



PLANNING APPLICATIONS WEEKLY LIST NO.1746
Week Ending 28th 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 27th March 2025.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **5th March 2025** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team pbctechnicalsupport@rochford.gov.uk .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

Note

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

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Application No:	24/00075/FUL Zoning: MGB
Case Officer	Mr Duncan Law
Parish:	Rawreth Parish Council
Ward:	Downhill And Rawreth
Location:	Rayleigh Main Sub Station London Road Rawreth
Proposal:	Underground grid connection cable between Rayleigh Battery Storage Facility (Chelmsford City Council application ref: 22/00179/FUL) and its connection point at National Grid's Rayleigh Substation

SITE AND PROPOSAL

1. The application seeks full planning permission for a grid connection comprising an electrical cable to run underground between Rayleigh Battery Storage Facility (Chelmsford City Council application ref: 22/00179/FUL) and its connection point at National Grid's Rayleigh Substation development off London Road, Rayleigh, Essex.
2. The submitted information states that a planning application for a Battery Energy Storage System (BESS) on land to the west of Battlesbridge Bypass (hereafter referred to as 'Rayleigh BESS') was submitted to the City of Chelmsford Council in February 2022 (application ref: 22/00179/FUL). The application was refused by the authority in May 2022, subsequently allowed at appeal in January 2024 (appeal ref: APP/W1525/W/22/3306710). In support of the Rayleigh BESS scheme, the cable would allow storage of excess energy produced and introducing it back into the grid when demand requires.
3. The point of connection for Rayleigh BESS to the electricity grid would be at National Grid's Substation off London Road, Rayleigh via a new United Kingdom Power Network (UKPN) substation adjacent to the main substation compound, permitted under application ref: 23/00389/FUL - Erection of an electrical substation. A connecting underground cable is consequently required between Rayleigh BESS, and this approved substation. The development proposes laying 4km of underground electricity cables (comprising 1No. trefoil 132kV HV cable group (i.e. 3 cables) and 1No. fibre cable circuit) from the proposed Rayleigh BESS to the UKPN Substation which provides a connection to the National Grid Substation. The Underground grid connection cable will provide the applicant with permission to carry out engineering works to allow construction of a necessary electricity cable connection to the grid.
4. The grid connection cable route begins at the proposed Rayleigh BESS just north of the bridge to the Battlesbridge by – pass over the River Crouch sited within an triangular shaped agricultural field bounded to

the east by the Battlesbridge by – pass, to the south by the River Crouch and to the west by the A130 . Land use along the route will comprise the National Grid’s Raleigh Substation, public highway, highway verge, agricultural fields, woodland and under the River Crouch. A large area of woodland to the east of Raleigh Substation, under the River Crouch and beneath the A129 / A1245 roundabout would be crossed via horizontal directional drilling (HDD). The cables are proposed to follow a south-eastern direction along an informal access track, turning north along the A1245 (road verge), across the A1245 / A129 roundabout (public highway), south-west along the A1245 (road verge and highway), west across an area of woodland, before heading north-west into vacant greenfield land adjacent to the National Grid Substation. Following installation, the trenches would be backfilled, and the area restored. The development phase is predicted to be 4 months and once completed, the works will be entirely underground.

5. The cable route is a stand alone full planning application which will provide the applicant with permission to carry out engineering works to allow construction of a necessary electricity cable connection to the grid. The cable route application should be determined on its own merits, having regard to the approved solar farm and electrical substation applications.
6. The proposed cable will be subject to permits and licences from the relevant highway authorities for its construction and any management of traffic. The proposed route has been assessed as the most efficient route from the site to the grid connection comprising the fewest impacts from construction and management of vehicles. Any disruption will be minimised, and the applicant has confirmed they intend to seek the appropriate permits described above.
7. For the majority of route, the cables would be laid within a mechanically excavated trench being 1050 – 1350mm deep and 470mm wide which would be backfilled and the existing surface treatment reinstated. Certain sensitive locations, e.g. the crossing of existing services or tree roots, would require hand excavation or via horizontal directional drilling.
8. Planning Permission is required as the proposed Engineering operations meets the statutory definition of development as set out in Section 55 of the 1990 Town and County Plan Act which is:

‘The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or any other land’.

9. Whilst the applicant has not sought to justify the proposal having regard to a fallback position, it is worth noting an option that the proposed cable route is potentially Permitted Development if carried out by a statutory undertaker (Schedule 2, Part 15, Class B of the Town and Country Planning (General Permitted Development) Order 2015. The applicant, Pelagic Energy, may meet that description. Some impacts will be temporary, such as highways. Appropriate highways licensing and traffic management will need to be secured.

ENVIRONMENTAL IMPACT ASSESSMENT

10. The proposed development has been considered in connection with Chelmsford City Council application ref: 22/00179/FUL which was determined as not being Environmental Impact Assessment (EIA) Development on 29th October 2021, through an Environmental Impact Assessment Screening Opinion for the construction of up to 78 battery containers and ancillary development at land between the A130 and A1245. The proposal under consideration is not in a sensitive area and constitutes an engineering operation. It is not considered the proposal will give rise to the potential for likely significant effects. The proposal is not Schedule 1 or Schedule 2 development.

RELEVANT PLANNING HISTORY

11. Application No. 23/00389/FUL - Erection of an electrical substation Approved 06th March 2024.
12. Application No. 21/00522/FUL - Containerised battery storage facility and associated infrastructure including access track and boundary treatment. Land to the south of the A129 London Road (directly adjacent to the northern boundary of the application Site). Approved 5th November 2021.
13. Application No. 18/00305/FUL - Construction of a new hard standing access track and gated entrance to the consented Dollyman's Power and Storage Facilities off London Road and construction of gas kiosk. Approved 20th September 2018.
14. Application No. 17/00939/FUL - Development of a 49.99 MW Battery Storage Facility with associated infrastructure and landscaping. Land to the south of the A129 London Road (directly adjacent to the northern boundary of the application Site). Approved 20th December 2017.
15. Application No. 17/00942/FUL - Development of a 49.99 MW Gas Fired Electricity Generating Facility with Associated Infrastructure and Landscaping. Land to the south of the A129 London Road (directly adjacent to the northern boundary of the application Site). Approved 20th December 2017.

MATERIAL PLANNING CONSIDERATIONS

16. The proposed development must be assessed against relevant planning policy and regarding 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.
17. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011) RDCS), the Allocations Plan (2014) and the Development Management Plan (2014) (DMP).

Principle of development

18. The proposed development involves engineering operational development for the laying of an underground electricity cable beneath the highway and directional drilling to install a cable beneath bridges and across/under watercourses between Rayleigh Battery Storage Facility (Chelmsford City Council application ref: 22/00179/FUL) and its connection point at National Grid's Rayleigh Substation. The UK Government's position on power is set out in the Overarching National Policy Statement (NPS) for Energy (EN-1), which recognises the importance of understanding and addressing landscape and visual impacts (Department of Energy and Climate Change, 2011). It includes a section on criteria for "good design" for energy infrastructure, which states that:

"Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area."

Furthermore, Para 2.4.2 of EN-3 also states "Proposals for renewable energy infrastructure should demonstrate good design in respect of landscape and visual amenity, and in the design of the project to mitigate impacts such as noise and effects on ecology.

Whilst NPSs are national policy for energy projects that are defined as Nationally Significant Infrastructure Projects (NSIP) identified by the 2008 Act, NPS EN-1 indicates that it may be a material consideration in decision making on applications that fall under the Town and Country Planning Act (1990 (as amended)). Therefore, although the proposed underground cable is not an NSIP, they do provide a context to assist in the determination of a planning application.

The underground cable will facilitate energy to be stored until required, NPS EN-1 indicates that energy storage has a key role to play in achieving net zero and providing flexibility to the energy system, so that high volumes of low carbon power, heat and transport can be integrated. Storage is needed to reduce the costs of the electricity system and to increase reliability by storing surplus electricity in times of low demand to provide electricity when demand is higher. Storage can provide various benefits, locally and nationally. These include maximising the usable output from intermittent low carbon generation (e.g. solar and wind), reducing the total amount of generation capacity needed on the system; providing a range of balancing services to the National Electricity Transmission System Operator (NESO) and Distribution Network Operators (DNO) to help operate the system, reduce constraints on the networks and help to defer or avoid the need for costly network upgrades as demand increases.

Support for the proposed development is found in paragraph 168 of the NPPF that requires that when determining planning applications for all forms of renewable and low carbon energy developments and their associated infrastructure, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy and give significant weight to the benefits associated with renewable and low carbon energy generation and the proposal's contribution to a net zero future.

Paragraph 161 of the revised NPPF implies that the planning system should support the transition to a low carbon future and support, amongst other things renewable and low carbon energy and associated infrastructure such as the proposed underground grid connection cable.

The Local Plan is silent on this type of engineering operation however objective 7 of the DMP encourages the growth of renewable energy projects and the integration of on-site renewable or low carbon energy technologies for new developments, as appropriate.

Priority 9 of the Core Strategy promotes the development of small and large scale renewable energy schemes and requires that the impact of such development on the character of the landscape would be a concern, but the Council will endeavour to be supportive.

Policy ENV6 of the Core Strategy relates to large scale renewable energy projects and states that planning permission for large-scale renewable energy projects will be granted if:

- the development is not within, or adjacent to, an area designated for its ecological or landscape value, such as Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Ramsar Sites, Sites of Special Scientific Interest (SSSI's), Ancient Woodlands, Local Nature Reserves (LNRs) or Local Wildlife Sites (LoWSs); or if it

can be shown that the integrity of the sites would not be adversely affected and:

- there are no significant adverse visual impacts

The underground cable would not be located within or adjacent to, nor would it adversely affect the integrity of any of the designated sites listed above and following the construction phase, the cable would be fully underground negating any significant adverse visual impacts in accordance with Policy ENV6.

It is therefore considered that adopted development plan policies and the updated NPPF are supportive of such proposals to support renewable energy production as they seek to realign energy generation to more sustainable and less carbon-based forms in the right locations. The land is proposed to be returned to its former use and as such the use is not considered sufficient reason to seek to refuse the proposal. Accordingly, the main considerations for this application relate to Green Belt, landscape character and visual amenity, impact on Archaeology and heritage assets, highway safety, flood risk and drainage, noise, air, biodiversity and land contamination crime. The policies which examine the more specific circumstances are examined below.

Green Belt

19. The application site is located within the designated Metropolitan Green Belt, as identified in the Council's adopted Allocations Plan (2014), therefore the proposed development needs to be assessed against local Green Belt policies and in relation to the framework. There is a general presumption against inappropriate development within the Green Belt and development should not be approved except in very special circumstances. Policies GB1 and GB2 of the RDCS 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.
20. Paragraph 153 of the revised NPPF states when considering proposals affecting the Green Belt, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. '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.
21. As per Paragraph 154 of the NPPF, development in the Green Belt is considered inappropriate unless one of the exceptions applies. The application meets exception *h) Other forms of development provided they preserve its openness and do not conflict with the purposes of including land within it, specifically ii. engineering operations.*

22. Policy GB1 - Green Belt Protection of the RDCS is concerned with allocating the minimum amount of land within Green Belt land necessary to meet the district's housing and employment needs and states that:

'The Council will direct development away from the Green Belt as far as practicable and will prioritise the protection of Green Belt land based on how well the land helps achieve the purposes of the Green Belt. Rural diversification and the continuation of existing rural businesses will be encouraged, as appropriate, so long as such activities do not significantly undermine the objectives or character of the Green Belt'.

23. Although classed as development, the proposed installation of the underground cable is engineering works that are not considered to undermine the objectives or character of the Green Belt as the land would revert to its previous state when complete. The application site is not immediately adjacent to any urban built edge, being separated from it by open land or located within the highway. As a result, the proposed development would be visually discrete from existing development. Moreover, the remediation works following the proposed installation of the underground cable would revert the land to its former state that would retain the character and form. As such, the proposal would not be seen as the spreading out of any settlement and would not be contrary to this purpose nor diminish the openness of the Green Belt spatially.

24. Policy GB2 – Rural Diversification and Recreational Uses of the RDCS relates to the council's restrictive approach to development within the Green Belt, but with some relaxation for rural diversification, the proposed installation of the underground cable is considered engineering works therefore policy GB2 is not triggered in this instance.

25. The Planning Practice Guidance (PPG) indicates that when assessing the impact of a development on the openness of the Green Belt, the duration of the development and its remediability, and the degree of activity it would be likely to generate, are matters to take into consideration. The proposal would result in temporary disturbance during the construction phase following which the land would be restored to its previous use. In addition, apart from during the construction phase, the development would otherwise generate minimal activity.

26. The proposed cable route is engineering operational development to install a cable route underground that's meets the engineering operations exception of the NPPF. Overall, there would be limited harm in Green Belt terms set against significant benefits of the development in terms of supporting the growth in flexible energy supply and, due to the nature of the works proposed, could not be in a non-green belt

location. As a result, the proposal is considered in accordance with Green Belt policy espoused in the NPPF and Policy GB1 and GB2 of the Council's adopted Core Strategy.

Design and Impact on the Character of the Area

27. Paragraph 8 of the NPPF sets out the three overarching objectives of the planning system. These include an environmental objective "to protect and enhance our natural, built and historic environment..." Paragraph 9 sets out that "Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area". The overarching objective to protect and enhance our natural, built, and historic environment is reflected in specific policies about: achieving well-designed places (Section 12); conserving and enhancing the natural environment (Section 15); and conserving and enhancing the historic environment (Section 16).
28. Policy CP1 of the Core Strategy and Policy DM1 of the Development Management Plan are applicable to the consideration of design and layout however they are mute on engineering works.
29. The proposed cable route connection will give rise to some temporary visual changes and other temporary impacts such as some disturbance from road closures during construction. However, as an engineering operation to install a cable underground it will not lead to permanent visible or spatial harms that are contrary to Policy CP1 of the Core Strategy and Policy DM1 of the Development Management Plan.

Impact on Residential Amenity

30. Policy DM1 of the Development Management Plan seeks to ensure that new developments avoid overlooking, ensuring privacy, and promoting visual amenity, and create a positive relationship with existing and nearby buildings.
31. Any visual effects are a result of the sensitivity of visual receptors (people who will experience changes to existing views) to the proposed development and the magnitude of those changes. As highlighted previously, the proposed cable route will principally be located within the highway verge of the A1245, travel west across an area of woodland, before heading north-west into vacant greenfield land adjacent to the National Grid Substation. It is noted that there are sporadic residential properties located adjacent to the A1245 on this route however, due to the topography, the degree of enclosure provided by the existing vegetation combined with the temporary nature of the potential for disamenity during the implementation phase, any adverse impacts would be negligible and can be controlled through

condition. Consequently, the scheme as proposed is not considered to conflict with Policy DM1 of the of the Development Management Plan.

Archaeology and Heritage assets.

32. Paragraph 208 of the revised NPPF states that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
33. Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be given to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on a decision maker to pay special attention to the need to preserve or enhance the character or appearance of a conservation area.
34. The proposed cable route would run within 300m of three Grade II Listed Buildings, the closest being the Grade II listed 'Witherdens Farm' located circa 150m west. As the cable would be underground, it is considered that no resulting harm to any heritage assets would arise. The distance and intervening vegetation mean there would be limited visibility between the buildings and the proposed development. The proposed development will not result in any harm to the heritage significance of the listed buildings through alterations to their fabric, fittings and fixtures, the proposal would not remove any identified heritage asset or result in significant harm to the historic fabric of the listed buildings, or their setting and the application site is not located within or adjacent to a Conservation Area. The council's Heritage Consultant has been consulted on this application and has raised no objection. In making this assessment, it is considered that the proposed development would comply with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the National Planning Policy Framework, specifically paragraph 208.

Highway Safety

35. Policy DM1 of the Council's Development Management Plan requires sufficient car parking whereas Policy DM30 of the Development Management Plan aims to create and maintain an accessible environment, requiring development proposals to provide sufficient parking facilities having regard to the Council's adopted parking

standards. As no planning use is being implemented, there is no parking requirement generated.

36. The construction of the cable route connection would result in some additional traffic movements, but this would only be for a temporary period during construction. In the light of the lack of objection comments received by the highway's authority, and subject to conditions, these additional movements could be safely accommodated within the existing highway network. The supporting information confirms that where the proposed cable route runs along or across a carriageway (i.e. along the A1245 Chelmsford Road), temporary traffic lights, lane closures and road closures with diversion signs would be used and that all locations will be kept accessible with appropriate diversions.
37. When crossing, running parallel to, or working in the vicinity of any Public Right of Way, a banksman will be present to guide pedestrians past the works as necessary (Public Footpaths Rawreth FP 14, FP 20 and FP 21 have the potential to be impacted). No works will be left incomplete and would be always surrounded by a barrier. It is noted that 2 public comments have been received in relation to adverse highway impacts however this matter does not weigh against the proposal as subject to the relevant highway licenses, an accessible environment would be maintained as required by Policy DM30 of the Development Management Plan.

Ecology

38. Policy DM27 of the Development Management Plan states that proposals should not cause harm to priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Development will only be permitted where it can be demonstrated that the justification for the proposal clearly outweighs the need to safeguard the nature conservation value of the priority habitat, and/or the priority species or its habitat.
39. The revised NPPF at chapter 15 'protect and enhance biodiversity and geodiversity' sets out government views on minimizing the impacts on biodiversity, providing net gains where possible and contributing to halt the overall decline in biodiversity.
40. Biodiversity net gain (BNG) is a way of creating and improving natural habitats. BNG makes sure development has a measurably positive impact ('net gain') on biodiversity, compared to what was there before development. In England, BNG was mandatory from 12 February 2024 under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers

must deliver a BNG of 10%. This means a development will result in more or better-quality natural habitat than there was before development. The application was received by the planning authority on the 30th of January 2024, therefore Schedule 7A is not triggered in this instance.

41. In support of the application, an Extended UK Habitat survey, a desk study, a Habitat Suitability Index and environmental DNA (eDNA) surveys of nearby ponds for great crested newts (GCNs) were submitted. The survey identified that the only habitats directly affected were modified grassland road verges, with some areas of other neutral grassland at either end of the route. Impacts from the cable route will be temporary, but nonetheless it is advised that ecological enhancement can be achieved by re-seeding any grassland areas damaged during construction with a species-rich mixture. This will provide benefits for pollinating insects, which in turn will benefit foraging birds and small mammals and will be secured via condition through a Landscape and Ecological Management Plan.
42. As requested by Natural England, a Habitats Regulations Assessment (HRA) screening letter was provided that concluded there would be no predicted Likely Significant Effects to any European designated sites because of the development, and that the proposals do not need to progress to subsequent stages of the HRA (i.e. Appropriate Assessment).
43. Furthermore, a Marine Conservation Assessment was submitted that stated that, due to the ground conditions (being clay up to a depth of 18m) coupled with the construction methodology proposed beneath the River Crouch and Rawreth Brook of Horizontal Directional Drilling (HDD) in tandem with the proposed pollution prevention mitigation measures, no impacts are anticipated on the Blackwater, Crouch, Roach and Colne Marine Conservation Zone (MCZ). A Marine License is not subsequently required.
44. To overcome objection comments received from the council's ecology consultant regarding Great Crested Newts, a copy of the Countersigned Impact Assessment and Conservation Payment Certificate for Great Crested Newt that demonstrates the applicant's intention and eligibility to enter the Essex District Level Licensing Strategy was submitted. At the request of the ecology consultant, a copy of the Great Crested Newt License will be required by condition prior to the commencement of any works which could affect suitable terrestrial habitat for this European Protected Species.
45. Regarding reptiles, the submitted Ecology Addendum Letter (Wild Frontier Ltd, August 2024) established that further reptile surveys were

conducted in an area of 'Other neutral grassland' near the approved substation that identified '*an exceptional population of Slow-worm and a good population of European Adder under standard methodology*'. Therefore, the site is technically classified as a Key Reptile Site, due to the exceptional population of Slow-Worm'. As a result, additional mitigation measures were proposed and agreed by the council's ecology consultant in the Ecology Addendum Letter to minimize potential killing and injury of reptiles during the works. A Landscape Management and Monitoring Plan will be secured through condition to secure the proposed reinstatement and aftercare measures for the grassland for the benefit of the reptile population, as well as any additional enhancements to secure net gains for biodiversity, as outlined under Paragraph 187d of the National Planning Policy Framework (December 2024).

46. As a result of the additional information received, objections from statutory consultees have been addressed enabling the council to demonstrate compliance with statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended). It is considered that with the inclusion of appropriate mitigation through appropriately worded conditions, there will not be any significant impacts to protected species or habitats as result of the limited development and as such the proposal would not conflict with Policy DM27 of the Council's adopted Development Management Plan.

Trees

47. In achieving the overarching objective of enhancing the natural environment, Framework paragraph 187b indicates that decisions should recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, including amongst other things trees and woodland. Policy DM25 of the Development Management Plan seeks to protect existing trees particularly those with high amenity value. The Core Strategy states in section 8.4 regarding tree retention "*The Council is committed to the protection, promotion and enhancement of biodiversity throughout the district. Biodiversity is the variety of living species on earth including well known trees and animals as well as lesser-known insects and plants and the habitats that they occupy. It is an essential component of sustainable development.*"
48. In support of the application, an Arboricultural Impact Assessment including a tree survey was submitted that confirmed that no trees on the application route are subject to protection from a preservation order or located within a Conservation Area.

49. The submitted tree survey notes that to facilitate the development, part of four low quality tree groups and part of one tree group that is unsuitable for retention requires removal. These tree removals are required in instances where the excavation footprint 'incurs within highways-side young to semi mature tree/scrub groups and cannot be moved (e.g. between the highway edge and verge)' and are all either Category C (Low Quality) or Category U (Unsuitable for Retention).
50. The proposals avoid impacts on trees and hedgerows, which will be protected by tree protection measures in accordance with the latest British Standards (currently BS 5837:2012 'Trees in relation to design, demolition and construction-Recommendations'), secured by planning condition, in accordance with Policy DM25 and as agreed by Rochford District Council's Arboricultural officer. Consequently, it has been satisfactorily demonstrated that the proposed development could be implemented without causing significant immediate damage to trees, notwithstanding any appropriate precautions and controls to protect the trees, their roots, and the ground around it is put in place.
51. Overall, it is considered that the proposal will not result in the loss of any trees of high amenity value and as such the proposal complies with policy DM25.

Drainage & Flood Risk

52. Paragraph 181 of the NPPF (2024) states: 'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.'

Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

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

53. Policy ENV3 – Flood Risk of the Core Strategy states that the Council will direct development away from areas at risk of flooding by applying

the sequential test for development however makes no mention of engineering works.

54. A review of the Environment Agency's Flood Zones indicates that the site is located within Flood Zone 1 and therefore has a 'low probability' of flooding, with less than a 1 in 1000 annual probability of river or sea flooding in any year (<0.1%). Environment Agency data shows that the site has not historically flooded. In terms of vulnerability classification, the proposed development is "essential infrastructure".

55. A sequential, risk-based approach to the location of development should be applied to development proposals, considering all sources of flood risk and the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property. The site is principally located within Flood Zone 1 with a 'low probability' of flooding, with less than a 1 in 1000 annual probability of river or sea flooding in any year (<0.1%). Flood Zones 2 and 3 are also present on the Site, where the cable route crosses the River Crouch. Given the location of the approved BESS and the only grid connection point offered by National Grid at Rayleigh Substation, there are no additional location options at a lower risk of flooding as any grid connection cable route must cross the River Crouch and as such, must cross areas of Flood Zones 2 and 3. As such, the Sequential Test is passed.

56. In the Planning Practice Guidance to the NPPF, appropriate uses have been identified for the Flood Zones. Applying the Flood Risk Vulnerability Classification in the Planning Practice Guidance to the NPPF, the proposed cable use is classified as 'essential infrastructure'. Table 2 of the Planning Practice Guidance to the NPPF states that 'essential infrastructure' uses are appropriate within Flood Zone 1 after the completion of a satisfactory FRA. A Flood Risk Assessment (FRA) accompanied the application that concluded:

The majority of the Site is not at risk of flooding. However, small sections of the Site lie within Flood Zones 2 and 3 and are at risk of surface water flooding. The Proposed Development comprises 'Essential Infrastructure' which is an acceptable form of development within Flood Zones 1 and 2, and within Flood Zone 3 subject to the Exception Test being passed.

57. The Exception Test comprises two tests:

Demonstrate that the wider sustainability benefits of the development to the community outweigh flood risk; and
Demonstrate that the development will be safe for its lifetime.

It is considered that the wider sustainability benefits to the community outweigh the limited flood risk. This is principally in terms of the climate change benefits of the proposals, which would contribute to generating

and storing electricity from a renewable source. In addition, the proposed development would not increase flood risk elsewhere, the flood risk to the site can be managed and the site can be developed safely. The Environment Agency no longer has objections following clarification of HDD routing around watercourses.

58. The cable route as proposed would be laid within a mechanically excavated trench for much of the route with horizontal directional drilling (HDD) proposed under the River Crouch and Rawreth Brook following which the land will be returned to its former state. The installation of the cable route would not result in any increase in the amount of hardstanding area on the Site and would be located wholly underground. As such, given the nature of the development, it would not have an impact on flood risk, the proposal is considered to comply with the relevant policies contained within the Development Management Plan and the NPPF, and as such there is insufficient justification to warrant a refusal.

EQUALITIES AND DIVERSITY IMPLICATIONS

59. 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.

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

61. 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.

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Rawreth Parish Council:

No comments received.

Chelmsford City Council:

No objection to raise.

Rochford District Council Arboricultural officer

No objection subject to tree protection condition.

Essex County Place Services Built Heritage Advice:

No objection.

The proposal includes the digging of a trench to lay a grid cable to connect the battery storage facility and Rayleigh substation. Upon review of the submitted documents the proposal, in my opinion, will cause no harm to any above-ground designated heritage assets. Therefore, I raise no objection. The proposal is compliant with Chapter 16 of the NPPF and the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Natural England:

29th April 2024 Holding Objection - Further Information Required
We consider that without appropriate assessment, the proposed works could:

- have an adverse effect on the integrity of Crouch and Roach Estuaries Special Protection Area (SPA) and Ramsar site
- damage or destroy the interest features for which the Crouch and Roach Estuaries Site of Special Scientific Interest (SSSI) has been notified.
- hinder the conservation objectives of the Blackwater, Crouch, Roach and Colne Marine Conservation Zone and not be compliant with the requirements of the Marine and Coastal Access Act 2009.

Subsequent comments received 14th February 2025 No Objection
Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on “Development in or likely to affect a Site of Special Scientific Interest” (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI.

Environment Agency:

26th April 2024 Object - We object to the planning application until the required information has been provided. The required information relates to both Environment Agency Assets and Ecological Impacts.

Subsequent comments received 17th January 2025

Ecological impacts

The applicant has now provided the Bentonite Breakout Plan to ensure the risk if there is a leakage is dealt with quickly and effectively. This is particularly where the HDD passes under the River Crouch and the associated designated sites. We are able to remove our holding objection in relation to this aspect based on this important information being supplied.

Final comments received 21st February 2025

We have reviewed the documents as submitted and can confirm the information provided by the applicant is sufficient, and we can subsequently remove our objection to this application.

As raised in our letter referenced AE/2024/129396/01 and dated 26 April 2024, the applicant should ensure they undergo all necessary Environmental Permitting obligations, such as a Flood Risk Assessment Permit (FRAP).

Essex County Council Mineral Planning Authority:

No comments to make.

The Mineral Planning Authority has no comment to make in relation to this application as the area of the proposed development site located within the Essex sand and gravel Mineral Safeguarding Area is below the minimum Minerals Local Plan 2014: Policy S8 threshold of 5ha.

Essex County Council in its capacity as Waste Planning Authority has no comment to make as the proposed development site is not within a Waste Consultation Area.

Essex County Council Place Services – Ecology:

Initial comments received 19th April 2024 - Holding objection due to insufficient ecological information on European Protected Species (Great Crested Newt) and Protected Species (reptiles)

Subsequent comments received 09th January 2025 – no objections. We have reviewed the documents supplied by the applicant, including the Updated Ecology Report (Wild Frontier Ecology, July 2024), the Ecology Addendum Letter (Wild Frontier Ltd, July 2024), the Ecology Addendum Letter (Wild Frontier Ltd, August 2024), the Habitats Regulations Assessment Screening Letter (Wild Frontier Ecology, July 2024) and the Countersigned Impact Assessment and Conservation Payment Certificate for Great Crested Newts, relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. With the inclusion of the additional information, we are satisfied that there is now sufficient ecological information available to support determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

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.

Recommended conditions

1. PRIOR TO COMMENCEMENT: CONSTRUCTION

ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

“A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in line with the Updated Ecology Report (Wild Frontier Ecology, July 2024), the Ecology Addendum Letter (Wild Frontier Ltd, July 2024) and the Ecology Addendum Letter (Wild Frontier Ltd, August 2024).

The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority”

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).

2. PRIOR TO COMMENCEMENT ACTION REQUIRED: SUBMISSION OF A COPY OF NATURAL ENGLAND MITIGATION LICENCE FOR GREAT CRESTED NEWT

“Any works which will impact the breeding / resting place of Great Crested Newt, shall not in in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a GCN District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.”

Reason: To conserve protected 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 s17 Crime & Disorder Act 1998.

3. WITHIN THREE MONTHS OF CONSENT: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

“A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority within three months of consent of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.

- b) Ecological trends and constraints on site that might influence management (including reptiles).
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”

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

National Grid:

No objection. There are no National Gas Transmission assets affected in this area.

Essex County Council Highways:

No comments received.

Essex County Council Public Rights of Way Liaison Officer:

No comments received.

Essex County Council Future Infrastructure Risk:

No comments received.

Strategic Essex County Council Strategic Planning:

No comments received.

Essex County Council Infrastructure Transformation Team:

No comments received.

Essex Police - Strategic Planning:

No comments received.

Rochford District Council Environmental Health:

No comments received.

Neighbour representations:

Two responses have been received from the following addresses:

1 Bedloes Avenue and another unaddressed which can be summarised as follows:

- I have just looked at the plan for laying a power cable from Rayleigh Substation and it seems to me like it is going straight across my forecourt which will disrupt my businesses and cost us a lot of revenue as we have vehicles coming in and out of the premises all day.
- Why can't the cables cross open farmland to the rear of our premises and not straight down the highway impacting many businesses and local traffic?
- The last time a heavy-duty power line was laid outside my garage, we were disrupted for days and had to drive over steel plates when they were down and after they had finished, they did not reinstate the forecourt properly.
- Cannot agree the assertion in paragraph 5.1.9 of the planning document that there will be no unacceptable impact on traffic as a result of the proposal. Whilst construction traffic may be limited, the proposed mitigation of Lane Closures, traffic lights and diversions on the A1245 on what it at commuter times a heavily congested route, with traffic sometimes queuing the length of Battlesbridge by – pass. There is no practical diversion route. This impact doesn't seem to have been considered at all in the documentation.

RECOMMENDATION:

APPROVE subject to the following 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 permitted shall be carried out in complete accordance with the following approved plans:

Dwg. 2792-02-06 Location Plan Rev B

Dwg. 2792-02-11 Local Authority Boundaries Rev B
Dwg. 2792-02-08 General Arrangement Rev B
Dwg. 2792-02-07a Statutory Plan Rev B - Sheet 1
Dwg. 2792-02-07b Statutory Plan Rev B - Sheet 2
Dwg. 2792-02-07c Statutory Plan Rev B - Sheet 3
Dwg. 2792-02-07d Statutory Plan Rev B - Sheet 4
Dwg. 2792-02-07e Statutory Plan Rev B - Sheet 5
Dwg. 2792-02-09 Existing Site Plan Rev B
Dwg. 2792-02-10 Typical Trench Cross Sections
Dwg. 2792-02-12 Construction Layout
Dwg. Culvert Crossing Ver. 5

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

3. Prior to the commencement of the development, a construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in line with the Updated Ecology Report (Wild Frontier Ecology, July 2024), the Ecology Addendum Letter (Wild Frontier Ltd, July 2024) and the Ecology Addendum Letter (Wild Frontier Ltd, August 2024).

The CEMP (Biodiversity) shall include the following;

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site.

The approved CEMP (Biodiversity) shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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).

4. Prior to the commencement of development, any works which will impact the breeding / resting place of Great Crested Newt, shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) a Great Crested Newt District Level Licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.

REASON: To conserve protected 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 s17 Crime & Disorder Act 1998.

5.A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority within three months of consent of the development. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management (including reptiles).
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

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

6. All existing trees to be retained within the application site shall be fully protected in accordance with the latest British Standards (currently BS 5837:2012 'Trees in relation to design, demolition and construction-Recommendations') by the time construction begins. All protective measures shall be in place prior to the commencement of any building operations (including any structural alterations, construction, rebuilding, demolition and site clearance, removal of any trees or hedgerows, engineering operations, groundworks, vehicle movements or any other operations normally undertaken by a person carrying on a business as a builder). The Root Protection Area (RPA) within the protective fencing shall be kept free of all construction, construction plant, machinery, personnel, digging and scraping, service runs, water-logging, changes in level, building materials and all other operations. All protective measures shall be maintained in place and in good order until all work is complete and all equipment, machinery and surplus materials have been removed from the site. Signs informing of the purpose of the fencing and warning of the penalties against destruction or damage to the trees and their root zones shall be installed at minimum intervals of 10 metres and a minimum of two signs per separate stretch of fencing.

REASON: To protect significant trees and hedgerows, safeguarding the character of the area and preserving habitat and to minimise the effect of development on the area in accordance Policy DM25 of the Council's Development Management Plan.

7. Prior to works commencing to construct the development hereby approved a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the Local Planning Authority. The Statement shall include details for:

- I. the parking and manoeuvring 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.
- V. routing of vehicles.

Once agreed, the approved statement shall be adhered to throughout the construction period.

REASON: To ensure that on street parking of these vehicles in the adjoining highway does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.

Relevant Development Plan Policies:

National Planning Policy Framework (2024).

Rochford District Council Local Development Framework Core Strategy
Adopted Version (December 2011) – policies CP1, ENV3, ENV6, GB1, GB2.

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

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

Natural England Standing Advice.

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

Application No :	24/00798/FUL Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Sutton Parish Council
Ward :	Roche South
Location :	Outbuildings Rear Of 2 Shopland Hall Cottages Shopland Hall Road Sutton
Proposal :	Demolition of buildings in use as an aviary breeding centre and demolition of a detached garage and a stable building. Erection of one 4-bed dwellinghouse (self-build) with annexe and detached garage incorporating office room for use incidental to the dwellinghouse.

SITE AND PROPOSAL

1. The application site comprises a dwellinghouse and a collection of five buildings used as aviary breeding centres within an isolated rural location on the outskirts of Southend-on-Sea outside settlement limits. To the immediate south of the site is a residential dwelling. The site is bound by green fields to the west and north, with a small former churchyard to the east (Shopland Churchyard Conservation Area). Further south from the site is the Shopland Hall Equestrian Centre. The site is in the Metropolitan Green Belt.
2. The site is in the Crouch and Roach Farmland character area which is characterised by long narrow river estuaries with bands of flat low lying marshlands; rolling or gently undulating arable farmland between the estuaries. Regular fields of variable size and thick or intermittent hedgerow boundaries and small villages, a scattering of hamlets, farmsteads, and newer suburban properties are concentrated along the lanes on higher ground.
3. Two Grade II Listed Buildings are located nearby; "Barn about 90 metres south of Shopland Hall" (located approximately 140m south of subject building) and "2 Adjacent Head and Foot Stones, Shopland Churchyard" (located approximately 150m south-east of the subject building).
4. Planning permission is requested for the demolition of buildings in use as an aviary breeding centre and the demolition of a detached garage and a stable building. The proposal would see the erection of one 4-bedroomed dwellinghouse (self-build) with detached two bedroomed annexe and detached garage incorporating an office room for use incidental to the dwellinghouse.

RELEVANT PLANNING HISTORY

5. Application No. 24/00445/FUL – Demolition of buildings in use as an aviary breeding centre and demolition of a detached garage and a stable building. Erection of one 4-bed dwellinghouse (self-build) with attached annexe and detached garage incorporating office and hobby room for use incidental to the dwellinghouse. Form new driveway with new vehicular access off Shopland Hall Road – Refused – 19.09.2024. Reason for refusal:

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

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

12. Application No. 97/00617/FUL - Part two storey and part first floor rear extension. Permitted 12th January 1998.
13. Application No. 97/00618/FUL - Part two storey and part first floor rear extension. Permitted 12th January 1998.

MATERIAL PLANNING CONSIDERATIONS

14. 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.
15. 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

16. The site has an extant permission with reference 23/01026/FUL for the erection of a new house in place of the existing buildings and constitutes a fallback position. The applicant feels that the extant permission is a very basic scheme that lacks exceptional design and would not optimally utilise the site. The applicant as part of their supporting statement state that *'The current proposal is a very high-quality modern design representing the optimum residential use of this previously developed site'*.
17. The existing Aviary Breeding Centre consists of five aviary buildings. The application for a Lawful Development Certificate for an existing change of use (23/00170/LDC) approved on May 30, 2023, stated that the buildings are exempt from planning enforcement and represent a change of use from residential to suis generis. It also verified that the structures were impervious, as were the nearby stables and garages.
18. The applicant submitted a planning application which sought the demolition of buildings in use as an aviary breeding centre and demolition of a detached garage and a stable building; erection of one 4-bedroomed dwellinghouse (self-build) with attached annexe and detached garage incorporating office and hobby room for use incidental to the dwellinghouse; form new driveway with new vehicular access off Shopland Hall Road (24/00445/FUL). That application was subsequently refused planning permission for the reason of extensive size cited above. Following receipt of this decision, the applicant has submitted this current application in order to overcome the previous reason for refusal.

Housing Land Supply.

19. 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.

20. 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”.

21. The proposal posits the demolition of various outbuildings and replacing them with 1 No. detached dwelling. The recent Annual Monitoring Review for Rochford Council states that the Authority has a housing land supply of 4.53 years and as such the Authority lacks a five-year supply of deliverable housing sites. By allowing this proposal there will be a NET increase in the number of dwellings (albeit by 1 No.) and as such if the proposal was permitted it would contribute to the existing shortfall. Consequently, the proposal will have a positive impact (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.

Principle of Development

22. The latest version of the National Planning Policy Framework (NPPF) was recently revised in December 2024. Like earlier versions it emphasises that the purpose of the planning system is to contribute to the achievement of sustainable development, through three overarching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in

guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area. The revision increased the focus on design quality, not only for sites individually but for places as a whole.

23. To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the NPPF. Paragraph 11 of the NPPF explains that for decision-taking this means, firstly, approving development proposals that accord with an up-to-date development plan without delay. If there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, then planning permission should be granted unless the application of policies in the NPPF (rather than those in development plans) that protect areas (which includes habitat sites and/or land designated as Green Belt) or assets of particular importance, provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Green Belt

24. Both policies GB1 and GB2 of the Core Strategy seek to direct development away from the Green Belt as far as practicable and prioritise the protection of the Green Belt based on how well the land helps achieve the purposes of the Green Belt, whilst allowing rural diversification in appropriate circumstances. Both policies pre-date the NPPF but can still attract weight in proportion to their consistency with it. These policies reflect the aims of those parts of the framework which seek to protect the Green Belt from inappropriate development. However, they do not reflect the exceptions listed within the NPPF which would also be a material consideration.

25. Consequently, the main issues are:

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

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

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

27. Paragraph 153 goes on to explain that when considering any planning application, substantial weight should be given to any harm to the Green Belt, and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

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

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

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

proposal is assessed against exception (g), paragraph 154 of the Framework.

30. Furthermore, Paragraph 154 exception h) of the NPPF also lists certain other forms of development which are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. It is considered that the proposed development would not fall under any of the exceptions listed.
31. Building upon para. 154 is para. 155 of the NPPF, which enunciates a number of other circumstances when it is considered that development within the green belt does not constitute inappropriate development, and these are: -
32. 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.
33. The guidance stated within paragraphs 156 to 157 are not applicable to the determination of this application.
34. The application relates to a site which is an irregular shaped parcel of land and contains numerous buildings in various states of repair. The topography of the land is relatively flat. The buildings which are subject of this application are located to the north-west of the application site and comprise 5 buildings which are single storey in nature and are constructed primarily out of facing brick and are used as aviary breeding centres. Additionally, there are 2 buildings to the north of the site which comprise a garage and a barn. The case officer considers that the buildings appear to be relatively sound structurally and given their method of construction and how they are fixated to the ground are afforded a degree of permanence. Located to the north of the application is a detached dwellinghouse and outbuilding, which is known as 'The Lodge'. According to the submitted plans there is a distance in excess of 200m separating this property from the application site. To the south is No. 2 Shopland Cottages, which is a relatively large detached dwellinghouse. A private drive traverses the eastern aspect of the application site running in a north to south direction and serves No. 2 Shopland Cottages and an equestrian

centre beyond. For the most part, the subject site is delineated by post and rail fencing and there are sections of mature native hedgerow which are punctuated at intermittent sporadic intervals by mature trees.

35. There is no built-up frontage along this stretch of Shopland Hall Road, it has mature hedgerow along both sides (albeit patchy in some places) with sporadic views of the countryside beyond. There is a relatively large detached dwellinghouse situated directly to the south of the buildings which are the subject of this application. This existing dwellinghouse is owned by the applicant. According to the supporting statement and accompanying plans the proposal is for the demolition of buildings in use as an aviary breeding centre and the demolition of a stable building and garage. The second element relates to the erection of one 4-bedroomed dwellinghouse (self-build) with annexe and detached garage incorporating office room for use incidental to the dwellinghouse. The third element is the formation of a new driveway with new vehicular access off Shopland Hall Road. Given the factors cited above it is considered that the exceptions a) to f) do not apply in this instance.
36. 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 decisionmaker. The planning balance will be considered qualitatively rather than quantitatively, as a value judgment made by the decision-maker. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The applicant must therefore demonstrate that very special circumstances exist to outweigh the harm to Green Belt openness and any other harm for the Council to be able to grant planning permission for the proposal. In making those judgments, it is relevant to assess both the extent of harm caused, and then the nature of the very special circumstances that exist to outweigh that harm. As previously alluded to, it is well-established that very special circumstances may arise by reason of cumulative factors, even if those factors are not "very special circumstances" in their own right when considered in isolation.
37. The very special circumstances are dealt with in detail in the applicants Planning Statement and include the following:
- There exists a fallback position from the extant permission of application 23/01026/FUL that allows for residential development of the site and as such is a material consideration.

Assessment Against Exception (g)

38. Both the applicants 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.

39. 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.'

40. The proposed site (as edged in red on the submitted plans) is currently occupied by 7 buildings of various size and condition comprising a garage, stable block and 5 buildings used for aviary breeding. The majority of the buildings are constructed out of facing brick and some elements are clad in horizontal timber boarding. Attached to several of the buildings are large metal cages forming an enclosure, which were used for breeding/keeping of birds in connection with the aviary business. All the buildings on site are of simple utilitarian appearance. In the opinion of the case officer the existing built form is stark and solid and does not contribute positively to the wider rural vernacular. All the buildings subject to this application are single storey in height. When the case officer conducted his site visit the buildings did not appear to be structurally unsound, there was no obvious signs of cracking or other forms of failure. In the opinion of the case officer, the presence of these buildings/structures on site is a negative feature to the Green Belt and their removal would result in a positive visual improvement to the Green Belt. The applicant's agent infers that the proposal would tidy up a poorly laid out site by coalescence of the built form. Having visited the site, it was patently evident that the majority of these structures/buildings had been on site for a considerable amount of time, well in excess of 10 years.

41. The applicant has edged a proportion of the site in blue, which contains No.2 Shopland Hall Road, which is a large two storey detached dwellinghouse and is situated immediately to the south of the application site.

42. 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.

43. In the justification for the proposal as part of the applicants Design and Access Statement and accompanying plans the agent infers that the proposal complies with part (g) of paragraph 154 of the NPPF as the proposal would constitute the partial or complete redevelopment of previously developed land. The agent also intimates that the proposal would not have any adverse impact on the openness of the Green Belt either visually or spatially due to the existing built form, which will be demolished in order to make way for the proposed development described.
44. According to the submitted plans the ridge height of the proposed dwellinghouse and annexe range in height from 3.2m to 4.7m. The roofscape of the proposal is heterogenous and comprises a mix of flat, dual pitch and mono pitch rooves. The existing Aviary Buildings range in height from 3.35m to 3.55m, the stable block is 3.25 m in height and the detached garage 5.69m in height. The existing buildings that are subject to this application provide 624.35m² of built footprint (measured externally) and a cumulative volume of 2,174.5m³. In comparison, the proposed development has a gross external footprint of 552m² and the built volume of 1,961m³. Consequently, there will be a reduction in built footprint of approximately 12% and the built volume of roughly 10%.
45. 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 NPPF does not define the term ‘substantial’; however, the ordinary definition according to Cambridge English Dictionary means “large in size, value, or importance”.
46. Paragraph 142 of the NPPF states: “The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”. It is patently obvious from the above paragraph that the Government considers the openness of the Green Belt is one of the fundamental characteristics. Whilst the NPPF does not clearly define openness it is generally accepted from para. 142 that openness is a spatial designation, which can also have a visual component as attested to by various Court cases (referred to below).
47. 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.

48. The applicant's agent infers that the application site adds limited benefit to the public realm, and it is intimated due to the juxtaposition and orientation of the existing neighbouring properties that the proposed development for the detached dwellinghouse, outbuilding and annexe (as shown on the layout plan) would not cause demonstrable harm to the openness of the Green Belt. Bearing this in mind, it is relevant to refer to recent case law, in particular, *Timmins and Lymn v Gelding Borough Council* 2014 and *Goodman v SSCLG* 2017. Another important case is *John Turner v SoS CLG* [2016] EWCA Civ 466 the Court of Appeal held that: "The concept of "openness of the Green Belt" is not narrowly limited. The word "openness" is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents". The Supreme Court ruled authoritatively on the meaning and application of the concept of "openness" within the Green Belt, in *R (Samuel Smith Old Brewery) v North Yorkshire County Council* [2020] UKSC 3.
49. Furthermore, in *Euro Garages Limited v SSCLG* [2018] EWHC 1753 (Admin), 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.
50. 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".
51. 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*”.

52. 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 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.

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

54. In terms of openness of the Green Belt, the proposal would involve the demolition of numerous buildings/structures which are spread across the application site and replaced with the construction of 1 No. single storey detached dwelling, outbuilding (to be used has a garage and study), with an annexe. It is considered that the existing built form is quite disparate and incongruent resulting in a built form that is spread across a wide section of the application site. The proposal seeks permission to demolish these buildings/structures and a coalescence of the built form.

55. As previously stated, the ridge height of the proposed dwellinghouse is proposed to have a maximum height of 4.7m (as measured from ground floor level), which is lower than the existing structure on the site to be demolished 5.69m (the detached garage) there would be a difference of -0.99m. Moreover, the existing buildings that are subject to this application provide 624.35m² of built footprint and 2174.5m³ of built volume. By contrast, the proposed replacement dwelling reduces the built footprint to 552m², and the built volume to 1961m. This means that the built footprint would decrease by 12% and the volume by 10%.

56. According to the submitted plans the ridge height of the proposed dwellinghouse and annexe range in height from 3.2m to 4.7m. The roofscape of the proposal is heterogenous and comprises a mix of flat, dual pitch and mono pitch rooves. The existing Aviary Buildings range in height from 3.35m to 3.55m, the stable block is 3.25m in height and the detached garage 5.69m in height. The existing buildings that are

subject to this application provide 624.35m² of built footprint (measured externally) and a cumulative volume of 2,174.5m³. In comparison, the proposed development has a gross external footprint of 552m² and the built volume of 1,961m³. Consequently, there will be a reduction in built footprint of approximately 12% and the built volume of roughly 10%.

57. In conclusion it is considered that quantitatively, the perceived visual and spatial effects will be materially and demonstrably reduced. Furthermore, the proposal would not encroach on the openness of the green belt since it would be smaller in volume, overall sprawl and height versus the existing situation. As with the previous proposal, the existing, disparate and incongruent built form, spread across a wide area of the site, which is very unattractive, will be demolished. The case officer considers that the current proposal would reduce the feel of sprawl and replace it with a coherent and cohesive built form of high quality. Overall, compared to the existing built form, the current proposal presents a significant improvement in terms of openness and the overall visual and spatial impact of the proposal is vastly improved as against the existing built form.

Fall Back Position

58. The law on the materiality of fallback positions was summarised in *Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ 1314 at [27]. The fallback position of a particular site will be a material consideration where there is firstly, a possibility of implementation: this is a lower bar than a 'probability' or 'likelihood'. Secondly, whether there is a likelihood or real prospect of such occurring and thirdly that a comparison must be made between the proposed development and the fall-back use. Fall-back cases will be fact-specific, and the role of planning judgment is vital. Consideration is an exercise of broad planning discretion based on the individual circumstances of each case.
59. As previously stated, there is a previously approved application with the reference 23/01026/FUL for the demolition of an aviary breeding centre and the erection of one 4-bedroom dwellinghouse.
60. There is lawful prospect that the fall-back position and the 23/01026/FUL development can be implemented but this in itself is not determinant. There is a real prospect of the development being undertaken and it would constitute a re-build. The approved application under consideration was proposed to have a total area and volume of 499.9m² and 1550m³ respectively. The approved height is 3.1m. Under the remit of this application the applicant was proposing to solely demolish the aviary buildings and not the garage or the stable block. The current application has a proposed built footprint of 624.35m² a volume of 2,174.5m³ and the highest part of proposed development would be 4.7m. This presents a 1.6m increase in height from the extant

permission. In addition, the proposed development would have a greater area and volume than the extant permission.

61. It is considered that the proposed development would result in a significant increase in the scale, massing and bulk of the existing form, and as compared to the development approved under the 23/01026/FUL case. The fall-back position as such can be afforded no weight as the effects of the fall-back position if implemented would be far less in Green Belt openness terms than the development proposed in this instance.

62. The case officer acknowledges that there is an inherent and fundamental difference between the current proposal, which is materially different from the fallback position. According to the current submission the applicant is now proposing to demolish 2No. additional buildings not previously included, which include a detached garage and a stable block. Therefore, the current proposal is not comparable to the fallback position.

Sustainability

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

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

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

65. Despite the rural setting, the site is within reasonable distance to Southend-On-Sea. The site is in close proximity to the city boundaries, but through reviewing Southend-On-Sea City Council's adopted Development Management Plan, the subject site is approximately 850m from the defined settlement boundaries. In respect of the site being well related to local services and facilities, the preamble to policy DM10, as a guide, considers that residential proposals would be considered well related to local services and facilities provided they are within 800m walking distance of at least one of the following: allocated

town centre; doctors' surgery; school (primary or secondary); or convenience retail store. The site is located approximately 950m north-east from a nearby Waitrose convenience store, and while this is beyond the example 800m, it is noted that this example is cited as a guide rather than an explicit policy provision. In addition, this aspect of the policy has already been accepted given the extant permission.

66. In respect of connections to the road network, Shopland Hall Road is accessed from Shopland Road, which connects interspersed dwellings and businesses on the outskirts of Southend-On-Sea to roads within the defined settlement area. Whilst there appears to be no bus stops along Shopland Road and therefore the site is not particularly well serviced by public transport, there are some bus stops on roads linking to Shopland Road, such as Barling Road further east of the site.
67. The site is not located within an area of international, European and local nature conservation importance, or the South Essex Coastal Towns landscape character area, and would not negatively impact the historic environment.
68. The case officer acknowledges that the application site broadly complies with the criteria listed in policy DM10. It is also acknowledged that a small-scale development such as that proposed would be capable of being delivered relatively quickly.
69. The agent has also inferred that the proposal would achieve a high-quality modern architectural design which addresses the Green Belt context. Furthermore, it will remove unsightly buildings with limited architectural merit and replace them with a well-designed home which seeks to reflect the context in which it will be sited. The agent goes on to state that the proposal will be sensitively landscaped which helps to integrate the proposed development into its surroundings and results in visual enhancements. In the opinion of the case officer any development should be sensitively landscaped so that it fits into the local environ and this is not a sufficient justification on its own to warrant an approval.

Design

70. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan are applicable to the consideration of design and layout. The framework 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. The Framework advises that planning permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.

71. 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.
72. Whilst 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.
73. Moreover, the NPPF also advises that planning decisions for proposed housing development should ensure that developments do not undermine quality of life and are visually attractive with appropriate landscaping and requires that permission should be refused for development that is not well-designed (paragraph 139).
74. There is no common design established for the isolated neighbouring dwellings within the local and wider area. The existing dwelling on-site is of a mock Tudor design with part red brick, part black timber and part red brick extension, with part black timber and part red brick garage and stables buildings. Further afield the general vicinity is punctuated by sporadic residential development, which includes a variety of housing types such as two-storey detached and terraced properties and a wide-ranging palette of materials has been used to construct them. Furthermore, the roofscape is not homogeneous and is varied with the use of hips and gables.
75. The Council's Supplementary Planning Document 2 (SPD2) for housing design states that for infill development, site frontages shall ordinarily be a minimum of 9.25m for detached dwellinghouses or 15.25m for semi-detached pairs or be of such frontage and form compatible with the existing form and character of the area within which they are to be sited. There should also, in all cases, be a minimum distance of 1m between the outside face of the wall to habitable rooms and the plot boundary. According to the submitted plans the proposal complies with the aforementioned criteria.
76. It is demonstrated that the quantum of development can be accommodated within the site. It is considered that the proposed dwelling will be sited within quite a large plot and as such it will not appear cramped. The proposed development is considered compliant with Policy H1 of the Council's Core Strategy.
77. The proposed development incorporates three parts which are the main house, annex and garage. These elements are all arranged

around a central courtyard feature. Whilst immediately to the north of the main property would be an in ground swimming pool measuring 11m long by 4m wide and is surround by a terrace. The main house has a roughly rectilinear footprint and measures 33m long by 17m deep (as measured at the widest points). As previously stated the house is single storey in size. According to the submitted plans the applicant is proposing to insert various sized apertures in the elevations of the building, which help to break up the scale and massing of the proposal. Furthermore, the case officer notes that these apertures have a strong vertical and horizontal emphasis. On the east facing aspect there will be an external staircase leading up to a roof terrace, which is roughly in the shape of a letter 'L'. The roofscape of the main building is not homogeneous and is a mix of flat, mono and dual pitch rooves, which help to break up the bulk of the building and prevent it appearing monolithic.

78. Internally the accommodation will comprise utility room, shower/pool changing room, plant equipment and boot room, open plan kitchen/dining and living room, entrance hall, 2No. playrooms, family bathroom, w.c., 4No. bedrooms (all en-suite) and the master will incorporate walk in wardrobe and dressing area.
79. The annexe is located immediately to the south of the main dwelling and is separated by a water feature and courtyard. The footprint of the annexe is shaped like a letter 'L'. The proposed annexe measures approximately 12.8m long by 9.9m deep (as measured at the widest points). Once again, the annexe is single storey in height and incorporates a dual pitch roof. The proposed annexe is relatively diminutive in nature and given its scale and mass does not compete with the main property. The bulk and mass of the annexe is broken up various apertures which are incorporated into the external envelope of the building. Internally the accommodation will comprise 2No. bedrooms (both which are en-suite) open plan kitchen and living room area and a cloakroom.
80. Located to the east of the annexe would be the detached garage. The garage is separated from the other two buildings by seating terrace and courtyard lawn. The proposed garage has a rectilinear footprint and measures roughly 6.3m deep by 10.2m long. The garage will incorporate a open faced element on the rear elevation allowing for 2No. vehicles to be parked within it. The remainder of the garage will be used as a study. Various sized apertures help to break up the bulk of the building. The roof over the garage will not be visible as it will be below photo voltaic panels.
81. The applicant is proposing to use a relatively simple palette of materials to construct the proposed building. According to the applicants Design and Access statement and the supporting plans, it is indicated that the walls of the buildings will be clad in timber, which will be vertically aligned, whereas the rooves will be clad in zinc. This metal sheeting

has been chosen as it is very much part of the traditional farming scene. According to the applicants supporting statement “It also helps to reinforce the ‘non-domestic’ character of the buildings it protects and is neither unattractive nor out-of-keeping”. All the windows and doors will be triple glazed units within powder coated aluminum frames. Overall, it is considered that this relatively simple palette of materials is in keeping with the wider vernacular and will not cause any demonstrable harm to the character and appearance of the wider street scene.

82. The new driveway proposed would be surfaced in loose rolled gravel and is considered to be a congruous addition to the rural vernacular. Furthermore, it is not considered that the swimming pool will cause any demonstrable harm to openness of the green belt or the pastoral views being below ground level.
83. As noted previously, the subject site is located in close proximity to the Shopland Churchyard Conservation Area to the east, designated in 1992 and formed by the boundary of the churchyard and former church (demolished in 1957). Despite its relatively small-scale, isolation, and lack of buildings, the associated appraisal notes the area is worthy of appropriate protection given the combination of elements that contribute to its special character. Given the design, scale and separation distances involved and the intervening buildings on-site and the access road that separate the subject building from the boundaries of the Conservation Area, it is considered that the proposal will have no material impact on the historic area. Colleagues in Places Services have been consulted and state they have no objection to the proposal (see para. 108)
84. Overall, it is considered that the design of the proposed dwellinghouse is quite modern and contemporary in nature, due to its relatively low height will be screened to a large extent by existing vegetation. However, the case officer considers it prudent to attach a landscaping condition to help assimilate the proposal into the wider environ. It is reasoned that the design of the proposed dwellinghouse is quite unassuming and unpretentious in appearance but generally in keeping with the local vernacular. The area is characterized by a broad range of dwelling types such that the proposal could not be considered unacceptable by way of design and appearance. It is considered given the nature and design of the proposal the materials which will be used to construct the dwelling will be pivotal and these will be secured by the imposition of an appropriately worded planning condition. Overall, it is considered that the proposed development in relation to design complies with guidance advocated within the NPPF and policy DM1.

Impact on Residential Amenity

85. Paragraph 135 (f) of the NPPF seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with

a high standard of amenity for existing and future users. This is reflected in Policy DM1, which seeks to ensure that new developments avoid overlooking, ensuring privacy and promoting visual amenity, and create a positive relationship with existing and nearby buildings. Policy DM3 also requires an assessment of the proposal's impact on residential amenity.

86. 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.
87. The existing dwelling on-site would be the subject dwelling's immediate neighbour, in addition to the dwelling directly to the south of the existing dwelling, and the dwelling approx. 240m north of the subject building.
88. It is noted that the proposed dwellinghouse will have apertures on all of its elevations which will serve habitable rooms. Nonetheless, it is considered that due to the separation distance between the proposed development and the surrounding residential dwellings in addition to the boundary treatment, the proposal will not significantly impact on the residential amenity of neighbouring occupiers by way of overbearing impact, overlooking or overshadowing.
89. Overall, it is considered that the proposed development would not cause any significant impact on residential amenity in respect of noise, light, overlooking or privacy to the surrounding properties, neither would it have a significant overbearing impact.

Living Conditions for Future Occupiers

Garden Size

90. Policy DM3 of the Council's 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.
91. The SPD2 requires a minimum 100m² garden area for all new dwellings. An exception to this requirement will be single storey patio housing or one- and two-bedroom dwellings which shall have an area of 50m² minimum.

92. The layout submitted shows that the proposed dwelling could be provided with private amenity space in excess of the requirements. It is considered that amount of private amenity attributable to the proposal exceeds the requirements of policy DM3 and guidance advocated in SPD2.

Technical Housing Standards

93. The Ministerial Statement of the 25th of March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalize the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access and a new national space standard.
94. 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.
95. 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.
96. A single storey dwelling which would comprise four bedrooms accommodating either five or six people would require a minimum Gross Internal Floor Area (GIA) of 90m² or 99m² respectively. Additionally, the dwelling must have a minimum of 3m² of built-in storage.
97. The one-storey annexe would have 2 bedrooms and accommodating either three or four people would require a minimum Gross Internal Floor Area (GIA) of 61m² or 70m² respectively. Additionally, the annexe must have a minimum of 2m² of built-in storage.
98. 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.
99. According to the submitted plans the Gross Internal Floor area of the proposed dwellinghouse equates to approximately 337m², and as such in terms of overall GIA the proposal complies with the minimum specified technical standards. Furthermore, the proposed annexe has a GIA of approximately 84.8m² and as such the proposal complies the

guidance advocated within DCLG Technical housing standards document.

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

Bedroom No.1 (Master)	47m ²
Bedroom No.2	20.8m ²
Bedroom No.3	21m ²
Bedroom No.4	21m ²

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

Bedroom No.1	21.1m ²
Bedroom No.2	18.8m ²

102. According to the submitted plans all the bedrooms comply with aforementioned policies and exceed the internal floor area requirements. In relation to main the dwelling there is 5.6m² of storage space indicated on the submitted plans. Therefore, this element of the proposal complies with the aforementioned guidance. In relation to the annexe, it was noted that no storage area was identified on the submitted plans; however, the proposal substantially exceeds the recommended minimal GIA for a 2 bedroomed property and as such it is considered insufficient justification for the slight shortfall in storage space to warrant a refusal and substantiate it at any future Appeal.

103. 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.

104. 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.

Non-Severability Test

105. The council does not have a specific policy as such relating to Annexe accommodation provision. However the council has to take a number of material considerations into account including policies

relating to design and layout of new development together with highway and amenity impacts arising as a consequence of the proposed use. Fundamentally, the council has to consider the principle of the use and the key tests which would indicate and inform whether the development can be considered to be an annexe or alternatively what may be considered in all intent and purposes to be a new unit of residential accommodation which could exist totally separate from the existing dwelling which would in effect be tantamount to the creation of a separate residential entity.

106. The key test to be applied in any event is that of the non - severability test in that there should always be a degree of functional interdependence between the annexe use and the main living accommodation in terms of shared amenity area, shared parking, shared services such as water supply, electric and foul water disposal. Circumstances other than this would point on the basis of the indicative tests, towards the accommodation not being annexe accommodation. As a general principle and rule any annexe accommodation in terms of scale, should be subservient to the accommodation offered by the existing dwelling. Where an annexe use could function totally independently if the primary use were to cease (an example of this may be a fire damaged house where for a number of years the occupants simply moved into the annexe - which is not annexed to the primary use if that use is no longer in existence or has been abandoned) then the non - severability test would not be met. To be an annexe it would need to be ancillary to the use of the main dwelling and it would be important that this could be controlled adequately by condition. An independent residential use could lead to adverse impacts on the character of the area. The important consideration is who would occupy the annexe and not necessarily the accommodation that would be provided. Subject to a condition setting out the limitations of the use as an annexe a development could be acceptable. Non - compliance with the condition would amount to a breach of condition whilst the use as a separate planning entity would amount to a material change of use requiring planning permission. The heading on any planning permission together with specific conditions would be sufficient to provide clarity as to what planning permission is being granted for and the limitations of the use.

Impact on Setting of Listed Building and Shopland Churchyard Conservation Area

107. The application site is located on the west side of Shopland Hall Road, to the rear of No. 2 Shopland Hall Cottages. To the east of the application site is Shopland Churchyard Conservation Area, which comprises the churchyard of the former parish church of Shopland (now demolished). To the south of the site is the historic farmstead of Shopland Hall and the Grade II listed Barn about 90 metres south of Shopland Hall (List Entry Number: 1113358); a circa early eighteenth century timber framed and weatherboarded barn.

108. The case officer considered it prudent to consult colleagues in Place Services Historic Buildings and they state:

“The application site is located on the west side of Shopland Hall Road, to the rear of 2 Shopland Hall Cottages. To the east of the application site is Shopland Churchyard Conservation Area, which comprises the churchyard of the former parish church of Shopland (now demolished). To the south of the site is the historic farmstead of Shopland Hall and the Grade II listed Barn about 90 metres south of Shopland Hall (List Entry Number: 1113358); a circa early eighteenth-century timber framed and weatherboarded barn.

This application follows a previous application (reference 23/01026/FUL) for the demolition of 5 buildings in use as an aviary breeding centre and erection of one 4-bed dwellinghouse. Place Services advice for this application set out that it was ‘considered that the proposed works would not impact upon the significance of the Grade II listed Barn or Shopland Churchyard Conservation Area.’

Whilst the current application proposes a larger dwelling of a notably different design, height, and scale, due to its distance from the designated heritage assets, and the intervening development, it is considered that the proposed works would not impact upon the significance of the Grade II listed Barn or Shopland Churchyard Conservation Area. This would be in accordance with Section 16 of the National Planning Policy Framework (NPPF) and Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990”.

109. The case officer concurs with the conclusions reached by the council’s Conservation Officer. After a thorough review of the supporting statements, submitted plans, assessment against local and national guidance, and following a site visit. It is considered that the proposal will not have a detrimental impact upon the significance of the Grade II listed Barn or Shopland Churchyard Conservation Area.

Impact on Highway Safety

110. 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.
111. The Parking Standards Design and Good Practice guide (2024) states that for dwellings with two-bedrooms or more, two off-street car parking spaces are required with dimensions of 5.5m x 2.9m.

112. In accordance with paragraph 111 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
113. The application form indicates that there are 8 existing parking spaces thus the site has ample parking space, and a large garage proposed that would accommodate 2 vehicles. According to the submitted plans the proposal site is located in a private road that is shared with a Public Right of Way footpath.
114. It is considered that any intensification resulting from the provision of one new dwelling and the annexe in this area is not deemed to be of such severity that would warrant refusal of the application. The case officer considered it prudent to consult colleagues in Essex County Council Highways Authority regarding the proposal and they state that *“The proposal site is located in a private road that is shared with a Public Right of Way footpath. The proposal includes the demolition of buildings and construction of a residential dwelling, the existing accesses are retained, and adequate room is available for off-street parking. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority”*.
115. The Highways Engineers have stated that they have no objection to the application subject to the imposition of conditions relating to the public’s rights and ease of passage over public footpath No. 14 (Sutton) shall be maintained free and unobstructed at all times, cycle parking and standard informatives.
116. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed dwelling. Furthermore, it is not considered that one additional dwelling at this locality will cause demonstrable harm to the highway network. The additional traffic movements which are likely to take place as a result of this proposal would not result in significant disturbance to neighbours by way of noise and dust. Generally, it is considered that the proposal is acceptable in highway terms and would not have an adverse impact upon highway safety. The proposed development in this aspect accords with the Parking Standards and policies DM1, DM3, DM9 and DM30 of the Development Management Plan and the Framework.

Refuse and Waste Storage

117. 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 & Drainage

118. According to the Environment Agency's Flood Risk Map the application site is located entirely in Flood Zone 1, where there is a low probability of flooding from rivers and the sea as such the development is compatible with the advice advocated within the NPPF.
119. Development on sites such as this can generally reduce the permeability of at least part of the site and changes the site's response to rainfall. Advice advocated within the NPPF states that in order to satisfactorily manage flood risk in new developments, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development.

Trees

120. 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.”*
121. In order to support the proposal, the planning application is accompanied by an Arboriculture Impact Assessment produced by AV

Architects and is dated October 2024. The report makes the following recommendations: -

- *The use of cellular confinement systems can be effective in protecting soils and tree root systems when new hard surfacing is required near trees. However, in this context the installation of geocell sub-bases inevitably involves working on top of tree root systems and as such there will be an elevated risk of damaging tree roots and the structure of the soil. Therefore, careful working procedures are required to ensure that trees are suitably protected when the installation works are carried out.*
- *The installation of cellular confinement systems should be directed by a project-specific arboricultural method statement. The arboricultural method statement should list any aspect of the proposed construction project that has the potential to adversely impact adjacent trees and detail appropriate methodologies for how the works will be undertaken in ways that would minimise those impacts.*
- *Tree roots can be directly damaged as the ground is levelled in advance of laying down a cellular confinement system and so it is recommended that this part of the process is carried out under arboricultural supervision. The use of a tracked excavator within a tree's root protection area should only be permitted if it is supervised by a suitably qualified arboriculturist. Local authorities should condition such supervision and stipulate that records of the supervision visits be provided to demonstrate that the works have been carried out appropriately.*
- *The cellular confinement system must be filled with clean angular stone that contains no fine material. To protect the geocell membrane it is advised that geocells are overfilled by a minimum of 25mm. In order to function effectively it is crucial that all of the cells are fully expanded and filled to capacity. Therefore, if there is insufficient space for a cell to be expanded it should be cut away and discarded.*
- *When cellular confinement systems are installed within tree root zones it is important that the wearing course is permeable so that air and water can reach the soil beneath. Systems should be put in place to ensure that the surface is regularly cleaned so that it maintains its porosity.*
- *The means to successfully prevent ground compaction during construction need to be planned from the conceptual stages of a building project. It may be that the no-dig surface needs to be installed and used during construction, and in other situations the ground may need to be protected until it is time to install the cellular confinement system. Therefore, the project arboriculturist needs to work with the architect, the project engineer, and the building contractor during the planning stages as well as during the construction of the surface.*

122. The Councils Arboricultural Officer has been consulted regarding the proposed and raises no objection.

On-site Ecology

123. 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.
124. 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.
125. 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.
126. To accompany their planning application the applicant has submitted a Preliminary Ecological Appraisal which includes a Preliminary Roost Assessment, produced by Johns Associates and is dated 16th March 2023.
127. The Report outlines that the subject site is within 2km of two statutory designated sites of European/International importance; Essex Estuaries Special Area of Conservation (SAC), and Crouch & Roach Estuaries SPA (Mid-Essex Coast Phase 3) and Ramsar Site. It also outlines the subject site is within 2km of one statutory designated site of National importance for nature conservation; Crouch and Roach Estuaries SSSI.

128. Furthermore, the report outlines there is one Local Wildlife Site (LOWS) within 2km of the subject site; Sutton Ford Bridge Pasture LOWS, and five priority habitats within 2km of the subject site (none in immediate vicinity).
129. The Report outlines there is no requirement for a Habitat Regulations Assessment as all likely significant effects have been screened out.
130. The Report concludes that sensitive clearance works should be implemented under a Method Statement for reptiles, amphibians, and nesting birds to ensure no legal offences are committed during site preparation/pre-commencement works, and emergence/re-entry bat surveys to establish appropriate mitigation measures. The Report also outlines enhancements within the redline boundary to provide biodiversity net gain as a result of the development.
131. Colleagues in Place Services Ecology were consulted and stated *“The mitigation measures identified in the Preliminary Ecological Appraisal report (Johns Associates, March 2023) 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”*.
132. The case officer acknowledges the consultation response received from colleagues in Place Services and concurs with their conclusions. The case officer is satisfied that the development subject to the imposition of an appropriately worded condition securing the ecological measures identified within the ecological appraisal report will help to alleviate any harm to protected species and as such the proposal complies with policy DM27 and guidance advocated within the NPPF.

Off Site Ecology

133. 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.
134. 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 Coast 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

135. 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.

136. 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

137. 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).
138. The applicant has indicated that they consider that the development proposed would not be subject to the statutory biodiversity net gain requirement because one of the exemptions would apply. Following a site visit and assessment of on-site habitat and consideration of the nature of the development proposed, officers agree that the proposal would be exempt from the statutory biodiversity gain condition because the development meets one of the exemption criteria, i.e. relating to custom/self-build development. The applicant has not therefore been required to provide any BNG information

EQUALITIES AND DIVERSITY IMPLICATIONS

139. 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.
140. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.
141. 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

142. Approve

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Sutton Parish Council: Object ,overdevelopment in the Green Belt, overdevelopment adjacent to a Conservation site.

Essex County Council Place Services Ecology:

We have reviewed the submitted documents for this application, including the Preliminary Ecological Appraisal report (Johns Associates, March 2023), Precautionary Method of Works Statement (Xenia Snowman, December 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures. We have also reviewed the Bat Emergence Survey report (Xenia Snowman, July 2024) that has been submitted as part of this application.

We have also reviewed the application form and plans in relation to the requirements of mandatory biodiversity net gains.

We are now satisfied that there is sufficient ecological information available for determination of this application.

Essex County Council Highways Authority:

No objection to the application subject to the imposition of conditions relating to the public's rights and ease of passage over public footpath no. 14 (Sutton) shall be maintained free and unobstructed at all times, cycle parking and standard informatives.

Essex County Council Place Services Historic Buildings:

Whilst the current application proposes a larger dwelling of a notably different design, height, and scale, due to its distance from the designated heritage assets, and the intervening development, it is considered that the proposed works would not impact upon the significance of the Grade II listed Barn or Shopland Churchyard Conservation Area. This would be in accordance with Section 16 of the National Planning Policy Framework (NPPF) and Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Rochford District Council Arboricultural Officer: No objection.

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.

Shopland Churchyard Conservation Area Appraisal and Management Plan (2007)

Natural England Standing Advice.

RECOMMENDATION: APPROVE

Conditions:

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

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

2. The development shall be undertaken in strict accordance with the plans referenced 23002-SIT-003 Revision P2 (Site Plan) (as per date stated on plan 28th October 2024), 23002-SIT-001 Revision P2 (Location Plan) (as per date stated on plan 2nd July 2024), 23002-LAN-001 Revision P1 (Landscape Plan) (as per date stated on plan 28th October 2024), 23002-GEA-014 Revision P2 (Garage Elevations) (as per date stated on plan 28th October 2024), 23002-GEA-013 Revision P2 (Annex Elevations) (as per date stated on plan 28th October 2024), 23002-GEA-007 Revision P2 (Elevations) (as per date stated on plan 28th October 2024), 23002-GEA-006 Revision P2 (Elevations) (as per date stated on plan 28th October 2024), 23002-GEA-005 Revision P2 (Elevations) (as per date stated on plan 28th October 2024), 23002-GEA-002 Revision P2 (Roof Plans) (as per date stated on plan 28th October 2024) and 23002-GEA-001 Revision P2 (Floor Plans) (as per date stated on plan 27th October 2024).

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

3. Notwithstanding the plans hereby approved no development involving the use of any facing or roofing materials shall take place until details of all such materials have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in

accordance with the approved details unless any variation is agreed in writing by the Local Planning Authority.

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

4. Prior to their first use, details of the position, design, materials and type of boundary treatment to be erected shall 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.

5. Notwithstanding the plans hereby submitted, 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.

6. No site works or development (including any temporary enabling works, site clearance and demolition) shall take place unless a dimensioned tree protection plan and arboricultural method statement detailing precautions to minimise damage to trees in accordance with Section 6.1 of British Standard BS5837: 2012 (Trees in relation to design, demolition and construction - Recommendations) have been submitted to and approved in writing by the Local Planning Authority. The submitted method statement shall include (but not be limited to) information about precautions and methods to minimise damage to existing tree(s) during the alteration/installation/renewal of any services and hard surfacing near to retained tree(s) and also details of precautions and protection measures to be put in place to minimise damage to retained tree(s) during construction activities such as access to/from the site.

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

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

7. In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site shall be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. The developer shall consider the following drainage options in the following order of priority:
 1. into the ground (infiltration);
 2. to a surface water body;
 3. to a surface water sewer, highway drain, or another drainage system;

4. to a combined sewer. We recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy outlined above.

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

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development comprising extensions and additions, roof alterations 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.

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

9. 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.

10. 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.

11. The public's rights and ease of passage over public footpath No. 14 (Sutton) 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. All mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal report (Johns Associates, March 2023) and Bat Emergence Survey report (Xenia Snowman, July 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 activities, and works shall be carried out, in accordance with the approved details, unless first agreed in writing with the LPA.

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).

13. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected and Priority or threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the (Preliminary Ecological Appraisal report (Johns Associates, March 2023), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans (where relevant);
- d) persons responsible for implementing the enhancement measures;
- and
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

REASON: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended).

14. Prior to occupation, a “lighting design strategy for biodiversity” in accordance with Guidance Note 08/23 (Institute of Lighting Professionals) 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
- b) 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
- c) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and 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 (as amended).

15. 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.

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