



**PLANNING APPLICATIONS WEEKLY LIST NO.1744**  
**Week Ending 14th February 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<sup>th</sup> February 2025.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **19th February 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.

Index of planning applications: -

1. 24/00280/FUL - 40 Eastwood Road Rayleigh Pages 2-10
2. 24/00669/FUL -Land Adjacent 54 Helena Road Rayleigh Pages 11-25
3. 24/00805/FUL - 53 West Street Rochford Pages 26 – 46
4. 24/00759/FUL – Oakwood Trenderers Avenue Rayleigh Pages 47 - 78

Application No :	24/00280/FUL      Zoning : Town centre
Case Officer	Mr John Harrison
Parish :	Rayleigh Town Council
Ward :	Wheatley
Location :	40 Eastwood Road Rayleigh Essex
Proposal :	Proposed stand alone Nursery classroom with WC facilities. Ramped access provided to entrance, fire exit with landing and stepped access provided elsewhere.

## **SITE AND PROPOSAL**

1. The application property is what were formerly a pair of semi-detached houses on the south-west side of Eastwood Road, between Daws Heath Road and Finchfield. They are now used as a children's nursery, Kindred Rayleigh Nursery. At the front of the site is a raised planting area with four trees in it. Between this and the nursery premises is a parking area with in and out access which parents use to drop off children. Single-storey flat-roofed extensions have been added to the rear of the former houses, approximately doubling the ground floor area. Beyond these is a very long rear garden, over 70 metres long. The part closest to the building is a play area and beyond that a grassed area with several trees on it.
2. Between the nursery premises and Daws Heath Road are a pair of shops. On the other side bungalows in Finchfield back onto the site with shallow rear gardens varying between 5.1m – 7.4m in depth. Some houses in Daws Heath Road also back onto the site, but these have longer rear gardens. There is a modern flat development directly opposite the site but other properties in the vicinity are primarily commercial.
3. The application is to build a new single-storey classroom in the rear garden to the site, directly behind No. 5 Finchfield. It would be 9.2 metres x 9.5 metres with a monopitch roof with the lowest side adjacent to 5 Finchfield. The walls of the building would be finished in horizontal timber cladding and the roof would be dark grey felt. There would be a ramp to facilitate disabled access to the building.

## **RELEVANT PLANNING HISTORY**

Application No. ROC/580/84 – Change of use from residential to nursery school / play group premises. Approved 18th October 1984. (Relates to No 40).

Application No. ROC/523/85 – Renew permission for use as a playgroup nursery. Approved 27th September 1985.

Application No. ROC/741/88 – Continued use as nursery school without compliance with condition 2 (temporary use expiring 31/10/88 ROC/523/85). Approved.

Application No. ROC/673/89 – Continued use as a nursery. Approved 29th September 1989.

Application No. F/0575/91/ ROC – Continue use as a nursery school. Approved 15th November 1991.

Application No. F/0469/94/ROC - Continue use as a nursery school. Approved 26th October 1994.

Application No. F/450/95/ROC – Ground floor rear extension 40 Eastwood Road. Approved 4th October 1995.

Application No. 99/00502/FUL – Conservatory to rear. Application withdrawn.

Application No. 99/00560/FUL- Erect Ground Floor Rear Extension with Flat Roof to Existing Children’s Nursery. Approved 15th December 1999.

Application No. 00/596/FUL- Layout 7 Staff Parking Spaces and Surfacing Improvements to Existing Access. Approved 7th November 2000.

Application No. 14/378/FUL - Proposed Change of Use of No. 38 From Residential Dwelling to Day Nursery (Use Class D1) to Create Extended Day Nursery at 38-40 Eastwood Road Incorporating Flat Roof Rear Extension to No 38 with External Staircase and Access Across Flat Roof. New Front Entrance with Ramped Access. Layout Parking to Front. Approved 7th August 2014.

N.B. Planning permission 14/378/FUL has a condition restricting the nursery to a maximum of 72 children. The agents have indicated an application is to be submitted to vary this condition. It is understood that at the moment the nursery has less than 72 children, but this proposal will provide the necessary facilities to enable them to accommodate 72 children.

## **MATERIAL PLANNING CONSIDERATIONS**

4. 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.
5. 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 Character**

6. The proposed new classroom would not be readily visible to public areas from outside the site, so its impact on the area would be limited. It is, however, considered to be of acceptable appearance. Being a freestanding building, in this location it is not considered it needs to

strongly relate in design terms to other nearby buildings. The proposed external finishes are considered appropriate. The proposal is considered to comply with policies CP1 and DM1 which seek to promote good design.

#### Impact on Residential Amenity

7. The property which would be most affected directly by this scheme would be No. 5 Finchfield which would have the classroom sited right behind it and the immediate neighbours would be affected to a lesser extent. These have relatively short rear gardens, about 5.1 – 7.4 metres deep, and the new classroom would be sited approximately 2.25 metres from the boundary. The building would be 3 metres high at the lower end nearest Finchfield rising to 4.42m in height into the middle of the site. and, if this were a domestic garden rather than a nursery school , a flat-roofed outbuilding could be built here as permitted development 3m in height or 4m with a pitched roofed design. Given that the classroom is to be single-storey and the monopitch roof slopes down towards these properties, the impact is considered acceptable and the proposal complies with the amenity impact issues of policy DM1 of the Council's Development Management Plan. One neighbour has expressed concern about possible overlooking from people entering or leaving the building. There are two entrance platforms approximately 0.3 metres high, so occasional overlooking from that will not be significant as if say, it were a raised decking area for activities.
8. As well as the physical impact of the building itself, the amenity impact of traffic generation, children playing outside, etc. has to be considered. The proposal does not, however, involve any increase in the number of pupils above the limit already set, so it would not be reasonable to refuse permission on the basis of such impacts.

#### Traffic and Highways Issues

9. The County Surveyor has requested an area be set aside for the storage of building materials during construction. This would need to be in front of the building which is also where the parking area is and where parents drop off children. Specifying a particular area might mean it is larger than it needs to be at times when few materials need to be stored and the size of the area available for parking will unnecessarily be reduced. Thus, to maximise flexibility, it is not considered such an area should be defined. Furthermore, obstruction to the highway is directly enforceable by the police and highway authority should it arise.
10. It is not considered there are significant highway objections to the proposal as the County Surveyor has not objected and the number of children and therefore the traffic generated by the scheme will not increase above a number previously set.

## Biodiversity Net Gain

11. This is an application to which the duty to provide 10% biodiversity net gain under the provisions of the Environment Act 2021 applies. The applicants have indicated that they intend to provide on-site habitat enhancement to meet the mandatory BNG requirement and have also indicated that the on-site habitat enhancement would involve the creation of a wildflower meadow and planting of an additional length of native hedgerow. The submitted biodiversity metric indicates that this habitat enhancement would achieve at least 10% BNG. Exactly how the development would achieve the mandatory BNG is however a matter which would be dealt with in the discharge of the mandatory condition post issue of a planning consent. The applicant would have to submit a Biodiversity Gain Plan for the Council's approval. An informative is recommended to highlight the need for the applicant to discharge the BNG condition prior to commencement of development. Essex County Council Place Services ecology team have reviewed the submitted BNG information and are satisfied that the site could deliver the required biodiversity gains. A planning condition is recommended to ensure that any on-site habitat enhancement required as part of the agreed Biodiversity Gain Plan would be delivered and managed.

## Other Ecological Impacts

12. An ecological assessment has been submitted with the application. This does not indicate any protected species are likely to use the site which is perhaps not surprising as it is in an urban area. It does, however, recommend ecological enhancement measures including the installation of bat and bird boxes. A condition to require this is recommended.

## Trees

13. There are a number of preserved trees on the site between the siting of the proposed building and the rear site boundary. These are shown on the application plans. The council's arboricultural adviser has recommended a condition be imposed requiring an arboricultural method statement and a tree protection plan. This is necessary to comply with policy DM25.

## **EQUALITIES AND DIVERSITY IMPLICATIONS**

14. 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.
15. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.
16. 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 not have a disproportionately adverse impact on any people with a particular protected characteristic. If the proposal were to go ahead, it would benefit the young children who use the nursery and approval is recommended.

## **CONCLUSION**

17. The proposal will affect adjoining dwellings to a degree. There will be the direct physical impact on 5 Finchfield but this is not considered to warrant refusal. Also, there will be more noise and activity in the rear garden, but given the proposal will not result in more children than the previously set limit of 72, again it is not considered refusal would be justified for this reason. The proposal is considered acceptable in terms of traffic and highway safety terms and the proposal would result in ecological benefits including 10% biodiversity net gain under the provisions of the Environment Act 2021.

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

Rayleigh Town Council: No comments received.

Neighbour representations:

x responses have been received from the following addresses:

Daws Heath Road: 6.

Finchfield: 4.

King Georges court: 8.

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

- amount of traffic,
- noise from teachers shouting,
- seek stipulation that there would be no upward build.
- too close to fence
- extra noise in early morning and evening
- lights shining in early morning and evening
- overlooking from raised up entrance to building.

8 King Georges Court – No objection.

Essex County Council Place Services – Ecology:

No objection subject to securing ecological enhancement measures, including mandatory biodiversity net gains. Conditions recommended.

Essex County Council County Highways:

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

1. 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.

Rochford District Council Arboricultural Adviser:

Recommend a condition the applicant provide a tree protection plan and arboricultural method statement.

**Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

Planning Practice Guidance.

Core Strategy Adopted Version (December 2011) – CP1, ENV1, CLT2, T8.

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

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

**RECOMMENDATION: APPROVE**

Conditions:

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

REASON: As required by 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 proposed development shall be carried out in accordance with plan numbers 2198 OSMap P01, 298-001 P01, 298-011 P02, 298-010 P02 and 298-011 P01.

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

3. Prior to the commencement of any development on site, an arboricultural method statement for the proposed development and a tree protection plan shall be submitted to and approved by the Local Planning Authority. The tree protection scheme shall be put in place prior to the commencement of any development and thereafter be retained in place until the scheme is complete. No work shall be carried out inside the protected areas or materials stored within them. The development shall be implemented in full accordance with the arboricultural method statement unless an alteration to it has been approved in writing beforehand.

REASON: To protect the trees on site. This is necessary as carrying out work without a tree protection scheme in place or not in accordance with an approved arboricultural method statement may result in damage to or the loss of trees on the site.

4. Prior to any above-ground construction taking place, a scheme for the provision of 3 No. bird nesting boxes and 3No. bat bricks or bat boxes at the site shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the types of boxes/bat bricks to be installed and details of where these would be installed on site. The boxes and bricks as agreed shall be installed prior to first beneficial use of the building to which the planning permission relates.

REASON: To ensure delivery of the enhancement measures as set out in the submitted Preliminary Ecological Appraisal in the interests of ensuring the enhancement of nature conservation in accordance with policies ENV1 and DM27 of the Rochford District Council Local Development Framework.

5. The development hereby approved shall not commence until a Landscape Ecological Management Plan (LEMP) prepared in accordance with the approved Biodiversity Gain Plan for the site, has been submitted to, and approved in writing by, the local planning authority. The LEMP shall include;
  - (a) a non-technical summary;
  - (b) the roles and responsibilities of the people or organisation(s) delivering the LEMP;



- (c) the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
- (d) the timeframe for the implementation of actions required to facilitate the creation of the planned on-site habitat (including new habitat and enhancement of habitat) (e.g., planting schedules);
- (e) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 5 years from the date on which the actions to create the habitat/enhancement were agreed in respect of (d) above including when and what remedial action or adaptive management will be undertaken and in what circumstances to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

The on-site habitat shall be created in accordance with the approved Biodiversity Gain Plan and within the timeframe for implementation of actions as approved in the LEMP. The on-site habitat shall be maintained in accordance with the approved Biodiversity Gain Plan and the approved LEMP as required by (e) above.

REASON: To ensure the delivery of on-site habitat enhancement/creation which contributes to the requirement of the development to deliver at least 10% BNG as required by Schedule 7A, Part 1, of the Environment Act.

6. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (MKA Ecology Ltd, July 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 Local Planning Authority 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 Natural Environment And Rural Communities Act 2006 (as amended).

7. A Biodiversity Enhancement Layout for bespoke biodiversity enhancements listed in Preliminary Ecological Appraisal (MKA Ecology Ltd, July 2024) shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Layout shall include the following: a) detailed designs or product descriptions for biodiversity enhancements; and b) locations, orientations and heights for biodiversity enhancements on appropriate drawings. The enhancement measures shall be implemented in

accordance with the approved details prior to occupation and all features shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats and allow the Local Planning Authority to discharge its duties under the National Planning Policy Framework 2023 and s40 of the Natural Environment And Rural Communities Act 2006 (as amended).

#### INFORMATIVE

1. The applicant/developer's attention is drawn to the fact that they will need to apply to the Local Planning Authority to discharge the mandatory Biodiversity Net Gain condition (Schedule 14 of the Environment Act 2021) prior to the commencement of development on site. Guidance is available at <https://www.gov.uk/guidance/biodiversity-net-gain#submission-of-the-biodiversity-gain-plan>.

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

Application No :	24/00669/FUL      Zoning : residential
Case Officer	Mr John Harrison
Parish :	Rayleigh Town Council
Ward :	Wheatley
Location :	Land Adjacent 54 Helena Road Rayleigh
Proposal :	Proposed 1no. detached dwelling (fronting Graysons Close) and 2no. semi detached dwellings (fronting Helena Road) with associated amenity and landscaping

## SITE AND PROPOSAL

1. The site of 54 Helena Road is a house with an irregularly shaped plot which is much larger than its immediate neighbours. It has a frontage of 32.5 metres. The existing house, which is currently vacant is towards the eastern corner of the plot. The site stretches between Helena Road and Grayson Close. The surrounding area is predominantly residential, the exception being on its north-eastern side is the rear entrance to the Fitzwimarc School. On its south-western side are pairs of semis, fronting Helena Road and Grayson Close. At the rear is a row of seven garages, the easternmost of which is within the application site. The site “wraps round” these garages so there is direct access from it onto the end of Grayson Close. Beyond these garages are two houses and a bungalow facing onto a parking area. There is a very prominent oak tree at the end of Grayson Close which provides a visual end point for the street. There is a barrier across the end of the school entrance onto Helena Road to stop people coming out of it straight onto the road and this extends in front of No. 54 and there is a pedestrian crossing at the end of it in front of the house. There is an existing vehicular access to No. 54 between the end of the barrier and the pedestrian crossing.
2. The application is to build a pair of semis fronting onto Helena Road in the generous side garden adjacent to No. 54 and another house at the rear taking access off Grayson Close. All the houses would be four-bedroomed. Though the houses on the front of the site will be semis, they will be of different design. The southernmost (plot 03) would have a gabled front and the other one would have a gabled end. To provide access and parking for the houses on the frontage, the entire frontage would be hard-surfaced with access to it using the existing vehicular access to No. 54. Parking for the southernmost house (plot 03) would be provided in front of it and for the other house alongside it. Parking for No. 54 would be in its existing double garage. The house at the rear would be set at right angles to the adjacent bungalow. Its parking would be in the existing garage in the group of seven and on a new space coming directly off Grayson Close. The design of the house at

the rear (plot 04) has been amended following negotiations with the agent to reduce the impact on 12 Grayson Close. As originally proposed it was a full-height house with a gabled roof, but the height of the eaves on the front elevation has now been reduced so it is of chalet style at the front, i.e. with the first-floor front windows of dormer style and with a hipped roof (It is still full height at the rear). Also, to protect cars from debris from the oak tree above, a car port attached to the adjacent row of garages is proposed over the parking space off Graysons Close.

## **RELEVANT PLANNING HISTORY**

3. None.

## **MATERIAL PLANNING CONSIDERATIONS**

4. 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.
5. 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 Character**

6. For convenience it is best to look at the two houses on the site frontage and the one at the rear separately. No. 54 Helena Road has a very large plot and there is clearly scope for additional dwellings on it, but it is necessary to consider whether what is now proposed is acceptable and would have a good relationship with the existing built form and site surroundings.
7. Between No. 54 Helena Road and Graysons Close are three pairs of semis and the two pairs closest to No.54 have one house with a gabled front and one with a gable on the side as is proposed on the new pair of semis, though on the new pair the gabled house is on the opposite side to the existing two pairs. The proposal would conform with the pattern of adjacent development. The occupier of 68 Helena Road has complained what is proposed is overdevelopment. The houses proposed are actually slightly wider than the adjacent pair of semis, Nos. 66 and 68. Also, the plot width is greater, 17.7 metres as opposed to 16.45 metres. A street elevation has been submitted with the application showing the new house between Nos. 54 and 66 and 68 and this shows what is proposed is reasonable and cannot be considered cramped development or overdevelopment. Development Management Plan policy DM3 requires that the density of proposed

development in relation to the existing street pattern and density of the locality should be carefully considered and positively addressed and it is considered the proposal does do this.

8. Development on Helena Road is relatively formal in pattern with houses with frontages parallel to the road and relatively well defined building lines. At the end of Grayson Close adjacent to the proposed new house there the pattern is less formal with three houses set around a parking area. These are on two sides of it. This proposal involves a fourth house on a third side and this would be acceptable in appearance terms. Again, it is considered the layout complies with relevant policies such as DM3.

#### Impact on Residential Amenity

9. Again, it is appropriate to look at the two sections of the site separately. The adjacent new dwelling would project approximately 4.5 metres beyond the rear wall of No. 66 Helena Road, the adjacent house. The plans, however, show it clears a 45 degree line from the centre of the adjacent ground floor window, so the impact on 66 is considered acceptable. Although No. 54 is owned by the applicant and currently empty, it is still necessary to consider the impact on that property. The adjacent dwelling would only project slightly beyond No.54 so it would have no significant impact on No. 54.
10. The proposal has been amended to reduce the impact on No. 12 Grayson Close. The proposed house would be set at right-angles to No.12 and to the south-east of it. The below plan shows the relationship between No. 12 Grayson Close and the new house;



11. The room which would be most affected would be a lounge on the ground floor which is the room closest to the proposed new dwelling. A large front porch (which can be seen on the plan just below the "12") would largely screen the other ground floor rooms, a kitchen-diner and

a bedroom from the proposed new house. This lounge has a window in the front and one in the side, but a conservatory (shown on the above plan) has been built over the one in the side. The new house will also affect light to this conservatory – the house would be to the south of it. The plan shows a 45-degree line drawn from the centre of the side-facing lounge window which faces almost due east and the proposed house clears that. The front lounge window faces almost due south. Though the house will affect light to the lounge and conservatory of No.12 Grayson Close, the impact is considered acceptable, especially bearing in mind the lounge has windows on two sides. Though the occupier of 15 Grayson Close has complained about loss of light from the proposed house, the separation distance between the two properties is over 21 metres, so the loss of light would not be significant.

### Access and Parking

12. The parking area in front of Nos.12, 14 and 15 Grayson Close is understood to be privately owned and the occupier of the new house off Grayson Close would not have any rights to use it. The occupiers of Nos. 12 and 15 are concerned that residents of the new house might use it, however. The amended plans have been annotated to indicate there would be no direct access from the new house onto the parking area – the original plans were not particularly clear in this respect and could have been interpreted to indicate there would be access. Ultimately, this issue relates to a private right and could not be used to justify refusing planning permission as this is not a material planning consideration.
13. The provision for parking for the new house with access onto Grayson Close is one space just off the end of the Close between the road and the house. The amendment to the application provides for a car port over the space to protect the car parked there from the tree above. The other space is provided in the garage on the site which is in the row of seven garages. This is at the far end of the row from the proposed house so not particularly convenient for it. Also, the garage is slightly narrow at 2.9 metres – the previous parking standards required a garage width of 3 metres and the new ones 3.4 metres, but this latter standard allows for use of the garage for storage as well as vehicle parking. In any event there is space in front of the garage to park as an alternative if the car won't fit the garage. After the original County Highways recommendation on this application was received, the case officer did double check that this was acceptable and this was confirmed. Within that context, it would not be appropriate to refuse permission for this reason. The occupier of No. 12 has also expressed concern vehicles parked on the garage forecourt might block access to the garage or the space in front of it. Whilst this might happen sometimes, given the lack of objection to the scheme from County Highways, it again would be difficult to justify refusal.



14. The application proposes to hard surface most of the front garden area using the existing access to No. 54 for all three dwellings at the front of the site. As explained above, parking is provided for both the new houses and the existing one. These arrangements are considered acceptable.

#### Space Standards

15. To comply with policy DM4 the proposed dwellings must comply with the government's technical housing standards. Below are the figures for the pair of semis on the front of the site which are classed as four-bedroomed six-person houses:

	Govt Standard	LH Semi	RH Semi
Gross Floor Area	106 sq m	126 sq m	126 sq m
Built-in Storage	3.5 sq m	2.45 sq m	2.65 sq m

16. The houses do not meet the requirement for built-in storage provision. In this instance it is considered acceptable as their gross floor areas are significantly above the minimum standard, so there is room to provide additional storage space if required. Furthermore, both properties have utility rooms and it is likely part of these would be used for storage.
17. The house at the rear is classed as a four-bedroomed five-person house which has a minimum area requirement of 97 sq. metres but its floor area is actually 115 sq. metres. The storage area requirement is 3 sq. metres and 3.31 sq. metres are provided. The other requirements of the standards relating to minimum bedroom sizes are met for all three proposed dwellings. The 100 sq. metres minimum rear garden area specified in the Council's Supplementary Planning Document 2 is exceeded; 134 sq. metres for each of the semis (plots 02 and 03) and 215 sq. metres for the detached house at the rear (plot 04).

#### Biodiversity Net Gain

18. This is an application to which the duty to provide 10% biodiversity net gain (BNG) under the provisions of the Environment Act 2021 applies. Trees have recently been felled on the site and as these have been felled recently, it is necessary to require the provision of additional BNG to compensate for the loss of these. The proposals submitted with the application do provide for some additional on-site BNG, but this cannot provide sufficient to achieve the 10% required on site. A biodiversity net gain assessment has been submitted with the application which shows it is not possible to provide all that is required on site. The whole site would be given over to the houses and their gardens, so this would not be realistic. Some of the 10% biodiversity net gain would therefore have to be provided by purchasing biodiversity units or statutory credits. Given the nature of the proposal, its scale and the on-site constraints, no objection is raised to the fact that not all of the



biodiversity net gain would be delivered on-site. Officers are satisfied that the proposed development would reasonably satisfy the Biodiversity Gain Hierarchy.

### Ecological Impacts

19. As this site is garden land in a suburban location, it is highly unlikely to contain habitat for protected species which would be adversely affected by development.

### Off-site Ecology

20. 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.
21. 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 replacement 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

22. 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.
23. 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 each new dwelling under the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been made.

Trees

There are a number of trees on the site and a tree survey report has been submitted with the application showing their size, position, etc. On the basis of this the council's arboricultural adviser has recommended a condition be imposed requiring an arboricultural method statement and a tree protection plan. This is necessary to comply with policy DM25.

## **EQUALITIES AND DIVERSITY IMPLICATIONS**

24. 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.

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

26. 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**

27. This application relates to a house with a very large plot and what is now proposed is reasonable infill. There is an issue of loss of light to 12 Grayson Close, but with the plans now being amended to reduce the impact of the dwelling to plot 04, the revisions made are considered acceptable by officers.

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

Rayleigh Town Council: No comments received.

Neighbour representations:

Five responses have been received from the following addresses:

Graysons Close: 12 (three letters) 15.  
Helena Road: 68.

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

- glad 54 is being kept, two houses on Helena Road is overdevelopment out of keeping with the rest of the street.
- (on original scheme) – access to house at rear would be over private land belonging to 12 and 15, asks for 2m high fence along boundary especially as hedge is threatened, intrusion into privacy from patio connecting kitchen and lounge, loss of sunlight, proposal does not meet 10% biodiversity net gain requirement.
- (on amended scheme) – house still too close, could be moved 2 metres away, garage which provides parking space is lost in block and other residents parking may block access, there is no indication of service routes and would reiterate there are no easements allowing them across parking area.
- access to house at rear is over own private drive, parking and turning area, property could use the existing direct access to Grayson Close, loss of light to own and adjacent properties.

Essex County Council Place Services Ecology:

Recommend approval subject to conditions.]

## Essex County Council Highways:

The proposal is acceptable to the Highway Authority subject to the following conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for: i. the parking of vehicles of site operatives and visitors ii. loading and unloading of plant and materials iii. storage of plant and materials used in constructing the development iv. wheel and underbody washing facilities.

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.

Note: The existing access to the single dwelling on Helena Road is between the raised table pedestrian crossing and railings in the footway. As observed during the site visit, it is evident that vehicles have previously over-run the raised kerb and highway verge to the south of the existing access. Therefore, to provide a more suitable access that is to be shared by three dwellings the following condition is included:

2. Prior to first occupation of the development and notwithstanding the details on the submitted plans, the existing vehicular access on Helena Road shall be widened to the north. The shared access and private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back edge of the highway boundary. The widened access shall be provided with an appropriate dropped kerb vehicular crossing of the footway. Full layout details to be agreed with the Highway Authority.

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

Note: This will require the removal of a section of railings in the highway to the north of the site frontage; any associated costs shall be fully at the applicant's expense.

3. 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.

4. Prior to first occupation of the development and as shown in principle on planning drawing 200 Rev P4, each dwelling shall be provided with

off-street parking. The dwellings facing Helena Road will all share 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.

5. 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.

6. 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. 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.

Rochford District Council Arboricultural officer:

Require a condition for a tree protection plan and arboricultural method statement to be supplied and approved. The details are to be supplied in accordance with BS 5837 2012.

**Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

Core Strategy Adopted Version (December 2011) – H1, CP1, T8.

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

Essex Parking Standards 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: As required by 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 proposed development shall be carried out in accordance with plan numbers 22.686 001, 002 revision P1, 200 revision P5, 201 revision P1, 202 revision P1, 203 revision P2, 204 revision P3, 205 revision P3, 206 revision P3 and 207 revision P2.

REASON: For the avoidance of doubt and to define the limits of the permission,

3. Prior to the commencement of any development on site, an arboricultural method statement for the proposed development and a tree protection plan shall be submitted to and approved by the Local Planning Authority. The tree protection scheme shall be put in place prior to the commencement of any development and thereafter be retained in place until the scheme is complete. No work shall be carried out inside the protected areas or materials stored within them. The development shall be implemented in full accordance with the arboricultural method statement unless an alteration to it has been approved in writing beforehand.

REASON: To protect the trees on site. This is necessary as carrying out work without a tree protection scheme in place or not in accordance with an approved arboricultural method statement may result in damage to or the loss of trees desirable to be retained on the site.

4. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal and Roost Assessment report (Arbtech, June 2024) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all ecological activities, and works shall be carried out, in accordance with the approved details.

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).



5. Prior to any works above slab level, a Biodiversity Compensation and Enhancement Strategy for biodiversity enhancements for protected and Priority habitats / species, prepared by a suitably qualified ecologist in line with the recommendations of the Preliminary Ecological Appraisal and Roost Assessment report (Arbtech, June 2024), shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Compensation and Enhancement Strategy shall include the following:
- a) Purpose and conservation objectives for the proposed compensation and enhancement measures;
  - b) detailed designs or product descriptions to achieve stated objectives;
  - c) locations of proposed compensation and enhancement measures by appropriate maps and plans (where relevant);
  - d) persons responsible for implementing the compensation and 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).

6. If significant on-site enhancements are included within the approved Biodiversity Gain Plan, a Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan, shall be submitted to, and approved in writing by the local authority, prior to commencement of development, including:
- a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
  - b) the planned habitat creation and enhancement works to create or improve habitat to achieve the on-site significant enhancements in accordance with the approved Biodiversity Gain Plan;
  - c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;
  - d) the monitoring methodology in respect of the created or enhanced habitat to be submitted to the local planning authority; and
  - e) details of the content of monitoring reports to be submitted to the LPA including details of adaptive management which will be undertaken to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.
- Notice in writing shall be given to the Council when:
- The initial enhancements, as set in the HMMP, have been implemented; and
  - habitat creation and enhancement works, as set out in the HMMP, have been completed after 30 years.
- The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved



HMMP. Unless otherwise agreed in writing, monitoring reports shall be submitted in years 2, 5, 10, 15, 20, 25, and 30 to the Council, in accordance with the methodology specified in the approved HMMP.

REASON: To satisfy the requirement of Schedule 7A, Part 1, section 9(3) of the Town and Country Planning Act 1990 that significant on-site habitat is delivered, managed, and monitored for a period of at least 30 years from completion of development.

7. Prior to the first occupation of either of the semi-detached properties on the front of the site, the hardstanding area to serve these and the existing dwelling on the site and the car parking spaces for these dwellings shall be constructed in accordance with the approved plans. The hardstanding shall thereafter be permanently retained and, apart from the parking spaces, it shall be kept available and free from obstruction to enable vehicles connected with these three dwellings to turn and exit the site in forward gear.

REASON: To ensure off street parking provision to serve the development in the interests of road safety and the free flow of traffic.

8. Prior to the first occupation of the proposed house at the rear (plot 04) , the new parking space shown on the approved plans and the canopy above it shall be constructed in full accordance with the approved plans and the parking space shall be hard surfaced. Thereafter, these shall be permanently retained along with the further parking space to serve the dwelling in the nearby garage.

REASON: In the interests of road safety and the free flow of traffic and as there might be pressure to trim or fell the oak tree above the new parking space because of damage to cars parked underneath if the canopy is not in place.

9. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities

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 as far as possible and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety. This condition is necessary as all development on the site will have impacts which this condition is intended to control.

10. Prior to first occupation of either of the proposed dwellings on the front of the site and notwithstanding the details on the submitted plans, the existing vehicular access on Helena Road shall be widened to the north. The shared access and private drive shall be constructed to a width of 5.5 metres for at least the first 6 metres from the back edge of the highway boundary. The widened access shall be provided with an appropriate dropped kerb vehicular crossing of the footway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety.

11. Prior to first occupation of each proposed dwelling, 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.

12. Prior to the commencement of any construction above floor slab level, full details of the proposed external finishes for the development and the finish for the hard surfaced area in front of the site shall be submitted to and approved by the Local Planning Authority. The development shall then be carried out using the approved materials.

REASON: To ensure the use of appropriate materials to protect the appearance of the area.

13. Prior to the commencement of any construction above floor slab level, details of the boundary treatment for the proposed dwellings shall be submitted to and approved by the Local Planning Authority. Prior to the first occupation of each dwelling the boundary treatment as approved shall be provided for that dwelling.

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

14. Notwithstanding the provisions of Class A to Schedule 2 the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking and re-enacting that Order, no extensions shall be added to the rear elevation of the approved house (plot 03) adjacent to 66 Helena Road unless planning permission has been obtained for it.

REASON: To bring within control future rear extensions given the depth relationship between the proposed house to plot 03 and the existing neighbouring dwelling in the interests of the reasonable amenity of the occupiers of 66 Helena Road.

INFORMATIVE .

28. The applicant/developer's attention is drawn to the fact that they will need to apply to the Local Planning Authority to discharge the mandatory Biodiversity Net Gain condition (Schedule 14 of the Environment Act 2021) prior to the commencement of development on site. Guidance is available at <https://www.gov.uk/guidance/biodiversity-net-gain#submission-of-the-biodiversity-gain-plan>.

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

Application No :	24/00805/FUL Zoning : Town Centre and Conservation Area
Case Officer	Mr Richard Kilbourne
Parish :	Rochford Parish Council
Ward :	Roche South
Location :	53 West Street Rochford Essex
Proposal :	Proposed change of use from use as ground floor shop with first floor flat over to use as a single dwellinghouse within the C3 Use Class. Erect ground floor rear extension with screened balcony on roof over accessed via French doors. Demolish lean-to to enlarge rear patio garden. Replace shopfront including new first floor sash window. Widen rear ground floor wall opening. Refurbish & repair internal fireplace(s). Remove part of first floor partition and internal widen access opening.

## SITE AND PROPOSAL

1. The application site is situated on the south side of West Street, Rochford and is located wholly within the Rochford Conservation Area. The application relates to No. 53 West Street, which is one of a pair of Grade II listed shops (Nos. 51 and 53, West Street). The listed buildings are of nineteenth century or possibly earlier origins and consist of one storey with attics. The shops display a plastered frontage with a red plain tiled gambrel roof and two catslide roofed dormer windows. Presently the ground floor is a retail space with back rooms and smaller storage rooms on the first floor.
2. Moreover, the application relates to a modest 1.5 storey unit with a shopfront at ground floor level. When the case officer conducted his site visit the unit was vacant and appears to have been for some considerable time. However, following a search on Google Streetview it was apparent that the last use of the building was as a Cobblers (shoe repair and key cutting). Its surroundings are mixed in character, and it was noted that on this stretch of West Street there are a number of retail units intermingled with residential properties. The application site is within Rochford Town Centre and is identified by the Rochford Town Centre Area Action Plan (RTCAAP) as being within the secondary shopping frontage.
3. The proposal is for a change of use from use as ground floor shop with first floor flat over to use as a single dwellinghouse within the C3 Use Class. Erect ground floor rear extension with screened balcony on roof over accessed via French doors. Demolish lean-to to enlarge rear patio garden. Replace shopfront including new first floor sash window. Widen

rear ground floor wall opening. Refurbish & repair internal fireplace(s).  
Remove part of first floor partition and internal widen access opening.

#### **RELEVANT PLANNING HISTORY**

4. Application No. 24/00806/LBC - Proposed change of use from use as ground floor shop with first floor flat over to use as a single dwellinghouse within the C3 Use Class. Erect ground floor rear extension with screened balcony on roof over accessed via French doors. Demolish lean-to to enlarge rear patio garden. Replace shopfront including new first floor sash window. Widen rear ground floor wall opening. Refurbish & repair internal fireplace(s). Remove part of first floor partition and internal widen access opening – Not Yet Determined.

#### **MATERIAL PLANNING CONSIDERATIONS**

5. 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.
6. 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 Town Centre

7. The site is located in Rochford Town Centre, where policies from the Core Strategy would apply. Additionally, the proposal should be assessed in accordance with the National Planning Policy Framework (NPPF).
8. Rochford Town Centre is a thriving centre which offers a range of commercial uses including retail alongside a range of other uses which attract people to the area. There are very few vacant commercial premises. Paragraph 88 of the NPPF recognises the role that the planning system plays in ensuring the vitality of town centres and requires that decisions should support the role that town centres play at the heart of local communities by taking a positive approach to their growth.
9. Furthermore, Rochford District Council's 2011 *Core Strategy* sets out its approach to town centres in policies RTC1 and RTC2. Respectively, these seek to strengthen and improve the retail offer of the district's main centres, including Rochford, and direct new retail development and other main town centre uses towards these locations through a sequential, town centres first approach. Policy RTC5 seeks to produce an Area Action Plan for Rochford Town Centre which delivers an enhanced retail offer for

Rochford. The Council's Rochford Town Centre Area Action Plan (RTCAAP) policies set out local requirements to ensure the success of this centre. The site is designated as Secondary Shopping Frontage in this action plan. Furthermore, Policy RTC5 gives precedence to the Rochford Town Centre Area Action Plan (AAP) for achieving the following relevant points in Rochford Town Centre:

- An enhanced retail area for Rochford;
- A range of evening leisure activities;

10. The key objectives of the AAP comprise the following:

- Provide a diverse range of uses, activities and facilities for local people
- Enhance the historic core
- Improve accessibility for all
- Protect local employment
- Promote the redevelopment of unused, underused, infill or unattractive sites.

11. As previously stated, within the AAP, the site falls within the Secondary Shopping Frontage, which is covered by Policy 2. This states *new development for Class A and D uses and other uses considered appropriate in town centres will be acceptable* (Class A1 (Retail), Class A2 (Financial and Professional Services), Class A3 (Restaurants/Cafes), Class B1 (Offices) along with health/medical uses, creches, nurseries (all formerly D1 uses) and indoor sports/recreation (formerly D2 use) were all amalgamated under Class E, which was introduced by the Business and Planning Act 2020). The proposal for C3 residential use does not fall under this. The policy also states *development involving the loss of town centre uses will be permitted where it would:*

1. *Not have a detrimental impact on, or undermine, the vitality, viability and retail character of Rochford's Primary Shopping Frontage.*
2. *Not create a cluster of uses within the same use class in a locality that undermines the character of the centre.*
3. *Entail the provision of a non-A1 use which is considered to positively contribute to the overall offer and encourage people into the centre.*

12. It is noted that in the vicinity of the site on West Street, there is already a cluster of non-retail uses, particularly residential dwellings. Therefore, it is considered that the creation of further residential units in this location would contradict point 2 of the policy listed above.

13. The property sits in a part of West Street in which there is already a cluster of residential uses at ground level. There are a significant number of residential properties already in this area, which is the main thoroughfare between the Railway Station and Market Square/primary shopping frontage. The Council's Economic Regeneration Officer has been consulted regarding the scheme and states that *"we would consider that*



*this proposal serves to undermine the predominantly commercial nature of the shopping area. Ensuring a ground floor commercial frontage would be consistent with other planning history in both West Street and Rochford Town Centre”.*

14. The Council's Core Strategy Policy RTC1 recognises the vibrancy that residential intensification and further residential development can add to town centres, but that this should be limited to floors above ground level, to preserve existing commercial uses and attract footfall to commercial frontages. This stance is consistent with the approach previously taken namely and particularly with regards to other planning applications on West Street, including a similar case at 45 West Street (16/00468/COU), which was opposed by the team and its economic development specialist advice. This scheme was refused, and the decision was upheld by an inspector at appeal, recognising the importance of retaining small business space and a diversity of uses in the secondary retail frontage.
15. Also relevant is the former Kings Head public house residential conversion (17/00512/COU; 17/00928/COU; 20/01118/DPDPIA), where requirements to retain a commercial frontage were included due to the importance of retaining the commercial frontages along West Street. This permitted residential use to the rear and on upper floors, neither of which the team would be opposed to in conjunction with retaining a retail or commercial use fronting West Street. This stance is also consistent with the Council's response to the series of proposals for a unit in another part of the secondary area, at 33 North Street, which is arguably not as central or important a shopping street as West Street itself.
16. The Council's Economic Regeneration team published a 'health check' of Rochford Town Centre which assessed a range of data points relating to the vitality of the town centre, with this carried out in January 2019 by the consultants Lichfields. This report noted that there has been loss of retail/commercial space to residential uses in Rochford over time, and that this creates a series of breaks (particularly in peripheral areas) which 'do not encourage pedestrian flow'. It is considered that creating further breaks within the secondary retail frontage would serve to discourage footfall from continuing along West Street to the other retail uses to the East and West, undermining them. This loss of retail frontages was considered to exacerbate existing 'dead zones', as has occurred in town centres where 'permitted development' rights enable this conversion. This was picked up by the Royal Town Planning Institute in its response to a Government consultation in March 2019 relating to retail to residential change of use. It is considered that the sentiment remains relevant:

*‘Dead frontages’ created by these rights on high streets - many of which are already in decline – would diminish their community role, damage their character irretrievably and kill off pedestrian footfall.*

17. The Council's Economic Regeneration Officer goes on to enunciate that in early 2024, the Council published its latest series of [Town Centre Health](#)



[Checks](#), underpinned by October 2023 surveys of Rochford, Rayleigh and Hockley Town Centres. This provides an update to the January 2019 Rochford Town Centre Health Check, carried out by Lichfields. This found that Rochford in particular has a considerable proportion of its ground floor frontages already occupied by residential uses (39.49%), compared with Rayleigh (15.12%) and Hockley (4%), suggesting that further ground floor change of use to residential would lead to further breaks in pedestrian flow as identified in the 2019 Lichfields report. Many of the residential properties in Rochford Town Centre were originally commercial buildings, indicating the extent to which retail and commercial uses have already been lost and the reason for a robust set of adopted policies to preserve the commercial character of Rochford as a market town.

18. A loss of a longstanding commercial frontage in this section of West Street would further disrupt flow towards the retail and leisure businesses situated further to the East and West along this important route, whilst a use incorporating a commercial frontage in this location would help to underline the continuation of town centre uses. The 2023 Health Check survey found Rochford Town Centre to have a high vacancy rate of 17.89%, considerably more than Rayleigh (3.65%) or Hockley (4.17%). However, this is caveated with the most notable vacancies being significant future development sites (e.g. the former Police Station on South Street and vacant garage/car wash site on West Street, now demolished).
19. The economic regeneration goes on to state that vacancy rates have likely improved since the survey, with a January 2025 Rightmove Commercial search finding only one shop available to rent, on Roche Close. A further one vacant retail unit was available for sale on North Street. It is also noted that vacant units in the immediate vicinity on West Street have re-letted well in recent years, with more recent uses in this part of West Street including a fashion retailer, an accountancy firm, a fast food takeaway, a tanning salon, a vape shop and a beauty studio.
20. Nevertheless, given the team's stance on similar planning applications in and around the district's town centres, it would be expected to see a robust set of evidence provided for any proposal for the loss of commercial space in Rochford Town Centre. This would require a demonstration that the proposal would not be detrimental to the town centre's vitality, as well as appropriate demonstration that the unit was marketed for a suitable commercial use, which would be expected to include the following:
  - The date the client instructed the estate agent company to market the property.
  - What the actual instruction was in terms of marketing for sale or for rent or both (a written record held by the estate agents which is the terms of business letter which would have been drawn out to clarify the instruction, agreement and duration of marketing).
  - A copy of the Estate Agent's valuation of the property (the authentic document) supporting the price marketed for sale or for rent.

- When the marketing first begun with evidence from the company's own web page, Zoopla and links of this type. Did the company circulate particulars to the press or any web links supported by evidence.
- What the sale price originally asked for was and has this same price remained or has it been reduced over the time period of marketing.
- What the rent price asked for was and has this same price remained or has it been reduced over the time period of marketing.
- What evidence provided of the duration and means (by way of the media and apps.) used to market the property and reach to the potential audience (e.g. such as Rightmove and Estates Gazette Propertylink).
- Evidence of any enquiries made and any e-mail communications with potentially interested parties.
- In addition to the above what evidence can the applicant provide that the change of use of the premises / floor space in question would not fundamentally undermine the planning policy objectives as cited within the previous officer's report.

21. The case officer can confirm that none of the additional information cited above has been submitted in order to support the current application. Moreover, colleagues in Economic Generation note that the property was sold at Auction in May 2022 and since then, we have not seen any evidence of the property being marketed for commercial lease or sale. It is not considered that alternative commercial occupation has been sought, consequently this will form a reason for refusal.

#### Design and Impact on Listed Building

22. The building to which the proposal relates is one of a pair of Grade II listed shops (Nos.51 and 53, West Street). The List Entry No. is 1112570 and the list description states: -

*“ROCHFORD WEST STREET TQ 8790 NE/SE (south side) 15/272 & 16/272 Nos. 51 and 53 23.7.73 GV II 2 shops. C19 or possibly earlier origin. Plastered front. Red plain tiled gambrel roof. Right red brick chimney stack. One storey and attics. 2 large catslide dormers; vertically sliding sashes with horns. No. 51. Shop window to left, pilasters with capitals, fascia over with pentice strip, C20 door to right, original fanlight over, moulded surround, pentice strip over. No. 53. Pilasters to right and left with capitals and bases, fascia with moulded cornice enclosing left C20 door with pilaster and window to right”.*

23. Paragraph 210 of the NPPF states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities; and the desirability of

new development making a positive contribution to local character and distinctiveness.

24. Paragraphs 212 onwards provide guidance for considering the potential impacts. Furthermore, when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This should be proportionate to its significance: the more important the asset, the greater the weight should be. This is irrespective of whether the harm is substantial, total loss, or less than substantial.
25. Paragraph 206 goes on to state that any harm to, or loss of, the significance of a designated heritage asset, including through development within its setting, should require clear and convincing justification.
26. Paragraph 214 deals with instances of substantial harm to a designated heritage asset. Development causing substantial harm should be refused unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or other criteria are met. Paragraph 215 guides that where a development would lead to less than substantial harm to a designated heritage asset, the harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
27. The Council's Policy DM1 requires that proposals should promote visual amenity and have a positive relationship with nearby buildings and a scale and form appropriate to the locality. The policy also notes that specific points of consideration must be addressed through design and layout, including impact on the historic environment including Conservation Areas and Listed Buildings, archaeological sites and the wider historic landscape.
28. The County Council's specialist Historic Buildings Officer's position on this proposal as outlined with the consultation response regarding this application, is that the proposal includes alterations to both the internal and external fabric of the building which would likely result in the loss of its historical value and architectural significance that has otherwise not been justified. Moreover, the proposal involves the replacement of various windows and doors. In light of the above, the Conservation Officer considers that the proposals would fail to preserve the special interest of the Grade II listed 51 West Street, contrary to Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to preserve the character and appearance of Rochford Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposed development would result in less than substantial harm to the significance of these designated heritage assets, therefore Paragraph

215 of the National Planning Policy Framework (NPPF, 2024) is relevant.

29. In addition to the above in principle concerns, they have also expressed the following concerns regarding the proposal externally. It is proposed to replace the front door and window within the shopfront. The submitted drawings indicate that the masonry stallriser and the timber pilasters, fascia and cornice are to be retained and redecorated. Although the shopfront has been altered over time and dates from the twentieth century, it is a traditional feature which contributes positively to the significance of the listed building and the conservation area. Historic England guidance states that where historic windows, whether original or later insertions, make a positive contribution to the significance of the listed building, these should be retained and repaired where possible. If beyond repair, they should be replaced with accurate copies only. The Conservation Officer states that *“no condition survey has been submitted for the existing windows. This is required to support the application, and it would need to be demonstrated that the window and door to the front elevation are beyond viable repair”*.
30. In addition to the above, the Conservation Officer expresses the following concerns *“the proposals to install double glazing and to alter the fenestration pattern, incorporating top openers, would not be appropriate. These features would not be in keeping with the traditional character of the listed building or the conservation area, resulting in harm to their significance”*.
31. Furthermore, concerns have been raised relating to the historic sash window within the dormer at first floor level, which the applicant proposes to be replaced with a double-glazed hardwood sliding sash window. As outlined above, the principles in relation to repair and replacement are still applicable, and a condition survey would need to be submitted which justifies any need for replacement.
32. In addition to the above, the applicant is proposing to replace the first-floor window with a set of timber double glazed doors and to insert a balcony clad in shiplap at the rear of the property. Whilst, at ground floor level, it is proposed to demolish the existing flat roofed lean to structure and construct a single storey extension with timber double glazed bi-folding doors. The Conservation Officer has no objection in principle to the removal of the lean-to structure, given that this is a later addition, and replacement with a single storey extension (to a shallower footprint as proposed). However, the removal and enlargement of the first-floor window opening and the installation of a balcony, double doors and bi-fold doors would not be appropriate. These features are modern, incongruous additions, which would not be sympathetic to the modest character of the listed building or in keeping with the character and appearance of the conservation area. As such, these elements of the proposals would cause harm to the significance of the identified

heritage assets. The case officer agrees with the Conservation Officer consultation response.

33. The proposals to the interior of the listed building comprise the insertion of a kitchen to the ground floor front room and a lounge to the back room. The proposed widening of the doorway between the back room and the existing lean to would involve the removal of a large amount of the original rear wall of the building. This would cause harm to the significance of the listed building due to a loss of historic fabric, which would also erode the legibility of the historic plan form. Furthermore, it is also proposed to remove the wall between the lean to and the rear lobby, which appears to date from the mid twentieth century. Although of later date, this wall contributes to the architectural and historic interest of the listed building.
34. At first floor level, it is proposed to remove the partition wall to room 2 and widen the opening between the landing and room 3. It is considered that this would be harmful to the significance of the listed building, as it would involve the removal of historic fabric.

#### Impact on the Conservation Area

35. Paragraph 203 of the NPPF (National Planning Policy Framework 2024) states that: 'plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:
- the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
  - the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - the desirability of new development making a positive contribution to local character and distinctiveness; and
  - opportunities to draw on the contribution made by the historic environment to the character of a place.
36. Furthermore, Paragraph 212 states that Local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
37. Due to the reasons cited earlier in this report, it is considered that the development as proposed within the remit of the submitted plans would result in material harm to the significance of the Conservation Area and its character and appearance would not be preserved.



## Impact on Amenity

38. 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.
39. Amenity is defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be in terms of overlooking, loss of light or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.
40. As previously stated, the applicant is proposing to replace the shopfront at ground floor level and the existing sash window at first level, no new apertures are proposed. Therefore, it is not considered that the proposal would be significantly detrimental in terms of overlooking upon neighbouring sites, given the existing fenestration and outlook which is of existing public realm to the front elevation, and the distance to the neighbouring dwellings.
41. Turning to the rear elevation the applicant is proposing to demolish the existing lean-to extension which was constructed in the 1970's (according to the submitted planning application forms) and replace with a single storey rear outrigger. The proposed outrigger will project out approximately 1.9m (as measured at the widest point) and will span the majority of the rear elevation of the host property. On the rear elevation of the outrigger will be set of bi-fold doors serving the proposed lounge, and in addition, a small aperture will serve a w.c. It is considered that the existing boundary treatment will help to mitigate any negative externalities.
42. In addition to the above, the applicant is proposing to install a set of French doors at first floor level, which will lead onto a balcony, which is formed from the roof of the proposed single storey rear extension. According to the submitted plans a 1.8m shiplap boarded screen will be placed on each side of the balcony in order to prevent any potential over looking or loss of privacy. Located directly at the rear of the applicants property is Back Lane, which traverses the entire rear elevation of the applicants property and beyond that is a car park. 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. In the opinion of the case officer given the scale and nature of the proposal and its

setting, the proposal will not cause any significant demonstrable harm to residential amenity subject to the imposition of a condition relating to privacy screens for the proposed balcony arrangement.

#### Housing Land Supply

43. 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.
44. According to 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. As previously stated, the development proposes the change of use of the ground floor retail space to residential and the reconfiguration of the first floor space (which is already used as a flat). Therefore, by allowing this proposal there will be no NET increase in the number of dwellings and as such the proposal will have a neutral impact on the housing land supply issue. Consequently, the amount of weight afforded to this issue is negligible.

#### Highway Safety

45. The Council's Policy DM30 outlines that the EPOA Parking Standards will be applied for all new developments, although this may be relaxed in residential areas near town centres and train stations.
46. The Council has recently adopted the Essex Parking Guidance (2024), which now supersedes the previous 2009 guidelines used by Rochford District Council.
47. The case officer noted at the rear of the applicant's premises was a detached garage, which will remain in situ in the event that planning permission is approved. Notwithstanding the parking normally required for a dwellinghouse use, it is considered that given the site's sustainable location and adjoining a public car park, it is considered that the proposal could operate as a car free scheme. The proposed residential unit would be in close proximity to local amenities, shops and have good public transport links. It is not considered that there is sufficient justification to sustain a reason for refusal on highway grounds and substantiate it at any future Appeal.



## Sustainability

48. The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalize the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access, and a new national space standard.
49. 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.
50. 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.
51. A 1-bedroomed 2-person dwelling would require a Gross Internal Area of 58m<sup>2</sup> with 1.5m<sup>2</sup> of in built storage. The standards above stipulate that single bedrooms must equate to a minimum 7.5m<sup>2</sup> internal floor space while double bedrooms must equate to a minimum of 11.5m<sup>2</sup>, with the main bedroom being at least 2.75m wide and every other double room should have a width of at least 2.55m. 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.
52. The internal floor space of the dwelling would be approximately 54m<sup>2</sup>, which is slightly below the aforementioned minimal standards. It is noted that the proposal incorporates a storage area of roughly 1.5m<sup>2</sup> and accords with the aforementioned guidance (in relation to storage space). The case officer is aware that there is slight shortfall in the amount of internal space; however, the deficit is approximately 4m<sup>2</sup> and given such a modest shortage as well as the conversion of an existing historic building it is not considered a sufficient justification to warrant a refusal and substantiate it at any future appeal. The proposal will incorporate a double bedroom at first floor level, which will measure approximately 15m<sup>2</sup>· complies with the purpose of the specified technical standards.
53. 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.

54. 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.

#### Garden Sizes

55. Policy DM3 of the Development Management Plan requires the provision of adequate and usable private amenity space. In addition, the Council's adopted Housing Design SPD advises a suitable garden size for each type of dwellinghouse. Paragraph 135 criterion (f) of the 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.
56. 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.
57. The layout submitted shows that the proposed dwelling could be provided with a private amenity space of approximately 43m<sup>2</sup>, which is slightly below the minimum requirements. However, the site is within a town centre location such that there is access to areas of open public space at Rochford reservoir nearby. Although a concern, it is not considered that this issue would form a robust position such as to justify refusal of the application on these grounds. Moreover, the amount of amenity space attributable to the proposal is commensurate with other residential properties located to the west of the application site.

#### Refuse and Waste Storage

58. 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 20m (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

59. 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 Framework.

#### Drainage

60. As the development would be for a conversion the proposal would make use of the existing drainage.

#### Landscape

61. 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.”*

62. No trees or existing landscaping features would be lost as a consequence of the proposed development.

#### Archaeology

63. Colleagues in Essex County Council Historic Environment have been consulted regarding the proposal and they state: -

*“The building has the potential to contain fixtures, fittings or fabric that relate to its previous uses, origin, evolution and development, and other evidence such as re-used timbers or other structural elements. Given*

*the programme of alterations proposed to the structure, particularly the changes made to the rear wall, which may be of original origin, a Historic Building Recording (HBMR) should be carried out during the proposed works at 53 West Street, Rochford”.*

64. As stated above, the council’s archaeologist states that they have no objection to the proposal subject to the imposition of condition relating to historic building monitoring record, which will be attached to the decision notice in the event that planning permission is approved.

#### Biodiversity Net Gain

65. 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.
66. The applicant has indicated that they consider that the development proposed would not be subject to the statutory biodiversity net gain requirement because one of the exemptions would apply. Following a site visit and assessment of on-site habitat and consideration of the nature of the development proposed officers agree that the proposal would be exempt from the statutory biodiversity gain condition because the development meets one of the exemption criteria, i.e., relating to custom/self-build development or de-minimis development or because the development is retrospective. The applicant has not therefore been required to provide any BNG information.
67. As the proposal is for development to which the statutory biodiversity gain condition would not apply, a planning informative to advise any future developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended.

#### On-site Ecology

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

Biodiversity Action Plans, including those produced at District and County level.

69. 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.
70. 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.
71. To accompany their planning application the applicant has submitted a Bat survey produced by John Dobson Essex Mammal Surveys and is dated December 2024. The report reaches the following conclusions: -
- The survey building is a mid-terrace former retail premises with a small flat above. The survey found that there were no roof voids that might offer potential roosting places for bats. The building has a frontage of approximately 5m and a dormer in the roof. To the rear is a flat-roofed area and outbuilding that houses an outdoor toilet. Externally, there was a tight seal to the eaves, roof tiles and flat roofs.
  - There is no vegetation affected by the project that has crevices, loose bark or woodpecker holes that might be colonised by bats. No evidence of their presence was found at this site.
  - The lack of potential roosting places and absence of any evidence of the presence of bats means that no further surveys are required for this building. It is considered that the building had negligible potential as a roosting place for bats.
72. However, the report makes a number of recommendations which includes: -
- Given the town centre location and lack of space, a single bird nesting box is recommended for the rear garden;
  - Making holes in or under garden fences and walls to allow for hedgehogs and common toads to forage across the site.

73. The case officer acknowledges the bat survey and accepts the conclusions and recommendations made within it. Consequently, in the event that planning permission is approved the recommendations made with the accompanying report will be secured by the imposition of appropriately worded planning condition.

#### Off Site Ecology

74. 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.
75. 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 1 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



76. 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.
77. 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. Usually mitigation would, in the form of a financial contribution, be necessary. However, although the upper floor has been in recent use for storage associated with the shop, the building historically is likely to have comprised a mixed use with residential accommodation at first floor and the back of the ground floor typically for the shop proprietor. Given the existing residential use, a financial contribution is not required as there is no NET increase in the number of dwellings.

#### Equalities and Diversity Implications

78. 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.
79. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.
80. 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**

81. Refuse.

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

Rochford Parish Council: No reply received.

Essex County Council Place Services Historic Environment Team:

The proposals would fail to preserve the special interest of the Grade II listed 51 West Street, contrary to Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would fail to preserve the character and appearance of Rochford Conservation Area, contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposed development would result in less than substantial harm to the significance of these designated heritage assets, therefore Paragraph 215 of the National Planning Policy Framework (NPPF, 2024) is relevant.

Essex County Council Historic Environment Archaeological Advice:

No objection subject to a condition relating to Historic Building Recording (HBMR) being carried out during the proposed works

Rochford District Council Economic Regeneration Officer:

The Strategic Planning and Economic Regeneration Team opposes this proposal, considering that it will serve to undermine the commercial character of one of the main streets in the shopping area, removing a longstanding retail unit with no demonstration that this would not have been able to attract an occupier. In doing so, the proposal risks permanently disrupting footfall to other businesses along West Street and will ultimately lead to less employment in Rochford Town Centre and diminish its status as an important market town and local retail/service hub in Rochford District.

Historic England:

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

Neighbour representations: No responses received.

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

National Planning Policy Framework 2024.

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policies CP1, H1, RTC1, RTC2.

Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM1, DM2, DM4, DM5, DM25, DM27, DM30.

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

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

The Essex Design Guide (2018).

Supplementary Planning Document 4 (January 2007) - Shop Fronts Security and Design

Supplementary Planning Document 6 (January 2007) – Design Guidelines for Conservation Areas

Rochford Conservation Area Appraisal (Amended 2010)

Rochford Town Centre Area Action Plan.

**RECOMMENDATION: REFUSE**

For the following reasons:

1. No information has been provided to show that the building is not able to retain its full Class E use or that it has been or is currently marketed in an attempt to retain that use. It is considered necessary for the applicant to demonstrate bona fide interest or put forward proposals for a business to occupy the unit in advance. Without doing so, it is considered that the proposal conflicts with the aims of the Rochford Town Centre Area Action Plan by creating the loss of commercial frontage leading to the decline in footfall and attraction of the town centre leading to incremental decline.
2. In the opinion of the Local Planning Authority the proposed development includes numerous external and internal alterations relating to the proposed change of use of the application building, which would likely result in the loss of historic fabric, which are integral to its character and value as a listed building. Furthermore, no clear and convincing justification has been submitted with the application as to evidence why replacement doors/windows are required instead of a repair and retention. Moreover, the replacement fenestration appears obtrusive and incongruous undermining the overall historic value of the listed building.

It is considered that the proposed alterations would incur a level of less than substantial harm to the significance of the listed building. It is not considered that public benefits or optimum viable use of the building have been identified which would be considered to outweigh the less

than substantial levels of harm upon the significance of the listed building. It is considered that the proposed development would have a significant impact on the heritage asset; additionally, the proposed alterations fail to preserve or enhance the Rochford Conservation Area, and as such the proposal is contrary to Section 66(1) and 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Paragraphs 206 and 215 of the National Planning Policy Framework (2024) and Policy DM1 of the Council's Development Management Plan.

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

Application No :	24/00759/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Rawreth Parish Council
Ward :	Downhall And Rawreth
Location :	Oakwood Trenders Avenue Rayleigh
Proposal :	Demolish existing stables on the site construct a 1 bedroom self-build bungalow with private parking and large rear garden

## **SITE AND PROPOSAL**

1. The application site is located on the eastern side of Trenders Avenue which is a private street located off the northern side of Rawreth Lane. The road serves a number of dwellings which are located sporadically along the street. The road is unmade and the dwellings are predominantly modest in scale and located within large plots of land. Together, this creates a rural character and appearance to the street. On the application site are two dilapidated stables, with one sited at the front of the site and one sited towards the rear of the site.
2. The application site is located within the Metropolitan Green Belt. The site is noticeably open with the absence of much built form with the exception of the two stable buildings and some paddock fencing. This is a distinctive characteristic of the Green Belt which planning policy seeks to safeguard. The site is largely adjoined by odd plots with one or two buildings haphazardly placed within them. Trees and shrubs create distinctive boundaries between each plot. Furthermore, according to the Councils GIS database the application site is located adjacent to public bridleway No.64 (Rawreth).
3. Full planning permission is sought for the demolition of the two existing stable blocks and the construction of 1No. detached bungalow dwelling with associated access, car parking and cycle storage. The proposed dwelling would have an 'L' shaped footprint and would be sited within a similar location to one of the existing stables. The building would have a pitched roof with gable ends. It would comprise a simple and unpretentious design that is in keeping with the local vernacular. The design of the dwelling is similar to a recently constructed dwellinghouse, which is situated immediately to the south of the application site.

## **RELEVANT PLANNING HISTORY**

4. Application No. 23/00428/FUL - Erection of a detached, 1-bed bungalow with associated access, car parking and cycle storage,

involving demolition of existing 2 x stables – Refused – 20<sup>th</sup> September 2023. Reasons for refusal: -

*“The proposal is located within an area of Metropolitan Green Belt as identified in the Rochford District Council Local Development Framework Allocations Plan (2014). The proposal relies on the contribution of existing stables comprising previously developed land but where part of those buildings have already been taken into account in an alternative development being implemented on the site. The remaining stable not previously taken into account but relevant to the proposal is a much smaller building in comparison to the bungalow proposed. If allowed the resulting development would therefore have a greater mass and bulk as a result of the increased height and a greater visual impact on the green belt. It is considered that the resulting spatial and visual impact would be substantially greater than the existing stable block to be replaced and would result in substantial harm to the openness of the Green Belt by way of incremental urbanization and increased built form in the site locality and is therefore considered as inappropriate development in the Green Belt proving contrary to paragraph 149 (g) to the National Planning Policy Framework”.*

*“The application site lies adjacent to shrub, tree and other ground vegetation and ponds that could form habitat which would be suitable for protected species. The site also adjoins open undeveloped and wooded land. No ecological survey has been submitted with the application to establish the presence or absence of protected species at the site or determine appropriate mitigation should it be required. 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”.*

## **MATERIAL PLANNING CONSIDERATIONS**

5. 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.
6. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).

Background Information



7. The applicant Appealed against the above decision (APP/B1550/W/24/3339002) which was subsequently dismissed on the 17<sup>th</sup> October 2024. During the Appeal process the LPA acknowledged that the site was wrongly confused with the site immediately south of the appeal site. The reason for this confusion stemmed from a very similar planning application, which was made upon the adjoining site albeit by a different applicant but by the same agent and thus a similar plan base for the location was used. The confusion by the Local Planning Authority arose from the reliance upon the existing stable buildings to be Previously Developed Land and to be taken into account in the size of a replacement dwelling. It was believed at the time of decision; that the applicant was subdividing the site and double counting that would have otherwise resulted and the second dwelling thus would be inappropriate.
8. However, during the appeal process the appellant made it clear that the site was unrelated to the land further south. The Council accepted that the site of the appeal was previously developed land containing buildings of permanent and substantial construction and that the dwelling proposed in this appeal is comparable in size and Green Belt impact to those existing buildings on the appeal site. Consequently, the council considered that the proposal was not inappropriate and the first reason on Green Belt matters fell away. Ultimately, the Council offered no defense in relation to the first reason for refusal.
9. The Inspector that was assessing the Appeal stated *“Based on the plans before me and my observations on site I see no reason to take a different view. Accordingly, the proposal is not inappropriate development in the Green Belt and does not conflict with policy as set out in the Framework on this matter”*.
10. However, in relation to the second reason for refusal, which related to ecological matters. The Inspector stated *“there is no information in the form of a preliminary ecological appraisal or other similar ecological assessment to establish the biodiversity value of the site, or indeed if any protected species, priority species or priority habitats are present on site. Consequently, an assessment of ecology and biodiversity could not be reasonably undertaken. Without robust evidence, I cannot be confident that development could be carried out in this location without adversely affecting species and habitats that may be present on site, or whether any suitable mitigation measures could be provided. Given this uncertainty, I am not satisfied that it would in this case, be appropriate to defer consideration of this matter to a planning condition”*. The Inspector acknowledged that the proposal may have a detrimental impact on protected species within the locality and without having an ecological survey to ascertain what impacts (if any) and how they could be mitigated (if necessary), the Inspector concluded that the Appeal should be dismissed.

## Housing Land Supply.

11. Rochford District Council cannot currently demonstrate a five-year supply (4.53yrs) 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.
12. In light of the above, an important material planning consideration is exception b. of para 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. Para 155 explicitly states that: -

*“The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where...”. Of particular relevance to this application is exception b. of the framework which states that “There is a demonstrable unmet need for the type of development proposed”. In the footnote this is expanded upon “Which, 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 Tests was below 75% of the housing requirement over the previous three years”.*
13. The proposal posits the demolition of 2No. stables and replacing them with 1No. 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 1No.) As such if the proposal was permitted, it would contribute to addressing the existing shortfall. Consequently, the proposal will have a positive impact (albeit small) on housing land supply and in the opinion of the case officer exception b. of para 155 is engaged, which is a significant material planning consideration.

## Green Belt issue

14. The latest version of the National Planning Policy Framework ('the Framework') was recently revised in December 2024. Like earlier versions it emphasizes that the purpose of the planning system is to contribute to the achievement of sustainable development, through three over-arching 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.

15. 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.
16. Both policies GB1 and GB2 of the Council's Core Strategy seek to direct development away from the Green Belt as far as practicable and prioritise the protection of the Green Belt based on how well the land helps achieve the purposes of the Green Belt, whilst allowing rural diversification in appropriate circumstances. Both policies pre-date the Framework but can still attract weight in proportion to their consistency with it. These policies reflect the aims of those parts of the framework which seek to protect the Green Belt from inappropriate development. However, they do not reflect the exceptions listed within the framework which would also be a material consideration.
17. Consequently, the main issues are:
  - Whether the proposed development is inappropriate development in the Green Belt for the purposes of the Framework and the Development Plan;
  - The effect of the proposal on the openness of the Green Belt; and
  - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify it.
18. As previously stated, the application site is located wholly within the Metropolitan Green Belt. Paragraph 142 of the framework 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.

19. Paragraph 153 explains 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.

20. Paragraph 154 of the Framework 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.

21. By virtue of paragraph 154 of the Framework, 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 (above) 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) limited infilling or redevelopment of previously developed land to paragraph 154 of the framework.

22. Furthermore, Paragraph 154 exception h) of the framework also lists certain other forms of development which are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. It is considered that the proposed development would not fall under any of the exceptions listed.
23. Building upon para. 154 is para. 155 of the framework, which enunciates that a number of other circumstances when it is considered that development within the green belt does not constitute inappropriate development, and these are: -
24. The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where:
  - a. The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
  - b. There is a demonstrable unmet need for the type of development proposed;
  - c. The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework; and
  - d. Where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157.
25. The guidance stated within paragraphs 156 to 157 are not applicable to the determination of this application.
26. 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 onus is upon the applicant to 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.
27. These very special circumstances are dealt with in detail in the applicants Design and Access Document and include the following:



- The site is considered as Previously Developed Land
- The proposed dwelling would reduce the overall amount of development of the site and enable the rear of the site to become more open
- The site already exists as an equestrian site, therefore the proposal does not contribute to the urban sprawl.
- It has been inferred that there have been numerous precedents established in the locality

#### Assessment Against Exception (g)

28. Both the applicant's agent and the case officer agree that the only relevant exception of para. 154 of the NPPF to assess the proposal against is exception (g). The exception under part (g) allows for the partial or complete redevelopment of PDL which would not cause substantial harm to the openness of the Green Belt.

29. Previously Developed Land (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.'*

30. In order to establish whether or not the site constitutes PDL, it is important to consider the existing uses on the site. The current outbuildings are used for equestrian purposes and as a result do not fall under the traditional use of an agricultural building. It is a long-established principle (*Sykes v Secretary of State for the Environment* (1981)) that the keeping of horses for recreational use does not fall within the definition of agricultural. It is considered given the nature and scale of the paddock additional supplementary feed would have been required and as such the paddock would require planning permission. As a change of use would have been required for the paddock this falls within the definition of PDL. However, according to the Councils planning database no change of use application has been submitted. Therefore, in order to regularize the use either a change of use application needs to be submitted or an LDC. Nevertheless, for the purpose of this application the proposal will be considered against policies relating to PDL in the Green Belt. The application will be



assessed on its own merits and will assess the impact of the new detached dwelling.

31. The existing stable blocks are of permanent and substantial construction consisting of wooden framed buildings set on concrete bases. Aerial imagery and historic OS maps indicate that the buildings have been on site since the late 20th century. It is therefore considered that the application relates to an existing building of substantial and permanent construction and would qualify as previously developed land.
32. Moreover, the NPPF is clear that “it should not be assumed that the whole of the curtilage [of a PDL site] should be developed”. Built development on the site is currently limited to the stable blocks. Both stable buildings are set in a rectangular shape. The proposed development would compress the built development into a singular ‘L’ shape building. The development would be concentrated over land which is occupied by existing built form and the development would therefore not extend over land which is currently undeveloped. The principle of the development is therefore not considered to constitute inappropriate development within the green belt as it would be considered as PDL.
33. As previously stated, and according to drawing reference 23/794 450 Revision A as well as the case officers site visit, there are two single storey detached stable blocks constructed out of timber which are situated on concrete slabs.
34. The first stable block at the front of the site measures approximately 6.88m long by 5.36m wide (the proposed dwelling will be located in a similar location). The second stable block located to the rear of the site measures approximately 7.45m long and 3.88m wide. Other than these outbuildings the remainder of the site is devoid of any structures. The application site is bounded by hedging and trees. A post and rail fencing is located on the southern boundary. According to the applicants Design and Statement the application site is used solely for equestrian use.
35. The applicant is proposing to demolish both outbuildings and construct a detached 1-bedroom bungalow. The proposed bungalow will face Trenders Avenue being set back from the road by 4.2m (approx.).
36. The paddocks and associated stable blocks form the entirety of the site. As previously stated, keeping of horses for recreational use does not fall within the definition of agriculture. Furthermore, it is considered given the nature and scale of the paddock, the paddock would have required planning permission. As a change of use would have been required for the paddock this falls within the definition of PDL. However, according to the Councils planning database no change of use application has been submitted. Therefore, in order to regularize the

use either a change of use application needs to be submitted or an LDC. Nevertheless, for the purpose of this application the proposal will be considered against policies relating to PDL in the Green Belt. The application will be assessed on its own merits and will assess the impact of the new detached dwelling.

37. In light of the above, it is considered that the proposal broadly accords with the definition of PDL and as such the proposals complies with the first limb of exception g) of para. 154. Therefore, for the purpose of this application the proposal will be considered against policies relating to PDL in the Green Belt. The application will be assessed on its own individual merits and will assess the impact of the new detached dwellings.
38. In the justification for the proposal as part of the applicants Design and Access Statement, the agent infers that the proposal will not have any adverse impact on the openness of the Green Belt either visually or spatially as the proposal will be well screened from the surrounding area and due to its construction will have a negligible impact on the environment. The existing hedgerows will be stocked up and new hedgerows/trees will be planted in order to assimilate the development into the rural vernacular. Furthermore, it is stressed that the application site adds limited benefit to the Green Belt and given the existing built form in the locality the proposal will help to coalesce the built development.
39. Nevertheless, exception g) should be read as a whole and goes onto to state the following “...which would not cause substantial harm to the openness of the Green Belt”. The framework does not define the term ‘substantial’; however, the ordinary definition according to Cambridge English Dictionary means “large in size, value, or importance”.
40. Paragraph 142 of the Framework states “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”. It is clear from the above paragraph that the Government considers the openness of the Green Belt is one of the fundamental characteristics. Whilst the Framework does not clearly define openness it is generally accepted from para. 142 that openness is a spatial designation, which can also have a visual component as attested to by various Court cases (see below).
41. The Green Belt has both a spatial and a visual dimension and the impact on openness has to take account of both. In a spatial sense, any building on land that was previously free of development will have some impact on the openness of the Green Belt. In assessing the harm to openness in a visual sense, the impact on openness may be greater if the site is particularly visible and open to boundaries. The character

of the existing site and surroundings will influence the degree of harm to the Green Belt by way of visual intrusion.

42. The applicant's agent argues that the application site adds limited benefit to the public realm, and it is intimated due to the juxtaposition and orientation of the existing neighbouring properties that the proposal (as shown on the submitted plans) 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.
43. Furthermore, in *Euro Garages Limited v SSCLG* [2018] EWHC 1753 (Admin), where the operator of a petrol filling station challenged an Inspector's decision to refuse retrospective permission for works involving the creation of a fenced storage area on one side of the shop, where an LPG storage tank was before, along with a side extension to relocate an external ATM.
44. In respect of this case the Inspector found that the scheme would result in a 9.2% increase in floor area, and a 5% increase in volume on the existing buildings and "whilst these may be relatively small increases, the scale and mass of the resulting building would still be greater than at present". She concluded that "*overall, I therefore consider that the scale and mass of the proposals would have a slightly greater impact on the openness of the Green Belt than the site did previously*". A lack of visibility did not, in itself, mean that there would be no loss of openness and "moreover, even a limited adverse impact on openness means that openness is not preserved".
45. The Court held that "*the only basis on which the Inspector could have reached that conclusion was if she considered that the greater floor area and/or volume necessarily meant that there was a greater impact*". The flaw in that reasoning was that under the policy "*any infill (however limited) would necessarily result in greater floor area or volume*" but it should "*not be assumed, as the Inspector appeared to, that any change would have a greater impact*". She ought to have specifically considered "*the impact or harm, if any, wrought by the change*".

46. 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.

47. 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, height etc.

48. In relation to para. 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. The agent also intimates that the proposal will not have any adverse impact on the openness of the Green Belt either visually or spatially due to the existing built form, which will be demolished in order to make way for the proposed dwellinghouse.

49. According to the submitted plans the existing footprint of the first stable block located to the front of the plot (where the new proposed dwelling will be located), measures 37.1m<sup>2</sup>. The existing footprint of the second stable block located to the rear of the plot measures 29.6m<sup>2</sup>. Therefore, the cumulative existing footprint of both stable blocks is 66.7m<sup>2</sup>.

50. The footprint of the proposed building would measure approximately 66.5m<sup>2</sup>. It is considered that spatially the proposal would have less of an impact upon the green belt as the dwelling would compress the footprint of the two individual buildings into one building, reducing the presence of built form across the site. In addition, the resultant footprint would be less than that of the cumulative existing footprint by 0.2m<sup>2</sup>.

51. The existing stables vary in height between 3.55m and 3.06m and are therefore low key and modest. Comparatively, the proposed dwelling would have a maximum height of 4.42m. The development would therefore have a greater mass and bulk as a result of the increased height and a greater visual impact on the green belt. However, it is considered that the reduced spatial impact (as a result of the smaller

distribution of buildings) would outweigh the harm of the greater visual impact. Therefore, the impact of the proposed dwelling on the openness of the green belt would not be substantially greater than the existing stable blocks.

52. It is concluded that the proposed development would not result in substantial harm to the openness of the Green Belt and could therefore be considered as appropriate development in the Green Belt under exception (g).

Change of use from green belt to residential garden

53. Policy DM22 of the Development Management Plan allows for extensions of domestic gardens in the green belt provided that they do not impact upon the openness or character of the green belt, amongst other criteria. Whilst the proposal does not relate directly to this policy, it does help to inform the consideration which should relate to ensuring the land remains rural in character and preventing urbanisation outside of the residential areas.
54. The application site is occupied by two stable blocks and a large paddock which fronts Trenders Avenue. The proposed dwelling would be sited at the front of the plot and the proposed site layout plan drawing no. 23/794 452 Revision A has indicated access from Trenders Avenue with a car parking area to the north of the proposed dwelling, which would be surrounded by the garden area. The garden area is indicated as measuring some 1357.7m<sup>2</sup>.
55. The proposed scale and layout of the garden area in relation to the dwelling would be proportionate and appropriate in the context of other dwellings along Trenders Avenue and the locality. The proposed site layout plan drawing no. 23/794 452 Revision A indicates that there will be a rear garden area and a front garden area which will be divided by a fence. It is likely that only the front area of the site would be maintained as garden area and therefore the rear area would retain the rural character.
56. It is recommended that sympathetic fencing such as paddock fencing is used so as to blend in with the rural character.

Sustainability

57. The applicant's agent stresses that the proposal is not located in a disparate and isolated location and if permitted will help to contribute to the local economy through the creation of jobs during the construction phase and residents of the property will be able to utilise local goods and services.
58. With regards to policy DM10, the following criteria needs 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.

59. It is considered that the development is well related to a residential settlement, local services and facilities with good highway connections (links directly to Rawreth Lane). Rawreth Lane has direct bus routes which are sought to be increased by the services provided by the strategic site that is being carried out south west of Trenders Avenue (Land North of London Road). The proposal is not considered to have a negative impact upon areas of nature conservation importance or the historic environment. 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.

60. The agent also states that the proposal will achieve a high-quality architectural design which addresses the Green Belt context. Furthermore, it will remove unsightly buildings with limited architectural merit and replace them with well-designed homes which seek to reflect the context in which they sit. The agent goes on to state that the proposal will be sensitively landscaped which helps to integrate the proposed development into its surroundings and results in visual enhancements. In the opinion of the case officer any development should be sensitively landscaped so that it fits into the local environ and this is not a sufficient justification to warrant an approval. Additionally, whilst the design of the proposed dwellinghouse is of a reasonable standard they are not particularly innovative; and the design of the proposed dwellinghouses do not justify the special circumstances needed for the development to be considered acceptable in this Green Belt location.

61. The agent considers that an important material consideration is the creation of new jobs associated with the construction process. Whilst it is acknowledged that there would be an economic benefit arising during both the construction and occupation stages from the additional spending and the employment this would support. Additional dwellings could also support use of facilities within the surrounding area. However, the case officer attaches limited weight to these benefits given the small scale of the proposed development.

62. Furthermore, numerous environmental benefits can be attributed to the development, which include environmental and biodiversity factors, and



the use of renewable technology etc. Whilst these are material considerations, they are not considered sufficient justification to outweigh the harm created by the proposed development.

## Design

### Appearance and Scale

63. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Development Management Plan are applicable to the consideration of design and layout. The NPPF encourages the effective use of land in meeting the need for homes whilst maintaining the desirability of preserving an area's prevailing character and setting taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk. It also states that housing applications should be considered in the context of the presumption of sustainable development. Good design is a key aspect of sustainable development and is indivisible from good planning and that proposals should contribute positively to making places better for people (para. 131).
64. 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 (para.
65. 139).
66. Policy H1 of the 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 locality. The Supplementary Planning Document 2 (SPD2) for housing design states that for infill development, site frontages shall ordinarily be a minimum of 9.25m for detached dwellinghouses or 15.25m for semi-detached pairs or be of such frontage and form compatible with the existing form and character of the area within which they are to be sited. There should also, in all cases, be a minimum distance of 1m between the outside face of the wall to habitable rooms and the plot boundary.
67. Paragraph 67 of the National Design Guide stipulates that well-designed places use the right mix of building types, forms and scale of buildings for the context to create a coherent form of development that people enjoy. Built form defines a pattern of streets and development blocks and will be dependent on (amongst other considerations) the height of buildings and the consistency of their building line in relation to the street itself. Paragraph 68 states that the built form of well-

designed places relates well to the site, its context and the proposed identity and character for the development in the wider place.

68. Furthermore, The National Model Design Code (B.2.iii) discusses that building heights influence the quality of a place in terms of its identity and the environment for occupiers and users. The identity of an area type may be influenced by building heights, including in terms of its overall scale.
69. 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. Moreover, according to the SPD 2 Housing Design and policy DM1 infers that proposals should respond positively to the character, local distinctiveness and form of its surroundings and that significant importance is given to layout considerations and that proposals should be respectful of the urban grain.
70. The proposed dwelling would have a simple design that would not be overly inspiring. The design would neither detract nor add to the character of the area, nonetheless the simple design is traditional for other bungalows along Trenders Avenue, and it is understood why this approach has been taken. The proposal would therefore be considered compliant with Policy DM1 of the Development Management Plan.

#### Impact on Residential Amenity

71. Paragraph 135 (f) of the framework seeks to create places that are safe, inclusive and accessible and which promote health and wellbeing, 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.
72. 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.
73. It is considered that the development of the site for housing is unlikely to result in noise, air or water pollution. A principal consideration in

determining this application is its effect upon the residential amenity of adjacent properties.

74. It is considered that the proposed dwelling would have a positive relationship with existing and nearby buildings. The NPPF also seeks to create places which have a high standard of amenity for future users. Furthermore, it is noted that the proposed dwellinghouse will have apertures on all of its elevations which will serve habitable rooms. Nonetheless, it is considered given the scale and nature of the proposal and due to the separation distances between the proposed development and the surrounding residential dwellings in addition to the boundary treatment, the proposal will not significantly impact on the residential amenity of neighbouring occupiers by way of overbearing impact, overlooking or overshadowing. 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.

75. Overall, it is considered that the proposed development would not cause any significant impact on residential amenity in respect of noise, light, overlooking or privacy to the surrounding properties, neither would it have a significant overbearing impact.

#### Garden Size

76. 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.

77. 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. According to the submitted plans the proposed new dwellinghouse will have a private rear space measuring in excess of 1350m<sup>2</sup>, which is in accord with the guidance advocated within the SPD.

#### Sustainability

78. 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.

79. 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.

80. 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.

81. A single storey dwelling which would comprise of 1 No. bedroom accommodating either one or two people would require a minimum Gross Internal Floor Area (GIA) of 39m<sup>2</sup> or 50m<sup>2</sup>, respectively. Additionally, the dwelling must have a minimum of 1m<sup>2</sup> (for one person) or 1.5m<sup>2</sup> (for two people) of built-in storage. The standards above stipulate that single bedrooms must equate to a minimum 7.5m<sup>2</sup> internal floor space while double bedrooms must equate to a minimum of 11.5m<sup>2</sup>, with the main bedroom being at least 2.75m wide and every other double room should have a width of at least 2.55m. 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. According to the submitted plans the Gross Internal Floor area of the proposed dwelling will measure approximately 54.3m<sup>2</sup> and exceed the minimum requirements.

82. The table below shows the Gross Internal Floor area for the proposed bedroom.

Bedroom No.1	12.8m <sup>2</sup>
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83. According to the submitted plans the bedroom complies with aforementioned policies and exceed the internal floor area requirements. The storage area indicated on the submitted plans amounts to approximately 0.78m<sup>2</sup> of storage space which is not in accord with the aforementioned guidance; however, the proposal substantially exceeds the recommended minimal GIA for a one-bedroom property and as such it is considered insufficient justification to warrant a refusal and substantiate it at any future Appeal.

84. 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.

85. 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.

#### Highway Safety

86. 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.
87. The Parking Standards state 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.
88. 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.
89. The site would provide an area to the front of the dwelling that would be able to provide at least two off-street parking spaces measuring to the preferred bay size in accordance with the Parking Standards. It is considered that any intensification resulting from the provision of 1 No. dwelling is not deemed to be such severity that it would warrant refusal of the application.
90. 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 *'The proposal includes the demolition of the existing stables and provision of one detached dwelling with off-street parking. Tenders Avenue is a private road; the applicant should seek permission from the landowner for any alterations to the crossover. From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority'*.
91. The Highways Engineer goes on to state that they have no objections to the proposal subject to conditions relating to cycle parking, residential travel information pack, the PROW shall be maintained free and unobstructed at all times and standard informatives.
92. Overall, it is considered there is sufficient car parking arrangements and appropriate access/egress arrangements to serve the proposed dwelling. Furthermore, it is not considered that one additional dwelling

at this locality will cause demonstrable harm to the highway network. The additional comings and goings of vehicles as a result of this proposal will not result in significant disturbance to neighbours via noise and dust which can be substantiated and warrant a refusal. Generally, it is considered that the proposal is acceptable in highway terms and would not have an adverse impact upon highway safety. The proposed development therefore accords with the Parking Standards and policies DM1, DM3, DM9 and DM30 of the Development Management Plan and the Framework.

#### Drainage

93. Development on sites such as this can generally reduce the permeability of at least part of the site and changes the site's response to rainfall. Advice advocated within the Framework 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.

#### Flooding

94. According to the Environment Agency Flood Maps the application site is located within tidal Flood Zone 1, which means that there is a low probability of flooding, and a Flood Risk Assessment (FRA) is not required.

#### Refuse and Waste Storage

95. 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 20m (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.



## Trees

96. Policy DM25 of the of the Development Management Plan 2014 states that:

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

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

97. The Councils Arboricultural Officer has been consulted regarding the proposal and raises no objection. As a matter of fact, the Councils Arboricultural Officer states *“Will need a condition to obtain a tree protection plan and arboricultural method statement in accordance with BS 5837 2012, this will need to include details of the access and construction within the RPA”*.
98. The case officer agrees with the recommendation of the Arboriculturist and will condition the tree protection measures accordingly, should planning permission be approved.

## Ecology

### On Site

99. The National Planning Policy Framework at paragraph 180 indicates the importance of avoiding impacts on protected species and their habitat where impact is considered to occur appropriate mitigation to offset the identified harm. The council’s Local Development Framework Development Management Plan at Policy DM27, requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.
100. 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.

101. 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.

102. To accompany their planning application the applicant has submitted a Preliminary Ecological Appraisal and Preliminary Roost Assessment, produced by Arbtech and is dated January 2024. The report reaches the following conclusions: -

- Habitats and Flora: There are no notable habitats within the site, but many deciduous woodlands are present within 2km of the site, the closest located 1m from the site, separated by a wooden fence. Habitats within the site are common and widespread and have low ecological value. No protected or notable plant species were recorded during the survey.
- Amphibians: The site itself lacks suitable habitats for amphibians but their presence cannot be discounted due to the close proximity to off-site ponds, the closest located 60m south, with good connectivity. There are 2 EPSL's and three positive survey returns located >500m away from the site, and are therefore unsuitability connected to the site. Dispersing amphibians may use the site for commuting.
- Reptiles: The presence of reptiles within the development site cannot be discounted, especially due to the sites close proximity to deciduous woodland. Dispersing reptiles may commute onto the site.
- Badger: Habitats on site are largely unsuitable for sett excavation. However, the immediate landscape includes several woodland parcels with good connectivity to the site through open pastures.
- Hedgehog: Hedgehogs are extremely mobile. There is suitability for foraging, commuting and sheltering hedgehogs on site and their presence cannot be discounted.
- Bats: Both buildings have negligible value for roosting bats due to lack of external roost features and unsuitable interiors.
- Birds: The buildings are both in constant use, with regularly opened doors and many gaps leading into the interior, which small, common

nesting birds may use to seek refuge within. However, no evidence of this was found during the survey

- Invertebrates: The vegetation on site is able to support common invertebrate species. However, the site is unlikely to support notable invertebrate species and no evidence of them was found during the survey.

103. However, the report makes a number of recommendations which includes: -

- A Construction Environmental Management Plan (CEMP) will be required, outlining best practice measures delineate the construction zone and to minimize the possibility of pollution and tree damage during construction.
- Installation of brush piles and insect hotels.
- The installation of a minimum of two swift boxes on the new building post development will provide additional nesting habitat for birds.
- The installation of two bat boxes at the site will provide additional roosting habitat for bats.
- Owing to the nature of the proposed development and the low potential for impacts to Great Crested Newts, further surveys are considered to be disproportionate. A precautionary working method will be implemented for common amphibians during construction
- Owing to the nature of the proposed development and the low potential for impacts to reptiles, further surveys are considered to be disproportionate. A precautionary working method will be implemented during construction.
- In relation to badgers and hedgehogs a precautionary working method will need to be implemented

104. The case officer consulted the Councils Ecologist in regards to the Ecological Survey and Assessment Report and states the following *“The mitigation measures identified in the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, January 2024) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality. Due to the site’s proximity to Priority habitat woodland, any new lighting design should be sensitive and not illuminate the woodland”*.

105. In light of the above consultation response, subject to the aforementioned being conditioned, for example, lighting scheme etc., it is considered that the proposal will not have detrimental impact on protected species and there is insufficient justification to recommend a refusal and substantiate it at any future Appeal.

#### Off Site Ecology

106. 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.

107. 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 (Zoi) for the Essex Cost RAMS?

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for 1 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

108. 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.

109. 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 required financial contribution has been paid to the Local Planning Authority on the previous application.

#### Biodiversity Net Gain

110. 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).
111. The applicant has indicated that they consider that the development proposed would not be subject to the statutory biodiversity net gain requirement because one of the exemptions would apply. Following a site visit and assessment of on-site habitat and consideration of the nature of the development proposed officers agree that the proposal would be exempt from the statutory biodiversity gain condition because the development meets one of the exemption criteria, i.e., relating to custom/self-build development or de-minimis development or because the development is retrospective. The applicant has not therefore been required to provide any BNG information.
112. More specifically the applicant has indicated the proposal relates to a self-build/custom build development. And an exemption applies to this type of development as it meets the following conditions: consists of no more than 9 dwellings, on a site that has an area no larger than 0.5 hectares and is a self-build.
113. As the proposal is for development to which the statutory biodiversity gain condition would not apply, a planning informative to advise any future developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended.
114. Notwithstanding the above, the case officer considered it prudent to consult colleagues in Essex County Council Place Services Ecology and they state that: -
- "In addition, it is highlighted that as of 2nd April 2024, all minor development, as defined under Article 2 Town and Country Planning (Development Management Procedure) (England) Order 2015, are required to deliver a mandatory 10% measurable biodiversity net gain,*

*unless exempt under paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. As a result, we have reviewed the submitted details and are satisfied that this application is exempt, as the proposals is for one self-build dwelling for an area less 0.5 ha. A condition may be considered necessary to be imposed by the council to ensure that the development must be used as a self-build and custom housebuilding.*

*We also support the proposed reasonable biodiversity enhancements for protected and Priority species, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 187d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent.*

*This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.*

*Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent”.*

115. Overall, it is considered that the proposal will comply with the requirement has mandated within the BNG regulations.

## EQUALITIES AND DIVERSITY IMPLICATIONS

116. 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.
117. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.



118. 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**

119. Approve.

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

Rawreth Parish Council: No replies received.

Essex County Council Place Services Ecology:

We have reviewed the Preliminary Ecological Appraisal and Preliminary Roost Assessment (Arbtech, January 2024) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures and mandatory Biodiversity Net Gain.

We have also reviewed the information submitted information relating to mandatory biodiversity net gains.

We are satisfied that there is sufficient ecological information available to support determination of this application.

Essex County Council Highways Authority:

No objections to the proposal subject to conditions relating to cycle parking, residential travel information pack, the PRoW shall be maintained free and unobstructed at all times and standard informatives

Rochford District Council Arboricultural Officer:

Will need a condition to obtain a tree protection plan and arboricultural method statement in accordance with BS 5837 2012, this will need to include details of the access and construction within the RPA.

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) – 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 (adopted January 2025).

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 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 23/794 452 Revision A (Site Layout) (as per date stated on plan 22<sup>nd</sup> October 2024), 23/794 451 Revision A (Elevations, Floor Plan, Location Plan, and Site Plan) (as per date stated on plan 22<sup>nd</sup> October 2022), Location Plan (as per date stated on plan 25<sup>th</sup> October 2024) and 23/794 453 Revision A (Cycle Store) (as per date stated on plan 22<sup>nd</sup> October 2024).

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

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

REASON: To ensure that the external appearance of the building/structure is acceptable.

4. Prior to first occupation of the property, the developer shall provide Electric Vehicle Infrastructure to the following specification:

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

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

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

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

6. 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 comprising extensions to the dwelling and/ or outbuildings (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.

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

8. Prior to the construction of the development to damp proof course level the applicant shall submit details to the Local Planning Authority for the foul and surface water drainage of the development. The development shall be implemented in accordance with such details as may be agreed.

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

9. 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 if appropriate;
- means of enclosure and other boundary treatments;
- car parking layouts and other vehicular access and circulation areas;
- minor artifacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc);
- existing and proposed functional services above and below ground level (e.g. drainage, power and communication cables, pipelines, together with positions of lines, supports, manholes etc);

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.

10. 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 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 in accordance with the NPPF.

11. The public's rights and ease of passage over public bridleway no 64 (Rawreth) shall be maintained free and unobstructed at all times.

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

12. Prior to 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

13. Prior to the first occupation of the building 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.

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).

14. No demolition, ground works or construction shall take place at the application site until a tree protection plan and arboricultural method statement have been supplied to and approved in writing by the Local Planning Authority, the details shall include construction methods of the

access within the Root Protection Area. The details shall be carried out in accordance with BS 5837 2012. The development shall be carried out in accordance with those details agreed. The tree protection methods as agreed shall be retained until all building materials have been cleared from the site.

REASON: To ensure that the development does not impact upon the trees to be retained on site, in accordance with Policy DM25.

15. Notwithstanding the details shown on the approved plan/application form details of surfacing materials to be used on the driveway of the development, which shall include 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 the laying of the hard surfaces to form the driveway. The development shall be carried out in accordance with the approved details.

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

16. The dwelling hereby permitted shall be constructed as a self-build dwelling within the definition of a self-build and custom build housing in the Self-build and Custom Housebuilding Act 2015. The first occupation of the dwelling hereby permitted shall be by a person or persons who had a primary input into the design and layout of the dwelling and who will live in the dwelling for at least 3 years following completion of construction. Prior to the first occupation of the dwelling the Council shall be notified in writing of the person(s) who will take up first occupation of the dwelling.

REASON: The development permitted was exempt from mandatory biodiversity net gain as set out in the Environment Act 2021 due to it being a self-build development. This condition is required to ensure the development is a self-build in accordance with the definition. If the development was not self-build mandatory biodiversity net gain would be required.

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