



**PLANNING APPLICATIONS WEEKLY LIST NO.1748**  
**Week Ending 14th March 2025**

**NOTE:**

- (i). Decision Notices will be issued in accordance with the following recommendations unless **ANY MEMBER** wishes to refer any application to the Development Committee on the 27/03/2025.
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **19th March 2025** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team [pbctechnicalsupport@rochford.gov.uk](mailto:pbctechnicalsupport@rochford.gov.uk) .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

**Note**

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

Index of planning applications: -

- 1. 24/00590/FUL - Bridge Cottage Church Road Rawreth pages 2 – 34
- 2. 24/00373/FUL - Moat Farm Chelmsford Road Rawreth pages 35 – 62
- 3. 24/00246/FUL - Land Adjacent St Theresa Pudsey Hall Lane Canewdon pages 63 – 77
- 4. 24/00840/FUL - Land Adjacent 45A Mortimer Road Rayleigh pages 78 – 99
- 5. 24/00493/FUL - Land Adjacent Southview Vanderbilt Avenue Rayleigh Pages 100 - 126

Application No :	24/00590/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Rawreth Parish Council
Ward :	Downhall And Rawreth
Location :	"Bridge Cottage" Church Road, Rawreth.
Proposal :	Demolition of existing bungalow and erection of replacement self-build bungalow.

## **SITE AND PROPOSAL**

1. Bridge Cottage constitutes a detached bungalow with a gabled roof, set within a spacious, rectangular shaped plot, measuring some 107.3m from northwest to southeast, 110m from west to east, and 90m from northeast to southwest. The dwelling is set back from Church Road by some 9m, and given the topography, is set down slightly from the road. The site is located directly south of Church Road, the River Crouch, and further the A130 to the west, open fields and countryside to the south, with Chelmsford Road located further to the east. The site is served by an existing vehicular access off Church Road north of the dwellinghouse and the detached garage further west in the plot.
2. The site itself is comprised of the dwellinghouse, 1No. detached outbuilding to the west and another to the east. The plan of the existing dwelling takes the form of an evenly shaped square, with a rear projection, bearing painted render walls, red pantiles to the main roof, and felt to the flat roof rear projection. The property is nether listed under statute nor locally listed.
3. The submitted plan reference 1222540-HOUSE-L01 indicates what is proposed as a replacement bungalow which will constitute a four bedroomed dwelling providing an approximate gross internal floor area of 191.1 square metres compared to the existing footprint of 108.6 square metres. The new dwelling would take a similar, yet enlarged layout to the existing in that it will be designed on a linear and rectangular form. The proposed site layout plan shows that the new dwelling will be built partly on the footprint of the existing dwelling to be demolished, extending approximately 6.5m (approximately) in length beyond the existing footprint to provide a total length of 17.7m and a depth of 12.1m.
4. The height of the proposed dwelling will display a lower roof pitch, encompassing a height of 4.5m (same as existing). The planning application form and proposed site layout plan confirms that no alterations are proposed to the vehicular access, or to the existing detached outbuildings and garages within the site to the east and west.

## **RELEVANT PLANNING HISTORY**

5. Application No. ROC/749/74- Add rear extension to form dining area and enlarge bedroom with double garage. Application Permitted.
6. Application No. 85/00466/FUL- Front porch. Application Permitted.
7. Application No. PA/17/00095/PREAPP- Pre-application advice to subdivide plot and Construct two bedroomed bungalow.
8. Application No. 23/00480/LDC- Application for a Lawful Development Certificate for proposed outbuilding. Refused LDC – 1<sup>st</sup> August 2023.
9. Application No. 23/00744/LDC- Application for a Lawful Development Certificate for proposed construction of an outbuilding. Refused LDC – 24<sup>th</sup> October 2023.
10. Application No. 24/00087/DPDP1- Householder Prior Approval for Single Storey Rear Extension. Projection 8.0m from Original Rear Wall, Eaves Height 2.30m, Maximum Height 4.00m. Prior Approval not Required – 13<sup>th</sup> March 2024.
11. Application No. 24/00595/LDC- Application for a certificate of lawfulness for proposed single storey side extension. Grant LDC – 15<sup>th</sup> October 2024.

## **MATERIAL PLANNING CONSIDERATIONS**

12. 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.
13. The relevant parts of the adopted Development Plan are the Rochford District Core Strategy (2011), the Allocations Plan (2014) and the Development Management Plan (2014).  
  
Green Belt considerations
14. The site is located within the Metropolitan Green Belt which places strict control over development in line with the purpose of Green Belt policy. The key issues in this respect are considered to be the following:

- (i) Whether the proposal is inappropriate development in the Green Belt
- (ii) The effect on the openness of the Green Belt
- (iii) Other considerations
- (iv) If the development is inappropriate, 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 necessary to justify the development.
- (v) Principle of Development and whether the development constitutes inappropriate development within the Metropolitan Green Belt and;
- (vi) If the development is inappropriate, 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 necessary to justify the development.

15. Considering firstly the principle of development, the National Planning Policy Framework “the Framework” advises at paragraph 153 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 advises that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
16. Paragraph 154 advises that the construction of new buildings is regarded as inappropriate in the Green Belt however citing a number of exceptions which includes that cited by exception (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The underlying objective of the Framework policy is to ensure that a redevelopment of a site in this regard has no greater residual impacts upon Green Belt openness (whether spatially or visually) when compared against the development it replaces.
17. The case progressed by the applicant as part of the planning application compares the existing built form including volume, floor area and footprint against what is now proposed which are relevant considerations when considering the matter of acceptance and whether a development if materially larger, could be identified as being harmful, as if no harm is found which can be substantiated it would not be possible to find a development unacceptable. This consideration aligns broadly with the provisions of policy DM 21 (the Replacement or Rebuild of Existing Dwellings in the Green Belt) of the councils Local Development Framework’s Development Management Plan which does however provide some scope for an additional extension no greater than 25% habitable floorspace over that of the original dwelling. Furthermore, the council’s Local Development Framework Core

Strategy Policy GB1 (Green Belt Protection) reflects the objective of directing development away from Green Belt Land and prioritising its protection in line with the very purposes and objectives of Green Belt Policy as cited by the National Planning Policy Framework.

18. The host dwelling has been previously extended, as listed in the planning history section above; notable extensions include:
  - Rear extension (ROC/749/74)
  - Front porch (85/00466/FUL)
19. It has been the Council's long-established practice that neither existing garaging nor proposed garaging is considered in the floor space calculation to Policy DM21 because that floorspace is not considered habitable.
20. The existing dwelling is currently occupied as a family home satisfying part (ii) to Policy DM21. The proposed siting, though slightly turning the front facade away from Church Road from north to slightly south, would be sited in part over part where the existing dwelling stands and satisfying the siting requirements to part (iv) of policy DM21.
21. The existing dwelling has ground floor habitable accommodation of only 55.5 Square metres floorspace internally, with previous extensions as mentioned equating to 53.1 Square metres, therefore, the total, existing floorspace is 108.6 Square metres.
22. Although the existing dwelling does display an increase of 51.1%, consideration is given to the Permitted Development allowances (equating to 31.2 Square metres), previously approved Larger Home Extension (24/00087/DPDP1).
23. This would allow in principle for the replacement dwelling to be larger by an increase of up to 25% in habitable floorspace, plus the permitted development extensions, providing a potential total of 195.76m<sup>2</sup> as defined under the Council's policy. The proposal is for a replacement bungalow of some 191.1 square metres and represents an appropriate increase.
24. The applicant has looked closely at the issues. In this case the proposed replacement dwelling from a footprint perspective is a dwelling which is 82.5 square metres greater in footprint than that of the existing dwelling. Furthermore, the proposed would display the same ridge height of 4.5m, the increase in floor space from 108.6 m<sup>2</sup> to 191.1m<sup>2</sup>.
25. Part (iii) to policy DM21 requires that the visual mass and bulk of the replacement dwelling should not be significantly larger taking into

account the additional uplift of 25% in floorspace allowed. Bungalows should be replaced by bungalows and a modest increase in height may only be justified on visual amenity and design grounds.

26. In accordance with Part (iii), the proposed would see a bungalow replaced by a bungalow. Furthermore, the ridge height is to remain as existing. Taking all matters and the Permitted Development configurations into consideration it is officer's view that, the development on the consideration of whether 'inappropriate' does not amount to inappropriate development. Furthermore, the proposed is compliant with Part (iii) to policy DM21.
27. As a consequence, it is considered that the proposed development in this particular case would not result in a development which can be considered to be materially larger than the existing development as the like-for-like eaves height minimises the massing of external walls. Although the floor area increase constitutes in excess of the 25% increase, due to the fact that consideration is given to the Permitted Development allowances (equating to 31.2 Square metres), previously approved Larger Home Extension (24/00087/DPDP1), there is no perceptible residual harm in spatial or visual terms that would justify finding the development unacceptable when considering the provisions of the Framework nor Policy DM21 of the Council's Development Management Plan. In short, though the proposal would conflict in floorspace terms, there would otherwise be no perceptible harm to Green Belt openness that could be substantiated in event of an appeal.
28. The second issue is that of the effect of the development on the openness of the Green Belt.
29. Paragraph 142 of the 'Framework' indicates that 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. One of the five purposes of a Green Belt outlined at paragraph 143 of the Framework is that it should assist in safeguarding the countryside from encroachment. To find harm within a development in Green Belt terms, it would need to be found larger giving rise to increased bulk and massing that would infer a harm on the openness of the Green Belt.
30. This conclusion is supported by the Timmins V Gedling Borough Council (2014) EWHC 654 (Admin) case which confirmed the position that any construction harms openness irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or other qualities. This case also emphasises a 'clear conceptual distinction between openness and visual impact' indicating that 'it is wrong in principle to



arrive at a specific conclusion as to openness by reference to its visual impact'

31. Despite the findings of this case which comments on the factors which a local planning authority took into account in its consideration of openness, the visual impact of development such as it may affect openness is however a material consideration which can be capable of supporting the finding of harm as an element considered in conjunction with other considerations including the spatial dimension of openness.
32. Fundamentally in this particular case, when one considers the underlying objectives of the Framework, despite the change in position of the dwelling as compared to the existing, it is officer's view that overall openness is preserved and not eroded. This conclusion aligns with the key test applied in the High Court judgment in the case of *R (Boot) v Elmbridge Borough Council* [2017] EWHC 12 (Admin) where the High Court upheld a claimant's challenge and concluded that a development cannot "preserve" the openness of the Green Belt when it causes harm to openness.
33. The development to which the current application relates is considered acceptable whilst permitted development rights relating to extensions and free-standing buildings would be withdrawn the same time as the granting of planning permission. This measure would prove to the interest of preserving openness which is not currently a measure which can be applied to the existing residential planning unit. The application of such conditions which fulfil the 6 key tests relating to the imposition of conditions and which align with policy DM21 is covered by the recommended condition.
34. Given the considered acceptability of the development the alternative argument or case relying on a permitted development fall-back position to justify the development or to add weighting to an alternative argument is not crucial to a decision. The applicant does however provide a plan indicating how a side and rear single storey side extension could be progressed under a permitted development route (the rear larger extension would be subject to a prior approval mechanism of approval but the nearest neighbour is located a significant distance away and unlikely to be affected). It is recognised that if implemented which there is no feasible reason why such could not be the case and regardless of whether a Lawful Development Certificate exists or not, as such the plan confirms a likely lawful planning position. These extensions would have a far greater impact spatially and visually resulting in officer's opinion to greater residual harm to Green Belt openness as was the case in each of the three appeal decisions set out above.
35. The consideration of very special circumstances (VSC) in this particular case therefore do not need to be applied as it is considered that the development is policy compliant in that other than the floorspace

criteria, the proposed design does not demonstrate harm to openness as the resultant building proposed would not be materially larger such that the consideration does not hinge upon VSC which would otherwise be required to counter weight if there had been harm by reason of inappropriateness and any other harm.

#### Housing Land Supply

36. Rochford District Council cannot currently demonstrate a five-year supply of deliverable housing sites as required by the Framework. Consequently, in accordance with paragraph 11(d) of the Framework, 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 Framework taken as a whole.
37. 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”.*
38. The proposal posits the replacement of the existing dwelling on site with 1No. detached bungalow, which the agent claims to be more energy efficient and sustainable. The recent Annual Monitoring Review for Rochford District Council states that the authority has a 5-year housing land supply of 4.53 years. Nevertheless, in the opinion of the case officer there will be no NET increase in the number of dwelling(s) as the proposal seeks a like for like replacement, and as such if the proposal was permitted it would not contribute to the existing shortfall. Consequently, the proposal will have a neutral impact on housing land supply and in the opinion of the case officer exception b. of para. 155 is not engaged.



## Design

39. As previously stated, the Framework sets out the government's planning policies for England and this was recently revised in December 2024. The revisions inter alia increased the focus on design quality, not only for sites individually but for places as a whole. Terminology is also now firmer on protecting and enhancing the environment and promoting a sustainable pattern of development. The Framework at Chapter 2 highlights how the planning system has a key role in delivering sustainable development in line with its three overarching objectives (Economic, Social and Environmental) which are interdependent, and which need to be pursued in mutually supportive ways such that opportunities can be taken to secure net gains across each of the different objectives.
40. The social objective of national policy is to support strong, vibrant, and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful, and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being. The Framework at Chapter 12 'Achieving Well-Designed Places' emphasises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
41. 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.
42. 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.
43. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Development Management Plan are applicable to the consideration of design and layout. Policy DM1 specifically states that "The design of new developments should promote the character of the locality to ensure that the development positively contributes to the surrounding natural and built environment and residential amenity, without discouraging originality, innovation or initiative". It also states

inter alia that proposals should form a positive relationship with existing and nearby buildings.

44. 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. It also states that housing applications should be considered in the context of the presumption in favour of sustainable development. Good design is a key aspect of sustainable development and is indivisible from good planning and the proposals should contribute positively to making places better for people.
45. Moreover, the Framework 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).
46. Policy H1 of the Core Strategy states that in order to protect the character of existing settlements the Council will resist the intensification of smaller sites within residential areas. Limited infilling will be considered acceptable and will continue to contribute towards housing supply, provided it relates well to existing street patterns, density, and character of locality. The 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.
47. 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. Moreover, according to the submitted plans the plot width is well excess of 9.25m (for a detached property) as cited within the SPD. Additionally, the density and character of the proposed dwelling is in keeping with the locality, so the proposed development is still considered compliant with Policy H1 of the Core Strategy.
48. The design and access statement states that the intention is to provide a family home in the long term, citing a number of limitations in terms of the existing property in design terms. It is stated that the building form will be broken up into sections, with six gables of varying sizes, to reduce the overall scale. The rear pair of gables are linked by a narrow section of flat roof, thus avoiding the need to raise the ridge height above that of the existing dwelling

49. The existing dwelling is comprised of rendered masonry, red roof tiles, a felt flat roof with PVC-u double glazed windows. It is indicated that the proposed layout has been considered and compared against the existing building envelope. The existing dwelling is sited parallel with Church Road, with the proposed being slightly offset at the east side of the property. The addition of single-storey extensions on the side and rear (as could be achieved under permitted development and prior approval) would exaggerate this bias.
50. The proposed plans are designed to improve the landscape perspective of the house so that it looks more appropriate in its setting, by way of modernisation, than either the existing house or the permitted development option. In terms of appearance the application displays more visual appeal than that of the existing, with the gables becoming the focal point when viewed along Church Road. Proposed materials include rendered masonry and buff brickwork to the main elevations under farmhouse orange pantiles and a single ply membrane flat roof. The roof slope will also see projections on both the east and west gable ends. It therefore appears in the right scale and proportion in architectural terms. The overall effect is to provide a well-balanced and restful composition. Each elevation has a sense of repose, which is a function of its good design and appropriate use of materials. All external materials and their acceptability are to be covered by planning condition. It is noted that the proposal will not see any alterations to the existing outbuildings and detached garages to the east and west of the property.
51. From a landscaping perspective the application states that the existing site has a well-established mature landscape setting. This includes mature hedgerow and standard trees to the east, south and west side boundaries. These standards include some veteran trees which are unaffected by the development. The front boundary is defined by brick and metal fencing. The compact nature of the design is that the proposals will see minimal spreading within the site. There will be no adverse impact on the existing landscape structure of the site as a consequence of the development proposals.

#### Impact on Residential Amenity

52. Paragraph 135 (f) of the Framework 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 the Council's Policy DM1, which seeks to ensure that new developments avoid overlooking, ensuring privacy, and promoting visual amenity and to create a positive relationship with existing and nearby buildings. Policy DM3 also requires an assessment of the proposal's impact on residential amenity.
53. Amenity is defined as a set of conditions that one ought reasonably to 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.

54. It is considered that the development of the site for housing is unlikely to result in noise, air or water pollution. A principal consideration in determining this application is its effect upon the residential amenity of adjacent properties.
55. The proposed dwelling and the intervening relationship by reason of its separation distances, intervening boundary treatment, scale, depth, height, and siting are all considered acceptable. The proposed development is not considered to have a detrimental impact upon the amenity of the neighbouring occupiers in terms of loss of light, overlooking or overbearing impact due to the relative distance between the proposal and neighbouring homes. Furthermore, it is noted that no letters of objection have been received from any of the neighbouring properties in relation to the proposal, and whilst not a determinative factor it is an important consideration. The proposal is compliant with DM1 of the Development Management Plan 2014.

#### Sustainability

56. According to Policy DM10 (Development of Previously Developed Land in the Green Belt) elaborates on the Council's approach to the determination of planning applications involving previously developed land for a number of uses and including residential redevelopment.
57. 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.
58. The applicants supporting statement infers that the site location and its connections with the wider area, offer access by bike. With respect to pedestrian access walking offers the greatest potential to replace short car trips, particularly those under 2km and is generally considered the

maximum acceptable distance to directly access any local facility or amenity.

59. 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 subject building is located approx. 1900m east from ASDA, 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. Account has also to be taken of the proposal replacing an existing dwelling.
60. In respect of connections to the road network, Church Road connects to Chelmsford Road (A1245) and the A129 (to the south) both of which are heavily trafficked roads. The application site is in relatively close proximity to the urban conurbations of Wickford and Rayleigh. The site benefits from good highway connections the surrounding roads are relatively level, and cycling is potential mode of transportation.
61. 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.

#### Living Conditions for Future Occupiers

#### Amenity Space / Garden Sizes

62. Policy DM3 of the Development Management Plan requires the provision of adequate and usable private amenity space. In addition, the Council's adopted Housing Design SPD advises a suitable garden size for each type of dwellinghouse. Paragraph 135 criterion (f) of the NPPF seeks the creation of places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
63. The SPD2 requires a minimum 100m<sup>2</sup> garden area for all new dwellings. An exception to this requirement will be single storey patio housing or one- and two-bedroom dwellings which shall have an area of 50m<sup>2</sup> minimum.
64. The layout submitted shows that the proposed dwelling could be provided with a private amenity space well in excess of 100m<sup>2</sup>, which is well above the 100m<sup>2</sup> stated in the SPD. The proposed dwelling, therefore, could satisfy the outdoor amenity space requirements set out in the SPD2.

## Sustainability

65. The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalize the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access, and a new national space standard.
66. 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.
67. 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.
68. A single storey dwelling which would comprise of four bedrooms accommodating either five or six people would require a minimum Gross Internal Floor Area (GIA) of 90m<sup>2</sup> or 99m<sup>2</sup>, respectively. Additionally, the dwelling must have a minimum of 3m<sup>2</sup> of built-in storage. The standards above stipulate that single bedrooms must equate to a minimum 7.5m<sup>2</sup> internal floor space while double bedrooms must equate to a minimum of 11.5m<sup>2</sup>, with the main bedroom being at least 2.75m wide and every other double room should have a width of at least 2.55 m. A built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements but should not reduce the effective width of the room below the minimum widths indicated. According to the submitted plans the Gross Internal Floor area of the proposed dwelling will measure approximately 169m<sup>2</sup>.
69. The table below shows the Gross Internal Floor area for the proposed bedrooms.

Bedroom No.1 (Master)	20.5m <sup>2</sup>
Bedroom No.2	15.3m <sup>2</sup>
Bedroom No.3	11.8m <sup>2</sup>
Bedroom No.4	8.4m <sup>2</sup>

70. According to the submitted plans the bedroom areas comply with aforementioned policies and exceed the internal floor area requirements. Additionally, according to the submitted plans there are several storage cupboards, and the cumulative area of these storage areas exceed 3m<sup>2</sup> as prescribed within the Housing Technical Standards.



71. 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.
72. 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.

#### Refuse and Waste Storage

73. 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.

#### Drainage

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

## Flooding

75. According to the Environment Agency Flood Risk map the application site lies within fluvial/tidal Flood Zone 3b defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The proposal is for a replacement dwelling which is classed as a more vulnerable development as defined in Annex 3: Flood Vulnerability classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site-specific Flood Risk Assessment (FRA).
76. To accompany the planning application the applicant has submitted an FRA which has been produced by WHS and is dated October 2024. The report concludes that: -
- The proposed dwelling is on the periphery of Flood Zone 2 and 3. The Rawreth Brook fluvial and River Crouch tidal hydraulic models have been reviewed to inform design flood levels.
  - The finished floor level of 5.28m AOD provides more than 300mm freeboard above the design flood level.
  - Surface water will be attenuated on site using a shallow detention basin and outflow restricted to 1 l/s. A rainwater butt will also collect runoff from the roof for re-use.
77. Section 14 of the Framework discusses meeting the challenge of climate change, flooding and coastal change. Paragraph 170 states that local planning authorities should ensure that development would not result in increased flood risk elsewhere. A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3.
78. As previously stated, the application site is entirely within Flood Zone 3. As the proposal would relate to a site at risk of flooding, it should only be allowed where the criteria within paragraph 181 of the Framework would be satisfied:
- 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.

79. In regards to part (a), the application site is entirely within Flood zone 3 and there is no area at lower flood risk.
80. In relation to part (b), due to the application site's proximity to Rawreth Brook and its location within Flood Zone 3, the building would not be capable of being made flood resistant. The NPPG outlines that flood resistant construction can prevent entry of water or minimise the amount that may enter a building where there is short duration flooding with water depths of 0.6m or less. It is not possible to exclude flood waters in this circumstance and therefore flood resistant methods are not an appropriate strategy.
81. On the other hand, flood resilient buildings are designed and constructed to reduce the impact of flood water entering the building so that no permanent damage is caused, structural integrity is maintained and drying, cleaning and re- occupation is easier.
82. The submitted Flood Risk Assessment concludes that the site is primarily at risk from fluvial and tidal flooding. Accounting for climate change, design flood levels of 4.85m AOD and 4.74m AOD respectively were identified in the review. It is proposed that the finished floor level (FFL) of the existing dwelling will be used for the proposed dwelling. This existing FFL is 5.28m AOD, providing 430mm of freeboard above the design fluvial flood level. This also provides 250mm of freeboard above the 0.1% AEP fluvial flood level. As a freeboard in excess of 300mm has been provided for the design event it is considered that the dwelling would be sufficiently protected.
83. Furthermore, to ensure that the building would withstand the pressures and forces associated with flood water, the case officer considers it prudent that supporting information and calculations shall be submitted to the Council to provide certainty that the building would withstand water pressures in a flood event, which will be secured by the imposition of an appropriately worded planning condition, in the event that planning permission is approved.
84. With regards to part (c), as there would be no increase in hardstanding over the development which has been approved previously, it is not considered necessary of the development to provide any additional sustainable drainage system.
85. In relation to part (d), it has been highlighted that the residual risk of the site includes extreme rainfall events, extreme fluvial/tidal events and the failure of water main or sewer infrastructure. It has previously been confirmed that these risks would be dealt with by the Emergency Plan which will be secured by condition.
86. To address part (e) The Councils Emergency Planner has been consulted regarding the application and states "*The area around the*

*bridge is subject to occasional flooding from the River Crouch. From an Emergency Planning point of view, the replacement of one bungalow with another does not increase the burden on the Emergency Services in a flooding incident, nor does it increase the potential burden on our Homelessness services. Consequently, I have no objection to the proposal.*

*Given the flood risk I would recommend that consideration is given to making the new property flood resilient. This should include consideration of the following:*

- *Raised electrics*
- *Waterproof plaster*
- *Solid floors*
- *Property level flood protection such as flood resilient doors or door flood barriers.*

*Such measures mean the property can be reoccupied without the need for lengthy and extensive repairs following flooding”.*

87. Colleagues in the Environment Agency have also been consulted and state that: -

#### Actual Risk

88. The replacement dwelling is of similar size and layout to the existing dwelling, so there is no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development.

- The site lies within the flood extent for a 1% (1 in 100) fluvial and 0.5% (1 in 200) tidal annual probability event, including an allowance for climate change.
- Finished ground floor levels have been proposed at 5.28m AOD. This is above the 1% fluvial and 0.5% tidal annual probability flood level including climate change of 4.85m AOD and 4.74mAOD respectively, and therefore dry in this event.
- The site levels range from 4.5 – 5.1mAOD and therefore flood depths on site could reach 0.35m in the 1% (1 in 100) annual probability flood event including climate change. There is a dry access route from the proposed bungalow along Church Road.
- Therefore, this proposal does have a safe means of access in the event of flooding from the replacement dwelling to an area wholly outside the floodplain (up to a 1% (1 in 100) / 0.5% (1 in 200) annual probability including climate change flood event). A Flood Evacuation Plan has not yet been proposed.

89. Colleagues in the Environment Agency go on to enunciate that the site benefits from the Environment Agency's flood alert service and recommend site users register with this service.

90. Overall, it is concluded that the replacement dwelling is of similar size and layout to the existing dwelling, so there is no increase in vulnerability at the site and the flood risk to the proposed development remains the same as the risk faced by the existing development.

#### Impact on Highway Safety

91. 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.
92. The Parking Standards Design and Good Practice guide (2010) states that for dwellings with two-bedrooms or more, two off-street car parking spaces are required with dimensions of 5.5m x 2.9m. Garage spaces should measure 7m x 3m to be considered usable spaces.
93. In accordance with paragraph 111 of the framework, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
94. The proposed site has sufficient space within the proposed curtilage to provide at least two car parking spaces at the required dimensions as stated in the EPOA parking standard. A property of this size would be required to provide two off street parking spaces and therefore no objections are raised regarding parking. Moreover, according to the submitted layout plan, there is sufficient turning space provided for vehicles to manoeuvre effectively, ensuring they can access and egress the site in a forward-propelling gear. It is considered that this arrangement satisfies the necessary requirements for safe and efficient vehicle movement, reducing the risk of congestion and/or obstruction. The layout demonstrates careful consideration of vehicle circulation ensuring the functionality and road safety of the site.
95. Notwithstanding the above, the case officer considered it prudent to consult colleagues in Essex County Council Highways Authority regarding the proposal and they state that *"The proposal includes a replacement dwelling with adequate room for off-street parking. In recent years the applicant appears to have closed up the western part of the in/out vehicle access arrangement and reconstructed the eastern vehicle access as the sole point of vehicle access. Relevant permission for works in the highway should have been obtained from Essex Highways"*.

96. The Highways Engineer goes on to state that they have no objections to the proposal subject to the imposition of standard informatives, which will be included in the decision notice, in the event that planning permission is approved.
97. In conclusion, the County Highway Authority has reviewed the submission information and concludes there would be no unacceptable impact on highway safety or a severe impact on congestion. There is no reason for the Local Planning Authority to take an alternative view and any intensification resulting from the proposed dwelling in this area is not deemed to be of such severity that would warrant refusal of the application. Overall, it considered that the proposal subject to the aforementioned conditions complies with the relevant policies contained within the Development Management Plan and the Framework, and as such there is insufficient justification to warrant a refusal.

#### Landscape

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

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

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

99. To accompany their application, the applicant has submitted an Arboricultural Impact Assessment (AIA) produced by Arborterra Ltd. and is dated 15<sup>th</sup> August 2023. The report reaches the following conclusions: -

- No trees are to be removed as part of the development.
- The trees to be retained do not cause any significant shading or crown overhang of the dwelling, the drive and parking area or garden areas.
- It will be necessary to cut back the branches of hawthorn in TG6 immediately around the existing shed, in order to allow working space for demolition.



- A Scheme of Tree Protection is provided that should be implemented to ensure the retained trees are not harmed during the development.

100. The Councils Arboricultural Officer has been consulted regarding the proposed and raises no objection. The Councils Arboricultural Officer goes on to state that *“The applicant has supplied a tree impact assessment provided by Arboterra Ltd, as part of the details a tree protection plan and method statement is provided in accordance with BS 5837. The plan and method statement suitably demonstrates how the tree amenity will be protected during the construction phase to ensure no impact is caused to the tree amenity. The plan and method statement should be conditioned, or form part of the approved documents, and all working methods are to be employed during the demolition and construction phase for the duration of development”*.

101. The case officer agrees with the recommendation of the Arboriculturist and will condition the tree protection measures accordingly, should planning permission be approved. In light of the above, it is considered that there is insufficient justification to warrant a refusal.

#### On-site Ecology

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

103. 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.

104. 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.

105. To accompany their planning application the applicant has submitted a Preliminary Ecological Assessment (PEA) produced by TSA Ecology and is dated September 2023. The report reaches the following conclusions: -

- Habitats and Flora: The habitats on site which may potentially impacted by the development consist of hardstanding, bare ground and buildings, along with the rubble pile. These habitats are of negligible / low ecological value and in general are unlikely to be used by legally protected or notable fauna, although the rubble pile may serve as habitat for amphibians. The site is considered unlikely to support any rare plant species.
- Amphibians (Great Crested Newts): As the proposed development works may potentially impact small areas of terrestrial habitats considered potentially suitable for great crested newts (e.g. the tall ruderal, hedgelines and piles of discarded rubbish etc.), it is considered that a precautional method of working should be employed, particularly in respect of areas that great crested newts may utilise. If great crested newt is identified on site, then all works cease and an ecologist must be consulted in respect of advice, but further work may be required to be undertaken under a Natural England licence.
- Amphibians (other): Common toad, a UK BAP Priority species might potentially be associated with the habitats on site. Should toads or other amphibians (e.g. smooth newts and common frogs) be identified during site clearance, measures should be employed to protect them, such as searching the areas where these species have been identified and removing the animals to a place of safety away from the immediate works areas.
- Bats: It is considered that the buildings proposed for demolition all have negligible potential to support roosting bats. It is not considered that further surveys are required with respect to these buildings.
- Birds: The vegetation across the wider site provides some suitable bird foraging and nesting habitat, particularly the hedgerows along the northern and western boundaries. No evidence of nesting birds was identified in the buildings / structures to be demolished.

- Reptiles: The vegetation across the wider site provides some suitable reptile foraging habitat, particularly the hedgerows along the northern and western boundaries.
106. However, the report makes a number of recommendations which includes: -
- Wildlife features should also be incorporated within the design of any built environment: including features such as bird, bat and insect boxes and designing soft landscaping using plant species known to have benefits for biodiversity (such as plants with nectar-rich flowers and berries to provide a food source for invertebrates and birds) and the creation of a wildlife-friendly pond.
  - Additional wildlife features should be incorporated within the landscaping design for the site, making use of native plant species of local provenance sourced from suppliers following the Flora Locale Code of Practice for the collection, growing and supply of native flora. The aim of the landscaping should be to increase the structural diversity and species diversity of the site by planting native woody species to create hedging and scattered trees, and for example using species-rich garden seed mix in garden habitats.
  - The garden could include features that provide foraging opportunities and cover for small mammals and amphibians such as rockeries, partially buried rock piles, and the creation of a wildlife pond.
  - The existing boundary features could be enhanced by planting native shrub species.
  - The new building should include features suitable for nesting birds.
  - Any external lighting features should be angled towards the ground and cowled or shielded to ensure light is directed to the ground and away from bat commuting features. This will minimise light pollution and help to retain dark corridors. Whilst some bat species will forage beneath artificial light sources, it is preferable to retain naturally dark foraging areas.
107. The case officer consulted the County Ecologist in regards to the Ecological Survey and Assessment Report and in reply states the following *“The mitigation measures identified in the Preliminary Ecological Appraisal (TSA Ecology, September 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”*.
108. In light of the above consultation response, subject to the aforementioned recommendations contained within the PEA being conditioned, it is considered that the proposal will not have detrimental

impact on protected species and there is insufficient justification to recommend a refusal and substantiate it at any future Appeal.

#### Off-site Ecology

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

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

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

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for a replacement dwelling

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

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

- No

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

- No

111. 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.
112. 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. As the proposal is for a replacement dwelling there will not be a requirement for a RAMs payment to be made to the LPA to mitigate off site ecology provisions.

#### Biodiversity Net Gain

113. 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.
114. The applicant has indicated that they consider that the development proposed would not be subject to the statutory biodiversity net gain requirement because one of the exemptions would apply. Following a site visit and assessment of on-site habitat and consideration of the nature of the development proposed, officers agree that the proposal would be exempt from the statutory biodiversity gain condition because the development meets one of the exemption criteria, i.e., relating to custom/self-build development or de-minimis development or because the development is retrospective. The applicant has not therefore been required to provide any BNG information.
115. More specifically the applicant has completed the proforma indicating that the proposal relates to a self-build/custom build development. And an exemption applies to this type of development as it meets the following conditions: consists of no more than 9 dwellings, on a site that has an area no larger than 0.5 hectares and is a self-build.

116. As the proposal is for development to which the statutory biodiversity gain condition would not apply, a planning informative to advise any future developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended. If planning permission is approved, given that the proposal is for a self-build dwelling it is recommended that a standard condition relating to occupation is attached to the decision notice.
117. Once again colleagues in Essex County Council Place Services Ecology have been consulted regarding the proposal and they stated that: -

*“All minor development, as defined under Article 2 Town and Country Planning (Development Management Procedure) (England) Order 2015, are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990. As a result, we have reviewed the submitted details and are satisfied that this application is exempt, as the proposals is for one self-build dwelling for an area less 0.5 ha. A condition may be considered necessary to be imposed by the council to ensure that the development must be used as a self-build and custom housebuilding.*

*We also support the proposed reasonable biodiversity enhancements for protected, Priority and threatened species, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent.*

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

118. It is considered that the proposal will comply with the requirement has mandated within the BNG regulations.

### **Equalities and Diversity Implications**

119. 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.

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

121. 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**

122. Approve.

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

Rawreth Parish Council: No reply received.

Essex County Council Highways Authority:

No objection to the proposal subject to the imposition of standard informatives.

Essex County Council Place Services Ecology:

We have reviewed the Preliminary Ecological Appraisal report (TSA Ecology, September 2023) relating to the likely impacts of development on designated sites, protected and Priority species & habitats and identification of appropriate mitigation measures and mandatory Biodiversity Net Gain.

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

We are satisfied that there is 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.

Rochford District Council Arboricultural Officer:

The applicant has supplied a tree impact assessment provided by Arboterra Ltd, as part of the details a tree protection plan and method statement are

provided in accordance with BS 5837. The plan and method statement suitably demonstrates how the tree amenity will be protected during the construction phase to ensure no impact is caused to the tree amenity. The plan and method statement should be conditioned, or form part of the approved documents, and all working methods are to be employed during the demolition and construction phase for the duration of development.

Environment Agency:

We have inspected the application as submitted and have no objection, providing that you have taken into account the flood risk considerations which are your responsibility. We have highlighted these in the flood risk section below. You should consider whether the proposed replacement dwelling could include any more flood risk betterment, such as raising floor levels above flood levels or providing a higher refuge (add any other betterment which should try to be achieved).

Rochford District Council Emergency Planner:

The area around the bridge is subject to occasional flooding from the River Crouch. From an Emergency Planning point of view, the replacement of one bungalow with another does not increase the burden on the Emergency Services in a flooding incident, nor does it increase the potential burden on our Homelessness services. Consequently, I have no objection to the proposal.

Given the flood risk I would recommend that consideration is given to making the new property flood resilient. This should include consideration of the following:

- Raised electrics
- Waterproof plaster
- Solid floors
- Property level flood protection such as flood resilient doors or door flood barriers.

Such measures mean the property can be reoccupied without the need for lengthy and extensive repairs following flooding.

Neighbour representations: No responses received.

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

National Planning Policy Framework (December 2024).

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

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

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

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

The Essex Design Guide.

Natural England Standing Advice.

**RECOMMENDATION: APPROVE**

Conditions:

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

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

2. The Development hereby approved shall be carried out in total accordance with the approved plans 1222540-HOUSE-L06 Revision A (Proposed Landscape Plan) (as per date stated on plan July 2024), 1222540-HOUSE-L04 (Site Plan) (as per date stated on plan July 2024), 1222540-HOUSE-L02 (Proposed Elevations) (as per date stated on plan July 2024), 1222540-HOUSE-L01 (Proposed Floor Plan and Roof Plan) (as per date stated on plan July 2024) and 1222540-HOUSE-EX02 (Existing Site and Location Plans) (as per date stated on plan July 2024).

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

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

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

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

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

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

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

6. In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site shall be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. The developer shall consider the following drainage options in the following order of priority:

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

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

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Class(es) A, B, C 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 maintaining the openness of the Metropolitan Green Belt and the account given in the approved development to fall back positions.

8. 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.

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

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

10. No demolition, ground works or development shall take place until all trees as identified on the tree protection plan as supplied by Arboterra Ltd dated 15<sup>th</sup> August 2023, have been protected in accordance with the plan and method statement as provided. Prior to demolition and during the construction phase, photos shall be sent to the local planning authority showing the barriers and ground protection to ensure compliance. This protection shall remain in position until after the development works are completed and no material or soil shall be stored or ground levels altered 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 ensure the protection of trees in the locality and in the interest of visual amenity generally afforded by trees on the site.

11. 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.

12. Prior to the commencement of the development hereby approved details of the proposed flood resilient and flood resistant measures to



be incorporated into the development along with an emergency flood plan for the completed development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

13. Prior to the first occupation of the dwelling hereby approved, calculations which detail that the dwelling could withstand the hydraulic pressures of a flood event, shall be submitted to the local planning authority for agreement in writing. The calculations shall be accompanied by the details of any further works which may be required to ensure the building could withstand these hydraulic pressures. Any such details as may be agreed shall be carried out prior to first occupation of the dwelling hereby approved and maintained thereafter.

REASON: To ensure the approved dwelling can provide safe refuge during a flood event, in the interests of the safety of the future occupiers.

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

REASON: To safeguard protected species in accordance with the NPPF.

15. All ecological mitigation measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (TSA Ecology, September 2023) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

This may 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.

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).

16. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the Preliminary Ecological Appraisal (TSA Ecology, September 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, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended).

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

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

## SITE AND PROPOSAL

1. Members may recall that this application was placed on the Councils previous Weekly List for the week ending 7<sup>th</sup> March 2025. Following a further review of the application, it became apparent that the proposal complied with the Bio Diversity Net Gain (BNG) regulations. As a result, reason No.2 set out below cannot be substantiated at any possible future Appeal and needs to be omitted and re - presented for reconsideration.

Previously recommended reason for refusal No. 2

*“The Ecological Survey produced by John Dobson dated July 2024 submitted in support of the application, in the opinion of the Local Planning Authority has not demonstrated, through the submission of robust or cogent information that the submitted survey justifies the habitats on site and mandatory biodiversity net gains. As such the proposal is contrary to guidance advocated within Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024”.*

2. The application site is located on the south side of Old Chelmsford Road, to the east of the A1245 and to the south of View Garden Centre. It is immediately adjacent to the moated site of Moat Farm and to the north is the Grade II listed building of Witherdens Farm. The site itself is made up by two buildings and a large area of hard standing which facilitate the B8/B2 uses on site. The hard-standing is currently occupied for storage by a number of disused cars which serve the business on site CJ's Specialist Vehicles.
3. The proposal is for the demolition of the existing outbuildings and change of use from the current commercial business of vehicle

salvage, change the use of the site to residential usage and construct a new single detached dwelling.

4. The application is a resubmission following a previous refusal (ref: 22/00783/FUL) on the site for a similar proposal.

## RELEVANT PLANNING HISTORY

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

*“The application site is located within Flood Zone 3 and the NPPF is clear that all new development in Flood Zone 3 must pass the sequential test, which seeks to steer development to the lowest flood risk zones. The application site would fail to pass the sequential test as the development has failed to demonstrate that the proposal could not be located within a lower area of flood risk. Subsequently, the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding. The proposal would also fail the subsequent exception test given that it would not provide sustainability benefits for the community and may result in an increased risk of flooding. The proposed development would be contrary to Section 14 of the NPPF and Policy ENV3 to the Council’s adopted Core Strategy.”*

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

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

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

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

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

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

## **MATERIAL PLANNING CONSIDERATIONS**

9. The proposed development must be assessed against relevant planning policy and with regard to any other material planning considerations. In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.

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

#### Principle of Development

11. The latest version of the National Planning Policy Framework (NPPF) was revised in December 2024. Like earlier versions it restates that the purpose of the planning system is to contribute to the achievement of sustainable development, through three overarching objectives – economic, social and environmental. It makes it plain that planning policies and decisions should play an active role in guiding development towards sustainable solutions, but should take local circumstances into account, to reflect the character, needs and opportunities of each area. The revision increased the focus on design quality, not only for sites individually but for places as a whole.
12. To ensure that sustainable development is pursued in a positive way there is a presumption in favour of sustainable development at the heart of the Framework. Paragraph 11 of the 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 Framework (rather than those in development plans) that protect areas (which includes habitat sites and/or land designated as Green Belt) or assets of particular importance, provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

#### Green Belt considerations

13. Policy GB1 of the Council's Core Strategy seeks to direct development away from the Green Belt as far as practicable and prioritise the protection of the Green Belt based on how well the land helps achieve the purposes of the Green Belt, whilst allowing rural diversification in appropriate circumstances. The policy pre-dates the NPPF but can still attract weight in proportion to the consistency with it. The policy reflects the aims of those parts of the NPPF which seek to protect the Green Belt from inappropriate development. However, it does not reflect the exceptions listed within the NPPF which would also be a material consideration.
14. Consequently, the main issues are:



- Whether the proposed development is appropriate development in the Green Belt for the purposes of the NPPF and the Development Plan;
  - The effect of the proposal on the openness of the Green Belt; and
  - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances needed to justify it.
15. As previously stated, the application site is located wholly within the Metropolitan Green Belt. Paragraph 142 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 143 repeats the five purposes of the Green Belt, which include:
- i) To check the unrestricted sprawl of large built-up areas;
  - ii) To prevent neighbouring towns merging into one another;
  - iii) To assist in safeguarding the countryside from encroachment;
  - iv) To preserve the setting and special character of historic towns; and
  - v) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
16. 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.
17. Paragraph 154 of the NPPF states that “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a) Buildings for agricultural and forestry;
  - b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) Limited infilling in villages;
  - f) Limited affordable housing for local community needs under policies set out in the development plan (including for rural exception sites) and;

- g) limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt.
18. By virtue of paragraph 154 of the NPPF, the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to certain exceptions. These exceptions include allowance, subject where appropriate to certain criteria being satisfied, for new buildings, limited infilling in villages, and limited infilling or the partial or complete redevelopment of previously developed land (PDL). The proposal would be assessed against exception (g), paragraph 154 of the Framework.
19. The application relates to a site which has a workshop building and chicken shed. The topography of the land is relatively flat. The buildings would be located to the east and west of the application site and are single storey in nature. The case officer considers that the buildings appear to be relatively sound structurally and given that the workshop is predominantly built of corrugated iron sheets by the side and rear walls and roof and the front of the workshop has brickwork. The chicken shed is a largely unused timber building in poor condition. As such, their method of construction are afforded a degree of permanency. The photos attached in the applicant's design and access statement indicate that the salvage vehicles located within the site are there on a permanent basis.
20. There is no built-up frontage along Chelmsford Road, it has mature hedgerow along both sides (albeit sporadic in some places) with limited views of the Green Belt. According to the design and access statement and accompanying plans, the proposal is for the demolition of the workshop and chicken shed and to remove the current commercial business of vehicle salvage, change the use of the site from industrial (class B) to residential (class C3) usage by constructing a new 6-bedroomed single detached dwelling. Given the factors cited above it is considered that the exceptions a) to f) and h) do not apply in this instance.
21. Paragraph 154 (h) of the NPPF also lists certain other forms of development which are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are: mineral extraction; engineering operations; local transport infrastructure which can demonstrate a requirement for a Green Belt location; the re-use of buildings provided that the buildings are of permanent and substantial construction; material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and development, including buildings, brought forward. It is

considered that the proposed development would not fall under any of these exceptions listed.

22. There is no extant approval for the planning permission from previous application for the application site. Notwithstanding that there is extant prior approval with reference 23/00914/DPDP2, the approval relates to the western part of Moat Farm which has a dwellinghouse whereas the current application's proposal is based on the eastern side of Moat Farm which comprises the vehicle salvage business.

Assessment Against Exception (g)

23. Only part (g) requires consideration in relation to the current proposal. The exception under part (g) allows for the partial or complete redevelopment of Previously Developed Land (PDL) where either the development would not have a greater impact on the openness of the Green Belt or where the development would not cause substantial harm and would contribute towards an identified affordable housing need.

24. 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.'*

25. The proposed site is currently occupied by two rectangular buildings of varying size and vehicles. All the buildings on site are different in materials. In the opinion of the case officer and applicant, the commercial business of salvage vehicles is not attractive to the nature of the open green belt and as such does not contribute positively to the wider rural setting and character. All the buildings subject to this application are single storey in height. When the case officer conducted his site visit the buildings did not appear to be structurally unsound but there were obvious signs of cracking or other forms of failure on the chicken shed. In the opinion of the case officer, the presence of these buildings/structures on site is a negative feature to the Green Belt and the removal would be a positive improvement to the Green Belt.
26. The Green Belt has both a spatial and a visual dimension and the impact on openness has to take account of both. In a spatial sense, any building on land that was previously free of development will have

some impact on the openness of the Green Belt. In assessing the harm to openness in a visual sense, it would be fair to say that the impact on openness may be greater if the site is particularly visible and open to boundaries.

27. In the justification for the proposal as part of the applicants Design and Access Statement and accompanying plans the agent infers that the change of use and proposed new dwelling would be a vast improvement to the nature of the Green Belt as the commercial vehicles would be removed and the site will have a pleasing landscaped area.
28. According to the submitted plans, the height of the proposed dwellinghouse is proposed to be higher than the existing buildings as it would be a 2-storey dwellinghouse. The two existing buildings that are subject to this application provide a total of 894.5m<sup>2</sup> of built footprint and 3118m<sup>3</sup> of built volume. By contrast, the proposed development increases the built footprint to 921.52m<sup>2</sup>, and the built volume to 3300m<sup>3</sup>. This means that the built footprint would increase by 3.02% and the built volume by 5.84%.
29. Paragraph 154 part (g) of the framework states an exception may comprise an “partial or complete redevelopment of previously developed land”. As previously stated, it is accepted that the site constitutes PDL. Notwithstanding the above, exception g) should be read as a whole and goes onto to state the following:
- not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
30. Paragraph 142 of the NPPF states: *“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. It is patently obvious from the above paragraph that the Government considers the openness of the Green Belt is one of the fundamental characteristics. Whilst the NPPF does not clearly define openness it is generally accepted from paragraph 142 that openness is a spatial designation, which can also have a visual component as attested to by various Court cases (see below).
31. The applicant’s agent has stated that the increase in volume is justified due to the removal of all salvage vehicles and as such would not cause demonstrable harm to the openness of the Green Belt. Bearing this in mind, it is relevant to refer to recent case law, in particular, Timmins and Lymn v Gelding Borough Council 2014 and Goodman v SSCLG

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

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

32. 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.

33. In terms of openness of the Green Belt, the proposal would involve the demolition of two structures which are spread across the application site and replaced with the construction of one two-storey detached dwelling. It is considered that the existing built form is quite disparate and incongruous, and the inclusion of the salvage vehicles results in a built form that is spread across a wide section of the application site.

34. The agent has inferred that the salvaged vehicles should be taken into account in regards to volume calculations. It is acknowledged that the storage of the cars is considered to have an apparent impact upon openness of the green belt and are part and parcel of the lawful use. As these are not permanent structures and are not classified as operational development under s.55 of the Town and Country Planning Act 1990; consequently, their volume cannot be considered, however, their existing visual impact can be taken into account when considering the impact of the proposal.



35. The proposal seeks permission to demolish these buildings and coalesce the built form by erecting the detached dwelling. The development proposal would result in an increase in the scale and massing of the existing form, which will be to the detriment of the aims and character of the Green Belt as the sizeable increase in built area and volume would adversely affect the Green Belt's openness. In the opinion of the case officer the proposal would erode the openness of the Green Belt in spatial and visual terms with the development having an adverse impact on the openness of the Green Belt. Although the demolition of the existing buildings and removal of salvage vehicles within the application site and the coalescence of the built form, by erecting a detached dwellinghouse would enhance the visual openness of the Green Belt, the proposed development would not comply with policy GB1 in the Core Strategy and paragraph 154 of the NPPF.
36. In relation to paragraph 154 exception g). there is no requirement for the use to be the same and thus the general principle of replacing existing buildings is acceptable. This is subject to the provision that any redevelopment should not cause substantial harm to the openness of the Green Belt.
37. Therefore, crucial to the assessment of this application, is whether or not the proposed dwelling would cause substantial harm to the openness of the Green Belt. The NPPF does not define the term 'substantial'; however, the ordinary definition according to Cambridge English Dictionary means "large in size, value, or importance".
38. In terms of openness of the Green Belt, the proposal would involve the demolition of the two existing buildings to the construct a detached two-storey dwellinghouse. The existing outbuildings which are to be demolished are all single storey in height (the maximum height of these structures is roughly 5.1m for the workshop building and 4.4m for the chicken shed) and the proposal would introduce a two-storey dwelling (the maximum height of the proposed dwellinghouse would be 9.4m – an increased difference of 4.3m when compared to the current highest building which is the workshop). In the opinion of the case officer a difference in ridge heights of approximately 4.3m between the existing and proposed structures is significant and not inconsequential. The resulting dwelling would have a scale and mass which is significantly different and appear materially larger, and as such will have a substantial detrimental impact on the openness of the Green Belt in comparison. However, it is noted that the proposed dwellinghouse would be constructed on the footprint of one of the former outbuildings.
39. Additionally, as stated previously, the agent has submitted floor area/volume calculations of the original buildings, which are currently in-situ and these have a combined floor area/volume of 894.5m<sup>2</sup>/3118m<sup>3</sup>. According to the submitted plans, the area/volume of the proposed dwellinghouse will be larger at 921.52m<sup>2</sup>/ 3300m<sup>3</sup>. This



means that the built footprint would increase by 3.02% and the built volume by 5.84%. The development proposal would result in an increased scale, massing and bulk to the detriment of the aims and character of the Green Belt. In the opinion of the case officer the proposed dwelling would erode the openness of the Green Belt in spatial and visual terms with the development having a substantially greater impact on the openness of the Green Belt and so would not benefit from exception g) of the NPPF.

#### Very Special Circumstances

40. To qualify as 'very special', circumstances do not have to be other than 'commonplace', i.e. they do not have to be rarely occurring (R (Wildie) v Wakefield MDC [2013] EWHC 2769 (Admin) at [29]). A number of factors combined can together amount to very special circumstances, and the weight to be given to each factor is a matter for the decision-maker. The planning balance will be considered qualitatively rather than quantitatively, as a value judgment made by the decision-maker. Very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The applicant must therefore demonstrate that very special circumstances exist to outweigh the harm to Green Belt openness and any other harm for the Council to be able to grant planning permission for the proposal. In making those judgments, it is relevant to assess both the extent of harm caused, and then the nature of the very special circumstances that exist to outweigh that harm. As previously alluded to, it is well-established that very special circumstances may arise by reason of cumulative factors, even if those factors are not "very special circumstances" in their own right.
41. As established by the Lawful Development Certificate granted in 2019 (ref: 19/00038/LDC), the application site is lawful for uses within B2 and B8. As a result, there is a fallback position available to the applicant in the event that residential development is not allowed. Given the potential spread and height of materials associated with both uses, the effect on the openness of the Green Belt could be to a similar extent in spatial terms to that of the proposed dwelling. In addition, the Class B2 and B8 uses can be carried out on the land without any limitations or conditions restricting the nature of activities, materials being stored, heights of such storage or hours of operation.
42. Although this argument has not been developed by the applicant, it is considered to be a realistic and plausible fallback position as the applicant has not ceased use of the site for his business in the duration of the planning application process. It is considered likely that were permission for residential development refused the applicant may choose to (and could substantially) expand his business on the site. The existence of the fallback position is something to which affords substantial weight.

43. Whilst the circumstances of the application site have not altered since the previous refusal and no very special circumstances were identified at the time of that application, an appeal decision (Land Rear of 128 Rawreth Lane ref: APP/B1550/C/21/3275229) has identified a similar very special circumstance. This is therefore a material consideration in this planning application.
44. As such, it is concluded that although the proposed dwelling would impact the openness of the Green Belt by way of increased scale, bulk and mass, very special circumstances exist which justify the development. The development therefore complies with paragraph 153 of the NPPF.

#### Other Matters

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

#### Sustainability

48. Policy DM10 of the Development Management Plan requires the following criteria to be adhered to for Previously Developed Land (PDL) to be considered acceptable:

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

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

#### Design and Impact on the Character of the Area

##### Layout, Scale and Appearance

50. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan are applicable to the consideration of design and layout. The NPPF encourages the effective use of land in meeting the need for homes whilst maintaining the desirability of preserving an area's prevailing character and setting taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk. It also states that housing applications should be considered in the context of the presumption in favour of sustainable development. Good design is a key aspect of sustainable development and is indivisible from good planning and the proposals should contribute positively to making places better for people (paragraph 131).

51. 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).

52. There is no common design established as the site is relatively isolated from neighbouring dwellings within the wider area. The neighbouring dwelling to the west has facing brick walls and a slated roof. Further

afield across Chelmsford Road is a residential dwelling to the west and a commercial business to the east. Furthermore, the roofscape is not homogeneous and is varied with the use of hips and gables.

53. The proposed dwelling would include three floors; a basement that includes a swimming pool, gym and sauna. Then the ground and first floors. Given that the basement would be below ground level, this is not taken into account within the calculations of the proposed floorspace.
54. The proposed dwelling would measure a total width of 34.6m by a length of 16.2m to a primary ridge height of 9.4m. The two side projecting gables at the front would be 8.3m in height while the middle projecting gable would be 7.6m in height. The materials for the proposed dwelling would be white render and brickwork for the walls, UPVC for the windows and red tiles for the windows. According to drawing 4136-02-1, the proposed dwelling would be of a modern design with mock Tudor finishing at the front elevation.
55. The proposed dwelling along with the proposed driveway would be considered to form an attractive appearance. Whilst it would not be similar in design to the two nearby dwellings, the dwelling would be set back from the street and would not be considered to detract from the rural character given the level of architectural interest proposed. The proposal would be considered compliant with Policy DM1 of the Council's Development Management Plan in this regard.
56. It has been demonstrated that the quantum of development can be successfully accommodated within the site and that additionally the proposed dwelling would be sited within reasonably a large plot and as such it will not appear cramped. The proposed development is considered to accord with Policy H1 of the Council's Core Strategy.

#### Impact on Residential Amenity

57. 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.
58. Amenity can be defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be overlooking, loss of light

or creating a degree of overbearing enclosure (often referred to as the tunnelling effect) affecting the amenity of adjacent properties.

59. It is noted that the proposed dwellinghouse will have apertures on its north, east and south elevations which will serve habitable rooms. Nonetheless, it is considered that due to the separation distance between the proposed development and the surrounding residential dwellings in addition to the boundary treatment, the proposal is not considered to significantly impact on the residential amenity of neighbouring occupiers in terms of having an overbearing impact, overlooking or overshadowing.
60. The application site is adjoined only by Moat Farm to the west. No fenestration is proposed along the western flank elevation and it is therefore not considered that any significant overlooking would occur. In addition, the application site and Moat Farm would be separated by the moat and therefore substantial distance would be maintained between the two dwellings as to not result in an overbearing or overlooking impact. The proposal would be compliant with Policy DM1 and DM3 in this regard.
61. Overall, it is considered that the proposed development would not cause any significant impact on residential amenity in respect of noise, light, overlooking or privacy to the surrounding properties. The proposal would be compliant with Policy DM1 and DM3 in this regard.

#### Living Conditions for Future Occupiers

##### Garden Size

62. Policy DM3 of the Development Management Plan requires the provision of adequate and usable private amenity space. In addition, the Council's adopted Housing Design SPD advises a suitable garden size for each type of dwellinghouse. Paragraph 135 criterion (f) of the NPPF seeks the creation of places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
63. The SPD2 requires a minimum 100m<sup>2</sup> garden area for all new dwellings. An exception to this requirement will be single storey patio housing or one- and two-bedroom dwellings which shall have an area of 50m<sup>2</sup> minimum.
64. The layout submitted shows that the proposed dwelling could be provided with private amenity space way in excess of the requirements. It is considered that amount of private amenity attributable to the proposal exceeds the requirements of policy DM3 and guidance advocated in SPD2.

## Technical Housing Standards

65. 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.
66. 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.
67. 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.
68. A two-storey dwelling which would comprise six bedrooms would require a minimum Gross Internal Floor Area (GIA) of 123m<sup>2</sup>. Additionally, the dwelling must have a minimum of 4m<sup>2</sup> of built-in storage.
69. 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.
70. The Gross Internal Floor area of the proposed dwellinghouse equates to approximately 1293.89m<sup>2</sup>, and as such in terms of overall GIA the proposal complies with the minimum specified technical standards.
71. The table below shows the Gross Internal Floor area for each of the bedrooms in the main dwellinghouse (all measurements are approximate).

Bedroom No. 1	56.20m <sup>2</sup>
Bedroom No. 2	44.12m <sup>2</sup>
Bedroom No. 3	39.25m <sup>2</sup>
Bedroom No. 4	51.76m <sup>2</sup>
Bedroom No. 5	33.87m <sup>2</sup>
Bedroom No. 6	32.97m <sup>2</sup>

72. According to the submitted plans all the bedrooms comply with aforementioned policies and exceed the Internal floor area requirements. Furthermore, it was noted that no storage area was identified on the submitted plans; however, the proposal substantially



exceeds the recommended minimal GIA for a six bedroomed property and as such it is considered insufficient justification for the slight shortfall in storage space to warrant a refusal and substantiate it at any future appeal.

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

#### Impact on Highway Safety and PRow

75. 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.
76. The Parking Standards Design and Good Practice guide (2010) states that for dwellings with two-bedrooms or more, two off-street car parking spaces are required with dimensions of 5.5m x 2.9m.
77. In accordance with paragraph 116 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
78. The application form indicates that there are 10 existing parking spaces and 5 proposed for the new development thus the site has ample parking space and a large garage proposed that would accommodate 2 vehicles. According to the submitted plans the application site is shared with a Public Right of Way (PRow) footpath.

79. The public footpath crosses the site from the north to the south in a skewed alignment between the two existing buildings and to the east of the proposed dwelling. A footpath is a highway over which the public has a right of way on foot only. It is illegal to obstruct a public right of way and is a criminal offence. The footpath statement states that fencing can be placed at the west side of the public footpath to prevent members of public from accessing the applicant's garden.

80. Policy DM11 of Essex County Council (ECC) Development Management Policies seeks to safeguard the existing network of PRoW by ensuring that it remains protected and open for use by the public.

81. It is considered that any intensification resulting from the provision of one new dwelling in this area is not deemed to be of such severity that would warrant refusal of the application. Furthermore, colleagues in Highways have been consulted and raise no objection to the proposed development subject to conditions imposed. They state:

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

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

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

82. Overall, it is considered there is sufficient car parking arrangements and appropriate access arrangements to serve the proposed dwelling. There is sufficient space for vehicles to manoeuvre so that access/egress the site is possible in a forward propelling gear. Furthermore, it is not considered that one dwelling at this locality will cause demonstrable harm to the highway network. The additional comings and goings of vehicles because of this proposal would not result in significant disturbance to neighbours via noise and dust which can be substantiated and warrant a refusal. Generally, it is considered that the proposal is acceptable in highway terms and would not have an adverse impact upon highway safety and the public footpath. The proposed development in this aspect accords with the Parking Standards and policies DM1, DM3, DM9 and DM30 of the Development Management Plan and the NPPF.

## Refuse and Waste Storage

83. The Council operates a 3-bin system per dwelling consisting of a 240l bin for recycle (1100mm high, 740mm deep and 580mm wide), 140l for green and kitchen waste (1100mm high, 555mm deep and 505mm wide) and 180l for residual waste (1100mm high, 755mm deep and 505mm wide). A high-quality development would need to mitigate against the potential for wheelie bins to be sited (without screening or without being housed sensitively) to the frontage of properties which would significantly detract from the quality of a development and subtly undermine the principles of successful place making. The guidance states that wheelie bins are capable of being stored within the rear amenity areas of properties which have enclosed areas but there is a requirement for each dwelling to be located within approximately 20 m (drag distance) from any collection point. In this case the rear garden space would provide adequate storage space whilst the drag distance is below 20m which is considered satisfactory.

## Flooding and Drainage

84. Rochford District Council's Core Strategy contains Policy ENV3 which relates to flood risk; this states that the Council will direct development away from areas at risk of flooding by applying the sequential test and where necessary, the exceptions test. The application site is located within Flood Zone 3.
85. Paragraph 181 of the NPPF requires that when determining any planning application, local planning authorities should ensure that flood risk is not increased elsewhere. A site specific flood risk assessment is required for all development in Flood Zones 2 and 3 and in Flood Zone 1 where the proposal relates to a site of 1 hectare or more.

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

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

86. However, the NPPF would require that in the first instance the sequential test must be passed; this test seeks to steer development preferentially to the lowest flood risk zones (paragraph 181).
87. The application site is located entirely within Flood Zone 3 and therefore to pass the sequential test, it must be identified whether the proposed development could be located entirely outside of an area of flood risk. Where it is not possible to locate development in low-risk areas, the Sequential Test should go on to compare reasonably available sites. 'Reasonably available sites' are those in a suitable location for the type of development with a reasonable prospect that site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered 'reasonably available' (NPPG ref ID: 7-028-20220825).
88. A Flood Risk Assessment prepared by Evans Rivers and Coastal dated January 2022 and Sequential and Exceptions Test assessment prepared by Southwest Environmental Limited dated May 2023 were submitted with the application. It is worth noting that these are the same documents that were submitted for the previously refused application 22/00783/FUL that were deemed insufficient. The Sequential and Exceptions Test report discusses that it will look at allocated sites, sites granted planning permission and windfall sites. The assessment ultimately concludes that a 6-bedroomed detached house, within a rural location could not be provided anywhere else in the district.
89. The reports scoping for the 'type of development' remains questionable. Typically, sequential tests for residential development submitted to the LPA have classified the 'type of development' as the number of dwellings proposed, in this instance one dwelling. Whereas the submitted Sequential Test looks at sites based on their characteristics. Previous officers have raised this with the agent and flood risk consultant who prepared the report (an email sent on 26th June 2023); no response has been received to provide clarification on this matter.
90. There are a number of allocated sites and other consents which have been granted planning permission that have not been considered. Even if it were agreed that the 'type of development' were that described within the Sequential Test Assessment (6-bedroomed, detached, rural area) then all granted permissions which are available to accommodate that 'type of development' should be considered. These permissions may include (but are not limited to):
- Lynton Orchard Lower Road ref: 19/00920/FUL
  - Orchard Thatch Church Road ref: 22/00113/FUL

- Rainbow The Chase ref: 21/001276/FUL
  - Barns East of Rawreth Hall ref: 18/00658/FUL
  - Stable Block The Dell ref: 22/00338/FUL
  - Meadowbrook Farm Ironwell Lane ref: 21/01250/FUL
  - Fairways Garden Centre Hullbridge Road ref: 18/00625/OUT (for sale at present)
  - SER1 Land North of London Road ref: 21/00596/REM
  - SER8 Land East of Ashingdon Road ref: 20/00363/OUT
91. These suggested sites were made available to the agent in a letter dated 23rd June 2023 and no further information or rebuttal has been provided. It is therefore not clear whether these sites were assessed. It is further noted that the Sequential Test Assessment applies the criteria for such tests of Bristol City Council. Officers do not consider this an appropriate method as although Rochford District Council do not have their own local criteria, paragraph 11(d) of the NPPF outlines that national policy is therefore applied.
92. The Environment Agency was consulted to comment on the proposed development and raised no objections subject to the sequential test being passed.
93. Planning Practice Guidance requires consideration of the vulnerability of proposed development to flooding and advises in what circumstances certain development should be permitted. The proposed residential development falling within Use Class C3 is classified as a 'more vulnerable' use and therefore would be required to pass the exceptions test.
94. The NPPG sets out that to pass the exceptions test it must be demonstrated that:
- The development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and
  - The development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
95. The submitted Sequential Test and Exceptions Test document discusses that the benefits of the scheme are economic (investment in brownfield sites and the creation of temporary jobs during construction) and environmental benefits (energy efficient housing and reduction in transport related carbon emissions). In terms of the economic benefit, there is no sustainability benefit to the community through the investment of this brownfield site. Secondly, the creation of jobs would be temporary (as highlighted by the assessment) and would therefore not be a permanent benefit. In terms of the environmental benefits, it is not clear what extent a single dwelling would have on either of the

benefits highlighted in the assessment and whether that would outweigh flood risk.

96. It is not evidenced that the development would be safe for its lifetime or that it would not increase flood risk elsewhere. The Lead Local Flood Authority (LLFA) have been consulted on the application and have issued a holding objection due to no drainage information having been submitted, thereby increasing the risk of flooding associated with the site.
97. As such, it is not considered that the proposal would pass the exceptions test to justify locating the proposed development within Flood Zone 3.
98. Therefore, the development has failed to demonstrate that the proposal could not be located within an area within a lower area of flood risk and the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding, contrary to Section 14 of the NPPF and Policy ENV3 of the Council's Core Strategy.

#### Trees

99. 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.”*

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



## Ecology

### On-site

101. The NPPF at section 15 indicates the importance of avoiding impacts on protected species and their habitat. Where impact is considered to occur, appropriate mitigation to offset the identified harm is required. The council's Local Development Framework Development Management Plan at Policy DM27, requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.
102. 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.
103. 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.
104. To accompany their planning application the applicant has submitted an Ecological Survey, produced by John Dobson and dated July 2024. It recommended firstly that gaps along the existing boundary must be retained for the foraging of hedgehogs and toads. Secondly, the provision of nesting boxes for birds and hedgehogs and finally two bee hives to be developed on the site. The submitted bat survey declaration indicates that the development would not be harmful to bats.
105. The councils ecologist was consulted and have a holding objection to the proposal owing to insufficient ecological information pertaining to mandatory Biodiversity Net Gain (BNG) and Great Crested Newts as they are a European Protected Species. They state:

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

106. The results of these surveys are required prior to determination because paragraph 99 of the ODPM Circular 06/2005 highlights that: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”*

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

#### Off-site

108. 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.

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

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for one dwelling.

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

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

- No

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

- No

110. 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.

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

#### Biodiversity Net Gain

112. 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.

113. Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits.

114. Following the grant of planning permission where the statutory biodiversity gain condition applies, the developer would be required to apply to the local authority and get the condition discharged prior to commencement of development. At this stage the developer would be required to submit detailed information as to how the minimum BNG net gain requirement would be achieved.
115. At the planning application stage an applicant must indicate whether they consider that the development proposed would be subject to the statutory biodiversity gain condition or not and if not, which of the exemptions would apply.
116. In this case the applicant has indicated that the statutory biodiversity gain condition would not apply but the planning and ecological officers disagree as the application site is 6197m<sup>2</sup>.
117. However, the abovementioned figure was derived from the submitted planning application forms. The applicant subsequently submitted an amended site plan and according to the revised plan the plot measures approximately 4955m<sup>2</sup>. Moreover, the applicant has confirmed that the proposal relates to custom/self-build development. The case officer accepts that the proposal as revised would be exempt from the statutory biodiversity gain condition due to complying with one of the aforementioned development exemption criteria. Consequently, in light of the above, the applicant is not therefore required to provide any BNG information and the second reason for refusal, which was cited at the beginning of this report falls away.
118. The legislation requires that some BNG information relating to pre-development habitat at the site is submitted with a planning application in order that the application can be validated. The applicant has not submitted this required information. The Essex County Council Place Services ecology team have provided a consultation response following their consideration of the application and the BNG information submitted, and this response is summarised in the ecology section of the report.

#### Equalities and Diversity Implications

119. 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.

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

121. 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**

122. Refuse.

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

Rawreth Parish Council: No comments or observations to make.

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

Environment Agency: No objection.

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

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

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

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

Neighbour representations: No responses received.

## **Relevant Development Plan Policies:**

National Planning Policy Framework (December 2024).

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

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

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

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

The Essex Design Guide (2018).

Natural England Standing Advice.

Planning (Listed Buildings and Conservation Areas) Act 1990.

**RECOMMENDATION: REFUSE**

1. The application site is located within Flood Zone 3 and the National Planning Policy Framework (NPPF) is clear that all new development in Flood Zone 3 must pass the sequential test, which seeks to steer development to the lowest flood risk zones. The application site would fail to pass the sequential test as the development has failed to demonstrate that the proposal could not be located within a lower area of flood risk. Subsequently, the scheme would unnecessarily locate a more vulnerable use within an area at risk of flooding. The proposal would also fail the subsequent exception test given that it would not provide economic and environmental sustainability benefits for the community and may result in an increased risk of flooding. The proposed development would be contrary to Section 14 of the NPPF and Policy ENV3 to the Council's adopted Core Strategy.
2. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The Ecological Survey produced by John Dobson dated July 2024 contains recommendations for protected species, including presence / likely absence surveys for birds, hedgehogs, toads and bees. Great Crested Newts were identified by the council's ecological officer to be one of the protected species on site but no reference was made of them in the ecological survey. It can therefore not be determined whether the proposal would result in harm to protected species. Insufficient information has been submitted to support the development, contrary to Policy DM27 of the Development Management Plan and relevant parts of the NPPF which seek to ensure that development appropriately mitigates impacts on biodiversity.

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



Application No :	24/00246/FUL      Zoning: Metropolitan Green Belt
Case Officer	Mr. John Harrison
Parish :	Canewdon Parish Council
Ward :	Roche North And Rural
Location :	Land Adjacent St. Theresa, Pudsey Hall Lane.
Proposal :	Proposed siting of 5 additional pitches to extend existing Gypsy/Traveller site.

## **SITE AND PROPOSAL**

1. Pudsey Hall Lane is an unmade dead-end road running northwards off Lark Hill Road, Canewdon. There are residential properties on its eastern side for most of its length but its western side is mostly undeveloped. It terminates at gates providing the entrance to Pudsey Hall Farm. This has a variety of uses on the site including business, light industrial, storage and agriculture. The application site is immediately south of these gates on the eastern side of the road, a roughly rectangular site approximately 24 metres wide and with an average depth of approximately 170 metres. To the south of that is an open field and to the south of that is a residential property, St Theresa. The present authorised use of the front part of the site is as a traveller's site with two mobile homes, pitches for two touring caravans and one dayroom. There are, however, further mobile homes on the site at present. The remainder of the site, approximately three-quarters of it is authorised for agricultural use. The site has been landscaped with planting round the edge of the site to screen the site in compliance with conditions imposed on planning permission 18/00318/FUL, granted on appeal in 2021. Pudsey Hall Lane is a private road with a poor surface. It is also a public footpath. At the entrance to Pudsey Hall Farm there is a right-angled bend and the footpath heads westwards.
2. The application is to provide five more traveller pitches on the site, so roughly half of it would become a traveller's site. There would be seven mobile homes and seven pitches for touring caravans but no additional dayrooms are proposed. Planting and a post and rail fence would separate the part of the site to be occupied by travellers and the remainder of it. It should be noted that some additional mobile homes have been brought onto the site already, so this application is in part retrospective. The plans show additional landscaping round the edge of the site to provide screening for the further caravans.

## **RELEVANT PLANNING HISTORY**

3. Planning application: 99/00652/FUL - Erect a Building for Storage – Refused.

4. Enforcement: 05/00083/COU\_C – Depositing of aggregates.
5. Enforcement: 05/00161/COU\_C EN – NOACT: Siting Of Mobile Home At Land Adjacent St Theresa, Pudsey Hall Lane, Canewdon, Essex.
6. Planning application: 16/00996/FUL - Erect One Mobility Accessible Two Bedroomed Bungalow For Independent Living – Refused.
7. Enforcement: 17/00180/UTDY\_C – NOACT: Derelict caravans on site.
8. Enforcement: 17/00118/BLDG\_B – NOACT: Erection of a building in the green belt.
9. Enforcement: 18/00038/COU\_B – Change of use of land to a traveller site, laying of hardstanding.
10. Planning application: 18/00318/FUL - Proposed Gypsy/ Traveller Pitch Comprising Two Mobile Homes and Separate Day Room Building Together with the Siting of Two Touring Caravans and Hardsurfacing – Refused. Granted on appeal.

## **MATERIAL PLANNING CONSIDERATIONS**

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

### **Background Information**

13. The applicant submitted a planning application (ref: 18/00318/FUL:) which was for use of land as a Traveller Site comprising 2 mobile homes, a day room, two touring caravans and hardsurfacing. This was refused for the following reason:
 

“The site is located within an area of Metropolitan Green Belt as defined in the Rochford District Council Local Development Framework Allocations Plan (2014). The proposed Gypsy/Traveller site would, if allowed, result in inappropriate development in the Green Belt.”
14. An appeal was lodged against this refusal and allowed. The proposal was considered inappropriate development in the Green Belt, but the Inspector allowed the appeal in 2021 on the basis the shortage of sites for gypsies and travellers and the lack of a five-year supply of sites constituted very special circumstances justifying granting the application. It should be noted that in fact two planning permissions were granted on appeal; one following the refusal of application 18/00318/FUL (Appeal C at the end of the decision letter) and one following an appeal against an enforcement notice (Appeal A at the end

of the decision letter). The only difference between the two sets of conditions is the planning application one (C) has a condition listing the approved plans.

#### Green Belt and the Need for Gypsy Sites

15. These two issues are very much intertwined and need to be considered together, especially as the appeal Inspector in 2021 considered the shortage of sites for gypsies and travellers constituted very special circumstances justifying allowing the scheme.
16. The ethnicity and the personal circumstances of an applicant would not normally be a material consideration in a planning application as they would not ordinarily be accorded any significant weight compared to local development plan and national policy considerations. It is, however, recognised that the needs of those who can substantiate Gypsy and Traveller status for planning purposes, do call for special consideration and are a material consideration in planning decisions. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community, as clearly highlighted by the production of the Planning Policy for Traveller Sites.
17. The Government's Planning policy for traveller sites, Planning Policy for Traveller Sites (December 2024) (Policy E) which sits alongside the NPPF states:

"Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development unless the exceptions set out in chapter 13 of the National Planning Policy Framework apply."
18. The previous version of the policy (December 2023) stated:

"Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."
19. It will be noted that the government's position has changed in this respect.
20. It also states, "If a local planning authority cannot demonstrate an up-to-date 5 - year supply of deliverable sites, the provisions of paragraph 11 (d) of the National Planning Policy Framework apply."

21. Paragraph 11(d) of the NPPF states:

“Plans and decisions should apply a presumption in favour of sustainable development.....For decision taking this means.....where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [a footnote indicates this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites], granting permission unless:

i The application of policies in this Framework that protect areas or assets of particular importance [a footnote indicates these policies include Green Belt policies] provides a strong reason for refusing the development proposed; or

ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

22. Thus, what is frequently referred to as “the tilted balance in favour” applies.

23. Policy H7 of the Council’s Core Strategy indicated the Council would allocate 15 pitches for gypsies and travellers by 2018. A site for these was designated at Michelin’s Farm, Rayleigh but it has not been the subject of an application for permission.

24. The recently produced Gypsy and Traveller Accommodation Assessment (GTAA) (2024) indicates 37 additional pitches are required in the next five years, 2024-2028. A table below from the assessment demonstrates that the need for pitches has significantly increased:

Year Period	Date Range		Need	
	2019 GTAA	2024 GTAA	2019 GTAA	2024 GTAA
0 – 5	2016 – 21	2024 – 28	14	37
6 – 10	2021 – 26	2029 – 33	1	7
11 – 15	2026 - 31	2034 – 38	1	9
16 – 19	2031 - 36	2039 – 42	1	7

25. As with all proposals for development in the Green Belt it has to be determined whether the proposal is appropriate development and, if not, whether it is justified by very special circumstances. Paragraphs 154 and 155 of the NPPF define what is considered appropriate

development. This proposal is not one listed in paragraph 154.  
Paragraph 155 states:

The development of homes, commercial and other development in the Green Belt should also not be regarded as inappropriate where all the following apply:

- a) The development would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the Green Belt across the area of the plan;
- b) There is a demonstrable unmet need for the type of development proposed [a footnote states in the case of traveller sites this means the lack of a five year supply of deliverable traveller sites assessed in line with the Planning Policy for Traveller sites];
- c) The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of this Framework [a footnote indicates in the case of development involving the provision of traveller sites, particular reference should be made to the Planning Policy for Traveller Sites paragraph 13]; and
- d) Where the applicable development proposed meets the “Golden Rules” requirements set out in paragraphs 156- 157 of the framework.[This criterion is not relevant for a gypsy site applications]

26.Paragraph 13 of the Planning Policy for Traveller Sites states:

Local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally. Local planning authorities should, therefore, ensure that their policies:

- a) Promote peaceful and integrated co-existence between the site and the local community
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services
- c) Ensure that children can attend school on a regular basis
- d) Provide a settled base that reduces both the need for long-distance travelling and possible environmental damage caused by unauthorized encampment
- e) Provide for proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well-being of any travellers that may locate there or on others as a result of new development
- f) Avoid placing undue pressure on local infrastructure and services
- g) Do not locate site in areas of high risk of flooding, including functional floodplains, given the particular vulnerability of caravans
- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability.

27. Following the publication of the new NPPF and Planning Policy for Traveller Sites, the agent for this proposal submitted a supporting statement arguing this proposal should be allowed on the basis it met the paragraph 155 criteria as it was development on grey belt. The NPPF defines grey belt as “land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 [of the NPPF]. ‘Grey belt’ excludes land where the application of the policies relating to the areas in footnote 7 [of the NPPF] (other than Green Belt) would provide a strong reason for refusing or restricting development.” Apart from Green Belt, none of the policies in footnote 7 relate to this site.
28. There is a degree of subjectivity in deciding whether land is grey belt. The relevant purposes of the Green Belt are (a) to check the unrestricted sprawl of large built-up areas, (b) to prevent neighbouring towns merging into one another and (d) to preserve the setting and special character of historic towns. Purpose (d) is clearly not relevant to this site. Given the NPPF states the land should “not **strongly** contribute” to the Green Belt purposes, it is considered this land is grey belt as it does not contribute to urban sprawl, and is remote from settlements such that the site would not perform a strong function in preventing Hockley, Rochford and Canewdon from merging. It is a relatively isolated site so it would not result in unrestricted sprawl of built-up areas or result in towns merging.
29. It is necessary to consider the proposal in the context of the stipulations in paragraph 13 of the Planning Policy for Traveller Sites. Noise, air quality and flood risk are not issues relevant to this application. The number of additional caravans (5) is relatively small, so the development will not put major pressure on local services and infrastructure. One of the intended residents has declared medical needs but these are already being met locally. Under the provisions of the United Nations Conventions on the Rights of the Child 1989, the best interests of children should be a primary consideration when administrative bodies are taking decisions. Though there are no children presently of school age among the proposed residents, they will soon be coming of school age and this proposal would mean they would be able to get regular schooling from a settled base. The proposal does provide, subject to conditions, for the residents to carry out business from the site in accordance with the gypsy custom. Promoting peaceful and integrated co-existence between the site and the local community is more difficult to assess, but the site is not directly adjacent to residential properties making conflict less likely. The site is not sustainable in terms of being in or on the edge of a settlement, so very close to services, but it would be unusual for a gypsy site to be in such a location. It should be noted that in his appeal decision relating to application 18/00318/FUL the Inspector did describe the site as being “sustainable” (paragraph 105 of decision letter).



30. Whilst it is the officer view that this site is grey belt and therefore what is proposed is appropriate development in the Green Belt, if members were to disagree, the question arises whether very special circumstances apply. Under the pre-NPPF revision policies there have been a number of appeal decisions where Inspectors have held that the shortage of available sites for gypsies does constitute very special circumstances justifying the development even though it is contrary to Green Belt policies, necessary provision would need to be met from land in new policy documents from land currently allocated Green Belt. As explained above, the recent Gypsies and Travellers Accommodation Assessment has indicated the need for gypsy sites has significantly increased, not diminished, so this case is now even stronger. The appeal relating to this site for two pitches, application 18/001318/FUL is, of course, such an appeal.

31. There are other examples of such appeals. In referring to the need for sites in the district, the Planning Inspector for the appeal (22/00229/FUL) in relation to the traveller site at the Pumping Station, Watery Lane Rawreth, stated the following in regards to the lack of traveller site provision in the district: "Delay in delivery of [policy] GT1 means that currently no provision of pitches is being realised through the development plan process. The only way at the moment (and for the last 6 years following the adoption of a 15-pitch requirement) is in response to a planning application. Given the existing situation, the Council accepted at the hearing that it did not have a 5-year supply of specific deliverable sites as required by paragraph 10 of the PPTS. Neither does it have a supply of sites or broad locations for growth for years 6 to 10 also required by that same paragraph. Given the extent of Green Belt in the District, ad hoc sites coming forward are more likely than not going to be within it."

32. Previously, the Inspector for the appeal at Land Opposite 2 Goldsmith Drive (17/01240/FUL) made the following observations in relation the supply of gypsy and traveller sites:

[40.] The Council witness confirmed that although he had recently learned that there was potential for the Michelins Farm site to be the subject of a compulsory purchase order, there was no certainty that the site would move forward. He explained that options were going to be considered, potentially in September 2021, for addressing the supply of sites, and that this has been hampered by other factors including staff availability in the Council's planning policy team. In summary while the Michelins Farm site, which is the only allocated site, has not been ruled out by the Council, there is no certainty that it will deliver the necessary supply of sites and there are no other options currently available.

[41.] The Council officer also confirmed that the Council has no criteria based policy which would address 'windfall' sites, neither had it had such a policy for several years. Taken together with the significant and as yet unresolved delay in bringing forward the Michelins Farm site, this amounts not only to an absence of supply of sites but also a failure in terms of policy provision. These factors also weigh significantly in favour of the development.

33. The 2021 appeal decision relating to this site where the Inspector considered there were very special circumstances justifying the two pitches on this site, referred to above, is also relevant, of course.

#### Impact on the Character of the Area and the Green Belt

34. The site is in an area of sporadic development, along Pudsey Hall Lane and in the wider area. Providing additional gypsy pitches with five additional mobile homes and five additional touring caravans will detract from the openness. In the previous appeal decision relating to this site the Inspector commented, "When considered overall, there would be Green Belt harm to openness and one of the Green Belt purposes but it is capable of being mitigated to an extent and when considered in context the effect is very limited." Since then, to comply with conditions imposed on the permission the Inspector granted, further landscaping has been undertaken making caravans on the site less conspicuous and further landscaping is proposed as part of this scheme. Thus harm to the appearance of the area and the openness of the Green Belt will be very limited, but there will still be some harm.

#### Impact on Residential Amenity

35. The nearest dwelling, St Teresa, is separated from the site by a vacant plot. This is approximately 26 metres wide, so there would be no issues in terms of loss of light, overlooking, etc. There is, however, the impact of traffic using the lane, including some commercial vehicles. The lane is already used by residents and businesses that it serves, including some large lorries and it is not considered a refusal for this reason would be justified. Only five additional pitches are proposed, so the additional traffic will be relatively limited against the existing situation. Residents of the lane have also complained about increased damage to the surface of the private road with consequent additional repair costs as it is a private road. Whilst one can understand residents' concerns in this respect, the appeal Inspector concluded this was a private matter. In any event, it would be very difficult to quantify how much harm traffic from this development would cause compared with other traffic using the road and therefore point to demonstrable harm.

#### Highways considerations

36. The application site would be accessed via an existing access onto Pudsey Hall Lane. There is sufficient space within the application site for vehicles to be parked clear of the public highway and so that they can manoeuvre and access/egress the site in forward gear. Essex County Council Highway Authority have reviewed the submitted information and have no objection subject to the imposition of conditions which are addressed below. Thus, though a concern has been expressed about difficulty exiting Pudsey Hall Lane, refusal for this reason could not be justified. It should be noted that the site is not particularly sustainably located in terms of links to public transport, schools, shops and other facilities, thus increasing car use and therefore carbon emissions, but this would be likely to be the case with most potential traveller sites in the district.

#### Ecology Issues

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

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

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for additional residential caravans

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

39. 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.
40. As competent authority, the local planning authority concludes that the proposal is within the scope of the Essex Coast RAMS as it falls within the 'zone of influence' for likely impacts and is a relevant residential development type. It is anticipated that such development in this area is 'likely to have a significant effect' upon the interest features of the aforementioned designated sites through increased recreational pressure, when considered either alone or in combination. It is considered that mitigation would, in the form of a financial contribution, be necessary in this case. A payment for each new residential caravan under the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy has been made.
41. In terms of other ecology such as protected species, this is a relatively small site and not likely to have any flora or fauna of great interest. The application predates the implementation of the biodiversity net gain requirements of the Environment Act 2021, so this is not required.

Other issues

42. The part of the site where the development is proposed is a very low surface water flood risk area and in flood zone 1, so the proposal is acceptable in flood risk terms and considered to comply with policy DM3. Part of the site is in a high surface water flood risk area but this is the part that already has planning permission for caravans. The site licence will cover sewage disposal arrangements and related issues such as water supply. It should be noted that in his 2021 appeal decision, the Inspector did not impose any conditions relating to these matters. There is adequate room on the site for waste storage.

In a Written Ministerial Statement made on 2015, the Minister of State for Housing and Planning the government introduced a policy making intentional unauthorised development a material consideration that would

be weighed in the determination of planning applications and appeals. Elements of this application are retrospective. When asked to comment on this, the agent had responded, "It is.....pertinent to appreciate the personal circumstance involved, the fact this application is for an extended family of now 5 additional households, all of whom have lived in substandard accommodation based on family sizes previously or have had to live [on the] roadside or double up unlawfully elsewhere." In these circumstances, it can be considered this weighs against the scheme, but only limited weight can be given to this.

43. Neighbours have expressed concern that further applications may be made for caravans on this site. Any such application would need to be determined on the basis of the policies and circumstances then applying.

## **CONCLUSION**

44. The proposal through allocated Metropolitan Green Belt qualifies as Grey Belt and where further provision of pitches is generally acceptable, taking into account the significant shortage of gypsy pitches in the district and failure of existing policy. Given the recent history of gypsy appeals on the site and elsewhere in the district, there is a strong case for allowing this application. These factors outweigh the amenity impact of additional traffic on the Pudsey Hall Lane and the carrying out of intentional unauthorised development.

45. Within this context, it is recommended that the application be granted.

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

Canewdon Parish Council:

The parish council objects to the intensification of the use of the site due to the impact that this will have on the amenity on the surrounding area and residents in particular as well as the impact on traffic on the private road. Also concerned planning permission was granted previously on appeal due to the special circumstances put forward regarding particular needs of the family on site. Understand that these such needs have not been put forward in this particular proposal and consider it to be contrary to green belt policy. Furthermore, the ongoing provision of informal sites that has taken place has actually met the district councils need for gypsy and traveller site provision in the district.

Essex County Council Highways:

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

1. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of

PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public footpath no. 7 (Canewdon) 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.

2. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the Public Right of Way. Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the footpath is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.

Neighbour representations:

3 responses from the following addresses;

Pudsey Hall Lane: 15 "White Elms"

And which in the main make the following comments and objections (summarised);

- 250% increase on previous permission
- Asks why needed
- Application is retrospective
- Additional family and businesses
- Damage to private road with costs to residents
- Increased waste and sewage
- No access to public transport
- Risk to users of lane
- Noise
- Risk to wildlife
- Further applications likely to follow
- Lane residents have been refused permission for extensions
- Houses close to site have a stigma and are difficult to sell
- Laying hardcore on site
- History of breaches of planning control on the site

○

In addition seven further anonymous objections have been received.

Additional points raised are (summarised):

- There is no other multi-family property in the road
- Lane now too dangerous for horse riding
- Difficulty exiting the lane
- Believes cess pits are illegal so there should be a waste treatment plant
- Loss of trees and vegetation
- Council had failed to provide official sites for travellers
- Vehicles breaking lane speed limit (N.B. This is an informal one, not a statutory one)



## **Relevant Development Plan Policies:**

National Planning Policy Framework 2024.

Planning policy for traveller sites (December 2024).

Green Belt protection and intentional unauthorised development –  
Government written ministerial statement – 31 August 2015.

Core Strategy Adopted Version (December 2011) – H7, CP1, GB1, ENV1,  
ENV3.

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

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

Gypsy and Traveller Accommodation Assessment – December 2024.

## **PROPOSED CONDITIONS**

In the case of a traveller site there is more scope for more varying the conditions imposed than with most types of development, so it is considered appropriate to explain what is being recommended. For the most part the conditions recommended are based on those imposed by the Inspector in the 2021 appeal. Particular attention should be drawn to conditions 7 and 8 which control the extent of business activities that can take place on the site.

The County Surveyor has recommended two conditions to protect the adjoining footpath. Any obstruction of that is an offence under highways legislation, so it is not considered necessary to duplicate that control.

## **RECOMMENDATION: APPROVE**

Conditions:

1. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or any subsequent definition that supersedes that document).

REASON: As planning permission is granted only on the basis that there is a shortage of gypsy and traveller pitches in the district.

2. No more than a total of fourteen caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, comprising no more than seven static and seven touring caravans.

REASON: As planning permission has been sought on this basis and the Local Planning Authority might wish to object to a proposal for more caravans.

3. The use hereby permitted shall cease and the additional caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed and the land restored to its condition before the development took place within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

(i) Within 3 months of the date of this decision a scheme with details for:

(a) the internal layout of the site including the extent of the residential pitches, the location of the caravans and vehicle parking, any buildings, hard standings and external lighting;

(b) all boundary treatments and all other means of enclosure (including internal sub-division) and incorporating the retention (and augmentation where necessary) of the existing hedgerow around the entirety of the site;

(c) hard and soft landscaping and screen planting including details of species, plant sizes and proposed numbers and densities; (hereafter referred to as the 'site development scheme') shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

ii) If within 11 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.

iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

iv) The approved site development scheme shall have been carried out and completed in accordance with the approved timetable. Upon implementation of the approved site development scheme specified in this condition, that scheme shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

REASON: To control the appearance of the development and minimise its impact upon the Metropolitan Green Belt.

4. Subject to the details of the site development scheme required by condition 3, the development hereby permitted shall be carried out in accordance with the following approved drawings: J004829-DD-0J004829-D2, D-0J004829-DD-03, J004829-DD-04 and J004829-DD-05.

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

5. At the same time as the site development scheme required by condition 3 above is submitted to the local planning authority there shall be submitted a schedule of maintenance for a period of 5 years of the proposed planting beginning at the completion of the final phase of implementation as required by that condition. The schedule shall make provision for the replacement, in the same position, of any tree, hedge or shrub that is removed, uprooted or destroyed or dies within 5 years of planting or, in the opinion of the local planning authority, becomes seriously damaged or defective, with another of the same species and size as that originally planted. The maintenance shall be carried out in accordance with the approved schedule.

REASON: To ensure the maintenance of the landscaping scheme.

6. The existing hedgerow and/or treeline along the northern boundary between Pudsey Hall Farm and the site and the land the east of the line of the proposed post and rail fence shown on drawing no J004829-DD-05 shall be retained in its present form and not removed.

REASON: To protect the appearance of the area.

7. With the exception of the buying and selling of horses and ponies, no other commercial, industrial or business activities including the storage of materials and goods shall take place on any part of the site.

REASON: To protect the amenity of nearby residents.

8. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

REASON: To protect the amenity of nearby residents.

9. Prior to the provision of the proposed additional hardstanding, precise details of its extent shall be submitted to and approved by the Local Planning Authority. It shall then be constructed in accordance with the approved details.

REASON: To ensure there is sufficient room around the hardstanding for the landscaping to thrive.

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

Application No :	24/00840/FUL      Zoning : Unallocated
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Downhall And Rawreth
Location :	Land Adjacent 45A Mortimer Road Rayleigh
Proposal :	Construct new two storey, single family dwelling.

## **SITE AND PROPOSAL**

1. The application site is located to the northern side of Mortimer Road, situated within the settlement limits of Rayleigh. The proposed application site is a 120m<sup>2</sup> (approx.) vacant plot of land situated between adjacent neighbour No.43 Mortimer Road to the west, a detached two storey dwellinghouse and No.45a Mortimer Road and No.1a Kings Farm (owned by the applicant), a pair of two storey semi-detached dwellinghouses to the east.
2. The application site depicts the plot between No.43 and No.1a Kings Farm which was sub-divided and the boundary serving Kings Farm (which originally served the rear garden) was opened up, a footpath over the verge was created and fencing erected around the verge to form a 'front curtilage' to No.1A Kings Farm.
3. The application seeks full planning permission for the construction of a new two-storey, single family dwelling.

## **RELEVANT PLANNING HISTORY**

4. Application No. 22/00468/FUL - Proposed 2-bed dwelling with parking to front – Refused. Reasons for refusal: -

*1. The proposed dwelling by virtue of its layout, setting and appearance would create a building plot and dwelling which would not successfully reference the prevailing character of the area, would be out of keeping with the established pattern of development and if allowed would represent overdevelopment of the site and prove detrimental to the character and appearance of the site and the surrounding area. It is therefore, considered to be contrary to the National Planning Policy Framework and policies DM1 and DM3 of the Council's Development Management Plan.*

*2. The proposed development would result in accommodation that would fail to meet the minimum gross internal space standards, resulting in an inadequate form of accommodation to the future detriment of the living conditions of future occupiers, contrary to policy*

*DM4 of the Council's Development Management Plan and the Nationally Described Space Standards.*

- 3. The proposed development would result in the removal and loss of off-street car parking space for the adjacent neighbour No.1a Kings Farm as a result of the proposed subdivision. The proposed scheme would result in increased on street parking demand causing further obstruction to the free flow of traffic which would be harmful to highway safety and the provision of on street parking detrimental to the appearance of the street. The proposal would therefore fall contrary to the Council's Supplementary Planning Document 2 (Housing Design) and Policy DM30 of the Council's Development Management Plan.*
- 4. The proposed dwelling by reason of inadequate separation distances, orientation, siting, mass and scale would result in an unacceptable overbearing impact upon the living conditions of neighbouring occupiers. The addition in this regard would significantly detract from the outlook currently enjoyed from the habitable rooms of No.1a Kings Farm Road and No.45a Mortimer Road, as the proposed eastern side would dominate the outlook from their habitable rooms by comparison and replace a feeling of relative spaciousness with an oppressive expanse of built form contrary to guidance stipulated within the Essex Design Guide, SPD2 and Policy DM1 of the Council's Development Management Plan.*
- 5. The proposed first floor rear elevation windows by reason of minimal separation distances, orientation and siting would give rise to an unreasonable amount of overlooking, harmful to residential amenity of the occupiers of No.3 Saxon Close contrary to guidance stipulated within the Essex Design Guide, SPD2 and Policy DM1 of the Council's Development Management Plan.*
5. Application No. 22/00492/FUL - Proposed two-storey front extension incorporating single storey garage, alterations to rear elevation. Change of use of grass verge to use as part of the residential garden to No. 1a Kings Farm including retention of boundary fencing and creation of new driveway parking spaces and new vehicle access onto Kings Farm – Refused - 11.08.2022.
6. Application No. 22/00608/FUL - Proposed two-storey front extension incorporating single storey garage, alterations to rear elevation. Change of use of grass verge to use as part of the residential garden to No. 1a Kings Farm including retention of boundary fencing and creation of new driveway parking spaces and new vehicle access onto Kings Farm – Application Returned.
7. Application No. 22/00889/FUL - Proposed two-storey front extension incorporating single storey garage, alterations to rear elevation. Change of use of grass verge to use as part of the residential garden to No. 1a Kings Farm including retention of boundary fencing and creation

of new driveway parking spaces and new vehicle access onto Kings Farm – Refused - 18.01.2023.

8. Application No. 23/00312/FUL - Installation of a footpath to the front – Withdrawn - 04.08.2023.
9. Application No. 23/00683/LDC - Application for a Lawful Development Certificate for proposed change of use from grass verge to hardstanding pathway including installation of fence – Withdrawn - 20.12.2023.
10. Application No. 24/00399/FUL - Change of use of part of grass verge to use for the parking of a vehicle on new hard surfaced driveway. Form new vehicular access onto Kings Farm – Approved - 09.10.2024.
11. Application No. 24/00823/FUL - Proposed single storey mono-pitched front extension. Re-roof existing flat roof with pitched section of roof. Internal and fenestration alterations – Approved – 21.01.2025.

## **MATERIAL PLANNING CONSIDERATIONS**

12. 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.
13. 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**

14. Previously the applicant had submitted an application (22/00468/FUL) which sought planning permission for the erection of a *“2-bed dwelling with parking to front”*. This application was subsequently refused planning permission on the 5<sup>th</sup> October 2022 for the abovementioned reasons. The applicant has submitted the current application in an attempt to overcome the previous reasons for refusal.

### **Principle of Development**

15. The National Planning Policy Framework (NPPF) revised in December 2024 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. The NPPF sets out the requirement that housing applications should be considered in the context of the presumption in favour of sustainable development. Good design is a key aspect of sustainable development and is indivisible from good



planning and proposals should contribute positively to making places better for people.

16. The NPPF also advises that planning policies and decisions should ensure that developments:

- a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- e) Optimize the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public spaces) and support local facilities and transport networks; and
- f) 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, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

17. 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.

18. Policy H1 of the Council's Core Strategy states that in order to protect the character of existing settlements the Council will resist the intensification of smaller sites within residential areas. Limited infill will be considered acceptable and will continue to contribute towards housing supply, provided it relates well to the existing street patterns, density and character of the locality. The Council's Supplementary Planning Document 2 (SPD2) for housing design states that for infill development, site frontages shall ordinarily be a minimum of 9.25 metres for detached houses or 15.25 metres 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 1 metre between habitable rooms and plot boundaries.

19. Policy CP1 of the Core Strategy and Policy DM1 of the Council's Development Management Plan both seek to promote high quality

design in new developments that would promote the character of the locality and enhance the local identity of the area. Policy DM3 of the Development Management Plan seeks demonstration that infill development positively addresses existing street patterns and density of locality and whether the number and types of dwellings are appropriate to the locality.

20. According to the Council's GIS database the application site is located wholly within the settlement boundary of Rayleigh. Therefore, given that the application relates to a site within the settlement zone, the broad principle of development is acceptable.

#### Housing Land Supply

21. 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.
22. According to the recent Annual Monitoring Review for Rochford Council states that the Authority has a 5-year housing land supply of 4.53 years and as such the Authority lacks a five-year supply of deliverable housing sites. By allowing this proposal there will be a NET increase in the number of dwellings (albeit by 1No.) and as such if the proposal were permitted it would contribute to the existing shortfall, which is an important material planning consideration.
23. Although the absence of a 5-year housing land supply is a significant factor, it clearly does not outweigh the negative impact the proposal (if permitted) would have on the other issues outlined in this report.

#### Design and Layout

24. Good design is promoted by the National Planning Policy Framework (NPPF) as an essential element of sustainable development. It 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.
25. Policy CP1 of the Rochford District Council Core Strategy (2011) promotes high quality design, which has regard to the character of the local area. Design is expected to enhance the local identity of an area. This point is expanded in Policy DM1 of the Development Management Plan (2014) which states: *"The design of new developments should promote the character of the locality to ensure that the development*

*positively contributes to the surrounding natural and built environment and residential amenity, without discouraging originality innovation or initiative.” Policies DM1 and CP1 advise that proposals should have regard to the detailed advice and guidance in Supplementary Planning Document 2 (SPD2).*

26. Policy DM1 seeks a high standard of design requiring that developments promote the character of the locality to ensure that development positively contributes to the surrounding built environment. Part (ix) of this policy specifically relates to the promotion of visual amenity, part (x) refers to establishing a positive relationship with existing and nearby buildings and regard must also be had to the detailed advice and guidance in Supplementary Planning Document 2- Housing Design, as well as to the Essex Design Guide.
27. 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.
28. Furthermore, The National Model Design Code (B.2.iii) discusses that building heights influence the quality of a place in terms of its identity and the environment for occupiers and users. The identity of an area type may be influenced by building heights, including in terms of its overall scale.
29. The surrounding area is characterised by a variety of housing typologies which includes 1, 1.5 and 2-storey detached and semi-detached dwellings some of which incorporate projecting gables and dormer windows. The houses fronting Mortimer Road in the immediate vicinity are two-storey semi-detached houses. Primarily these houses have car parking spaces at the front and private amenity space towards the rear. Furthermore, within the vicinity of the application site it is noted that the roofscape is heterogenous comprising a mix of hips, gables and half hips. A rich palette of materials has been used to construct these neighbouring properties including render (predominantly white) and facing brick of differing colours and textures and cladding.
30. The issue is therefore whether this proposal is appropriate in terms of scale, height, position, materials and relationship with the surrounding area.
31. According to the submitted plans, the proposal is for a detached 2 storey property a driveway is proposed at the front of the

dwellinghouse, with parking for 1No. vehicle. The dwellinghouse would be accessed directly off Mortimer Road. Situated at the rear of the property will be the private amenity space, which will serve the proposal.

32. According to the submitted plans, the site frontage of the proposed development measures approximately 6.2m in width. Furthermore, according to the submitted plans the proposed development would be set in by 950mm from the boundary shared with No.45A Mortimer Road and No.1A Kings Farm (to the east) and 150mm from the shared boundary with No.43 Mortimer Road to the west. The Council's Supplementary Planning Document 2 – Housing Design requires a distance of 9.25m for detached dwellings or 15.25m for semi-detached pairs, or for the development to be of such frontage and form compatible with the existing form and character of the area within which they are to be sited. All the existing dwellings in close proximity to the site have varying frontage widths ranging from 9m to 15.1m, which are substantially greater than 6.2m. Whilst it is noted that several of the existing neighbouring plots do not strictly conform to the standards as advised with SPD2, the difference in widths is not as significant as what is proposed as part of this application. Overall, the proposal is not considered to be compatible with the existing form and character of the area, contrary to the Council's Supplementary Planning Document 2 – Housing Design.
33. It has been demonstrated that the quantum of development cannot be accommodated within the site due to its close proximity to the side boundaries and as such will appear cramped. Moreover, in the opinion of the case officer, the proposed layout and setting would not have a good relationship with the surrounding area, with poor plot width resulting in a tightly packed development at odds with the more spacious character of the locality. The development as proposed would result in an incongruous and cramped form of development out of character with and detrimental to the character and appearance of the site and surrounding environ. The layout of the proposed dwelling would not successfully reference the prevailing character of the area appearing out of keeping, to the detriment of the surrounding streetscene, contrary to policy CP1 of the Core Strategy, policies DM1 and DM3 of the Development Management Plan and the NPPF.
34. According to Plan Reference No.3092 08 shows the proposed dwellinghouse will have a roughly elongated rectilinear footprint which measures approximately 7.75m deep by 4.9m wide. The front elevation is staggered. The proposed dwellinghouse would measure 4.39m high to the eaves and to the highest part of the roof would be 6.6m. The proposal will incorporate a gable roof. It is noted that the ridge height of proposed dwellinghouse is slightly lower than the ridge height of the neighbouring property No. 43 Mortimer Road, and the applicant has tried to make the proposal appear subservient.

35. However, the proposed dwelling will be sited approximately 4m beyond ( forward of) the front elevation of No.43 Mortimer Road, which in turn will exacerbate its prominence within the streetscene. The case officer notes that the building line along this stretch of Mortimer Road is not regimented and is staggered. As a matter of fact, Nos. 19 and 21 and Nos. 29 to 35 are all sited further forward in their plots, and the front elevation of the proposed dwellinghouse roughly aligns with the front elevations of these properties. In conclusion the proposed dwelling house will be situated further forward compared to its immediate neighbours; however, due to the staggered building line present within the immediate locality, its positioning will not result in noticeable adverse impact on the character or appearance of the streetscene. The variation in the building line already exists in the area, and the proposed siting will blend with this established pattern, maintaining the overall visual harmony and will not disrupt the urban grain.
36. The proposed dwellinghouse would be constructed out of a simple palette of materials utilising facing brick, render (on the front elevation) under a concrete interlocking tile roof. The windows would be uPVC or powder coated aluminium. It is not considered that the proposed materials will have a detrimental impact on the character and appearance of the streetscene as a whole.
37. Additionally, the proposal incorporates apertures of various sizes on the front and rear elevations of the proposal, it is considered that the fenestration helps to break up the scale and massing of the proposal making it appear less stark. However, according to the submitted plans no apertures are proposed on either of the flank elevations of the proposed dwellinghouse. Consequently, these elevations would if allowed appear stridently stark and stolid and which would be exacerbated due to the large expanse of brick work and there being no relief in the guise of apertures or articulation in materials. Both the Council's Development Management Plan and the NPPF promulgate that developments should function well and add to the overall quality of the area. The documents also advise that developments should be visually attractive due to good architecture and layout. Furthermore, the Councils SPD 2 Housing Design infers that a development which is out of scale and unduly obtrusive...will be refused.
38. In the opinion of the case officer the lack of apertures on the flank elevations of the proposed dwellinghouse raises significant concerns regarding its architectural integration and contextual sensitivity. The absence of such openings detracts from the buildings ability to engage with its surroundings and contributes to a visually monotonous and unarticulated elevations. This lack of fenestration undermines the potential for the building to reflect the established architectural vernacular and urban grain of the neighbourhood, resulting in an incongruous and obtrusive form that fails to either reinforce or enhance the local built identity. Moreover, the design does not contribute



positively to the streetscape or the visual amenity of the area and is contrary to guidance enunciated within policy DM1 and the NPPF.

39. Internally the ground floor accommodation will comprise lounge, kitchen and w.c. Whilst the first-floor accommodation will consist of 1No. bedroom, study/home office and family bathroom.
40. Overall, the scale of the proposed dwelling and plot would be substantially smaller than the adjoining properties along Mortimer Road and Kings Farm. As a result, the proposed layout and setting would not form a positive relationship with the surrounding area, with the proposed building being sited close to the eastern boundary with No.1a Kings Farm and No.45A Mortimer Road and western boundary with No.43 Mortimer Road. The proposed development would as a result, appear overly dominant and an incongruous form of development out of character within the street scene which is extenuated given the limited size of the depth of the plot. Furthermore, the lack of apertures on the flank elevations makes the proposal appear monotonous and exacerbates its bulk and mass and as such fails to meet the expected standards of visual harmony, character and placemaking.

#### Impact on Residential Amenity

41. 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.
42. Amenity can be defined as a set of conditions that one ought to reasonably expect to enjoy on an everyday basis. When considering any development subject of a planning application a Local Planning Authority must give due regard to any significant and demonstrable impacts which would arise as a consequence of the implementation of a development proposal. This impact can be 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.
43. Paragraph 7.1 of the Council's SPD 2 (Housing) states the relationship between new dwellings and existing dwellings in the case of infill developments is considered to be of particular importance to the maintenance of the appearance and character of residential areas. Policy DM1 inter alia states proposals should avoid overlooking, ensuring privacy and promoting visual amenity; and form a positive relationship with existing and nearby buildings.



44. The proposed front elevation openings would result in an outlook onto the proposed public realm and hardstanding and as such no objections are raised to these apertures. Furthermore, the proposed rear elevation openings at ground floor level would result in minimal harm to the amenity of adjacent neighbours due to shielding from sought boundary enclosures which would be erected around the periphery delineating the rear boundary, which will be conditioned in the event that planning permission is approved.
45. According to the submitted plans the proposed dwellinghouse will be at 90° angle in relation to the neighbouring dwelling located No. 45A Mortimer Road. The case officer noted that there were several windows (both at ground floor and first floor levels) which served habitable rooms and overlooked the application site. The proposed dwelling would be 7.7m away from the first-floor windows at No.45A Mortimer Road. According to the Essex Design Guide there should be a minimum separation distance of 15m between the rear of the existing property and the flank elevation of the proposal. It is considered that the proposed dwelling by reason of inadequate separation distances, orientation, siting, mass and scale would result in an unacceptable overbearing impact upon the living conditions of neighbouring occupiers. The addition in this regard would significantly detract from the outlook currently enjoyed from the habitable rooms of No.45a Mortimer Road, as the proposed eastern side would dominate the outlook from their habitable rooms by comparison and replace a feeling of relative spaciousness with an oppressive expanse of built form contrary to guidance stipulated within the Essex Design Guide, SPD2 and Policy DM1 of the Council's Development Management Plan.
46. On the opposing side of the application site is No.43 Mortimer Road (to the west) a two storey detached dwellinghouse. The case officer noted that on the flank elevation of this property (No.43) which will be parallel to the flank elevation of the proposal there was a couple of apertures at ground floor level, which will be screened by any boundary treatment. Furthermore, as the proposal sits closer to Mortimer Road in its plot, the proposal will not breach the Council's 45 degree guidance. As previously attested too there are no windows in the flank elevation of the proposal and as such there will be no loss of privacy, daylight or an overbearing impact. Due to the articulated design of the property, it will not have a significant impact on the private amenity space attributable to No.43.
47. The rear boundary of No.1 Kings Farm is contiguous with the rear boundary of the application site. The garden within the proposal would be relatively shallow measuring some 7.1m deep. The case officer notes that the first floor window in the rear elevation serves a bedroom. Therefore, in the opinion of the case officer the proposed development with its first floor window directly overlooking the private rear garden of No.1 Kings Farm, would create significant over looking, resulting in a loss of privacy for the neighbouring property. Given the shallow garden

depth at just 7.1m and the close juxtaposition and orientation of the two properties, the proposed window would allow direct views into the private outdoor amenity space, which is considered unacceptable in terms of residential amenity and contrary to the provisions of policy DM1 and guidance advocated within the NPPF.

48. It is considered that the proposed development would give rise to material overlooking onto a neighbouring property. The proposal is therefore not compliant with policies DM1 and DM3 of the Development Management Plan.

#### Living Conditions of Future Occupiers

##### Garden Sizes

49. The NPPF seeks that the creation of places are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
50. The Council's Supplementary Planning Document 2 requires a minimum 100m<sup>2</sup> garden area for all new dwellings except one and two-bedroom dwellings where a minimum private garden area of 50 m<sup>2</sup> would be required. According to the submitted plans, the proposed new dwellinghouse would have a private rear space measuring approximately 50m<sup>2</sup>, which is in accordance with the guidance advocated within the SPD.

#### Sustainability

51. The Ministerial Statement of the 25th March 2015 announced changes to the government's policy relating to technical housing standards. The changes sought to rationalize the many differing existing standards into a simpler, streamlined system and introduce new additional optional Building Regulations on water and access, and a new national space standard.
52. 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.
53. 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.

54. A two-storey dwelling which would comprise 1 bedroom would require a minimum Gross Internal Floor Area (GIA) of 58m<sup>2</sup>. Additionally, the dwelling must have a minimum of 1.5m<sup>2</sup> of built-in storage. The standards above stipulate that single bedrooms must equate to a minimum 7.5m<sup>2</sup> internal floor space while double bedrooms must equate to a minimum of 11.5m<sup>2</sup>, with the main bedroom being at least 2.75m wide and every other double room should have a width of at least 2.55m. A built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements but should not reduce the effective width of the room below the minimum widths indicated. The GIA of the proposed dwellinghouse equates to approximately 69.6<sup>2</sup>, and as such in terms of overall GIA the proposal complies specified technical standards.

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

Bedroom No.1	11.9m <sup>2</sup>
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56. According to the submitted plans the bedroom complies with aforementioned policies and exceed the internal floor area requirements. The case officer has measured the study/home office and according to the submitted plans the floor area of this room is approximately 4.7m<sup>2</sup>. It is considered that this room is too small to be classed as a bedroom. In reference to the submitted plans there is some storage space which will be situated under the staircase. However, it is not explicit how large this storage area is. In any event, the proposal substantially exceeds the recommended minimum GIA for a two-storey one bedroom dwellinghouse and as such it is considered insufficient justification to warrant a refusal and substantiate it at any future Appeal.

57. 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.

58. 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.

## Drainage

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

## Flooding

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

## Refuse and Waste Storage

61. The Council operates a 3-bin system per dwelling consisting of a 240l bin for recyclate (1100mm high, 740mm deep and 580mm wide), 140l for green and kitchen waste (1100mm high, 555mm deep and 505mm wide) and 180l for residual waste (1100mm high, 755mm deep and 505mm wide). A high-quality development would need to mitigate against the potential for wheelie bins to be sited (without screening or without being housed sensitively) to the frontage of properties which would significantly detract from the quality of a development and subtly undermine the principles of successful place making. The guidance states that wheelie bins are capable of being stored within the rear amenity areas of properties which have enclosed areas but there is a requirement for each dwelling to be located within approximately 20 m (drag distance) from any collection point. In this case the rear garden space would provide adequate storage space whilst the drag distance would be below 20m owing to the distance of the proposed dwelling from the road and in accord with the guidance.

## Impact on Highway Safety

62. 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.

63. The Council has recently adopted the Essex Parking Guidance (2024), which now supersedes the previous 2009 guidelines used by Rochford District Council. The Parking Standards states that for dwellings with one bedroom, one off-street car parking spaces are required with dimensions of 5.5m x 2.9m. Garage spaces should measure 7m x 3m to be considered usable spaces.
64. In accordance with paragraph 116 of the NPPF, it must be noted that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
65. The proposed site has sufficient space within the proposed curtilage to provide at least one car parking space at the required dimensions as stated in the EPOA parking standard. It is noted numerous neighbouring properties have hard-surfaced their frontages in order to provide vehicular parking, a recent update to the Framework (2024) and the introduction of associated design guidance, have emphasised the use of soft landscaping ensuring that schemes are visually attractive. Therefore, it would be reasonable for the Council to impose a condition relating to soft landscaping scheme to be submitted in order to avoid the complete hard surfacing of the site frontage.
66. Notwithstanding the above, the case officer considered it prudent to consult colleagues in Essex County Council Highways Authority regarding the proposal and they state that *“The application includes provision of a one-bedroom dwelling with off-street parking. The existing vehicle access is retained and to enable the parking space to be utilised fully, the Highway Authority recommends that the vehicle gates shall be removed. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable”*.
67. The Highways Engineer goes on to state that they have no objections to the proposal subject to conditions relating to no unbound materials, prior to occupation one off street parking space to be provided, cycle parking ( though this can adequately be provided in the rear garden area) , residential travel information pack, reception and storage of building materials and standard informatives.
68. In conclusion, the Highways Authority has reviewed the submitted information and concludes there would be no unacceptable impact on highway safety or a severe impact on congestion. There is no reason for the Local Planning Authority to take an alternative view and any intensification resulting from the provision of 1No. additional dwelling in this area is not deemed to be of such severity that would warrant refusal of the application. Overall, it considered that the proposal subject to the aforementioned conditions complies with the relevant

policies contained within the Development Management Plan and the NPPF, and as such there is insufficient justification to warrant a refusal.

## Trees

69. Policy DM25 of the of the Development Management Plan (2014) states that:

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

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

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

## Ecology

### On-site

71. The NPPF at section 15 indicates the importance of avoiding impacts on protected species and their habitat. Where impact is considered to occur appropriate mitigation is required to offset the identified harm. The council's Local Development Framework Development Management Plan at Policy DM27, requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.
72. 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.
73. 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.

74. A document produced by Greenlight Environmental Consultancy and dated 7th November 2024 is submitted with the application by the applicant. It concludes that habitats on site are comprised entirely of developed land, sealed surface and vegetated garden.
75. The subject site is partially covered in hardstanding and manicured lawn with some ornamental bushes located around the periphery. Therefore, as this site is garden land in a suburban location, it is highly unlikely to contain habitat for protected species which would be adversely affected by the development.

#### Off-site

76. 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.
77. The development for one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE's requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for one new dwelling.

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

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

- No

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

- No

78. 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.

79. 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 applicant has paid the necessary contribution.

Biodiversity Net Gain

80. 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.

81. 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, the proposal would be exempt from the statutory biodiversity gain condition because the development meets the exemption criteria relating to self-build development. The applicant has not therefore been required to provide any BNG information.

82. As the proposal is for development to which the statutory biodiversity gain condition would not apply, a planning condition to advise any future developer that they would not have to discharge the statutory gain condition prior to the commencement of development is recommended.

#### Other Matters

83. Several objectors are concerned that the LPA are reconsidering the current resubmission having recently refused a similar application. However, according to guidance previously set out in Circular 08/2005 and the more up to date New Planning Practice Guidance (NPPG) advises that whilst an LPA has at its discretion the power to refuse to entertain an application, this discretionary power should only be used where they believe that the applicant is trying to wear down opposition by submitting repeated and frivolous applications. If an application has been revised in a genuine attempt to take account of objections to an earlier proposal, the local planning authority should determine it (see *Harrison, R (on the Application Of) v Richmond upon Thames Borough Council* (2010)). It is considered that the applicant has submitted revised plans in genuine attempt to overcome some of the previous reasons for refusal; therefore, the LPA is duty bound to consider the revised application in light of guidance enunciated in the NPPG.

84. Some objectors have inferred that if the proposal is allowed it will create a precedent for similar types of development within the locality. However, in relation to planning every development is different, every site is different and planning policies and guidance etc. are constantly evolving. The notion of planning precedent is entirely erroneous a search of case law does not reveal a judicial direction on the existence of planning precedence because it cannot in fact actually exist. The concept of planning precedent essentially flies in the face of prime directives which are that planning permission should be granted unless policy or material considerations dictate otherwise and that every planning permission must and shall be considered on their individual merits. However, in planning law, there is a “principle of consistency” in decision-taking. The principle is not that like cases must be determined alike, but a decision-taker ought, when considering a materially similar proposal, to have regard to the principle of consistency, to have good reason if deciding to depart from the previous decision, and to give reasons for any such departure. In regards to this there have been numerous Court cases, for example, *Mann LJ in North Wiltshire District Council v Secretary of State for the Environment* (1993) 65 P & CR 137: “One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so

that there is consistency” and R (Midcounties Co-Operative Limited) v Forest of Dean District Council [2017] EWHC 2050 and Baroness Cumberlege v Secretary of State for Communities & Local Government [2017] EWHC 2057

85. Concerns have raised that if the application is approved it will lead to a loss of a view. Government Guidance on what can constitute a material planning consideration is very wide and so the Courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of view could not be material considerations. Consequently, in light of the above, issues do with the loss of a view and devaluation of a property are not considered to be material planning considerations.
86. During the course of the planning application a number of concerns were raised regarding land ownership and the objectors stated that the applicant did not reside at the address, and they claimed that he lived outside the district boundaries. Firstly, it is important to note that the planning system entitles anyone to apply for permission to develop any plot of land, irrespective of ownership. Typically, issues revolving around land ownership are private matters and as such are not considered to be a material planning consideration. However, it is imperative that the applicant complete the correct ownership certificate. As a planning application is a legal document and if the incorrect certificate has been completed, then there is a risk that the permission granted may be made invalid and it is possible that the High Court may quash any permission. In any event, the granting of planning permission does not remove or negate the rights of the legal landowner. In addition to the above, providing that the applicant has completed correct certificate of ownership they are not legally required to live at the same address at which the development is occurring.

### **Equalities and Diversity Implications**

87. 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.
88. The protected characteristics are age, disability, gender, race, sexual orientation, religion, gender reassignment, marriage/civil partnerships, and pregnancy/maternity.

89. 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**

90. Refuse.

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

Rayleigh Town Council: No reply received.

Essex County Council Highways Authority:

No objection, subject to the imposition of conditions relating to no unbound materials, prior to occupation one off street parking space to be provided, cycle parking, residential travel information pack, reception and storage of building materials and standard informatives.

Neighbour representations:

9 responses to the proposal have been received from the following addresses:

Kings Farm: 1, 2, 5.

Mortimer Road: 32 (2 letters), 38, 43 (2 letters), 45A.

And which in the main make the following comments and objections (summarised):

- Misleading measurements on submitted plans.
- There's already a previously refused application.
- There would be overdevelopment of the site.
- If allowed the proposal will set a precedent.
- There would be overlooking.
- The proposal will be overbearing and lead to the loss of my view
- The design, scale and mass of the proposed dwellinghouse is out in keeping with the locality
- There is inadequate parking for the proposed development. If the proposal was allowed, it would exacerbate parking problems in the locality
- The developer does not even live at the address
- Felling of trees.
- How will the Council prevent the study being converted into a bedroom.
- The property will look out of place.
- Labels on the room do not define the use to which the room will be used once in existence.
- Loss of public space.

- Development would negatively impact the availability of parking for neighbours.

1 letter of support of the application received from the following address:

Kings Farm: 1A.

And which makes the following comments in support:

- This is the type of housing that the local borough needs.
- If the site is not developed it will remain unused bringing no contribution to the area.
- 

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

National Planning Policy Framework (December 2024).

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policies CP1, H1, ENV1, T8.

Rochford District Council Local Development Framework Development Management Plan (December 2014) – policies DM1, DM3, DM4, DM8, DM9, DM10, DM25, DM27 and DM30.

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

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

The Essex Design Guide.

Natural England Standing Advice.

### **RECOMMENDATION: REFUSE**

1. The proposed dwelling by virtue of its layout, setting and appearance would create a building plot and dwelling which would not be compatible with the prevailing character of the area, would be out of keeping with the established pattern of development and if allowed would represent overdevelopment of the site and prove detrimental to the character and appearance of the site and the surrounding area. It is therefore, considered to be contrary to the National Planning Policy Framework and policies Policy H1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan.



2. It is considered that the proposed dwelling by reason of inadequate separation distances, orientation, siting, mass and scale would result in an unacceptable overbearing impact upon the living conditions of neighbouring occupiers. The addition in this regard would significantly detract from the outlook currently enjoyed from the habitable rooms of No.45a Mortimer Road, as the proposed eastern side would dominate the outlook from their habitable rooms by comparison and replace a feeling of relative spaciousness with an oppressive expanse of built form contrary to guidance stipulated within the Essex Design Guide, SPD2, Policy DM1 of the Council's Development Management Plan and the NPPF.
3. In the opinion of the Local Planning Authority the proposed development with its first-floor window directly overlooking the private rear garden of No.1 Kings Farm, would create significant overlooking, resulting in a loss of privacy for the neighbouring property. Given the shallow garden depth at just 7.1m and the close juxtaposition and orientation of the two properties, the proposed window would allow direct views into the private outdoor amenity space, which is considered unacceptable in terms of residential amenity and contrary to the guidance stipulated within the Essex Design Guide, SPD2, Policy DM1 of the Council's Development Management Plan and the NPPF.
4. The proposed dwelling due to the lack of fenestration on the flank elevations of the proposed dwelling, raises significant concerns regarding its architectural integration within the context of the surrounding area. The absence of apertures and articulation on these elevations would result in visually flat and monotonous elevations that fail to respond to the established architectural character and context. This design approach undermines the buildings potential to engage with the surrounding streetscape, creating an incongruous and visually intrusive form that would be out of character with the local vernacular. The absence of appropriate openings diminishes the building's ability to reflect the proportion, rhythm, and detailing typical of the area, resulting in a contrived and discordant appearance contrary to the guidance stipulated within the Essex Design Guide, SPD2, Policy DM1 of the Council's Development Management Plan and the NPPF.

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

Application No :	24/00493/FUL      Zoning : MGB
Case Officer	Mr Richard Kilbourne
Parish :	Rayleigh Town Council
Ward :	Downhall And Rawreth
Location :	Land Adjacent Southview Vanderbilt Avenue Rayleigh
Proposal :	Use of land for the siting of caravans for residential purposes and the erection of a dayroom, and laying of hardstanding, ancillary to that use. (Little Meadow)

## **SITE AND PROPOSAL**

1. The application site is located wholly within the Metropolitan Green Belt. The application site is broadly rectangular in shape, having an area of some 1250m<sup>2</sup> (approx.). When the case officer conducted his site visit, he noted that there were existing structures already sited upon the plot of land, which were a loose box stables, a shed unit and an existing static caravan (which is just outside the area edged in red defining the site). Access to the site is provided by an existing driveway. Vehicles accessing the site are able to enter the site without blocking the highway, turn, and leave in a front facing gear. The existing access is located on the northern side of Vanderbilt Avenue, to the west of Hullbridge Road. Vanderbilt Avenue and Hullbridge Road form the sites southern and northern boundaries, respectively.
2. The proposal is for change of use of land for the siting of caravans for residential purposes and the erection of a dayroom, and laying of hardstanding, ancillary to that use. (Little Meadow) at Land Adjacent Southview Vanderbilt Avenue, Rayleigh. The applicants have Romany Gypsy status.

## **RELEVANT PLANNING HISTORY**

3. Application No. 14/00190/LDC - Application for a Certificate of Lawfulness for Use of Land as Garden – Refused - 14.05.2014.
4. Application No. 05/00212/LDC - Application for Certificate of Lawfulness for Stables Building, Timber Shed and Caravan All Used For Storage Purposes (Not Residential) For More Than 10 Years Prior to the Date of This Application – Split Decision - 15.10.2012.

## **MATERIAL PLANNING CONSIDERATIONS**

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

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

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

#### Green Belt considerations

7. Section 13 – Protecting Green Belt land of the National Planning Policy Framework (NPPF) states that great importance is attached 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 permanence. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate except for in a limited number of circumstances. Development that does not fall to be considered under one of these categories will be considered inappropriate development and by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
8. The National Planning Policy for Traveller Sites (revised in December 2024) document, which sits alongside the NPPF, considers traveller sites (temporary or permanent) in the Green Belt to constitute inappropriate development. In addition, the document states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to outweigh the harm to the Green Belt so as to establish very special circumstances.
9. Moreover, para. 155 of the framework, which enunciates that a number of other circumstances when it is considered that development within the green belt does not constitute inappropriate development, and these are: -
10. 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.
11. Of particular relevance is exception b) of para 155 which states "*There is a demonstrable unmet need for the type of development proposed*". This is further clarified in the footnote which states "*...in the case of traveller sites means the lack of a five year supply of deliverable traveller sites assessed in line with Planning Policy for Traveller sites*".
12. The National Planning Policy for Traveller Sites (2024) para. 25 requires that in addition to the above, when making decisions on such planning applications the following criteria are considered:
- a) the existing level of local provision and need for sites;
  - b) the availability (or lack) of alternative accommodation for the applicants;
  - c) other personal circumstances of the applicant
  - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
  - e) that they should determine applications for sites from any travellers and not just those with local connections
13. Furthermore, Policy H7 contained within the Council's Core Strategy (2011) document states that the Council will allocate 15 pitches for gypsy and traveller accommodation by 2018. Policy GT1 of the Council's Allocations Document (2014) allocates a site of 1 hectare (removed from the Green Belt) for gypsy and traveller accommodation in the Western part of the district. Policy GB1 of the Core Strategy (2011) seeks to protect Green Belt land by directing development away from Green Belt land so far as is practicable.

#### Impact on the Character and Openness of the Green Belt

14. Policy CP1 of the Council's Core Strategy and policies DM1 and DM3 of the Council's Development Management Plan are applicable to the consideration of design and layout. The NPPF encourages the effective use of land in meeting the need for homes whilst maintaining the desirability of preserving an area's prevailing character and setting taking into account matters including architectural style, layout, materials, visual impact and height, scale and bulk.
15. 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.

16. To the southern and eastern boundaries of the application site the case officer observed that close boarded timber fencing measuring approximately 1.8m high demarcated the periphery. On the opposite side of the fence was mature native hedgerow, which was punctuated at sporadic intervals by large mature trees. The case officer witnessed that there was no boundary treatment demarcating the northern aspect of the application site, which backed onto an open field. To the west was an access road which will serve the proposal and there were a couple of static caravans and outbuildings. Vanderbilt Avenue traverses the southern aspect of the application separating it from "Little Orchard" which is also a Gypsy and Traveller site.
17. According to plan reference 23\_1304-003 Revision P02 the application site is a rectilinear parcel of land measuring approximately 17.3m deep by 68.4m long and is roughly 1233m<sup>2</sup> in area. Located within the area edged red is an extensive area of hardstanding, which provides a turning head so that vehicles can access/egress the site in a forward propelling gear, a utility/day room will be located abutting the eastern aspect of the site adjacent to Hullbridge Road. A single mobile home will be situated close to the southern aspect whilst directly opposite will be a touring caravan pitch. As previously stated, the entire application site is washed over by the Green Belt.
18. In the opinion of the case officer the proposed dayroom, hardstanding, the siting of 1No. static caravan, touring caravan and other associated paraphernalia such as fencing etc. is considered to constitute urban sprawl within the Green Belt, contrary to Policy GB1 and the NPPF. The proposal would be considered as inappropriate development unless it can be demonstrated that there are very special circumstances which outweigh the harm to the green belt. These very special circumstances will be explored below.
19. Notwithstanding the above, Policy H of the National Planning Policy for Traveller Sites (PPTS) document states that when determining planning applications for Traveller sites local planning authorities should attach weight to the following matters:
- a) effective use of previously developed (brownfield), untidy or derelict land;
  - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
  - c) promoting opportunities for healthy lifestyles, such as ensuring adequate landscaping and play areas for children; and
  - d) not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.

## Very Special Circumstances

20. Policy B of the PPTS requires local planning authorities, in preparing local plans, to set targets which address the likely permanent and transit site accommodation needs of gypsies and travellers in their area. Local planning authorities are encouraged to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets whilst, amongst other things, protecting local amenity and the environment.

21. The Planning Policy for Traveller Sites (PPTS) defines, for planning purposes only, gypsies and travellers as:

*“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependents’ educational or health needs or old age have ceased to travel temporarily or permanently, and all other persons with a cultural tradition of nomadism or of living in a caravan, but excluding members of an organised group of travelling showpeople or circus people travelling together as such”.* (PPTS Appendix 1 December 2024).

22. The NPPTS further sets out that when determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:

- a. Whether they previously led a nomadic habit of life;
- b. The reasons for ceasing their nomadic habit of life;
- c. Whether there is intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

23. However, the Court of Appeal (*Smith v Secretary of State for Levelling Up, Housing & Communities & Anor*, 2022) has recently (November 2022) held that the Government’s definition of gypsies and travellers within the NPPTS is unlawfully discriminatory. This is because (amongst other reasons) Romany Gypsies are members of an ethnic group, the defining feature of which was not being nomadic but “the act of living in caravans”. It was apparent from the Public Sector Equality Duty analysis of this definition that the equality objectives set out at s149(1) of the Equality Act 2010 were not met, with The Court concluding that the exclusion of this definition by the Government was to reduce the number of gypsies and travellers who can obtain permanent or temporary planning permission.

24. Policy H7 of the Council's Core Strategy sought to allocate 15 pitches by 2018. This commitment is reflected through an allocation of a site at Michelin's Farm (Ref: Policy GT1) in the Council's Allocations Plan. However, the possible development of this site has encountered various difficulties, including contamination, issues of land ownership and highway access, lack of desire by the County Council to fund a



further public site. Development has yet to commence, neither has the Council exercised its power to compulsory purchase the site and despite pre-application enquiries, no application for planning permission has been submitted or granted. There are no other known alternative sites available for development. There are no other allocated sites in the district and no public sites available for occupation.

25. The case officer has consulted with colleagues in the Planning Policy section who reaffirm that *“There is no update or movement on the Core Strategy allocation for 15 pitches at Michelins Farm. Indeed, the site’s owner/developer has made representations at the last Local Plan consultation about their intention not to develop the site for such, and around its unsuitability to do so. We are not aware of a firm strategic position from Members to change this”*.
26. The Council's latest formal assessment of the need for additional Gypsy or Traveller pitches is set out in the South Essex Gypsy, Traveller and Travelling Showpeople Accommodation Assessment Update 2019. This assessment identified a need for up to 18 additional pitches for households meeting the PPTS definition of a Traveller with a further 3 pitches for households where it was unknown whether the definition was met. Of note according to the aforementioned assessment, 1 of these 18 pitches is made up by “1 temporary pitch”, which refers to the temporary permission granted on this application site. The application site was occupied at the time of this assessment. Whilst sites at Land Adjacent to St Theresa, Pudsey Hall Lane, Canewdon (reference 18/00318/FUL) and Land Opposite 2 Goldsmith Drive, Rayleigh (reference 17/01240/FUL), Land North of 172 Rawreth Lane (reference 21/00146/FUL), Caravan at Land West of Pumping Station Watery Lane, Rawreth (22/00229/FUL), and Rainbows End, Beeches Road, Rawreth (21/00673/FUL) have received planning permission since this assessment took place, these sites only comprised a total of 7 pitches and therefore there remains a need for at least 11 pitches dedicated to households meeting the PPTS definition. This updates the previous requirement to Policy H7 of the Core Strategy.
27. The Gypsy and Traveller Accommodation Assessment (GTAA) 2019 update is the Council's most up to date position as of 27th September 2024 relating to need for additional pitches in the district. The GTAA stated of the Gypsy and Traveller households in Rochford that met the planning definition, it showed between the years 2016-2021 the council had a need for, and this included the current unmet need of any unauthorised pitches, 14 additional pitches to be delivered by 2021, with a further pitch to be provided in the following 5 year period 2021 – 2026, amounting to 15 additional pitches required by 2026. The GTAA forecast up to 2038 was for 18 additional pitches.

28. Since the publication of the 2019 GTAA, and in light of the recent decision for the plot adjoining this site, 15 pitches have been delivered. However, as with any other form of housing, there is no ceiling upon provision.
29. As previously stated, in December 2023 the government changed the planning definition of a Gypsy and Traveller following a successful court case, where the definition was found to unlawfully discriminate against the elderly or infirm who had to give up travelling permanently because it was no longer possible for them to do so. The changes in this definition now meant that those Gypsy and Travellers, who in 2019 were found not to meet the definition, now more than likely did and as a result an additional need for pitches from these families now had to be delivered. This has added an additional 11 pitches to be provided over the plan period, plus an assumed need for 3 additional pitches where interviews were not possible. The figures are therefore 18 who met the 2015 definition plus 3 where it was unknown plus another 11 who now likely met the new amended definition. This equals 32 additional pitches. As previously mentioned, 15 additional pitches have been approved since 2019. 32 - 15 leaves a further 17 pitches to be delivered over the plan period to 2038.
30. Paragraph 28 of the PPTS states if a local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites, the provisions in paragraph 11(d) of the National Planning Policy Framework apply. Local planning authorities should consider how they could overcome planning objections to particular proposals using planning conditions or planning obligations including:
- a) limiting which parts of a site may be used for any business operations, in order to minimise the visual impact and limit the effect of noise;
  - b) specifying the number of days the site can be occupied by more than the allowed number of caravans (which permits visitors and allows attendance at family or community events);
  - c) limiting the maximum number of days for which caravans might be permitted to stay on a transit site
31. Para 11 d) of the NPPF states the following where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed

places and providing affordable homes, individually or in combination.

32. As previously attested to the local planning authority cannot demonstrate an up-to-date 5 year supply of deliverable sites. Of particular relevance and an important material consideration is an appeal relating to a proposed traveller site at the Pumping Station, Watery Lane (app ref: APP/B1550/C/16/3162651) was allowed in 2017. The Planning Inspector in relation to this site stated that as the vast majority of the district is designated Green Belt (MGB allocation tightly drawn to existing settlements) any potential traveller site would have to be on land that is currently designated Green Belt, meaning that the application site being on Green Belt land does not necessarily mean that the application should be refused on this basis, as any other future traveller site provision for the Rochford District would also have to be on land that is currently Green Belt.
33. The Inspector for the appeal, which was allowed in February 2021 at Pudsey Hall Lane, Canewdon (ref: APP/B1550/C/18/3209438) stated that the Council has an under supply of pitches and the position has not improved since permissions were granted for the above appeal sites. The Inspector goes on to state that in fact, the position is worse than in the 2018 timescale in which a 15-pitch allocation was to be delivered but was not met and has now long expired with no realistic prospect of an application coming forward as things currently stand.
34. In referring to the need for sites in the district, the Planning Inspector for the appeal (app ref: APP/B1550/C/16/3162651) in relation to the traveller site at the Pumping Station, Watery Lane Rawreth, stated the following in regards to the lack of traveller site provision in the district: *“Delay in delivery of [policy] GT1 means that currently no provision of pitches is being realised through the development plan process. The only way at the moment (and for the last 6 years following the adoption of a 15-pitch requirement) is in response to a planning application. Given the existing situation, the Council accepted at the hearing that it did not have a 5-year supply of specific deliverable sites as required by paragraph 10 of the PPTS. Neither does it have a supply of sites or broad locations for growth for years 6 to 10 also required by that same paragraph. Given the extent of Green Belt in the District, ad hoc sites coming forward are more likely than not going to be within it.”*
35. More recently, the Inspector for the appeal at Land Opposite 2 Goldsmith Drive (app ref: APP/B1550/C/18/3212763) made the following observations in relation to the supply of gypsy and traveller sites:
- [40.] The Council witness confirmed that although he had recently learned that there was potential for the Michelins Farm site to be the subject of a compulsory purchase order, there was no certainty that the site would move forward. He explained that options were going to be*

*considered, potentially in September 2021, for addressing the supply of sites, and that this has been hampered by other factors including staff availability in the Council's planning policy team. In summary while the Michelins Farm site, which is the only allocated site, has not been ruled out by the Council, there is no certainty that it will deliver the necessary supply of sites and there are no other options currently available.*

*[41.] The Council officer also confirmed that the Council has no criteria based policy which would address 'windfall' sites, neither had it had such a policy for several years. Taken together with the significant and as yet unresolved delay in bringing forward the Michelins Farm site, this amounts not only to an absence of supply of sites but also a failure in terms of policy provision. These factors also weigh significantly in favour of the development.*

36. This view was also supported by the Inspector for the appeal at Pudsey Hall Lane, Canewdon (app ref: APP/B1550/C/18/3209438) whereby it was discussed that in the absence of a 5-year supply, significant weight is warranted to the deficit in supply which has remained unchanged for some years. Taking into account the above, it is clear that despite the residential development for use as a Gypsy and Traveller site being deemed inappropriate development in the Green Belt, there is an absence of a five-year supply of sites and this should be given significant weight.

37. The case officer considered it was prudent to seek advice off colleagues within the Policy section to ascertain whether there had been any further updates in relation to gypsy and traveller pitch provision within the district and they state that "A new Essex-wide GTAA has been commissioned, with fieldwork having taken place in 2023. This will provide an updated need figure for the period 2023-2042, based on the latest methodologies and also including the update to the definition. This will inform the future need figures the Emerging Local Plan will need to address and based on it, officers will be producing a site assessment paper and assessing if there is sufficient supply to meet needs through existing sites or if a call for further sites is needed. We were supplied with a draft of this in late September, however we are querying the data with the consultants, ORS, meaning this latest assessment is not yet in a position to go before Members or be adopted.

*The next Local Plan consultation stage (Regulation 18) is expected to take place in 2025, although due to the recent Government consultation on major planning reforms, the previously-adopted Local Development Scheme is likely to be updated and should not be used as a guide. As a consequence, there is presently no formal adopted strategy for meeting the District's G&T accommodation needs, other than the existing GT1 site allocation at Michelins Farm, which has clear issues with deliverability".*

38. In addition to the above, the case officer is aware that a similar applications 24/00540/FUL and 24/00541/FUL Mobile homes adjacent Cherry Hill Farm - Land Opposite Witherdens Farm Chelmsford Road which were sites located next to each other. These applications sought retrospective planning permission for the Use of Land as a Gypsy and Traveller Pitch. 2 x Mobile Home, 2 x Touring Caravan, 2 x Day Room and were placed on the Weekly List week ending 8th November 2024 (24/00540/FUL) and 15<sup>th</sup> November 2024 (24/00541/FUL) both which were recommended for approval. These applications were subsequently approved. In any event, with planning permission approved for 24/00540/FUL and 24/00541/FUL there remains a significant shortfall in provision, which needs to be addressed.

#### Lack of alternative sites

39. There are no pitches that have been delivered through the Council's policy provision and there are no public sites currently available. No other suitable and available sites accessible to the applicant have been identified. At present there are 17 pitches which benefit from planning permission as of August 2021. Whilst there have been a number of sites granted planning permission recently (as detailed above), none of these are available.

40. It is considered by the Council and demonstrated by the applicant, that there are a lack of alternative provisions, and this weighs heavily in favour of the development attracting very significant weight.

#### Gypsy and Traveller Status

41. The ethnicity and the personal circumstances of an applicant would not normally be a material consideration of a planning application as they would not ordinarily be accorded any significant weight compared to local development plan and national policy considerations. It is, however, recognised that the needs of those who can substantiate Gypsy and Traveller status for planning purposes do call for special consideration and are a material consideration in planning decisions. The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community, as clearly highlighted by the production of the National Planning Policy for Traveller Sites (NPPTS).

42. The applicant claims Romany Gypsy and Traveller status stating that he has spent his life travelling round various parts of the country and still travels to various fairs and shows. Furthermore, the applicant has provided a detailed overview of the necessity and justification of the proposal and their family history. For brevity, the applicant and his wife claim that they have no fixed residency or suitable place of their own to settle, sometimes resorting to roadside accommodation or doubling up on friends and relatives' pitches. The agent states that whilst the couple



do not have children, they are intending on starting a family when they get a fixed abode. Furthermore, whilst the applicant does not have any of their own children, they do care for their nephews which have learning difficulties and their elderly relatives all of which live in close proximity to the site.

43. Consequently, the applicant wishes to provide a lawful and permanent family home for his family and extended family in an area where they have associations and already engage with local services. The agent inferred that the application site would not be used for business purposes.
44. Consequently, refusing the application would contribute towards loss of the family's potential home, thus interfering with their private and family life, and the apparent lack of immediately available alternative accommodation makes such interference more serious. In the absence of other available sites, there would be a possibility of a roadside existence. These matters are relevant to the proposed occupants' rights under Article 8 of the European Convention on Human Rights in relation to respect for private and family life, and also to Article 1 of the First Protocol in relation to peaceful enjoyment and protection of property, and as incorporated by the Human Rights Act 1998.
45. In addition to the above, the family are registered at local doctor surgeries. It is clear that the applicant and his family have ties and links to extended family members within Essex. Culturally such family ties are important and cannot and will not be lightly put aside. Moreover, the applicant and his wife help to provide childcare for their nephews both of whom are of school age and care for their infirm relatives.
46. Taking into account of all of these factors, the personal circumstances of the applicant and his family, weigh significantly in favour of the development.

#### Green Belt balance

47. It has been identified that the proposed use of the site would harm the Green Belt, which should be given substantial weight. However, significant weight is attached to the need for gypsy and traveller sites, the lack of supply of sites particularly the uncertainty in bringing forward the only allocated site, the absence of policy and the lack of available alternative accommodation for the applicant and the accessibility to health services which a stable base provides. Moreover, the applicant and his wife provide assistance to their immediate relatives.
48. Given the lack of availability and delivery for gypsy and traveller sites within the district and the extent of Green Belt land within the district, it is inevitable that site provision will need to be accommodated within the Green Belt. The NPPF makes it clear that any harm to the Green Belt must be clearly outweighed by other considerations. In this case, there



are a number of matters which are considered to weigh significantly in favour of the application and this conclusion would be consistent with the outcome of the appeal decisions discussed. Subsequently, the cumulative weight of these other considerations clearly outweighs the substantial harm arising from inappropriateness and urban sprawl in the Green Belt.

## Design

49. In 2008 the Department for Communities and Local Government produced a good practice guide for designing gypsy and traveller sites. Whilst this was withdrawn in 2015 and replaced by the NPPTS this replacement policy does not provide as helpful guidance on day rooms as its predecessor.
50. As previously stated, the applicant is proposing to erect 1No. detached dayroom which will be situated towards the rear of the site (westerly aspect). According to plan reference 23\_1304-005 Revision P01 the proposed day room will measure approximately 4.8m long by 3.5m wide and are 2.2m high to the eaves and 3.5m high to the apex of the pitched roof. The footprint of the proposed day room will measure roughly 16.8m<sup>2</sup>. The day room will be constructed on a brick plinth and the remainder would be constructed out of block (presumably) and the elevations will be clad in timber under a slate roof. Located on the front elevation will be 1No. personnel door and 1No. window on the opposing elevation. On the flank elevation there will be 1No. aperture and no other apertures are proposed on the remaining elevation. Paragraph 7.17 of the Designing Gypsy and Traveller Sites: a Good Practice Guide (DGTS) outlines that the amenity building must include as a minimum: hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bath/shower room; a kitchen and dining area.
51. According to the submitted plans the internal accommodation will comprise a separate bathroom and kitchen. It is understood from the DGTS Guidance that the day room would be used for cooking and eating as it is not part of the traditional way of life for the gypsy and traveller community to do anything other than sleep within their mobile homes. This day room would serve one pitch and one family.
52. The scale of the proposed day room is considered to be reflective of the scale recommended to serve the pitch by the former DGTS Guidance. The scale proposed is appropriate for the applicant and his wife to utilise as is traditional to do so for the gypsy and traveller community.
53. Taking into account the applicant's culture and necessity for a day room to serve the pitches and the requirement by the NPPF for planning decisions to not exclude any part of the community, it is considered that

there are very special circumstances which exist that outweigh the harm to the Green Belt in this situation.

#### Impact on Residential Amenity

54. 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.
55. 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.
56. It is considered that the development of the site for the siting of a caravan for residential use, the laying of hardstanding and erection of a dayroom ancillary to that use does not result in significant noise, air or water pollution. Moreover, it is noted that no letters of objection have been received from any of the adjacent properties in relation to the proposal, and whilst not a determinative factor it is an important consideration.
57. According to the submitted plans the nearest residential property (Southview) is located towards the west of the application site. There is a distance of approximately 40m separating the proposed static caravan and dayroom from this residential property. The case officer considers it prudent to attach a condition relating to boundary treatment, in the event that planning permission is approved. Therefore, given the nature and scale of the proposal, intervening separation distances and boundary treatment (which will be conditioned) will all help to mitigate any negative externalities which are associated with the proposed development.
58. Furthermore, the case officer witnessed on the opposite side of Vanderbilt Avenue (from the application site) and separated by a distance of 10m was another Gypsy and Traveller site. The case officer observed that the alongside this stretch of Vanderbilt Avenue the boundaries on either side of the road were heavily vegetated with mature native hedgerows and punctuated at sporadic intervals by mature trees. Therefore, given the nature and scale of the proposed development, intervening separation distances and boundary treatment it is considered that the proposal will not result in any over domination,

overbearing or loss of privacy issues and as such the proposal broadly complies with policy DM1.

#### Drainage

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

#### Flooding

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

#### Refuse and Waste Storage

61. 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.
62. In this case the applicant is proposing to store the bins towards the front of the application site. The bins according to plan reference 23\_1304-007 Revision P01 will be stored within a timber enclosure. The case officer does not consider that the proposed structure will have a detrimental impact on the character and appearance of the locality and as such the proposal accords with policy DM1.

## Highways Considerations

63. 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.
64. 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.
65. The application site would be accessed via an existing access onto Vanderbilt Avenue. There is sufficient space within the application site for several vehicles to be parked clear of the public highway and so that they can manoeuvre and access/egress the site in a forward propelling gear. Colleagues in Essex County Council Highways Authority have reviewed the submitted information and state *"The proposal site is located in a private road that is shared with a Public Right of Way bridleway. The proposal includes provision of an additional gypsy/traveller pitch. Therefore, from a highway and transportation perspective the impact of the proposal is acceptable"*.
66. The Highways Engineer goes on to state that they have no objections to the proposal subject to conditions relating subject to the adjacent bridleway remaining free and unobstructed and reception and storage of materials to be kept clear of the public highway which will be conditioned accordingly, in the event that planning permission is approved.
67. There is no reason for the Local Planning Authority to take an alternative view and any intensification resulting from the provision of 1No. pitch in this area is not deemed to be of such severity that would warrant refusal of the application.
68. Overall, it considered that the proposal subject to the aforementioned conditions complies with the relevant policies contained within the Development Management Plan and the NPPF, and as such there is insufficient justification to warrant a refusal.

## Trees

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

*'Development should seek to conserve and enhance existing trees and woodlands, particularly Ancient Woodland. Development which would*

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

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

70. The application site is mainly laid to level grassland. As previously stated, the case officer noted that adjacent to the existing boundary treatment were mature native hedgerows and sporadically placed were numerous mature trees. Consequently, the case officer considered it prudent to consult the council's arboricultural officer.
71. The council's arboricultural officer has reviewed the submitted application and states that he has no objection to the proposal subject to the imposition of a condition relating to a tree protection plan and method statement and the details should be supplied in accordance with BS 5837 2012.
72. The case officer agrees with the recommendation of the Arboriculturist and will condition the tree protection measures accordingly, should planning permission be approved.

#### On-site Ecology

73. The scale of the development would be such that the proposal would not fall to be considered under the Town and County Planning (Environmental Impact Assessment) Regulations 2017.
74. 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.
75. 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.

76. 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.

77. No ecological appraisal has been submitted with the application however the site is mainly laid to modified grassland. The case officer has consulted with colleagues in Essex County Council Place Services Ecology and they state: -

*"We have reviewed the submitted documents and note that no ecological assessment has been undertaken for this site. Therefore, we have conducted a desk study to confirm the likely impacts upon designated sites, protected and Priority species & habitats. This included a review of Magic Maps (<https://magic.defra.gov.uk>), Local Wildlife Site information and aerial photographs.*

*...the proposals clearly will only impact upon modified grassland with limited ecological value for protected and Priority species. In addition, no designated sites or Priority habitats are likely to be affected by the proposals".*

78. In light of the abovementioned comments, it is not considered that the proposal will have a detrimental impact on protected species and as such the proposal accords with policy DM27.

#### Off Site Ecology

79. 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.

80. The development for one dwelling falls below the scale at which bespoke advice is given from Natural England. To accord with NE's



requirements and standard advice and Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMs) Habitat Regulations Assessment (HRA) record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European Site in terms of increased recreational disturbance. The findings from HRA Stage 1: Screening Assessment are listed below:

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

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

- Yes

Does the planning application fall within the following development types?

- Yes. The proposal is for one additional dwelling

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

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

- No

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

- No

81. 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.

82. 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.

## Bio-diversity Net Gain

83. 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.
84. Once again colleagues in Essex County Council Place Services Ecology have been consulted regarding the proposal and they stated that: -

*"With regard to mandatory biodiversity net gains, it is highlighted that we support the submitted. Biodiversity net gains is a statutory requirement set out under Schedule 7A (Biodiversity Gain in England) of the Town and Country Planning Act 1990 and we are satisfied that submitted information provides sufficient information at application stage. We have reviewed the email sent by the planning officer dated 3rd February 2025, which justified the use of the hedgerow classification, and we are now satisfied that it has been classified appropriately.*

*As a result, a Biodiversity Gain Plan should be submitted prior to commencement, which also includes the following:*

- a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.*
- b) Pre and post development habitat plans.*
- c) Legal agreement(s)*
- d) Biodiversity Gain Site Register reference numbers (if using off-site units).*
- e) Proof of purchase (if buying statutory biodiversity credits at a last resort).*

*In addition, a Habitat Management and Monitoring Plan (HMMP) should be secured for all significant on-site enhancements. Based on the submitted post-intervention values, it is suggested that this includes the following habitats: 14 individual small trees (medium distinctiveness habitat). The HMMP should be in line with the approved Biodiversity Gain Plan, with the maintenance and monitoring secured via legal obligation or a condition of any consent for a period of up to 30 years and will be required to be submitted concurrent with the discharge of the biodiversity gain condition. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 1, 2, 5, 10, 15, 20, 25, 30, unless otherwise specified by the LPA. Any remedial action or adaptive management will then be agreed with the LPA to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.*

*Reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent. This could include the provision of bird and bat boxes in suitable locations, heights and orientations.*

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

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

85. It is considered that the proposal will comply with the requirement has mandated within the BNG regulations.

#### Equalities and Diversity Implications

86. 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.

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

88. Taking account of the nature of the proposed development and representations received, it is considered that the proposed development would if allowed result in a positive impact on a protected group as defined under the Equality Act 2010.

## CONCLUSION

89. Approve.

## CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Rayleigh Town Council: No objections raised

Essex County Council Place Services Ecology:

We have reviewed the submitted documents and note that no ecological assessment has been undertaken for this site. Therefore, we have conducted a desk study to confirm the likely impacts upon designated sites, protected and Priority species & habitats. This included a review of Magic Maps (<https://magic.defra.gov.uk>), Local Wildlife Site information and aerial photographs.

Furthermore, we have previously reviewed the updated Biodiversity Assessment (ACJ Ecology Ltd, December 2024), the updated Small Sites Metric – Calculation Tool (Completed 23rd December 2024) and the Biodiversity Net Gain Maps, relating to the delivery of measurable biodiversity net gains.

As stated previously, the proposals clearly will only impact upon modified grassland with limited ecological value for protected and Priority species. In addition, no designated sites or Priority habitats are likely to be affected by the proposals.

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

Essex County Council Highways Authority:

No objection subject to the imposition of conditions relating to the public's rights and ease of passage over public bridleway no. 82 (Rayleigh) shall be maintained free and unobstructed at all times, reception and storage of building materials and standard informatives.

Rochford District Council Arboricultural Officer:

No objection. Recommend as a condition of consent a tree protection plan and method statement be provided; the details should be supplied in accordance with BS 5837 2012.

Neighbour representations: No responses received.

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

National Planning Policy Framework (December 2024).

Planning Policy for Traveller Sites (December 2024).

Rochford District Council Local Development Framework Core Strategy Adopted Version (December 2011) – policies GB1, H7, T8.

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

Rochford District Council Local Development Framework Allocations Plan (2014) – GT1.

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

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

The Essex Design Guide.

Natural England Standing Advice.

**RECOMMENDATION: APPROVE**

Conditions:

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 23\_1304-003 Revision P02 (Proposed Site Plan) (as per date stated on plan 25<sup>th</sup> July 2024), 23\_1304-007 Revision P01 (Proposed Refuse Store Elevations and Floor Plan) (as per date stated on plan 27<sup>th</sup> June 2024), 23\_1304-005 Revision P01 (Proposed Dayroom Elevations and Floor Plan) (as per date stated on plan 27<sup>th</sup> June 2024) and 23\_1304-001 Revision P01 (Location Plan) (as per date stated on plan 27<sup>th</sup> June 2024).

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

3. The site shall not be occupied by any persons other than persons of Gypsy and Traveller status as defined from time to time by national planning policy and guidance.

REASON: Due to the personal circumstances of the applicant and the under provision in sites being considered to outweigh the harm to the green belt.

4. No more than two caravans, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan Site Act 1968 as amended, shall be stationed on the site at any one time, comprising no more than one static caravan and one touring caravan.

REASON: To ensure that the development on the site is in accordance with the details considered within the application.

5. Save for one vehicle not exceeding 7.5 tonnes in weight, no vehicle over 3.5 tonnes in weight shall be stationed, parked or stored on the land and all vehicles shall be for use by the occupiers of the development hereby permitted only.

REASON: To enable control over the use of the land in the interests of the openness of the metropolitan green belt and amenity of neighbouring residents.

6. The amenity room hereby approved shall be solely used as a dayroom for purposes ancillary to the residential use of the site. The dayroom shall not at any time be used for independent living accommodation.

REASON: To enable the Local Planning Authority to retain adequate control over the development hereby permitted and that the development serves an ancillary use only, in the interests of the green belt very special circumstances which have found the development acceptable.

7. 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.

8. Prior to the installation of any fencing, gates, walls or other means of enclosure, their appearance (including height, material and colour) shall be submitted to and agreed in writing by the local planning authority. Any means of enclosure as may be agreed by the local planning authority, shall be installed in complete accordance with those details agreed and maintained in perpetuity, unless otherwise agreed in writing by the local planning authority.

REASON: In the interest of the visual amenity of the character of the area, preserving the openness of the green belt and to prevent the site becoming isolated from the rest of the community, in compliance with



the requirements of the NPPF and National Planning Policy for Traveller Sites.

9. No development shall commence, before plans and particulars showing precise details of a satisfactory means of foul and surface water drainage (including attenuation measures if appropriate) for this site, have been submitted to and agreed in writing by the Local Planning Authority. Any scheme of foul and surface water drainage details as may be agreed in writing by the Local Planning Authority, shall be implemented commensurate with the development hereby permitted and made available for use upon completion of the dwelling hereby approved.

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

10. Prior to the commencement of the development approved, a method statement and tree protection plan (in accordance with BS 5837 2012) for those trees within and adjacent to the site, shall have been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with those details agreed. The tree protection methods as agreed shall be retained until all building materials have been cleared from the site.

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

11. 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.

12. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is considered to be a breach of this legislation. The public's rights and ease of passage over public bridleway no. 82 (Rayleigh) 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 of the county highway authority's Development Management Policies, adopted as Supplementary Guidance.

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13. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the Public Right of Way.

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

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14. Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist, 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, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended).

15. A Habitat Management and Monitoring Plan (HMMP), prepared in accordance with the approved Biodiversity Gain Plan, shall be submitted to, and approved in writing by the local authority, prior to commencement of development, including:

- a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- b) the planned habitat creation and enhancement works to create or improve habitat to achieve the on-site significant enhancements in accordance with the approved Biodiversity Gain Plan;
- c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;
- d) the monitoring methodology in respect of the created or enhanced habitat to be submitted to the local planning authority; and
- e) details of the content of monitoring reports to be submitted to the LPA including details of adaptive management which will be undertaken to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

Notice in writing shall be given to the Council when the:

- initial enhancements, as set in the HMMP, have been implemented; and
- habitat creation and enhancement works, as set out in the HMMP, have been completed after 30 years.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Unless otherwise agreed in writing, monitoring reports shall be submitted in years 1, 2, 5, 10, 15, 20, 25, and 30 to the Council, in accordance with the methodology specified in the approved HMMP.

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