



**PLANNING APPLICATIONS WEEKLY LIST NO.1741**  
**Week Ending 17th January 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 next committee.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **22nd January 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:	24/00086/OBL      Zoning: No allocation
Case Officer	Mr Duncan Law
Parish:	Great Wakering Parish Council
Ward:	Foulness And the Wakerings
Location:	Land Rear Of 3 To 45 Alexandra Road Great Wakering
Proposal:	Proposed modification of affordable housing schedule in the s106 legal agreement dated 21 May 2021 relating to planning consent 18/01115/FUL (Redevelopment of the site involving the demolition of no 39A Alexandra Road to form vehicular access to proposed residential development consisting of 25 dwellings (1 x1-bed maisonette, 11 x 2-bed houses and 13 x 3-bed houses). Parking and landscaping.)

## SITE AND PROPOSAL

1. Planning permission (18/01115/FUL) was granted for the residential development of this site subject to conditions and a s106 legal agreement. The s106 agreement is dated 21<sup>st</sup> May 2021.
2. This application seeks a Deed of Variation of the s106 agreement. Part 1 of the second schedule of the s106 agreement sets out the planning obligations in relation to the provision of affordable housing at the site and it is this part of the agreement that the applicant seeks to modify.
3. The agreement states that the tenure of the 9 affordable housing units is to be split between affordable rent dwellings (7 units) and shared ownership dwellings (2 units). The applicant is seeking to insert a new fifth schedule into the agreement to allow for the option for all nine of the affordable housing units to be provided via the RentPlus model of delivery.
4. The supporting information states that '*RentPlus is a more affordable introduction to home ownership and gives households the opportunity to save up for a deposit whilst paying an affordable rent. The RentPlus rent to buy model complies with the definition of affordable housing as set out in Annex 2 of the NPPF. As mentioned above RentPlus gifts tenants wishing to purchase their property with a 10% cash deposit at the time of purchase.*'
5. The proposed fifth schedule would read as set out below.

### FIFTH SCHEDULE

1. *Subject to paragraph 1 of Part 3 of this Schedule, the Owner covenants with the Council to provide the Affordable RentPlus Dwellings in accordance with the provisions of this Schedule.*

*Part 1 RentPlus Model*

1. *The Parties agree that the Affordable RentPlus Dwellings comply with the definition of affordable housing contained in Annex 2 of the NPPF.*

2. *The Affordable RentPlus Dwellings shall be:*

*2.1 made available to Eligible Persons in accordance with a local letting plan;*

*2.2 managed by a RP and shall be provided in accordance with Part 1 and Part 2 of this Schedule;*

*2.3 available to tenants under Tenancy Agreements some of which Tenancy Agreements will be renewable for further terms of up to five years to a maximum aggregate term for any individual Affordable RentPlus Dwelling of twenty years (i.e. four consecutive five-year terms);*

*2.4 let at an Affordable Intermediate Rent which may be subject to annual reviews; and*

*2.5 offered for sale to existing tenants of Affordable RentPlus Dwellings (and others) pursuant to the provisions of Part 2 of this Schedule.*

*3. The RP shall:*

*3.1 during the term of the Tenancy Agreements operate and manage the Affordable RentPlus Dwellings under the RentPlus Leases; and*

*3.2 have the option to purchase and retain any Affordable RentPlus Dwelling for Affordable Housing where there is no tenant who wishes to purchase the Affordable RentPlus Dwelling offered for sale, pursuant to the provisions of Part 2 of this Schedule.*

6. The application is supported by a Local Letting plan which has been amended in the course of the application following comments received from the Council's strategic housing team.

**RELEVANT PLANNING HISTORY**

7. 18/01115/FUL - Redevelopment of the site involving the demolition of no 39A Alexandra Road to form vehicular access to proposed residential development consisting of 25 dwellings (1 x1-bed maisonette, 11 x 2-bed houses and 13 x 3-bed houses). Parking and landscaping.

## MATERIAL PLANNING CONSIDERATIONS

1. 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. The relevant part of the adopted Development Plan is the Rochford District Core Strategy (2011) and the 2024 National Planning Policy Framework.

### Principle of Development

2. The principle of development on this site was established through the granting of planning permission for application reference 18/01115/FUL by Rochford Development Committee on 21 November 2019 where the officer recommendation stated that the proposed development would deliver several benefits including the delivery of affordable housing in an area where there is an acknowledged need. Consequently, the proposal was considered to meet the requirements of the development plan and NPPF, subject to the appropriate planning conditions and section 106 requirements.
3. This application is to vary the affordable housing schedule in the s106 legal agreement dated 21 May 2021 and consideration must be given to whether the proposed changes would ensure that the development would continue to meet the planning policy requirements in respect of affordable housing provision.

### Affordable Housing

4. Paragraph 64 of the 2024 NPPF states that where a need for affordable housing is identified, planning policies should specify the type of affordable housing required (including the minimum proportion of Social Rent homes required), and expect it to be met on-site unless:
  - a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - b) the agreed approach contributes to the objective of creating mixed and balanced communities.
5. Policy H4 of the Core Strategy sets out the affordable housing contribution for the development and requires at least 35% of dwellings on all developments of 15 or more dwellings or on sites greater than 0.5 hectares to be affordable. The policy confirms that the affordable dwellings shall be tenure blind and well-integrated into the layout of new residential developments such that they are spread throughout

larger developments, whilst having regard to the management requirements of Registered Social Landlords. The Council will aim for 80 percent of affordable housing to be social housing, 20 percent intermediate housing.

6. Nine units of the 25 dwellings approved under application 18/01115/FUL were required to be affordable units to comply with the requirements of policy H4. As further required by policy H4 of the Core Strategy, the split, secured through the signing of the s106 to be varied, was to be 80% affordable dwellings to be social housing (rented) and 20% intermediate housing (shared ownership). Due to a lack of interest from affordable home providers whilst marketing the 9 affordable housing units with a split between affordable rent dwellings (7 units) and shared ownership dwellings (2 units), the applicant has been unsuccessful in securing a social housing provider to take the units on at the required tenure. Discussions however have taken place between the applicant and RentPlus who wish to take on the 9 affordable units, however this proposal would result in 100% of the units being intermediate with no affordable rent, contrary to the aims of policy H4.
7. The RentPlus model provides that dwellings are let to tenants who are usually allocated through local choice-based lettings or local housing waiting lists on an affordable rent basis (at 80% of the market rent). The RentPlus model requires preference to be given to people on the local housing register (RDC) via the submitted local lettings plan as approved by the Council's strategic housing team. The RentPlus dwellings are offered to tenants on rental periods of at least five years, up to a maximum of 20 years. After five years, the tenant is offered the opportunity to purchase the home that they rent, with a 10% cash deposit contribution by RentPlus.
8. It is noted that there is flexibility offered in the wording of policy H4 as the Council will constantly review the affordable housing needs of the district and it advises that developers should consult with the Council's Housing Strategy team to ensure their proposals meet the Council's needs before submitting planning applications. Discussions between RentPlus and officers at the Council have taken place and the Council's strategic housing team do not object to the proposed change to the affordable housing scheme to allow for all 9 of the affordable housing units to be delivered via the RentPlus model at this site.
9. It is accepted that there is conflict with policy H4 of the Core Strategy however it is acknowledged that the 80 percent of affordable housing to be social housing (rented), 20 percent intermediate housing (shared ownership) is an 'aim'. Furthermore, the Thames Gateway South Essex Strategic Housing Market Assessment (2008) identified an acute need for affordable housing within Rochford District. This need is also identified in the Council's Housing Strategy (2009) that acknowledged the severity of the need for affordable housing in the district with one of

its key priorities is to maximise the provision of affordable housing through the planning system.

10. On balance, the provision of 9 affordable units that would help meet the acute identified need for affordable housing outweighs the minor conflict with policy H4 of the Core Strategy. The strategic housing team are satisfied that the RentPlus model would deliver an appropriate alternative form of affordable housing at this site. Given that the strategic housing team raise no objections and that all the remaining clauses in the agreement would continue to apply, the proposed Deed of Variation is considered acceptable.

## **EQUALITIES AND DIVERSITY IMPLICATIONS**

11. 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.

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

13. 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**

14. The recommendation is that the Council enter into a Deed of Variation to modify the affordable housing clauses within the s106 agreement to allow the affordable housing units to be provided in accordance with the Rentplus affordable housing model.

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

RDC – Strategic Housing

No objections

**Relevant Development Plan Policies:**

National Planning Policy Framework 2024

Core Strategy Adopted Version (December 2011)

Development Management Plan (December 2014)

**RECOMMENDATION: APPROVE**

The local Ward Member(s) for the above application are Cllr D S Efde, Cllr G W Myers and Cllr Mrs J McPherson.



Application No :	24/00831/FUL      Zoning :MGB
Case Officer	Mr Richard Kilbourne
Parish :	Stambridge Parish Council
Ward :	Roche North And Rural
Location :	Stewards Elm Farm      Stewards Elm Farm Lane Stambridge
Proposal :	Variation of condition 2 (approved plans) pursuant to planning permission reference 24/00383/FUL (Demolish existing buildings and construct 6 No. dwellings with associated landscaping, access, refuse store and car and cycle parking provision including 1 No. detached garage and a detached garage block to serve the existing dwellinghouse Stewards Elm Farm) to allow for revised plans including re-position 4 block garage serving main house, realign proposed access road into site, move plots 1 and 2 slightly northwards, relocate passing bay, addition of second passing bay and enlarged turning head.

## **SITE AND PROPOSAL**

1. The application site lies to the west of Great Stambridge. The application site is located wholly within the Metropolitan Green Belt. The application site is an irregular shaped parcel of land which measures approximately 5037m<sup>2</sup>. Some of the boundaries to the site are demarcated by patchy mature native hedgerows which are punctuated at sporadic intervals by mature trees. Access into the site is directly via Stewards Elm Farm Lane, which is a single width road. Located immediately to the south of the subject site is Stewards Elm Farm, a large detached two storey dwellinghouse. Furthermore, there are several ponds in close proximity of the application site.
2. The application site contained several buildings. Some of the buildings are in much better condition than others. Additionally, there was also a large amount of hardstanding. The existing buildings on site were of a simple and functional design and previously had been used for equine purposes and storage.
3. The proposal seeks consent for the variation of condition 2 (approved plans) pursuant to planning permission reference 24/00383/FUL (Demolish existing buildings and construct 6 No. dwellings with associated landscaping, access, refuse store and car and cycle parking provision including 1 No. detached garage and a detached garage block to serve the existing dwellinghouse Stewards Elm Farm) to allow for revised plans including re-position the four bay garage serving main house northwards, realign the proposed access road into site, move plots 1 and 2 slightly northwards, relocate the passing bay from behind



the four bay garage to the site entrance , addition of second passing bay a the far end of the development outside plots 4, 5 and 6 and enlarge the turning head outside plot 6.

## **RELEVANT PLANNING HISTORY**

4. Application No. 97/00099/FUL - Construct Earth Embankment – Withdrawn - 03.04.1997.
5. Application No. 98/00043/FUL - Single Storey Rear Extension. (Alterations to Existing Garage to Form Habitable Accommodation) (Revised Submission Following Application F/0298/97) – approved - 26.02.1998.
6. Application No. 02/00140/FUL - Single Storey Rear Extensions, Chimney Stack and Construction of Swimming Pool – Withdrawn - 24.04.2002.
7. Application No. 02/00972/FUL - Single Storey Extensions to Dwelling Together with Demolition of Parts of Existing Building – Refused - 02.01.2003.
8. Application No. 04/00131/LDC - Lawful Development Certificate. The Covered Area and Utility Room to the Rear of the Property were Erected and Substantially Completed more than 4 Years Prior to the date of this Application – Permitted - 02.08.2004.
9. Application No. 04/00662/FUL - Two Storey Building to Provide Garage and Storage Complex – Withdrawn - 04.10.2005.
10. Application No. 05/00064/FUL - Infill Below Rear Canopy Structure to Form Day Room – Refused - 24.03.2005.
11. Application No. 05/00471/FUL - Demolish Utility Room Extension and Existing Canopy and Erect a New Rear Extension in the Location of the Canopy – Approved - 27.07.2005.
12. Application No. 18/01192/FUL – Proposed Detached House and Detached Garage – Refused - 19.07.2019.
13. Application No. 21/00663/LDC - Application for a Lawful Development Certificate for existing use of site as Equine Facility and Riding Stables (use class D2) – Refuse LDC - 11.08.2021.
14. Application No. 22/00025/LDC - Lawful Development Certificate for existing use of Stewards Elm Farm as Equine Facility and Riding Stables D2 Use – Permitted LDC - 08.03.2022.

15. Application No. 24/00290/FUL - Construct 2 No. replacement fishing lodges and form new access track and parking area – Refused – 18<sup>th</sup> September 2024.
16. Application No. 24/00383/FUL - Stewards Elm Farm, Stewards Elm Farm Lane Stambridge Essex SS4 2BB Demolish existing buildings and construct 6 No. dwellings with associated landscaping, access, refuse store and car and cycle parking provision including 1 No. detached garage and a detached garage block to serve the existing dwellinghouse Stewards Elm Farm – Approved – 2<sup>nd</sup> October 2024.

## **MATERIAL PLANNING CONSIDERATIONS**

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

### Principle of Development

19. 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.
20. 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 Local Planning Authority (LPA) shall consider only the question of conditions subject to which planning permission should be granted (so not its acceptability).
21. 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.

22. It is also important to add that the scope of a S.73 can be limitless see *Armstrong v. Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 142 it was held that providing a variation is only proposed to the conditions of a planning permission and such variations neither requires a changes 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.

28. Furthermore, Paragraph 57 of the National Planning Policy Framework 2024 (NPPF) states planning conditions may be used to make otherwise unacceptable development acceptable. Additionally, para 58 of the NPPF 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.

29. 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.

30. The principle of development on this site has already been accepted as part of application 24/00383/FUL. This is solely a Section 73 application which seeks to either vary or remove condition 2 attached to 24/00383/FUL.

#### Background Information

31. As previously stated, planning permission was relatively recently granted for the demolition of the former equine facility and riding stables (16No. stables in total) and in addition a number of low-rise commercial buildings. It was considered that the provision of 6No. dwellings with associated landscaping, access, and car and cycle parking provision including 1 No. detached garage and a detached garage block to serve the existing dwellinghouse "Stewards Elm Farm" would not remove its open character and as such the proposal would not have a significant impact on the visual openness of the Green Belt as a preferable alternative to the existing buildings in Green Belt terms. As a result, the proposal would not erode the openness of the Green Belt both in visual and/or spatial terms. The development would not have a greater impact on the openness of the Green Belt and so would

benefit from exception g) of the NPPF. Furthermore, it was considered that the design of the proposed dwellinghouses would not have a detrimental impact on the character and appearance of the local environ and the proposal would result in any demonstrable harm to residential amenity. There were no other material planning considerations which indicated that the proposal should be refused planning permission.

32. As previously alluded to the applicant seeks to vary Condition 2 (Approved Plans) of 24/00383/FUL.

33. This condition states: -

*“The development shall be undertaken in strict accordance with the plans referenced 1933 11C (Roof Plan) (as per date stated on plan 18th March 2024), 1933 36A (Area and Volume Calculations) (as per date stated on plan 18th March 2024), 1933 10B (Layout) (as per date stated on plan 18th March 2024), 1933 03B (Block Plan) (as per date stated on plan 18th March 2024), 1933 60A (Site Plan) (as per date stated on plan 18th March 2024), 1933 59 (Site Levels) (as per date stated on plan 18th March 2024), 1933 02A (Location Plan) (as per date stated on plan 18th March 2024), 1933 17A (Plot 6 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024), 1933 16A (Plot 5 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024), 1933 15A (Plot 4 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024), 1933 14A (Plot 3 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024), 1933 13A (Plot 2 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024), 1933 12A (Plot 1 Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024) and 1933 34 (Garage Block Details: Floor Plan and Elevations) (as per date stated on plan 18th March 2024).*

*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”.*

34. According to the approved plans (plan ref: 1933 10B) there was a passing bay situated directly behind the proposed garage block which would serve the main dwellinghouse (Stewards Elm Farm). In reference to the submitted plans (plan ref: 1933 10D) the applicant is proposing to move the garage block 2m (approx.) in a northerly direction. Consequently, following the relocation of the proposed garage block, it would be sited on the approved passing bay. In light of this, the applicant is proposing to install two new passing bays. One of the passing bays will be situated towards the site entrance and the remaining passing bay be located towards the front of plot No.6 at the far western end of the development. It is not considered that the relocation of the proposed garage block and the addition of two passing bays, following the omission of the passing bay at the rear of the



garage block will a detrimental impact on the character and appearance of the scheme.

35. In addition to the above, following the inclusion of the additional passing bay towards the site entrance will require the realignment of the internal access road, which will serve the proposed dwellinghouses. Moreover, the applicant is proposing to increase the size of the turning head due in part to the provision of the additional passing bay located at the front of plot No.6. Overall, it is considered that the proposed alterations will slightly increase the amount of hard surfacing attributable to the scheme as whole.
36. Nevertheless, however noticeable though these changes will be, they would not be unduly harmful to appearance of the Green Belt and will be seen as a simple alteration of the road network at this point. The visual impact of the proposal would, therefore, be relatively insignificant and the character and appearance of the approved scheme would not be unacceptably changed. Overall, it is the view of the case officer that the proposed alterations are relatively diminutive and would have no discernible impact on the openness of the Green Belt.
37. In order to accommodate the realignment of the internal access road the applicant states that it is necessary to move plots No.1 and No.2 in a northerly direction by approximately 1.5m. It is not considered that the relocation of the plots will cause any demonstrable harm to the future residential amenities of the occupiers of these plots. Moreover, the proposal will not have any significant detrimental impact on the amenities of the adjacent plot No. 3, which is situated directly to the east of plot No.2. In the opinion of the case officer the boundary treatment will help to alleviate any negative externalities associated with the proposal and as such the scheme complies with guidance advocated with policy DM1 and the NPPF.
38. As previously stated, the applicant is proposing to relocate the detached garage block for the existing dwelling approximately 2m to the north. According to plan reference 1933 10D separating the rear elevation of the garage block from the front elevation of plots Nos. 1 and 2, is the internal access road. According to the submitted plans, there is a distance of approximately 5.5m separating the proposed garage block and the plots. It is considered given the intervening separation distances the proposed alterations will not have a detrimental impact upon amenity (of the future occupiers of plots Nos. 1 and 2) in terms of loss of light, overlooking or overbearing impact.

#### Garden Sizes

39. 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.

40. 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 50 m<sup>2</sup> minimum.
41. The layout as submitted shows that the plot No.1 would be provided with a rear private amenity space of approximately 189m<sup>2</sup> and plot No.2 would be afforded with 151m<sup>2</sup> of private amenity space(the approved site plan under application 24/00383/FUL showed that the plot No.1 would be afforded a private rear garden measuring roughly 280m<sup>2</sup> (a difference of 91m<sup>2</sup>) and plot No.2 had a private amenity of roughly 199m<sup>2</sup> (a difference of 48m<sup>2</sup>). Both of the plots would still have a private amenity space well in excess of 100m<sup>2</sup>. The proposed revised dwellings, therefore, would satisfy the outdoor amenity space requirements set out in the SPD2.

#### Flooding

42. According to the Environment Agency's Flood Risk Map the application site is located entirely in Flood Zone 1, where there is the lowest probability of flooding from rivers and the sea and to where development is directed. As such, the development is compatible with the advice advocated within the NPPF. Furthermore, according to the Governments Long Term Flood Risk assessment the application site is at low risk of surface water flooding.

#### Drainage

43. Development on sites such as this can generally reduce the permeability of at least part of the site and changes the site's response to rainfall. Advice advocated within the NPPF states that in order to satisfactorily manage flood risk in new developments, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. Therefore, in the event that planning permission is approved, 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.



## Highways Considerations

44. Policy DM1 of the Council's Development Management Plan requires sufficient car parking, whereas Policy DM30 of the Development Management Plan aims to create and maintain an accessible environment, requiring development proposals to provide sufficient parking facilities having regard to the Council's adopted parking standards.
45. In accordance with paragraph 111 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
46. It was considered the proposal would constitute a scaling down as compared to the historic commercial use and no highway issues will arise as a result of this proposed development. Nevertheless, in light of the proposed alterations, the case officer considered it prudent to consult colleagues in Essex County Council Highways Authority who have reviewed the submitted information and state *"This application is in relation to condition 2 of the approved application 24/00383/FUL and includes alterations to the internal road layout. Therefore, the basis of the mitigation measures agreed in support of the previous approval must be transferred to this application if approved"*.
47. The Highways Engineer goes on to state that they have no objections to the proposal subject to conditions relating to each dwelling being provided with off-street parking and turning areas, which will be conditioned accordingly, in the event that planning permission is approved.
48. It is considered that there is sufficient car parking arrangements and appropriate access to serve the proposed dwellings. In conclusion, the proposal is acceptable and would not have an adverse impact upon highway safety or congestion in the locality. The proposed development therefore accords with the Parking Standards and policies DM1, DM3, DM9 and DM30 of the Development Management Plan and the Framework.

## Other Matters

49. A neighbour is concerned that if the application is approved, Stewards Elm Farm Lane will be damaged by delivery lorries and builder's vans. Whilst the concerns of the objector are noted this is a private matter and is not a sufficient justification to warrant a refusal. Furthermore, concerns have been raised that properties may be damaged by contractors vehicles when delivering materials, this is a hypothetical situation and in any event this is also a private matter.

## **EQUALITIES AND DIVERSITY IMPLICATIONS**

50. 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.

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

52. 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**

53. Approve.

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

Stambridge Parish Council: No objections raised.

Essex County Council Highways Authority: No objection subject to each dwelling being provided with off-street parking and turning areas

Neighbour representations:

One response has been received from the following address;

Stewards Elm Farm Lane: "Longmead"

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

- The road is too narrow and cannot cope with heavy machinery and plant which will be used to construct the properties and delivering materials;
- Whilst there are two passing bays on the applicants land the rest of the lane serving the site is too narrow;
- Due to the configuration of the lane it will be difficult for vehicles to maneuver and is an accident waiting to happen;

- A high proportion of traffic coming through the village does not adhere to the 30mph speed limit and has resulted in 2/3 major accidents and property damage;
- Why should we have to endure noise, dust and air pollution when they could find another access route; and
- If approved there should be conditions to ensure the lane is structurally sound and not damaged.

**Relevant Development Plan Policies:**

National Planning Policy Framework (December 2024).

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

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

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

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

The Essex Design Guide.

Natural England Standing Advice

**RECOMMENDATION: APPROVE**

Conditions:

1. The development hereby permitted shall be begun before the 1<sup>st</sup> October 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 shall be undertaken in strict accordance with the plans referenced The development shall be undertaken in strict accordance with the plans referenced 1933 11E (Roof Plan) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 36A (Area and Volume Calculations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 10D (Proposed Layout) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 03D (Proposed Block Plan) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 60A (Site Plan) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 59A (Site Levels) (as per date stated on plan 18<sup>th</sup> March

2024), 1933 02A (Location Plan) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 17A (Plot 6 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 16A (Plot 5 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 15A (Plot 4 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 14A (Plot 3 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 13A (Plot 2 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024), 1933 12A (Plot 1 Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024) and 1933 34 (Garage Block Details: Floor Plan and Elevations) (as per date stated on plan 18<sup>th</sup> March 2024).

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

3. The external surfaces of the development hereby approved shall be carried out in compliance with those details submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024.

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

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

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

5. The boundary treatment of each of the plots hereby approved shall be carried out in compliance with those details submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024.

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

6. The development hereby approved shall be carried out in complete compliance with the arboricultural report and tree protection plan produced by Andrew Day Arboricultural Consultancy and is dated 8th November 2024 unless first agreed in writing with the Local Planning Authority. The arboricultural report and accompanying tree protection plan was submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024.

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

7. The development hereby approved shall be carried in full accordance with the tree protection plan produced by Andrew Day Arboricultural Consultancy dated 8<sup>th</sup> November 2024 and submitted as part of 24/00792/DOC. No site works (including any temporary enabling works, site clearance and demolition) or development shall take place until the temporary tree protection shown on the tree protection plan approved under this condition has been erected around existing trees to be retained on the site. This protection shall remain in position until after the development works are completed and no material or soil shall be stored within these fenced areas at any time. The development shall be implemented in accordance with the protection plan and method statement as approved under this condition.

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

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

REASON: To ensure continued control over the extent of further building on the site in the interests of the openness of the Green Belt given the consideration of the reduction in built form allowing for the openness of the Green Belt to be enhanced.

9. In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site shall be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer

when considering a surface water drainage strategy. The developer shall consider the following drainage options in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

The applicant shall implement the scheme in accordance with the surface water drainage hierarchy outlined above.

REASON: To secure proper drainage and to manage the risk of flooding and pollution.

10. The development hereby approved shall be carried out in complete compliance with the landscaping details as shown drawing No. 1933 101 (Proposed Materials Site Plan) (received by the Local Planning Authority on the 12th November 2024) which were submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024.

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

11. The Landscaping scheme as approved 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.

12. The flood resilient and flood resistant measures which were produced by StoneMe Architecture and Interior Design and submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024 shall be implemented in full and thereafter retained in perpetuity, unless otherwise first agreed in writing with the Local Planning Authority.



REASON: To ensure the ability of the approved buildings to withstand the effects of flooding in the interest of the safety of the future occupiers of the site.

13. No removal of any vegetation or the demolition or conversion of buildings shall take place between 1st March and 31st August in any year, unless a detailed survey has been carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding and fledging is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone taking place.

REASON: To safeguard protected species.

14. Prior to any works above slab level a Biodiversity Enhancement Strategy for protected and priority species shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- d) persons responsible for implementing the enhancement measures; and
- e) details of initial aftercare and long-term maintenance (where relevant). The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023, and s40 of the NERC Act 2006 (as amended).

15. Prior to the first occupation of the buildings hereby approved a lighting design strategy for biodiversity in accordance with GN: 08/23 (ILP) shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
- b) show how and where external lighting will be installed (through provision of appropriate technical specifications) so that it can be



clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

16. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

REASON: To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

17. The development hereby approved shall be carried out in complete compliance with the Construction Management Plan produced by StoneMe Architecture and Interior Design and submitted as part of 24/00792/DOC and as confirmed by the Council's decision letter dated 30<sup>th</sup> December 2024.

REASON: To ensure that the construction traffic is managed and to ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.

18. Prior to first occupation of the development and as shown in principle on planning drawing 1933 10D, each dwelling shall be provided with off-street parking and turning areas. 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 and to ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

19. 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.

20. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Arbtech, March 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

REASON: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

21. No development shall take place until a Water Vole Mitigation Strategy addressing the mitigation and potential translocation of water voles has been submitted to and approved in writing by the local planning authority. The Water Vole Mitigation Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- b) Review of site potential and constraints.
- c) Detailed design(s) and/or working method(s) to achieve stated objectives.
- d) Extent and location/area of proposed works on appropriate scale maps and plans.
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
- f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- g) Persons responsible for implementing the works.
- h) Details of initial aftercare and long-term maintenance(s).
- i) Details for monitoring and remedial measures.
- j) Details for disposal of any wastes arising from works.

The Water Vole Mitigation Strategy shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

REASON: To allow the LPA to discharge its duties under the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

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

Application No :	24/00842/FUL      Zoning : Unallocated
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Sweyne Park And Grange
Location :	Downhall ATE 27 - 31 London Road Rayleigh
Proposal :	Replacement of 3No antennas at 12m and 14.8m height, Installation of 3No antennas at 16.725m and 13.925m height, Rotation of 1No antenna at 12m height, Installation of 1No GPS node at 17.36m height, Installation of ancillary apparatus.

## **SITE AND PROPOSAL**

1. The proposal is for the upgrading of an existing rooftop site at Downhall ATE telephone exchange building, on the southern side of London Road, west of the junction made with Downhall Road, Rayleigh. The application site features a predominantly three storey detached building with existing telecommunications equipment located at the edge of the rooftop. This existing telecommunication apparatus forms part of the subject of this application.
  
2. The case officer observed that the subject building is set well back from the adjacent road and surrounding the application site are one- and two-storey residential buildings. Moreover, the site is screened to certain extent by large mature trees which are located to the front of the building. The application site is situated entirely within the residential envelope of Rayleigh.
  
3. The proposal involves the upgrade of telecommunications apparatus and ancillary work. According to the applicants supporting statement the site currently carries 4G technology. However, in line with the Government's mandate, Huawei equipment must be removed from the site. In this case, Huawei equipment will be replaced with new apparatus. The agent goes to state that the proposed development will also improve the overall connectivity in the area. The deployment will utilise the mobile network operators existing 3G and 4G network and as such the application site is likely to carry different mobile connectivity services in parallel, with high data uses operating through the 5G improved capacity network apparatus subject of this application. More specifically the works will include:
  - Replacement of 3No. antennas at 12m and 14.8m height
  - Installation of 3No. antennas at 16.725 and 13.925m height
  - Rotation of 1No. antenna at 12m height
  - Installation of 1No. GPS node at 17.36m height
  - Installation of ancillary apparatus

## **RELEVANT PLANNING HISTORY**

4. Application No. 10/00790/FUL - Installation of Ventilation Louvres to Existing Window Apertures To The North Elevation (5No) And The South Elevation (5.No.) At First Floor Level – Approved - 02.02.2011
5. Application No. 10/00632/FUL - Recover the Glazing to 8 no windows and Install 4no Aluminium Blade Weather Louvres to Match the Existing – Approved - 25.11.2010
6. Application No. 06/00691/FUL - Install of Louvres to 2 No. First Floor Windows and Replace First Floor Window with Apparatus Doors to Front Elevation – Approved - 03.09.2006
7. Application No. 98/00764/DPDP24 - Determination to Seek Whether Prior Approval of Siting and Appearance is Required to Erect 3 Cross Polar Antennae, 4 Dish Antennae, 1 Radio Cabin and Ancillary Development – Permitted - 12.01.1999
8. Application No. 98/00669/DPDP24 - Determination to Seek Whether Prior Approval of Siting and Appearance is Required to Erect 5m Stub Tower with 3 Cross Polar Antennae, 4 Dish Antennae, Radio Equipment Housing and Ancillary Development – Refused - 12.11.1998
9. Application No. 90/00053/FUL - Construct two new windows at first floor level on front elevation telephone exchange London Road, Rayleigh – Approved - 14.03.1990
10. Application No. 84/00635/FUL – Provide male and female toilets to first floor and add fire escape to rear – Approved - 26.10.1984

## **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).  
  
Principal of Development
13. The proposed development must be assessed against relevant planning policy and with regard to any other material planning considerations. In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004,

which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.

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

#### Telecommunications

15. Section 10 of the NPPF is aimed to support high quality communications. Paragraph 119 outlines that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Additionally, paragraph 120 states that the use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
16. Paragraph 122 of the NPPF provides further guidance for applications for electronic communications development and states that any application should be supported by the necessary evidence to justify the proposed development. Furthermore, the NPPF states that should include:
  - a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
  - b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
  - c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.
17. The applicant has provided a Declaration of Conformity in relation to Public RF Exposure Guidelines (formerly known as ICNIRP Declaration) which is dated 8<sup>th</sup> November 2024. This is considered to adequately address the guidelines of paragraph 122.
18. As previously attested too, the subject site is located within a heavily built-up area within the residential area of Rayleigh. The case officer noted that located within close proximity of the application site are

numerous residential properties and 2No. schools (Glebe Primary School and The Swayne Park School). The recently revised National Planning Policy Framework (NPPF) and the Code of Practice for Wireless Network Development in England require a consultative approach to network development with the planning authority and local community, reflecting the particular sensitivities of any given site. The agent states that the proposal received an 'Amber' grading when assessed against the traffic light rating model, as referenced in the Code of Practice. The agent confirms that they conducted pre-application engagement, which was initiated on the 14th November 2024. According to the agent no issues were raised during the consultation process.

19. Policy DM6 of the Council's Development Management Plan asserts that proposals for the development of telecommunications networks should be avoided in sensitive locations such as an area of nature conservation or the historic environment. Proposals for telecommunications development will be considered acceptable provided they meet the criterion of Policy DM6; these are considered below.
20. Part (i) requires that if located on an existing building, mast or other structure, telecommunications equipment is sited and designed to ensure that there is a minimal impact to the external appearance of the structure.
21. The agent contends that the *"proposed upgrade site has been carefully selected in a position capable of providing the required new upgraded essential coverage within the commercial and residential setting in the target coverage area. The scale of the upgraded equipment will be minor in comparison to the overall bulk of the host building and the equipment has been positioned on the existing roof where the existing equipment is currently situated, to minimise the visual effects"*.
22. The proviso of part (ii) is not of relevance as the application site is not within a sensitive location. Part (iii) is also not of relevance given that the proposal will be located upon an existing and is replacing existing infrastructure albeit with relatively marginally higher apparatus (see below).
23. The application site has been selected by the operator as this will provide the required level of 5G network coverage. In the opinion of the case officer the scale of the apparatus is not large and when installed should look proportionate to the structure as a whole. The antennas are similar in nature to the existing electronic communications apparatus installed on the building. The agent has confirmed the following that they proposing the following:
24. Replacement of 1No. antenna at 12m and install an additional antenna at 13.9m. Both of these antennas will utilise the same pole. In addition,



the agent is proposing replace 1No existing antenna which is located at 14.8m in height and then install 1No. additional antenna at 16.7m, which will use the same pole. Furthermore, the applicant proposes to replace another antenna located at 14.8m and install a third antenna measured at 16.7m on a third pole, which is existing. Moreover, on this third pole the applicant is proposing to 1No. GPS node at 17.36m, which is approximately the size of a fist (note: all measurements are taken from ground level). In addition to the above, the agent confirms that they proposing to Remove of 3No. Mast head amplifier units, 2No. breakout boxes and 3No. remote radio units. Following the removal of these units/boxes the agent has confirmed that they propose to install 2No. remote radio units and 1No. breakout box. These units/boxes measure approximately 40cm x 50cm x 10cm and given their location will not be overtly visible.

25. According to the submitted plans the existing telecommunication equipment measures approximately 17.1m high and the proposed scheme will have a maximum height of 17.36m (a difference of 0.26m increase in height). Whilst it is acknowledged that the proposed scheme is marginally higher in height, the current antennas are positioned at the end of the rooftop which will reduce the visual intrusion of the proposal, as well as ensuring the special technical and operational requirements of 5G are met. They will therefore be seen in the context of this apparatus and will not appear as incongruous or jarring additions to the building or look out of place within the area. The existing trees in the immediate locality will to a certain extent screen the proposal.

26. The proposal will be sited on top of an existing building in accord with para. 120 of the NPPF. Nevertheless, the case officer acknowledges that the telecommunication equipment will be visible from both short and long ranges. However, there is an existing telecommunication apparatus on the top of the building and as such blended into the local environment. Whilst the proposed equipment will be marginally higher but due to its location will not more overly conspicuous than the existing equipment. For the reasons noted above, it is considered that the benefits of improving the efficiency of the telecommunications network for all users and in the wider area outweigh the limited visual impact of the proposed development upon the character and appearance of the area and as such the proposal complies with guidance advocated within policy DM6 of the Rochford Development Management Plan and the NPPF.

#### Impact on Residential Amenity

27. Paragraph 135 (f) of the NPPF seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. This is reflected in Policy DM1, which seeks to ensure that new developments



avoid overlooking, ensuring privacy and promoting visual amenity, and create a positive relationship with existing and nearby buildings.

28. Amenity is defined as a set of conditions that one ought reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be in terms of overlooking, loss of light or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.
29. As previously stated, the agent has submitted the Declaration of Conformity for public RF exposure (formerly known as ICNIRP). It has been confirmed that the installation complies with the requirements of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure and the certificate produced by the operator takes into account the effect of the emissions from mobile phone network operators on the site. It is not considered therefore that health considerations would form the basis of a reason for refusal and for the LPA to be able to substantiate it at any future Appeal.
30. In addition to the above, it is accepted that the proposal would be both visible from and within the context of the adjacent properties; this is not however a reason to refuse permission. Officers consider that the siting and appearance of the proposal would not give rise to such detrimental impacts upon residential amenity in terms of loss of light, overbearing impact, noise or loss of privacy so as to warrant a refusal of the scheme. Moreover, it is noted that no letters of objection have been received from any of the neighbouring properties in relation to the proposal, and whilst not a determinative factor it is an important consideration.

#### Conclusion

31. Overall, it is considered that the benefits of improving the efficiency of the telecommunications network in the area outweigh the visual impact of the proposed development upon the character and appearance of the area. This is consistent with the NPPF paragraph 119 which states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being' and that planning decisions should support the expansion of electronic communications networks. As such, it is considered that the application should be approved.

#### EQUALITIES AND DIVERSITY IMPLICATIONS

32. 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.

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

34. 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**

35. Approve.

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

Rayleigh Town Council: No objections raised

Neighbour representations : No responses received.

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

National Planning Policy Framework (December 2024).

Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM1 and DM6

## **RECOMMENDATION: APPROVE**

Conditions:

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

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

2. The Development hereby approved shall be carried out in total accordance with the approved plans 167967-02-150-MD007 Revision 7 (Proposed Elevations) (as per date stated on plan 11<sup>th</sup> October 2024), 167967-02-100-MD007 Revision 7 (Site Plan) (as per date stated on

plan 11<sup>th</sup> October 2024) and 167967-00-004-ML001 Rev A (Location Plan) (as per date stated on plan 8<sup>th</sup> November 2024).

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

The local Ward Member(s) for the above application are Cllr. Ms. E. L. Brewer, Cllr Mrs. V. A. Wilson and Cllr. Lisa Jane Newport.