



PLANNING APPLICATIONS WEEKLY LIST NO. 1755
Week Ending 2nd May 2025

NOTE:

- (i). Decision Notices will be issued in accordance with the following recommendations unless **ANY MEMBER** wishes to refer any application to the Development Committee on the next Development Committee Meeting
- (ii). Notification of any application that is to be referred must be received no later than 1:00pm on Wednesday **7th May 2025** this needs to include the application number, address and the planning reasons for the referral via email to the PBC Technical Support team pbctechnicalsupport@rochford.gov.uk .If an application is referred close to the 1.00pm deadline it may be prudent for a Member to telephone PBC Technical Support to ensure that the referral has been received prior to the deadline.
- (iii) Any request for further information regarding applications must be sent to Corporate Services via email.

Note

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

Index of planning applications: -

- 1. Recommended Approve – 25/00146/FYL – 96 Victoria Avenue
Rayleigh PAGES 2-10

Application No:	25/00146/FUL Zoning: Residential
Case Officer	Ms Julie Ramsey
Parish:	Rayleigh Town Council
Ward:	Downhall And Rawreth
Location:	96 Victoria Avenue Rayleigh Essex
Proposal:	Application to vary planning conditions 2 (approved plans), 9 (parking provision) and 10 (timeframe for stopping up of redundant access) pursuant to planning permission reference 22/00713/FUL allowed on appeal under reference APP/B1550/W/23/3325396 for development consisting of 'Demolition of existing bungalow and replacement with 2 no detached 4 bedroom houses and 1 no. 3 bedroom chalet'.

SITE AND PROPOSAL

1. The application site is located on the eastern side of Victoria Avenue and comprises of an existing bungalow. The application dwelling along with the 7 No. dwellings to the south of the application site, were granted planning permission in 1998. The neighbouring dwellings are larger detached two-storey dwellings.
2. Planning permission was granted by appeal (please refer to the site history section below) for the demolition of the existing bungalow and the construction of 2 No. detached dwellings fronting Victoria Avenue and a detached chalet style dwelling to the rear of the site.
3. This application seeks to vary Conditions 2, 9 and 10 of the conditions on the original consent, namely:

Condition 2 – To replace approved plans 1684/3/300/B and 1684/PS/100/E with 2235-04A, 2235-07 and 2235-08 to facilitate a number of design alterations to Plot 3, which is the chalet bungalow to the rear of the site.

Condition 9 - To remove the reference in the condition specifically to garages due to the removal of the garage at plot 3.

Condition 10 – The applicant intends to phase the development, building and occupying Plot 3 first, therefore an alteration to Condition 10 is required to allow time for Plots 1 and 2 to be built before permanently closing the existing access as the condition requires.

RELEVANT PLANNING HISTORY

4. Application No. 98/00197/FUL – Erect 8 dwellings with garages comprising 5 x 5-bed, 1 x 4-bed, 1 x 6-bed houses and 1 x 3-bed bungalow (demolish existing dwelling) – Permitted
5. Application No. 09/00712/FUL – single storey pitched roofed front and side extension – Permitted
6. Application No. 22/00713/FUL - Demolition of Existing Bungalow and replacement with 2 No detached 4-bedroom houses and one No 3 bedroom chalet – Refused but Allowed on Appeal.

MATERIAL PLANNING CONSIDERATIONS

7. 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.
8. 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).
9. This Section 73 application and the permission that arises from granting approval is exempt from the mandatory 10% Biodiversity Net Gain requirement as the original planning permission was applied for and also granted before February 12th 2024 which is the date applied within Government guidance informing this process. The appeal was allowed on 8th February 2024.

Principle of Development

10. The submitted application is solely a Section 73 application. Section 73 of the 1990 Act applies to applications to develop land without complying with conditions that are attached to a previous planning permission.
11. Section 73 of the 1990 Act specifically provides that an application cannot be made under this section if the previous planning permission has already expired, nor can it be used to extend the time limit within which the development must be begun. Moreover, the Local Planning Authority (LPA) shall consider only the question of conditions subject to which planning permission should be granted (so not its acceptability).
12. Furthermore, a S.73 application cannot be used to vary the description of the development nor to impose any new or amended conditions that are inconsistent with the description of development.

13. It is also important to add that the scope of a S.73 can be limitless see *Armstrong v. Secretary of State for Levelling-Up, Housing and Communities* [2023] EWHC 142 it was held that providing a variation is only proposed to the conditions of a planning permission and such variations neither requires a changes of description of the development nor is inconsistent with the description of development, there is no limit to the scope of change under Section 73.
14. The Court ruled that there is nothing within S.73 which limits any application to vary or remove a condition to “minor material amendments” or “non-fundamental variations”. Providing that the application was limited to the non-compliance with a condition (and does not require a change in the description of the development nor is inconsistent with it) then it fell within the scope of Section 73.
15. In determining a s.73 application the LPA may:
- i) Grant the application with different conditions;
 - ii) Grant the application unconditionally (save for s91. S92 commencement)
 - iii) Refuse the application.
16. The principle of development on this site has already been accepted as part of application 22/00713/FUL. This is solely a Section 73 application which seeks to vary or remove Conditions 2, 9 and 10 attached to 22/00713/FUL.

Appraisal

17. Condition 2 states:

The development hereby permitted shall be carried out in accordance with the following approved plans:

1684/ES1/B Existing Site + Location Plan
1684/1/300/F Proposed General Arrangement Plot 1
1684/2/300/F Proposed General Arrangement Plot 2
1684/3/300/B Proposed General Arrangement Plot 3
1684/PS/100/E Proposed Site Plan
Tree Protection Plan Rev 1 dated 21 March 2023

18. This S.73 application seeks to replace plans 1684/3/300/B and 1684/PS/100/E with 2235-04A, 2235-07 and 2235-08 as they relate to plot 3 only. The alterations include the internal conversion of the proposed garage to provide habitable accommodation, internal layout alterations, replacement of doors to windows and vice versa, the continuation of the pitched roof along the front, side and rear to replace the flat roof elements of the approved scheme, the addition of a pitched roof front porch and the re-alignment of the three rear dormers.

19. Overall, the character and appearance of the chalet bungalow is not substantially altered from that previously approved, it is no larger in footprint and the external alterations are in the main, considered to be minor, replacing windows with doors and some doors with windows. The continuation of the pitched roof and porch addition enhances the development from a design perspective as it removes the conflicting mix of pitched and flat roofs. The rear dormers are relocated within the roof space to form a more proportioned appearance.
20. As the alterations are minor it is not considered that there would be a detrimental impact on residential amenity. Therefore, the alterations proposed are considered to be acceptable and in line with Policies DM1 and DM3 of the Development Management Plan.
21. Condition 9 states:
- Prior to the occupation of any dwelling hereby permitted, its garage and external parking space for one vehicle shall be provided and kept available at all times for the parking of motor vehicles.
22. The Essex Parking Guidance (2024) states that 3 bedroomed dwellings require two car parking spaces with dimensions of 5.5m x 2.9m and garage spaces should measure 7m x 3m to be considered usable spaces. Policy DM30 has adopted the EPOA parking standards. Quality urban design dictates that care should be taken that the parking layout does not result in streets dominated by parking spaces in front of dwellings or by building facades with large expanses of garage doors.
23. The key question is whether planning policy and adopted guidance which amounts to the same requires a garage as an inherent part of a development proposal providing that 2 off street car parking spaces are provided. The proposal includes 2 off street parking spaces to the required dimensions (5.5m x 2.9m). The development is to be accessed by a new crossover which would serve this dwelling alone and it is feasible to provide car parking space in front of the converted garage, without compromising accessibility. The development is set well back from the highway with limited visibility within the street scene and the parking area is not therefore considered to form a prominent feature within the street scene such that the loss of the garage would amount to any harm or indeed conflict with policy. Therefore, the parking provision is considered adequate and in line with the parking standards and as such the condition can be amended to remove reference to the garage.
24. The proposal is considered to comply with Policies DM1 and DM30 in this regard and the proposed development when implemented would not be considered of detriment to highway safety.

25. Condition 10 states:

Prior to first occupation of the development, the existing, redundant access on the frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway footway and kerbing in accordance with details that shall have been submitted to and approved in writing by the local planning authority.

26. The site currently comprises of a single bungalow with access taken from Victoria Avenue. The proposal for the 3 new dwellings incorporates the construction of 3 new vehicle crossovers, one for each dwelling and condition 10 requires that prior to the first occupation of the development (not plot specific) the existing crossover is to be closed. The applicant is intending to phase the construction of the development and build and occupy Plot 3 before commencing on the construction of Plots 1 and 2, therefore it is necessary to maintain the existing crossover until Plots 1 and 2 are complete and occupied. A construction management plan has been submitted which utilises the existing access during the construction of plots 1 and 2, therefore it is considered acceptable to vary condition 10 to reflect this. This alteration is not judged to have any impact on highway safety.

EQUALITIES AND DIVERSITY IMPLICATIONS

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

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

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

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

CONCLUSION

The development is acceptable and given the presumption in favour of sustainable development it should be approved.

CONSULTATIONS AND REPRESENTATIONS (summary of responses):

Rayleigh Town Council: No comments received

Essex County Council Highway Authority: No comments received

RDC Arboricultural Officer: No objection subject to the original tree protection plan and method statement being implemented as part of the application.

Relevant Development Plan Policies:

National Planning Policy Framework (February 2025)

Core Strategy Adopted Version (December 2011) Policies CP1, H1, H6, ENV1, ENV9.

Development Management Plan (December 2014) Policies DM1, DM2, DM3, DM4, DM25, DM27, DM30.

Essex Parking Guidance (December 2024)

Supplementary Planning Document 2 (January 2007) – Housing Design

The Essex Design Guide (2018)

RECOMMENDATION: APPROVE subject to conditions

- 1) The development hereby permitted shall begin not later than 07 February 2027.

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; this timeframe is consistent with the timeframe for implementation allowed under the original consent reference 22/00073/FUL and required as s73 cannot be used to extend the time for implementation.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

1684/ES1/B - Existing Site + Location Plan
1684/1/300/F - Proposed General Arrangement Plot 1
1684/2/300/F - Proposed General Arrangement Plot 2
2235-04A - Amended Proposed Design Plot 3
2235-07 - Proposed Site Plan
2235-08 - Construction Management Plan/Phasing Plan
Tree Protection Plan Rev 1 dated 21 March 2023

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

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

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

- 4) Prior to the commencement of above ground works, details of the external facing materials of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out strictly in accordance with the approved details.

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.

- 5) Prior to the commencement of above ground works, details of both hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

- 6) No dwelling hereby permitted shall be occupied until its vehicular access has been provided in accordance with the approved plans.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 and to ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with Policy DM1.

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

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

- 8) Any new boundary planting along the frontage shall be planted a minimum of 1 metre back from the highway boundary.

REASON: In the interests of Highway Safety

- 9) Prior to the occupation of any dwelling hereby permitted, its parking spaces and garage (where provided) shall be constructed and kept available at all times solely for the parking of motor vehicles.

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

- 10) Prior to first occupation of Plots 1 and 2, the existing, redundant access on the frontage shall be suitably and permanently closed incorporating the reinstatement to full height of the highway footway and kerbing in accordance with details that shall have been submitted to and approved in writing by the local planning authority.

REASON: In the interests of highway safety

- 11) No dwelling shall be occupied until space has been laid out within its plot for two bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

REASON: To ensure adequate cycle and refuse storage to serve the development in compliance with Policies DM1 and DM30 of the Local Development Framework Development Management Plan and the provisions of the Essex Parking Guidance (2024)

- 12) Prior to first occupation of each of the dwellings hereby permitted, the Developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for sustainable transport, which shall have been submitted to and approved in writing

by the local planning authority, to include six one day travel vouchers for use with the relevant local public transport operator.

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

- 13) Tree protection measures, including fencing, shall be carried out in strict accordance with the Method Statement for Tree Protection Measures set out in the Andrew Day Arboricultural Consultancy Arboricultural Report Rev 1 dated 21 March 2023. The approved tree protection measures shall be erected prior to any site activity commencing and maintained in place until completion of the development. No development or other operations shall take place other than in complete accordance with the approved Tree Protection Plan.

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

- 14) No development shall take place, unless in accordance with the recommendations within the ACJ Preliminary Ecological Assessment including, but not restricted to, the recommendation that site clearance is carried out cautiously under ecological supervision to prevent damage to previously undiscovered badger sets and that walkover surveys are carried out following site clearance to ensure badgers have not occupied the site before the completion of development

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).

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