-bed, detached, rural area) then all granted permissions which are available to accommodate that 'type of development' should be considered. These permissions may include (but are not limited to):
- Lynton Orchard Lower Road ref: 19/00920/FUL
  - Orchard Thatch Church Road ref: 22/00113/FUL
  - Rainbow The Chase ref: 21/001276/FUL
  - Barns East of Rawreth Hall ref: 18/00658/FUL
  - Stable Block The Dell ref: 22/00338/FUL
  - Meadowbrook Farm Ironwell Lane ref: 21/01250/FUL
  - Fairways Garden Centre Hullbridge Road ref: 18/00625/OUT (for sale at present)
  - SER1 Land North of London Road ref: 21/00596/REM
  - SER8 Land East of Ashingdon Road ref: 20/00363/OUT
90. These suggested sites were made available to the agent in a letter dated 23rd June 2023 and no further information or rebuttal has been provided. It is therefore not clear whether these sites were assessed. It is further noted that the Sequential Test Assessment applies the criteria for such tests of Bristol City Council. Officers do not consider this an appropriate method as although Rochford District Council do not have their own local criteria, paragraph 11(d) of the NPPF outlines that national policy is therefore applied.
91. The Environment Agency was consulted to comment on the proposed development and raised no objections subject to the sequential test being passed.
92. Planning Practice Guidance requires consideration of the vulnerability of proposed development to flooding and advises in what circumstances certain development should be permitted. The proposed residential development falling within Use Class C3 is classified as a

'more vulnerable' use and therefore would be required to pass the exceptions test.

93. The NPPG sets out that to pass the exceptions test it must be demonstrated that:
- The development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
  - The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
94. The submitted Sequential Test and Exceptions Test document discusses that the benefits of the scheme are economic (investment in brownfield sites and the creation of temporary jobs during construction) and environmental benefits (energy efficient housing and reduction in transport related carbon emissions). In terms of the economic benefit, there is no sustainability benefit to the community through the investment of this brownfield site. Secondly, the creation of jobs would be temporary (as highlighted by the assessment) and would therefore not be a permanent benefit. In terms of the environmental benefits, it is not clear what extent a single dwelling would have on either of the benefits highlighted in the assessment and whether that would outweigh flood risk.
95. It is not evidenced that the development would be safe for its lifetime or that it would not increase flood risk elsewhere. The Lead Local Flood Authority (LLFA) have been consulted on the application and have issued a holding objection due to no drainage information having been submitted, thereby increasing the risk of flooding associated with the site.
96. As such, it is not considered that the proposal would pass the exceptions test to justify locating the proposed development within Flood Zone 3.
97. Therefore, the development has failed to demonstrate that the proposal could not be located within an area within a lower area of flood risk and the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding, contrary to Section 14 of the NPPF and Policy ENV3 of the Council's Core Strategy.

Trees

98. 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.”*

99. The proposed development would result in the loss of trees on the site. The Council's Arboricultural Officer has been consulted on the application and has recommended a condition requiring a tree survey, protection plan and method statement which could be imposed were the application being recommended for approval.

Ecology

On-site

100. The NPPF at section 15 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 is required. The council's Local Development Framework Development Management Plan at Policy DM27, requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.
101. 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.
102. 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.

103. To accompany their planning application the applicant has submitted an Ecological Survey, produced by John Dobson and dated July 2024. It recommended firstly that gaps along the existing boundary must be retained for the foraging of hedgehogs and toads. Secondly, the provision of nesting boxes for birds and hedgehogs and finally two bee hives to be developed on the site. The submitted bat survey declaration indicates that the development would not be harmful to bats.

104. The councils ecologist was consulted and have a holding objection to the proposal owing to insufficient ecological information pertaining to mandatory Biodiversity Net Gain (BNG) and Great Crested Newts as they are a European Protected Species. They state:

*“Therefore, as we don't agree that the site has negligible suitability as terrestrial habitat, we recommend that further professional judgement is provided to ensure that Great Crested Newts will not be impacted by the proposals, this should ideally include a Habitat Suitability Index of nearby ponds and reference to Natural England's Great Crested Newt Rapid Risk Calculator”.*

105. The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *“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.”*

106. The proposal is therefore contrary to policy ENV1 of the Core Strategy, DM27 of the Development Management Plan and section 15 of the NPPF.

Off-site

107. The application site also falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMs). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressures.

108. The development for one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for one dwelling.

Proceed to HRA Stage 2: Appropriate Assessment - Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)?

- No

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

- No

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

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



be necessary in this case. The financial contribution was paid by the applicant on the previous application.

#### Biodiversity Net Gain

111. 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.
112. Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.
113. Following the grant of planning permission where the statutory biodiversity gain condition applies, the developer would be required to apply to the local authority and get the condition discharged prior to commencement of development. At this stage the developer would be required to submit detailed information as to how the minimum BNG net gain requirement would be achieved.
114. At the planning application stage an applicant must indicate whether they consider that the development proposed would be subject to the statutory biodiversity gain condition or not and if not, which of the exemptions would apply.
115. In this case the applicant has indicated that the statutory biodiversity gain condition would not apply but the planning and ecological officers disagree as the application site is 6197m<sup>2</sup>.
116. The legislation requires that some BNG information relating to pre-development habitat at the site is submitted with a planning application in order that the application can be validated. The applicant has not submitted this required information. The Essex County Council Place Services ecology team have provided a consultation response following their consideration of the application and the BNG information submitted, and this response is summarised in the ecology section of the report.

## Equalities and Diversity Implications

117. The Public Sector Equality Duty applies to the Council when it makes a decision. The duty requires us to have regard to the need:
- To eliminate unlawful discrimination, harassment, and victimisation.
  - To advance equality of opportunity between people who share a protected characteristic and those who do not.
  - To foster good relations between those who share a protected characteristic and those who do not.
118. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.
119. Taking account of the nature of the proposed development and representations received, it considered that the proposed development would not result in any impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

## CONCLUSION

120. Refuse.

## CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Rawreth Parish Council: No comments or observations to make.

Essex County Council Highways Authority: No objection subject to the imposition of conditions.

Environment Agency: No objection.

Rochford District Council Arboricultural Officer: No information provided to assess tree stock. Tree survey, tree protection plan and method statement provided.

Essex County Council Place Services Ecology: Holding objection, insufficient ecological information.

Essex County Council Place Services Archaeology: Recommend a programme of archaeological investigation.

Anglian Water: Falls outside of the remit for comments by Anglian Water.

Neighbour representations: No responses received.

## **Relevant Development Plan Policies:**

National Planning Policy Framework (December 2024).

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

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

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

Essex Planning Officers Association Parking Guidance Part1: Parking Standards Design and Good Practice (September 2024) (Adopted 16th January 2025).

The Essex Design Guide (2018).

Natural England Standing Advice.

Planning (Listed Buildings and Conservation Areas) Act 1990.

## **RECOMMENDATION: REFUSE**

1. The application site is located within Flood Zone 3 and the National Planning Policy Framework (NPPF) is clear that all new development in Flood Zone 3 must pass the sequential test, which seeks to steer development to the lowest flood risk zones. The application site would fail to pass the sequential test as the development has failed to demonstrate that the proposal could not be located within a lower area of flood risk. Subsequently, the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding. The proposal would also fail the subsequent exception test given that it would not provide economic and environmental sustainability benefits for the community and may result in an increased risk of flooding. The proposed development would be contrary to Section 14 of the NPPF and Policy ENV3 to the Council's adopted Core Strategy.
2. The Ecological Survey produced by John Dobson dated July 2024 submitted in support of the application, in the opinion of the Local Planning Authority has not demonstrated, through the submission of robust or cogent information that the submitted survey justifies the habitats on site and 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 Ecological Survey produced by John Dobson dated July 2024 contains recommendations for protected species, including presence / likely absence surveys for birds, hedgehogs, toads and bees. Great Crested Newts were identified by the council's ecological officer to be one of the protected species on site but no reference was made of them in the ecological survey. 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. J. Newport, Cllr. C. Stanley and Cllr. J. E. Cripps.