



Rochford District Council

SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY THE DEVELOPMENT COMMITTEE - 22 SEPTEMBER 2011

All planning applications are considered against the background of current Town and Country Planning legislation, rules, orders and circulars and any development, structure and local plans issued or made thereunder. In addition, account is taken of any guidance notes, advice and relevant policies issued by statutory Authorities.

Each planning application included in this schedule is filed with representations received and consultation replies as a single case file.

The above documents can be made available for inspection as Committee background papers at the office of Planning and Transportation, Acacia House, East Street, Rochford and can also be viewed on the Council's website at www.rochford.gov.uk.

If you require a copy of this document in larger print, please contact the Planning Administration Section on 01702 318191.



Ward Members for Committee Items

DOWNHALL AND RAWRETH

Cllr C I Black
Cllr R A Oatham

GRANGE

Cllr C J Lumley
Cllr Mrs R J Lumley

HAWKWELL WEST

Cllr Mrs C Mason
Cllr J R F Mason

ROCHFORD

Cllr J P Cottis
Cllr K J Gordon
Cllr Mrs G A Lucas-Gill

Item 1 11/00369/FUL Claire Robinson PAGE 4

Two Detached 3/4-Bedroomed Houses and Three Detached
2-Bedroomed Bungalows with Garages, Construct Private
Drive with Access from Park Gardens
Land End of and Between Park Gardens and Hawkwell Park
Drive Hawkwell

Item 2 11/00411/FUL Robert Davis PAGE 25

Demolition of Single Storey Dwelling and Erection of New 3-
Bedroom Single Storey Dwelling
Lawn Lodge Hall Road Rochford

Item 3 11/00439/COU Mike Stranks PAGE 31

Change of Use from Shop (Use Class A1) to Takeaway
(Use Class A5). Demolish Workshop and Part of Shop
Extension and Construct Four Off-street Parking Spaces and
Construct Bin Store
99 London Road Rayleigh

Item 4 11/00497/FUL Mike Stranks PAGE 43

Construct Covered Smoking Shelter To Tudor Suite And
Stable Bar/Restaurant
The Chichester Old London Road Rawreth

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TITLE: 11/00369/FUL

**TWO DETACHED 3/4-BEDROOMED HOUSES AND THREE
DETACHED 2-BEDROOMED BUNGALOWS WITH
GARAGES, CONSTRUCT PRIVATE DRIVE WITH ACCESS
FROM PARK GARDENS**

**LAND AT END OF AND BETWEEN PARK GARDENS AND
HAWKWEEL PARK DRIVE HAWKWEEL**

APPLICANT: THE SKINNER CONSORTIUM

ZONING: RESIDENTIAL

PARISH: HAWKWEEL PARISH COUNCIL

WARD: HAWKWEEL WEST

PLANNING APPLICATION DETAILS

- 1.1 Planning permission is sought for two detached 3/4-bedroomed houses and three detached 2-bedroomed bungalows with garages and to construct a private drive with access from Park Gardens at land at the end of and between Park Gardens and Hawkwell Park Drive, Hawkwell. The site is a strip of overgrown disused land within the residential area of Hockley and on the boundary with the Metropolitan Green Belt (MGB). To its eastern boundary is a bridleway (no. 36) and a public footpath (no. 23) and then an area of public open space with a car park and pavilion to its north eastern corner. To the west is a pair of semi-detached houses (no. 60 and no. 62 Park Gardens), a detached house (no. 63 Hawkwell Park Drive) and a detached bungalow (no. 61 Hawkwell Park Drive). To the south is the end of Hawkwell Park Drive and directly opposite are two detached houses (no. 44 and no. 46 Hawkwell Park Drive). To the north is the end of Park Gardens and directly opposite is a detached bungalow (no. 65 Park Gardens) and an unmade access road.

THE PROPOSAL

- 1.2 The proposal is for the construction of five new dwellings consisting of two detached houses and three detached bungalows. Plot 1 proposes a 3/4-bedroomed detached house with frontage and vehicular access onto Hawkwell Park Drive measuring 10.35m wide, 15.3m deep and 8.5m high. Plots 2, 3 and 4 are all proposed to be detached 2-bedroomed bungalows accessed by a private driveway with turning area. Plots 3 and 4 would be of identical design measuring 13.4m wide, 6.9m deep and 5m high. Plot 2 would measure 15.2m wide, 8.45m deep and 5.4m high. The bungalows would be angled so that they look to the east towards the public open space. Plot 5 proposes a 3/4-bedroomed detached house with frontage onto Park Gardens measuring 8.9m wide, 13.2m deep and 8.55m high.

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Access to the driveway of plot 5 would be via the private access road. There would be two detached double garages that would be shared between the three bungalows and the detached house at plot 5 measuring 6.9m wide, 7.15m deep and 5.2m high with a pitched roof.

RELEVANT PLANNING HISTORY

- 1.3 Various applications have been considered for the residential development of different parts of this site since the late 1990s. This includes the following:-

97/00399/OUT – Detached House With Integral Garage. Application refused on 10/09/97.

98/00454/FUL – Erect Pair of 4-Bed Houses Linked by Semi-integral Garages. Application withdrawn.

99/00002/FUL – Erect Pair of 4-Bed Houses Linked by Semi-Integral Garages (Revised Submission Following Application F/0454/98/ROC). Application refused on 31/05/01. Appeal dismissed on 25/09/02.

99/00389/OUT – Erect One Detached Dwelling and Garage. Application approved on 09/03/00.

01/00937/FUL – Erect Pair of 4-bed Linked Houses with Semi-Integral Garages (Re-submission Following 99/00002/FUL). Application refused on 13/02/02. Appeal dismissed on 25/09/02.

02/00893/FUL – Detached Bungalow and Garage. Application approved on 11/03/03.

02/00964/OUT – Outline Application to Erect One Chalet Bungalow. Application withdrawn.

03/01118/OUT – Outline Application to Erect One Chalet Bungalow and (all matters reserved for subsequent approval). Application withdrawn.

08/00329/FUL – Two Detached 3/4 Bedroomed Houses and Three Detached 2-Bedroomed Bungalows with Garages, Construct Private Drive with Access from Park Gardens and Re-route Existing Bridleway. Application withdrawn.

CONSULTATIONS AND REPRESENTATIONS

- 1.4 **HAWKWELL PARISH COUNCIL** – Comments as follows:-

- Council strongly objects to this application.
- It has expressed concern about the proximity of two of the proposed buildings to trees with TPOs and the future problems with subsidence claims.

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- It foresees a problem with the civil engineering works to connect the sewer of the proposed dwellings to the mains, i.e., via the playing field or bridleway?
 - It has concern that in the future the bridleway would be used for private parking when the private driveways are fully occupied.
 - This application represents urban cramming and over-development of the site.
- 1.5 **RDC ENGINEER** – Shows diversion of public sewers that will require consent from Anglian Water. The diversion is shown onto RDC land and therefore consent from RDC will be required.
- 1.6 **RDC ENVIRONMENTAL SERVICES** – The Head of Environmental Services has no adverse comments in respect of this application, subject to the following informatives being attached to any consent granted:-
- (1) Standard Informative SI16 (Control of Nuisances)
 - (2) Standard Informative SI25 (Contaminated Land)
 - (3) Site Waste Management Plans
- 1.7 **RDC ENVIRONMENTAL SERVICES (STREET SCENE)** – Comments as follows:-
- The vehicle (waste-recycling) is 3.048m (or ten feet) at it's widest point.
 - It probably wouldn't be possible for the vehicle to go forwards and turn down the driveway.
 - But it may be able to reverse for some of the driveway. Obviously it would depend on whether there were any obstructions; it does seem quite tight but possible to reverse for some of the distance.
 - The residents may be able to present their bins part way along perhaps at the turning circle?
- 1.8 **RDC WOODLANDS CONSULTANT** – Comments as follows:
- There are two oak trees on the boundary of the site and Clement Hall Playing Field – TPO 08/99.
 - Require a method statement stating how the trees will be protected and worked around.

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- 1.9 **ECC HIGHWAYS** – No objection, subject to the following conditions being attached to any permission granted:-
1. Prior to occupation of the development the driveways serving plot 1 and plots 2-5 shall be provided with appropriate dropped kerb vehicular crossings of the footway.
 2. The existing vehicular crossings outside plot 1 and plot 5 shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway footway kerbing, to the satisfaction of the Highway Authority immediately the proposed new accesses are brought into use.
 3. Prior to the occupation of plots 2-5, the proposed private drive shall be constructed to a width of 4.8m for at least the first 6m within the site, tapering one-sided over the next 6m to 3.7m.
 4. The vehicular hardstandings shown on drawing number 104 01 shall each have minimum dimensions of 2.9 metres x 5.5 metres.
 5. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.
 6. Prior to commencement of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.
 7. Prior to the commencement of works on site the applicant shall indicate in writing to the Local Planning Authority an area within the curtilage of the site for parking of operatives' vehicles and the reception and storage of building materials clear of the highway.
 8. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
 9. Prior to occupation of the proposed development, the developer shall be responsible for the provision and implementation of a travel information and marketing scheme for sustainable transport, approved by Essex County Council.

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10. Prior to commencement of the proposed development details of a wheel washing facility within the site and adjacent to the egress onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The wheel washing facility shall be provided at the commencement of the development and maintained during the period of construction.
11. The public's rights and ease of passage over the bridleway shall be maintained free and unobstructed at all times.

1.10 ECC PUBLIC RIGHTS OF WAY – Comments as follows:-

Bridleway 36 as shown on the plan appears to be on the correct legal line, i.e., 3metres width from the park boundary fence.

I am happy for the trees to remain as they are with TPOs remaining on them.

My concerns are:-

- Potential encroachment of the bridleway whether by residents' accessibility to their driveways, etc.
- No obstructions at either entrance to the bridleway by the parking of vehicles, either by the residents and/or visitors.
- The long established oak trees as discussed above – their close proximity to the proposed dwellings and that once the residents have moved in there may be demands for the trees to be cut back should the sun cast shadows over their gardens, especially during the summer period.

1.11 ECC LEGAL SERVICES – Comments as follows:-

- This Order was confirmed on 23 March 2011 and notice was served on 21 April. It has now taken effect.
- As far as I am aware, the bridleway physically was always in the correct place, it was just the legal recording of it that required amending.

**1.12 ECC ENVIRONMENT SUSTAINABILITY & HIGHWAYS
(DEFINITIVE MAPS)**

- If you overlay the Modification Order plan onto the layout plan, the difference in interpretation at the southern end becomes apparent.
- The deletion on the Mod plan has clearly improved matters for the developer in relation to plot 2 but the bridleway is aligned immediately adjacent to the flank wall of plot 1.

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- The deviation in the interpretation is prompted by the position of the two trees.
- The bridleway alignment has been determined through the evidential Definitive Map process, not through preference or choice, and confirmed by legal order.
- As mentioned, the practical solution, if possible, would be to re-position the fence line around the trees into the RDC playing field to accommodate this section of the bridleway on the other side of the trees. This would resolve a problem for the Highway Authority as well, in that the current pinch point and restricted headroom for horse riders would be resolved. The scale of the Definitive Map recording could absorb this.

1.13 **LONDON SOUTHEND AIRPORT** – No safeguarding objections

1.14 **ENVIRONMENT AGENCY** – Comments as follows:-

- Low environmental risk.
- Anglian Water Services should be consulted regarding the available capacity in the foul and surface water sewers. If there is not sufficient capacity in the sewer then we must be consulted again with alternative methods of disposal.

1.15 **ANGLIAN WATER** – Comments as follows:-

- The sewers serve a large proportion of the eastern area of Hawkwell and are therefore regarded as strategically important; as such under no circumstances would Anglian Water allow these sewers to be built over.
- The proposals also indicate that large trees will be removed and replaced with new trees; this will potentially undermine the integrity of the sewers and should therefore be avoided.
- Anglian Water would ask that the following text be included within your Notice should permission be granted.

“Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers’ cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.”

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- The foul drainage from this development is in the catchment of Rochford Sewage Treatment Works that at present has available capacity for these flows.
- The drainage problems experienced by our customers in recent years have been the result of operational issues and exceptional weather conditions rather than the incapacity of the public sewers.
- The sewerage system at present has available capacity for the foul flows from the proposal.
- If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.
- The preferred method of surface water disposal would be to a sustainable drainage system (SUDS) with connection to sewer seen as the last option.
- Building Regulations on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to water course and then connection to a sewer.
- The surface water strategy assessment submitted with the planning application relevant to Anglian Water is unacceptable. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency.
- We request a condition requiring a drainage strategy covering the issue(s) to be agreed.
- Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval:-

No development shall commence until a surface water strategy/flood risk assessment has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the surface water strategy so approved unless otherwise approved in writing by the Local Planning Authority.

REASON

To prevent environmental and amenity problems arising from flooding.

SCHEDULE ITEM 1**1.16 NATURAL ENGLAND** – Comments as follows:-

- This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development
- We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.
- The protected species survey has identified that reptiles may be affected by this application
- Outstanding advice species sheet – reptiles provides advice to planners on deciding if there is a 'reasonable likelihood' of reptiles being present. It also provides advice on survey and mitigation requirements.
- We have not assessed the survey for badgers, barn owls and breeding birds, water voles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.
- They have assessed the proposal against their standing advice and concluded that permission may be granted, subject to appropriate conditions including a detailed mitigation and monitoring strategy for adders and/or common lizards, grass snakes and slow worms.

1.17 NATURAL ENGLAND (Re-consult after receiving appendices to reptile survey) – comments as follows:-

- I have had another look at the survey and as far as I can see our letter dated 6 July still applies to the consultation.

1.18 ECOLOGICAL CONSULTANT

- The proposed receptor site is not within the District and so does not meet with Natural England's standing advice. However, it appears to be suitable and secure and I would say that it would be difficult to find a better site in the local area.
- The recommendations would appear to be adequate, although there is now an issue with timing, as the slow worms will be entering hibernation during this month and as they do the reliability of the capture methodology will reduce. I don't think that it could be guaranteed that the whole population will be caught before they enter hibernation, not least because of the unpredictability of the weather conditions.

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- I would suggest a condition that the applicants work to the recommendations in the report, with, in addition, the submission of a document that considers the implications of the timing and allows for the continuation of the translocation in the spring, if necessary.

1.19 **Neighbours:** Six responses received (61 Park Gardens, 63 Park Gardens, 65 Park Gardens, 18 Glenwood Avenue and two unknown addresses), which can be summarised as follows:-

- Concern regarding existing problems with overflowing sewers and whether there is the capacity to take a further 5 properties.
- This end of Park Gardens is at the bottom of the hill before the ground levels out across Clements Hall playing field. When it rains this end of the road can become heavily waterlogged. With the loss of this large natural soakaway even greater volumes of surface water will be deposited onto this area of road.
- Piece of land has been subject of a few applications.
- Its density and the over-development of the site will have an adverse impact on the character of the neighbourhood and their neighbours.
- Concern around design and mock Tudor appearance of other properties in the area.
- The housing down Park Gardens, whilst varying greatly in design, sits well with each other. These large residences overpower the road and are totally out of character with the rest of the properties. If one of these were to be built on the corner of this plot it would be totally out of character with the rest of the road. The two houses at plots 1 and 5 are very dominant on the edge of the Green Belt.
- Smaller application a few years ago was rejected. On appeal it was stated that one 4-bed house facing onto Park Gardens was not environmentally suitable and that a flank wall facing into the car park would not look right.
- This application seems to be an exact replica of application no. 08/00329/FUL submitted back in 2008. This application faced opposition and was eventually withdrawn. I feel the objections raised then still stand today.
- The two-bed bungalows – these seem to be of a more sensible design and in keeping with their surroundings. However, I do have a concern that, if and when completed, they are not constructed in such a way that they can be extended and become two storey housing by the back door.

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- Concern around sufficient parking provision and overspill into Park Gardens. This end of Park Gardens can at times be very congested particularly in the evening after the park gates are shut. May hinder the access of emergency vehicles.
- Road in Park Gardens is badly in need of repair with lots of pot holes, cracks and a need of re-surfacing.
- Any access road to a new development will hinder vehicles turning and create a safety issue with vehicles exiting the new development, as well as impacting on the bridleway
- Any access road will, I assume, have to run adjacent to this bridleway giving rise to the possibility of cars coming into direct contact with horses.
- Although a post and rail fence is proposed along the bridleway there is no guarantee that it would remain, then parking along the bridleway and in the two hammerheads in Park Gardens and Hawkwell Park Drive is likely to occur.
- Further down the bridleway two large trees are now in the middle of the path. This is not acceptable for horse riders, cyclists or pedestrians. The old bridleway before its alterations was soil based with a variety of vegetation along its length. This one is more like a badly maintained road! It should be returned to its original condition and location.
- Plot 2, the bungalow opposite the two oak trees with a TPO, would be under threat because of construction and services. If it were to survive the householder would request it be reduced in height and crown because of loss of light and threat to the bungalow's foundations.
- This development could only happen if the Council allows the park to be dug up to allow the sewer to be installed and showed to be re-sited.
- Also the loss of wildlife from the un-developed land. The relocation of slow worms and grass snakes to Basildon is a loss to Hawkwell when we have our own nature reserve at Glencroft park which already has these reptiles
- I have no objection to the public bridleway being relocated as long as the width stays the same.

MATERIAL PLANNING CONSIDERATIONS**STREET SCENE**

- 1.20 The site is located within a prominent position, adjacent to a bridleway/public footpath and visible from two roads (Park Gardens and Hawkwell Park Drive) and an area of public open space. It also directly borders the Green Belt.

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- 1.21 At the Hawkwell Park Drive end of the proposed development a detached house is proposed. Hawkwell Park Drive consists predominantly of bungalows with some chalets and houses also present. However, towards the end of Hawkwell Park Drive, where the proposed house would be located, there are some larger style properties. Directly adjacent to the site is no. 63, which is a detached house with a chalet style appearance to it and directly opposite are two detached houses (no. 40 and 42 Hawkwell Park Drive). No. 63 was constructed with a height of 8.55m, width of 7.6m and depth of 10.5m and no. 40 and 42 were constructed with a height of 8.5m, width of 9.4m and depth of 11.1m. In comparison, the proposed house at plot 1 would be 8.5m high, 10.35m wide and 15.3m deep. The height and mass of the proposed house is not that dissimilar to that already present within the street scene here. Therefore, from the Hawkwell Park Drive frontage it is not considered that the proposed house would be out of character within the street scene or detrimental to it.
- 1.22 From the bridleway/footpath and public open space the 15.3m depth of the proposed property would appear quite dominant. However, the elevation closest to the bridleway would only measure 12.15m deep and due to its design (with decorative window hanging, chimney and fenestration pattern), the visual impact of this elevation would be reduced. The fenestration on this side would also provide some security to the bridleway/footpath and the public open space.
- 1.23 The three bungalows are modest in size with heights of 5m and 5.4m. Whilst visible from the public open space the overall size and spacing of these bungalows, separated by detached doubled garages is considered to be an acceptable relationship and not detrimental to the street scene here or the public open space.
- 1.24 Park Gardens, like Hawkwell Park Drive, is characterised predominantly by bungalows. There are no detached houses within the immediate street scene, however, there is a semi-detached pair of houses directly to the west of the site (no. 60 and 62 Park Gardens). Directly opposite the site is a detached bungalow (no. 65). This part of the application site is the most prominent as it is in close proximity to the car park, which forms the entranceway to the public open space. When assessing the style and sizing of the property proposed at plot 1 it is important to look at the semi-detached pair directly adjacent. No. 60 and 62 Park Gardens were constructed with a height of 7.2m, overall width of 12m and depth of 10.4m. In addition to this sizing, both properties have had rear single storey extensions. The proposed house at plot 5 would be sited in line with the front elevation of no. 60 and no. 62 and the rear elevation would fall in line with the rearmost wall of the single storey extensions. The property would have a slightly greater mass and bulk with a height of 8.55m and two storey depth of 13.2m. However, the proposed frontage would be similar in width to the semi-detached pair and it is not considered that the proposed house at plot 5 would be out of character within the street scene here.

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- 1.25 The overall design of the proposed properties is considered to be acceptable. The design of properties within Hawkwell Park Drive and Park Gardens is varied, therefore the design of the proposed properties would not be considered to be out of character with the style and design of properties already located within these roads. No. 40 and 42, located opposite plot 1, are considered to be similar in design to the proposed house at plot 1.

LAYOUT

- 1.26 The bungalows at plots 2, 3 and 4 would be positioned at a 90 degree angle to established dwellings within Park Gardens and Hawkwell Park Drive and would front the public open space. The overall layout of these properties is considered to be acceptable. A similar layout, with properties overlooking the public open space, can be seen at no. 48 – no. 54 Hawkwell Park Drive, which are four detached houses that were granted planning permission in the early 1990s.
- 1.27 Supplementary Planning Document 2 (SPD2) requires that for infill development, site frontages for detached properties have a minimum width of 9.25m. All the plots adequately meet this criteria. In addition to this, it is also a requirement of SPD2 that 1m separation is provided between the side boundaries and habitable rooms of the dwelling house. Plot 1 has a garage that extends up to the boundary at ground floor level. However, this is not considered to conflict with this criteria as a garage is not a habitable room. A 1m separation is not provided for the northern elevation of plot 3. However, the parking space for plot 4 provides a distance of 2.9m between the side elevation of plot 3 and the side elevation of plot 4. As there will be the requirement for this parking space to be retained for adequate parking provision to be provided for plot 4 and because the Council could remove 'permitted development' rights for extensions to plot 4 it is not considered justified to refuse the application for lack of provision of the 1m separation solely on this plot.
- 1.28 Compliance with the site frontage and mostly 1m separation criteria has ensured that the proposed development would not appear cramped and it is not considered to represent over-development of this site. In addition, the bungalows are separated by detached double garages, which further provides a sense of space between the buildings.
- 1.29 This development is also considered 'backland development'. Under SPD2 it is important that proposals do not create a tandem relationship and that the scale of the development is acceptable. It is considered that the proposed development complies with this criteria and with policy HP14 of the Rochford District Replacement Local Plan 2006.

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- 1.30 SPD2 requires that 100 square metres of garden area is provided for new dwellings with a few exceptions to this rule. The houses proposed at plots 1 and 5 both provide in excess of 100 square metres and therefore comply with this policy. The bungalows are two-bedroomed and SPD2 allows such properties to have minimum private garden areas of 50 square metres if the second bedroom is not of a size that would allow sub-division into two rooms. The largest bedroom on each plot could potentially be sub-divided into two very small rooms when assessing the floor area size. However, in practical terms the door and window arrangement within each room would prevent such an alteration. Plots 2, 3 and 4 all provide in excess of 50 square metres of garden area in accordance with SPD2. Due to the angle of the proposed bungalows within this strip of land the bungalows would have limited depths and short rear garden areas. Although the garden areas would be relatively short the 50 square metre size area requirement is met here and therefore it is not considered that it would be reasonable to refuse the application solely on the basis of the short depth of the garden areas proposed.
- 1.31 Some soft and hard landscaping is shown on the layout plan. However, more detailed landscaping could be controlled by a planning condition.

NEIGHBOURS

- 1.32 No. 62 Park Gardens is a semi-detached house that would border the proposed development. As the proposed house would be located 2.6m from the side elevation of no. 62 and because it would not extend beyond the front and rearmost wall of no. 62, even though the property would be larger in scale and mass, it is not considered that the proposed house would be detrimental to the occupiers of this property. Within the side elevation, a first floor window is proposed to serve a shower room and a window between first and ground floor is proposed to serve the landing. As the landing window would lie below an existing first floor window within the side elevation of no. 62 and because this would not be a habitable room of the dwelling used for considerable periods of time it is not considered that this window would create any unacceptable overlooking. However, the shower room does have such potential and a planning condition requiring this window to be obscure glazed and fixed shut below a height of 1.7m could be attached to an approval.
- 1.33 As the bungalows proposed are considered to be modest in scale and located a minimum of 4m from the boundary of the rear gardens of no. 62 and no.61 it is not considered that these would be detrimental to the occupiers of any neighbouring properties. No roof lights or dormers are proposed within the roof area of these bungalows and such future insertions and extensions in general could be controlled by a planning condition. Such condition could also relate to future windows and dormers within the double garages. The detached double garage to the rear of plot 5 and the angle of plot 1 in relation to plot 2 would limit any unacceptable overlooking from the proposed two houses to the proposed bungalows.

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- 1.34 The proposed house at plot 1 would be 2.6m greater in depth close to the boundary with no. 63 than this property. SPD2 advises that two-storey rear extensions to dwellings should not breach a 45 degree angle at first floor with the nearest ground floor habitable room windows on neighbouring properties in order to prevent an excessive degree of overshadowing to neighbouring properties. Whilst this policy guidance does not relate to proposals for new dwellings it is a useful policy guide for assessing the acceptability of the relationship between proposed new houses and neighbouring properties. The 45 degree angle is not breached when considering the nearest habitable room window in no. 63 as the window within the original part of the dwelling (not the two storey extension). In addition to this, the rise and fall of the sun would ensure that only some overshadowing may occur in the morning at this site, which is not considered to be unacceptable. There are two windows within the side elevation of plot 1 that have the potential to create unacceptable overlooking and these windows could be controlled by planning condition requiring these windows to be obscure glazed and fixed shut below a height of 1.7m.
- 1.35 It is not considered that the proposed development would be detrimental to the occupiers of any other neighbouring properties.

BRIDLEWAY

- 1.36 Some uncertainty exists around the precise legal location of the bridleway. Essex County Council Public Rights of Way and its legal team appear content that the bridleway, as exists on site and as shown on the plans, is on the correct legal line, which is 3m from the park boundary fence. A legal order was confirmed on 23 March 2011, notice was served on 21 April and this has now taken effect. However, the ECC Environment, Sustainability & Highways team that deals with the definitive maps is concerned that the bridleway at the southern end may actually be aligned immediately adjacent to the flank wall of Plot 1 rather than 1m away (at its closest point), as shown on the site plan. Therefore, the worst case scenario appears to be that plot 1 may finish directly alongside the bridleway rather than a short distance away from it, which is not considered to be an unacceptable relationship and therefore would not be considered a reason to refuse the application. The precise location of the bridleway is a matter for the landowner and Essex County Council to address. Two trees with Tree Preservation Orders (TPOs) attached to them are now located within the bridleway.
- 1.37 Concern has been raised regarding the potential for blocking of the bridleway entrance, parking within the bridleway and encroachment from residential properties. Such obstruction and encroachment may be controlled by Essex County Council as landowner and an informative could be placed on an approval reminding the developer to ensure that this does not occur.
- 1.38 The post and rail fence proposed would provide visibility from the bungalows and houses towards the public open space and thus provides security to both the bridleway/footpath and the playing fields.

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TREES AND ECOLOGY

- 1.39 Two oak trees with TPOs attached are located within the bridleway in close proximity to the application site. The Council's arboricultural consultant has not raised an objection to the application but a method statement has been suggested stating how work would occur around the trees and explain the protective measures proposed. This could be adequately controlled by planning condition.
- 1.40 Although there is the potential for the future occupiers of plot 4 to request the trees are cut back due to overshadowing concerns there is no guarantee that this would be the case. The internal layout of plot 4 has been formulated so that the most habitable rooms of the property are located away from where the shade would be created with the two bedrooms located within the south eastern corner. The front amenity area is also located within this shaded area. Due to the layout design and the fact that due to the rise and fall of the sun the rear private amenity area would not be overshadowed by the trees it is considered unreasonable to refuse the application for this particular reasoning.
- 1.41 The ecological survey submitted with the application shows that slow worms and grass snakes are present on the site. It is recommended that the slow worms are relocated to Old Nevendon Nature Reserve in Basildon. It is not recommended that any grass snakes are captured and relocated as they are a mobile species. However, the report states that the use of habitat manipulation during the slow worm mitigation exercise would safely drive any grass snakes out of the work area. Natural England has not raised an objection to the application or the proposed translocation, directing the Council to their standing advice. The standing advice does encourage translocation within a Local Authority's boundaries and close to the site, which is not proposed here. However, an ecological consultant does not raise concern with the proposed site. Natural England advises that appropriate conditions, including a detailed mitigation and monitoring strategy, should be attached to an approval. An ecological consultant has referred to the current timing and that the slow worms will be going into hibernation. He has suggested that a condition requiring the applicants to work to the recommendations in the report is attached to an approval, with, in addition, the submission of a document that considers the implications of the timing and allows for the continuation of the translocation in the spring, if necessary.

HIGHWAYS

- 1.42 The Parking Standards: Design and Good Practice Supplementary Planning Document adopted December 2010 requires that, for dwellings with two or more bedrooms, two parking spaces should be provided off street per dwelling.

SCHEDULE ITEM 1

Such spaces should also measure 2.9m x 5.5m or if they are provided within a garage the internal measurements should be 7m x 3m in order for spaces to be considered usable. Each plot provides a space on the driveway and a garage space. All are within the set measurement criteria except for the driveway space shown for plot 5, which measures 4.8m long. However, it is clear from the frontage of this plot that there is the capacity to provide a length of 5.5m and a condition ensuring this occurs at this plot and that such provision is provided across the whole site could be included with an approval. Disabled spaces and cycle storage are not required if parking is provided within the curtilage of the dwelling, which is the case with this proposal.

- 1.43 The Essex County Council Highways department has not objected to the application, but has suggested that conditions be attached to an approval. One of these conditions relates to the need for 1.5m x 1.5m visibility splays to be provided at the access to plot 1 and the access to the private road. Such splays are not provided to plot 1 within the boundary of the site nor are they shown to be provided for the access to the private road. With the access to the private road, there is the potential to provide a splay within the garden area of plot 5 and as the site borders the bridleway/footpath, which is likely to remain obstruction free, a fence line at a height of no more than 600mm is considered to create acceptable visibility here and this could be controlled by condition. Within plot 1 it is not clear whether such splays could potentially be achieved, however, ECC Highways department has confirmed that a 600mm high fence in the south west corner and possible movement of the vehicular access to allow for vegetation along this side could provide some form of splay and a similar arrangement could also be provided on the south east corner which could be controlled by condition.
- 1.44 Submitted with the application is a letter from Essex County Fire & Rescue Service, which confirms that it has no objection to the application. This is on the basis that a 3.7m wide drive would allow access to the site for 20m and would enable the bungalow on plot 4 to be reached within the 45m criteria. And it is also on the basis that a domestic sprinkler system is provided complying with BS 9251:2005 served from the town mains to the bungalows on plots 2 and 3. In addition, the Council's waste and recycling team has stated that it might be possible for a vehicle to reverse along some of the road and residents could potentially present their bins at the turning area.

DRAINAGE

- 1.45 Anglian Water has confirmed that the sewerage system at present has the available capacity for the foul flows from the proposal and has stated that drainage problems experienced by customers in recent years have been the result of operational issues and exceptional weather conditions rather than the incapacity of the public sewers.

SCHEDULE ITEM 1

However, it has raised concerns about the foul and surface water sewers that run through the site as they serve a large proportion of the eastern area of Hawkwell and are considered to be strategically important. Anglian Water has stated that under no circumstances would it allow these sewers to be built over and an informative to this effect could be placed on an approval.

- 1.46 Anglian Water has also stated that the surface water strategy assessment submitted with the planning application relevant to Anglian Water is unacceptable and has recommended that the applicant consults with Anglian Water and the Environment Agency on this. This could be controlled by a planning condition and it will be important with such condition to also ensure that surface water from the development onto the bridleway is also controlled.

CONCLUSION

- 1.47 The proposed development is within the residential area of Hawkwell where, in principle, residential development is considered to be acceptable. The design of the dwellings is considered to be acceptable and it is not considered that they would have a detrimental impact upon the character of the street scene.
- 1.48 The layout proposed, with the bungalows fronting the public open space, would be similar to properties that already have such an arrangement at the end of Hawkwell Park Drive. The proposal is considered to comply with policies HP6 and HP14 of the RDRLP and sufficient garden areas are provided in accordance with SPD2. It is not considered that the proposed development would be detrimental to neighbouring properties and any potential overlooking could be sufficiently controlled by planning condition.
- 1.49 Although the bridleway would be located in close proximity to the development it is not considered that it would have a detrimental impact upon it and the bridleway's precise location is a matter for the landowner and Essex County Council to resolve. The impact of the development on TPO trees located within the bridleway could be controlled by planning condition requiring an arboricultural report to be submitted and agreed to and the translocation of slow worms from the site could also be controlled by condition.
- 1.50 Parking and highway arrangements are considered to be acceptable and the ECC Highways department has not objected to the application. Anglian Water has confirmed that the sewerage system at present has the available capacity for the foul flows from the proposal. Concerns have been raised about surface water from the development, which again could be sufficiently controlled by planning condition.

SCHEDULE ITEM 1**RECOMMENDATION**

- 1.51 It is proposed that the Committee **RESOLVES to APPROVE** the application, subject to the following conditions:-
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 2. No development shall commence before details of all external facing (including windows and doors) and roofing materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Such materials as may be agreed in writing by the Local Planning Authority shall be those used in the development hereby permitted.
 3. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the window(s) marked OBS on the approved drawing(s) no. 104 02 date stamped 17 June 2011, shall be glazed in obscure glass and shall be of a design not capable of being opened below a height of 1.7m above first floor finished floor level. Thereafter, the said windows shall be retained and maintained in the approved form.
 4. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no enlargement of or the provision of additional windows, door or other means of opening shall be inserted on the western side elevation of the dwelling at plot 1 hereby permitted, in addition to those shown on the approved drawing no. 104 02 date stamped 17 June 2011.
 5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the dwellings to plots 3 and 4 of the layout hereby approved on drawing no. 104 01 date stamped 17 June 2011 shall not be extended without the prior approval in writing of the Local Planning Authority.

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6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class B and Class C, of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no dormers or roof light windows; shall be inserted, or otherwise erected, within the roof area (including roof void) on the west elevation of the bungalows and detached garages to plots 2, 3 and 4 hereby permitted.
7. No development shall commence before plans and particulars showing precise details of any gates, fences, walls or other means of screening or enclosure to be erected at the site have been submitted to and agreed in writing by the Local Planning Authority. Such details of screening or other means of enclosure as may be agreed in writing by the Local Planning Authority shall be erected prior to the dwellings to which they relate first being occupied and thereafter maintained in the approved form.
8. No development shall commence before a tree protection plan and an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority.
9. Prior to occupation of the dwellings the driveways serving plot 1 and plots 2-5 shall be provided with appropriate dropped kerb vehicular crossings of the footway.
10. Prior to the occupation of the dwellings the vehicular accesses and access drive to the site shall be laid out and constructed in all respects, in accordance with the approved drawing no.104 01 date stamped 17 June 2011. At this time, all other means of access to the site shall be permanently and effectively "stopped-up" in accordance with details that shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the said vehicular access shall be made available for use and thereafter retained and maintained in the approved form.
11. The dwellings shall not be occupied before the garage(s) and hardstanding(s) shown on the approved drawing no. 104 01 date stamped 17 June 2011 have been laid out and constructed in their entirety and made available for use and the parking space at plot 5 is extended to 5.5m in length. Thereafter, the said garage(s) and hardstanding(s) shall be retained and maintained in the approved form and used solely for the parking of vehicles and for no other purpose that would impede vehicle parking. Such hardstandings shall also be constructed either of a porous material or provision be made to direct surface run-off water from the hard surface to a permeable or porous area or surface within the site or to a drain within the site.

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12. No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.
13. The vehicular accesses to plot 1 and plots 2 – 5 hereby permitted shall not be used by vehicular traffic before a plan showing the pedestrian sight splays to be provided with unobstructed visibility of pedestrians using the adjoining footway at both sides of the accesses at their junction with the adjoining highway, is submitted to and agreed in writing by the Local Planning Authority. Once agreed, the said visibility splays shall be retained thereafter and maintained in their approved form free of obstruction above a height of 600mm above the finished surface of the approved vehicular accesses.
14. Prior to commencement of the development details shall be submitted for the provision of a contractor's compound to provide parking and storage areas clear of the highway to service the development. Such details as may be agreed by the Local Planning Authority shall be implemented for the duration of the construction period.
15. No development shall commence before 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

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.

SCHEDULE ITEM 1

16. Prior to commencement of the development plans and details showing the means to prevent the discharge of surface water from the development onto the highway and bridleway shall be submitted to and approved in writing by the Local Planning Authority. This should also include a surface water drainage strategy to be assessed by Anglian Water and the Environment Agency. The approved scheme shall be carried out in its entirety prior to the accesses becoming operational and shall be retained at all times.
17. Prior to commencement of the development details of a wheel washing facility to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority. The details as may be agreed in writing shall be implemented for the duration of the construction period.
18. Prior to commencement of the development and only during the months of March to September the recommendations detailed within the final report of the reptile survey dated June 2011 shall be undertaken.

REASON FOR DECISION

The proposal is considered not to cause undue demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area or residential amenity such as to justify refusing the application; nor to surrounding occupiers in Park Gardens and Hawkwell Park Drive.

Relevant Development Plan Policies and Proposals

Policy HP6 and HP14 of the Rochford District Replacement Local Plan 2006.

Supplementary Planning Document 2.

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



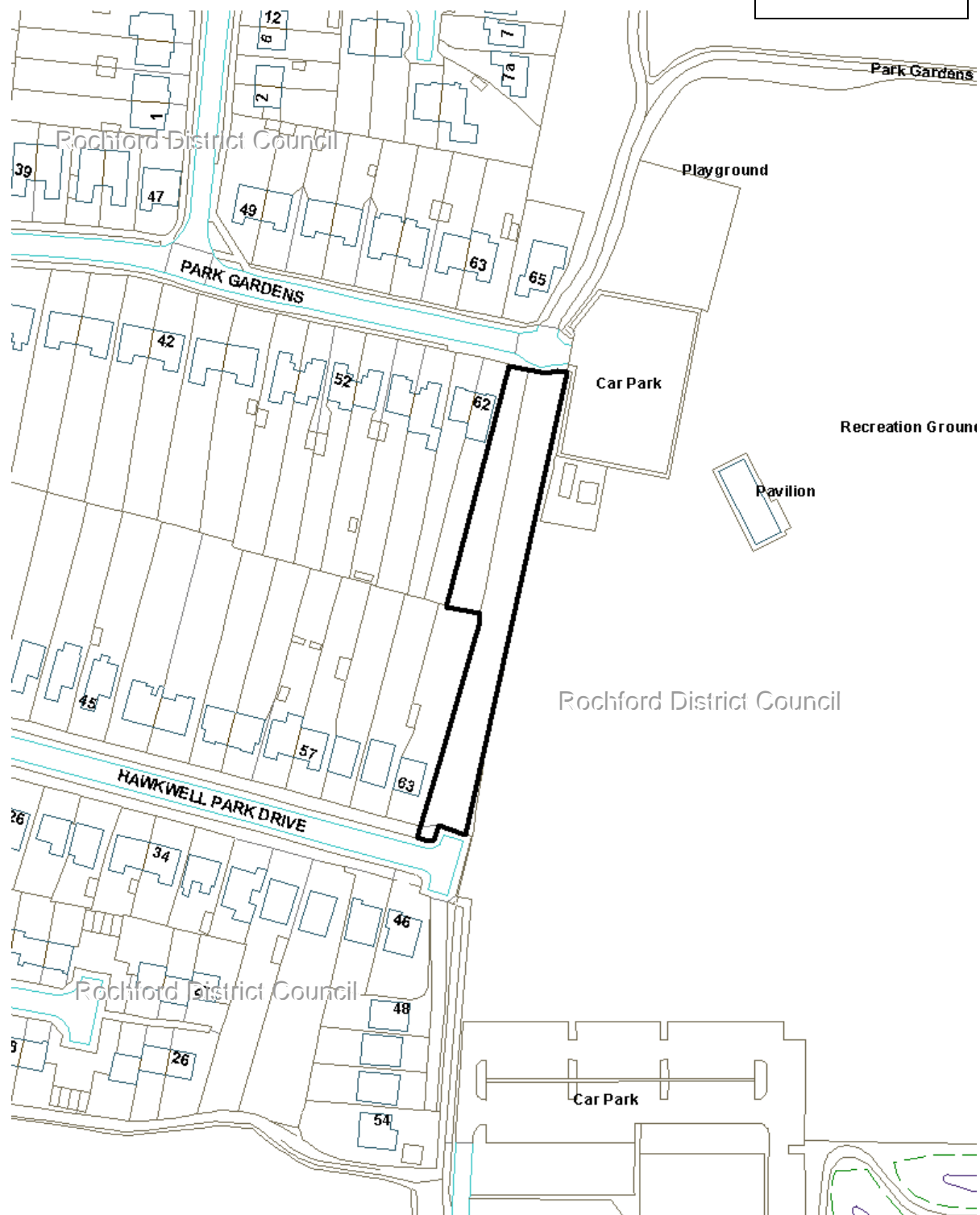
Shaun Scrutton

Head of Planning and Transportation

For further information please contact Claire Robinson on 01702 546366.

SCHEDULE ITEM 1

11/00369/FUL



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SCHEDULE ITEM 2

TITLE: 11/00411/FUL

**DEMOLITION OF SINGLE STOREY DWELLING AND
ERECTION OF NEW 3 BEDROOM SINGLE STOREY
DWELLING**

LAWN LODGE HALL ROAD ROCHFORD

APPLICANT: MR DAVID KEDDIE

ZONING : METROPOLITAN GREEN BELT

PARISH: ROCHFORD PARISH COUNCIL

WARD: ROCHFORD

PLANNING APPLICATION DETAILS

- 2.1 This application for a replacement dwelling relates to a property located within the Metropolitan Green Belt.
- 2.2 The Lodge is located at the Hall Road entrance to The Lawn, which was Grade II listed in 1988 and is of eighteenth century origin. The Lodge itself was constructed in 1939, incorporating the design elements of Georgian houses, in response to the refurbishment of The Lawn as it was considered that such a property would normally be expected to have a gatehouse. The Lodge is located just over 200m northeast of the listed building. It is contained within its own distinct curtilage of 0.103ha defined by the boundary with Hall Road, the access road to the Lawn and a drainage ditch along the remaining sides. The dwelling has a flat roof and a floor space of 67.7m².
- 2.3 The applicant contends that the refurbishment of The Lawn in the 1930s proved costly and that minimal funds were allocated for The Lodge, resulting in a construction with inferior bricks, minimal foundations and facilities. Furthermore, due to the construction there is a problem with chronic dampness. It is now proposed to replace the building.
- 2.4 The appearance of the replacement dwelling would incorporate the design elements of the existing dwelling and also of the Georgian listed building. The footprint would be of a cruciform shape and the elevations would be symmetrical with gable ends to the central axis. There would also be a parapet wall surrounding the single storey dwelling. The roof would have hipped ends. The single storey dwelling would have a width of 13.9m and maximum depth of 9.7m (compared with the existing 12.3m and 7.8m respectively).

SCHEDULE ITEM 2

- 2.5 The existing vehicle access would be adapted to suit the location of the proposed dwelling and garage. The garage would be of single size and smaller than the present garage. The driveway would be permeable and would provide sufficient parking space for several vehicles.

RELEVANT PLANNING HISTORY

- 2.6 There is no relevant planning history for the property.

CONSULTATIONS AND REPRESENTATIONS

- 2.7 **ROCHFORD PARISH COUNCIL** – Members were concerned that as the footprint of the new building could exceed that of the present building, this is not allowable within the Metropolitan Green Belt.
- 2.8 **ESSEX COUNTY COUNCIL HIGHWAYS** – No objection. Two parking spaces required.
- 2.9 **ESSEX COUNTY COUNCIL HISTORIC BUILDINGS** – Recommend refusal.
- 2.10 Lodge curtilage listed and demolition would be unacceptable. Loss would be considerable to the setting of the Lawn despite its allegedly inferior construction. Overall design, fenestration, proportions and detailing do not bear comparison with the original. Proposed structure would be less appropriate in this location than the present one, the loss of which would be detrimental to the setting of the Listed Building.

MATERIAL PLANNING CONSIDERATIONS

- 2.11 It is considered that there are two main issues in considering the merits of the application:-
- Whether the proposal would amount to inappropriate development in the Metropolitan Green Belt having regard to Local Plan policy R6.
 - The impact on the Grade II listed building, The Lawn, and heritage considerations.
- 2.12 Policy R6 allows for the replacement of existing dwellings within the Green Belt subject to certain criteria. The proposed replacement would have a floor space of 101.9m² being 34.2m² greater than the existing dwelling, thus acceptable by part (i). The property is presently in a liveable condition, in accordance with part (ii), although some work would be required to bring it closer to modern standards. The present building has a flat roof and the proposed replacement would have a pitched hipped roof with a maximum height of 4.6m above ground level. It is considered that the modest increase in height to provide a pitched roof is justifiable.

SCHEDULE ITEM 2

Taking into account the allowable increased floor space and additional roof space it is not considered that the resultant dwelling introduces additional visual mass harmful to the openness of the Green Belt (part iii). The centre point of the replacement dwelling would be located further into the plot than at present but as a sizable proportion of the present footprint would be occupied by the replacement the proposal is considered to be in agreement with part (iv) of Policy R6 The replacement dwelling is therefore considered to be acceptable in terms of Green Belt Policy R6.

- 2.13 The property has been identified as being of local historic and architectural importance worthy of inclusion in the emerging Local List Supplementary Planning Document. This would give the property an element of protection within the planning system.
- 2.14 The Essex County Council Historic Buildings Adviser has recommended refusal. The adviser considers the dwelling to be a curtilage listed building with demolition being unacceptable and a considerable loss to the setting of The Lawn. He also considers the design and scale of the building to be detrimental to the setting of the listed building.
- 2.15 In considering whether or not a building be treated as part of a listed building, by virtue of being within the curtilage of a listed building, the key issues relate to the date of the building (pre July 1948), the curtilage of the listed building when it was listed and the functional and historic relationship of the building to the principal listed building. The building predates 1948 and the date of the listing but it is of relatively recent construction in comparison to the heritage asset building. The applicant contends that it does not form part of the arrangement of out buildings to the rear of the house and the garden area around the house that would normally be regarded as providing the extent of the curtilage and that; furthermore, it is separated by a distance of 200m with intervening pasture land. In opposition to the view of the applicant it is considered that the building provides a symbolic functional relationship to the main house as an entrance lodge and is to be regarded as contained within the curtilage of the heritage asset. It is for the Council as the Local Planning Authority or the Secretary of State to initially decide whether it lies within the curtilage of the listed building. If the building is considered to be curtilage listed there would be a requirement for Listed Building Consent for demolition.
- 2.16 The replacement dwelling would incorporate some of the design elements of the listed building and the existing lodge using similar materials of white render, painted timber windows and doors. It would, however, be half as big again than the existing property. It is considered that proposed re-development would result in a development more akin to a suburban bungalow (evidenced by the fenestration, proportions and design details) rather than an appropriate entrance lodge, traditionally small in scale, to a historic building. As such it is considered to have a detrimental effect on the setting of the heritage asset and would be a development contrary to Planning Policy Statement 5 – Planning for the Historic Environment.

SCHEDULE ITEM 2

CONCLUSION

- 2.17 It is considered that the replacement dwelling would affect the significance of the heritage asset and its setting and that the loss of the current building would conflict with the purpose of Planning Policy Statement 5: Planning for the Historic Environment.

RECOMMENDATION

- 2.18 It is proposed that the Committee **RESOLVES to REFUSE** the application for the following reasons:-
1. The demolition of the Lodge would result in the loss of a curtilage listed and locally significant building that forms a close symbolic relationship with, and enhances the setting of the Grade II listed The Lawn with the replacement dwelling being of a scale and design inappropriate for the setting of the heritage asset contrary to the guidance of Planning Policy Statement 5: Planning for the Historic Environment.

RELEVANT DEVELOPMENT PLAN POLICIES AND PROPOSALS

R6, of the Rochford District Council Adopted Replacement Local Plan As saved by Direction of the Secretary of State for Communities and Local Government in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004. (5 June 2009).



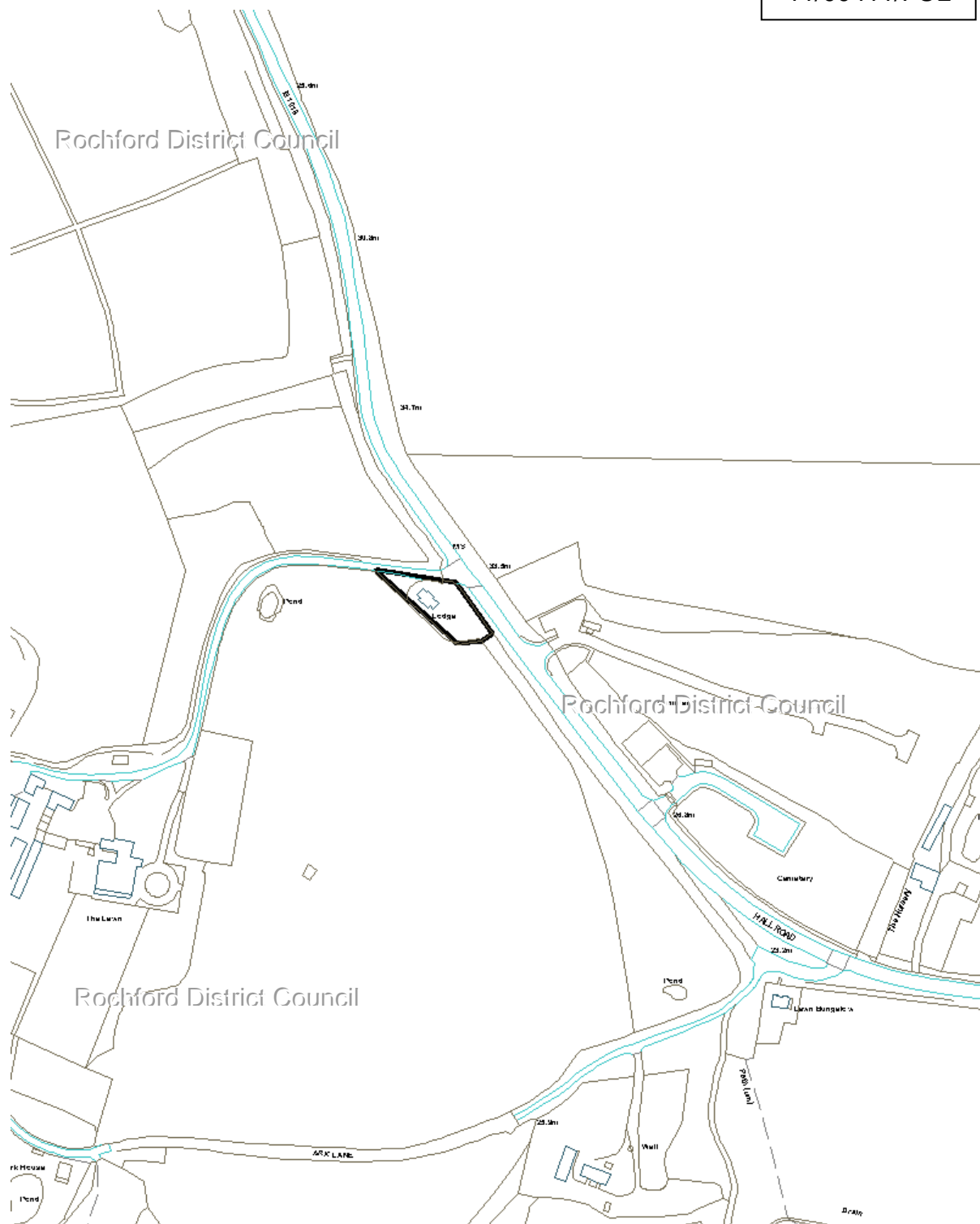
Shaun Scrutton

Head of Planning and Transportation

For further information please contact Robert Davis on 01702 318095.

SCHEDULE ITEM 2

11/00411/FUL



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SCHEDULE ITEM 3

TITLE: 11/00439/COU

**CHANGE OF USE FROM SHOP (USE CLASS A1) TO
TAKEAWAY (USE CLASS A5). DEMOLISH WORKSHOP AND
PART OF SHOP EXTENSION AND CONSTRUCT FOUR OFF-
STREET PARKING SPACES AND CONSTRUCT BIN STORE**

99 LONDON ROAD, RAYLEIGH

APPLICANT: MR DEREK COTTIS

ZONING: EXISTING RESIDENTIAL DEVELOPMENT

PARISH: RAYLEIGH

WARD: GRANGE

PLANNING APPLICATION DETAILS

- 3.1 This application is to the site of a small shop unit to the southern side of London Road at the junction with Danbury Road. This application property is the end unit of a parade of eight shops with residential flats above. The application site is a more recent side extension to the former shop that was constructed under planning consent 05/00121/FUL. This application created a further first floor residential unit and enlarged the retail unit at ground floor.
- 3.2 An application was recently approved (09/00736/FUL) to sub-divide the existing retail unit to the ground floor into two separate A1 units. The unit that is subject to this application is the ground floor unit created by the two storey side extension.
- 3.3 The units front a service road that runs parallel to London Road, but which connects the adjoining residential side streets. The existing flats and shops have rear access from a service road connecting Danbury Road and Grange Gardens. There are a few parking spaces to the rear for some units although the majority of these do not seem to have off street provision. The parade of shops includes a pharmacy, convenience store, butchers, post office, green grocers, hairdressers and an air gun shop.
- 3.4 The site is located within the residential envelope of Rayleigh, but is part of a parade of shops, with the majority of the surrounding area being predominantly residential properties.

SCHEDULE ITEM 3

THE PROPOSAL

- 3.5 The current application is to change the use of the premises from the existing shop use to that of a takeaway (Use Class A5). Unlike the previous application the current application proposes opening hours of 1000 to 1900 hours each day, but not Sundays. The previous application proposed a later time until 2300 hours each day.
- 3.6 Unlike the previous application this proposal is also to demolish part of the store building to the rear of the premises, together with an existing workshop and security fence. This area of the site would be laid out to provide 4 no. parking spaces accessed at 90 degrees to the pavement to Danbury Road.
- 3.7 A further area at the back of the spaces and adjoining the service access to the shops would provide an open storage area and bin store. The bin store would have an overall height of 1.3m, depth of 1m and overall length of 3.3m. The bin store would be finished in brickwork with wooden doors.

3.8 RELEVANT PLANNING HISTORY

Application No. CU/0340/91/ROC
Change of use from Class A1 retail to Class A3 Hot Food Takeaway
Permission refused 3 July 1991.

Application No. CU/0281/96/ROC
Change use of shop (A1) to hot food take-away (A3)
Permission refused 31 July 1996

Application No. 02/00864/FUL
Erect two storey unit comprising self contained flat at first floor and shop below (shop to form part of existing adjacent shop unit)
Permission refused 14 January 2003 for reasons of lack of amenity space inadequate parking layout and design reasons

Application No. 03/00628/FUL
Erect two storey unit comprising self contained flat at first floor and shop below (shop to form part of existing adjacent shop unit) Re-submission following refusal of 02/00864/FUL)
Permission refused 2 September 2003 for reasons of over development, lack of amenity space for the proposed flat in addition to the existing flat and insufficient parking on site to serve the proposed residential unit, the existing flat unit and the extended shop.

Application No. 03/00998
Erect two storey unit comprising self contained flat at first floor and shop below (shop to form part of existing adjacent shop unit).
Permission refused 13 January 2004

SCHEDULE ITEM 3

Application No. 05/00121/FUL

Two Storey Side Extension to Provide Extension to Existing Shop at Ground Floor And Provide First Floor Flat.

Permission granted 12 April 2005

Application No. 09/00736

Replace existing window with entrance door and internal alterations to convert from one A1 Retail unit to two A1 usage retail units.

Permission granted 3 March 2010

Application No. 10/00475/COU

Change of Use from Class A1 to Class A5

Permission refused 15 September 2010 for the following reason:-

1. The proposed change of use from A1 to A5 given the site's close proximity to residential properties would, if permitted, result in the detriment of the amenities which neighbouring residents could otherwise reasonably expect to enjoy, by virtue of an increase in noise, smells, nuisance and disturbance from callers to the site, particularly in to the late evening, in addition to an increase in on street parking and manoeuvrability problems, contrary to provisions of policy SAT 6 of the Rochford District Replacement Local Plan (2006).

Appeal dismissed 16 February 2011.

- 3.9 The site has two previous refused applications (91/00340/COU and 96/00281/COU), both of which proposed a change of use from A1 to A5 hot food takeaway. These applications were refused as it was considered that the use was inappropriate within such proximity to residential properties and if permitted would likely result in an unacceptable degree of noise, disturbance and parking problems, detrimental to the amenities of the occupiers of the adjoining residential area and detracting from the amenity of the area more generally.

CONSULTATIONS AND REPRESENTATIONS

- 3.10 **Rayleigh Town Council:** Comment received.

No objection to this application provided the hours of opening i.e. 6.00am – 6.00pm are as stipulated. (Note – the opening hours specified in the allocation are 1000 to 1900 hours Mondays to Saturdays)

- 3.11 **Essex County Council Highways:** Comment received.

No objection, subject to the following heads of conditions;

1. Provision of 1.5m x 1.5m pedestrian visibility splay.

SCHEDULE ITEM 3

2. The vehicular access shall be provided with an appropriate dropped kerb crossing.
3. The vehicular hardstandings shall have minimum dimensions 2.9m x 5.5m.
4. Provision within the curtilage for the duration of the construction period for the parking of operatives' vehicles and reception and storage of materials.
5. No unbound materials to the surface treatment of the vehicular access within the first 6m of the highway.

3.12 Rochford District Council Head of Environmental Services: Comment received.

Reports that if Members are minded to approve the application, the following conditions should be attached to any consent granted:-

1. A mechanical extraction system shall be provided to the kitchen area in accordance with details submitted to and agreed in writing with the Local Planning Authority. Such agreed works shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form while the premises are in use for the permitted purpose.
- 3.13** Advises further that the applicant should contact the Head of Environmental Services at the earliest opportunity to discuss the proposed layout of the kitchen and the requirements necessary to meet food hygiene legislation.
- 3.14** Nine letters have been received in response the public notification and from the following addresses:-

Danbury Road: 3, 4, 5
Grange Gardens: 1, 9
Langdon Road: 25
London Road: 91, 97, 122

and which in the main raise the following comments and objections:-

- Although now providing four parking spaces this will not reduce the amount of traffic on this busy corner.
- Problems with vehicles manoeuvring into the parking area on this very busy corner with difficult visibility for drivers reversing out as the extension is built out to the pavement and danger to pedestrians and narrow road.
- Also understand there are two flats above the retail unit neither of which have any parking spaces.

SCHEDULE ITEM 3

- With current restrictions in Danbury Road and restrictions soon to be put in place in Langdon Road and London Road, parking spaces should be given to the two flats, this leaving two spaces for the takeaway outlet.
- Nuisance from smells and odour day and night
- No need for another takeaway as there are several others in the vicinity
- Will be a reduction in property prices.
- There will be little passing trade as the premises are not visible from the London Road due to high hedges.
- Quiet residential area of families and elderly people. A takeaway will inevitably mean litter, loitering and vandalism
- If allowed it is likely that the buyer would extend into the adjoining unit as well as future application for extended hours.
- Vermin problems from dropped food (rats frequently seen in the ditch and hedgerow fronting London Road) and foxes attracted to harm pets. Large multi national fast food chains cannot contain litter so small premises has no chance.
- Sweyne Park School pupils already congregate outside the parade at lunch hour and a further food outlet will further encourage more and nuisance.
- Seven food outlets within easy walking distance of the site.
- Existing parade serves the community very well without the need for an added food outlet.
- Problems with waste food being thrown into nearby gardens
- At least 20 food outlets in Rayleigh not counting pubs, many with takeaway or delivery service.
- Despite spaces proposed, some customers will park in the alley, which is supposed to be kept clear.
- Late night noise factor as will be likely to be open later than the shops as well as increased refuse collections
- Further possibility that premises could be given a licence to sell alcohol.
- Existing parade is quiet and well run and closed on Sundays except for the newsagent in the morning.

SCHEDULE ITEM 3

- Not the room for all the traffic increase.
- Upset and inconvenience to all who live on the Grange Estate so please let it remain as it is.
- Supposed to be educating our children to eat more healthily and not using takeaways.
- Not appropriate in this residential area.
- Loss of on street parking to the crossing serving the parking spaces.
- The site has a long planning history where three applications for hot food have been refused and appeal dismissed.
- Proposal still detrimental to the area and more so with demographic changes over the last 20 years.
- Illumination from previous signage has not been complied with causing nuisance.
- Once shops close the pollution is removed and area quietens with less intrusive lighting.
- Light pollution from a fast food outlet will remove the respite from the shops' pollution.
- Not possible to ramp the unit access to allow access for the disabled because the unit opens out directly onto the pavement.
- Would not serve the day to day needs for the local community as required by policy SAT 6 part (ii).
- Existing unit has been used in association with adjoining motor parts shop and so has not been vacant conflicting with part (i) to SAT 6.
- Will reduce the quality of life of nearby residents in conflict with part (iii) to SAT 6.

MATERIAL PLANNING CONSIDERATIONS

- 3.15 The application proposes to change the use of the unit from Retail Use A1 to use as a Takeaway Use A5.
- 3.16 The only proposed external changes would be the introduction of a signage fascia but which does not form part of this application.

SCHEDULE ITEM 3

- 3.17 Although the site is located within a broader residential area the site is more specifically located within a local shopping parade outside the Rayleigh town centre.
- 3.18 Part (i) to saved Local Plan Policy SAT 6 stipulates that the change of use of the ground floor of existing retail premises to non retail will only be permitted if the retail unit has been vacant for 12 months minimum or because the existing use is not financially viable.
- 3.19 The applicant asks for previous information submitted in application 10/00475/COU to be taken into account. That previous application was supported by way of a letter from two estate agents. A letter from Hair and Son dated 9 June 2010 shows a schedule of viewings, which indicates that the unit was viewed 12 times between May 2006 and April 2007. These viewings took place 3 years before planning permission was granted to sub-divide no. 99 into two separate A1 units. As such the application site was not an independent unit at this time, but part of the existing use of Rayleigh Auto. No further information was given, for example, as to if any offers were made.
- 3.20 In the previous application a marketing report was supplied by H.C. Blake who has been marketing the unit for a period of 14 months between May 2009 and June 2010. This letter detailed that a lack of interest had been shown in the property, with most enquiries supposedly seeking an A5 use. The letter details a number of changes of uses within the Rayleigh Area, especially within the town centre and concludes that they consider an A5 unit would not imbalance the shopping parade and would replace an A3 unit lost at No.132 London Road.
- 3.21 H.C. Blake consider there to be a lack of A5 units outside of the town centre and suggest that allowing an A5 unit at the application site would address this deficiency. This letter in the earlier application although detailed, with regard to Rayleigh more generally, does not specify why an A1 use cannot be supported within the unit and why an A5 use is the only viable option.
- 3.22 The unit in question only became separate from the existing A1 use at no. 99 in March 2010 when planning permission was granted to create two separate units. The unit at no. 99 currently known as Rayleigh Auto, has not as far as can be determined been vacant, although the evidence would suggest that the applicant has attempted to sell this unit. The application site has not been a separate unit for a period of 12 months and therefore cannot have been vacant for this time, as before March 2010 this was part of the Rayleigh Auto.
- 3.23 The current application is supported by a further letter from H. C. Blake dated 30 June 2011 advising that the change of use proposed would help significantly with the marketing of the premises. The letter advises that only two further enquires have been made, one by a speculator and another with A5 interest.

SCHEDULE ITEM 3

The reason for lack of interest is attributed in part to a reluctance of lenders to lend perpetuated by media reporting of the economic situation and a downward trend is forecast into next year. The instructions to market the premises continue.

- 3.24 The current application is also supported by a letter from the applicant's accountants for the business trading as Rayleigh Scooter Centre. They state the company saw a small profit in 2009 of £5,000 but neither of the company's directors drew earnings from the company in that year. As a result the applicant bought his partner's share in the business. The second year of trading saw the company's turnover and general financial position decrease and in the fifteen month period up to 31 August 2010 showed a loss of £10,000 being made. The accountants argue that the business is not viable.
- 3.25 Part (i) to Policy SAT 6 requires the shop unit to either have been vacant or alternatively not to be viable. The issue is strongly linked with the neighbouring business in that the unit is used as an extension to that shop. The reason for refusal to application 10/00475/COU did not resist the previous proposal because of the loss of the retail unit not having been justified. In dismissing the appeal the previous Inspector did not consequently consider this issue in depth but acknowledged that the A5 use would provide a local service and that the potential for a vacant unit could impact negatively upon the vitality of the parade. It is clear, however, that at least that existing business is not viable and there has been little interest resulting from the marketing of the site to find a new use. Given the information available, the applicant has satisfied the test required with regard to establishing the existing use not to be financially viable.
- 3.26 There is no hot food use currently within the parade. The use of the unit as a takeaway would complement the range of services. With a large residential area adjoining the site, the further diversification in the uses within the parade would support the wider needs of the local residential population. The proposal would therefore reinforce the day to day needs of the local area rather than result in a concentration of alternative uses not serving the day to day needs of the local population. The proposal would not conflict with part (ii) to saved policy SAT 6.
- 3.27 In dismissing the recent appeal the Inspector agreed with the views of the Council's Head of Environmental Services that an internal activated charcoal air treatment system, which would not externally vent, can satisfactorily deal with the issue of cooking odours such that they would not become a source of nuisance for nearby residents. The precise specification and maintenance could be secured by a planning condition to the grant of permission.
- 3.28 The Inspector went on to consider the effect of the late opening hours in the appealed application. This contrasted with the closure of most units in the parade at around 1900 hours.

SCHEDULE ITEM 3

The inspector concluded that patrons congregating around the site, especially in late hours and the disturbance that would result to the otherwise quiet of the area could not be controlled by a planning condition. The Inspector concluded that late evening use would therefore be unacceptable.

- 3.29 The Inspector previously noted that the adjoining streets, and particularly Danbury Road, provide on street parking to supplement that available to serve the parade. The Inspector considered that whilst the use of Danbury Road and other nearby roads for on street parking would not necessarily amount to a significant highway danger, late evening use of the adjoining side streets would disrupt residential amenity. Further nuisance would be caused by inconsiderate parking.
- 3.30 The Inspector concluded that to be acceptable the proposed takeaway would have to close much earlier than the time of 2300 hours then proposed. To condition reduced hours would not, however, have resolved his concerns at the absence of parking to serve the development.
- 3.31 The current application has sought to take into account the Inspector's findings. Reduced opening hours are now proposed closing at 1900 hours consistent with the other units in the parade.
- 3.32 The site has a floor space of 54 square metres. Standard A5 to the Council's adopted parking standards requires the provision of a maximum of 1 car parking space for every 20 square metres of floor space. The current application would provide 4 no. car parking spaces within the applicant's control at double the maximum required for the use proposed. In addition, some general spaces are to be considered available from the parking serving the parade generally. The County Highway Authority has no objection to raise at this provision, subject to conditions to secure bay size, surfacing and the provision of a suitable crossing.
- 3.33 The provision of the car parking is significant to the extent that it overcomes the Inspector's concerns at the reliance on parking in neighbouring side streets arising from traffic attracted to the use. The provision of car parking and the reduction in hours now satisfy the test at part (iii) to saved Local Plan Policy SAT 6 and importantly overcome previous objections.
- 3.34 The proposal would not result in the loss of the independent access to the flat accommodation above. The existing shop front would be retained. The current proposal would not therefore conflict with parts (iv) and (v) to saved Local Plan Policy SAT 6.

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CONCLUSION

- 3.35 The site is located within a local shopping parade within a residential area. The applicant has shown the existing retail use to no longer be viable and the alternative use for a take away would further diversify and reinforce the offer for local day to day needs of the nearby population. The application now proposes a reduction in trading hours consistent with the trading pattern of the parade and proposes off street parking in excess of the maximum required in accordance with the Council's adopted parking standards. These two main features overcome the main concerns of the Council and the Inspector in the previous appeal such that planning permission for this revised proposal can now be granted.

RECOMMENDATION

- 3.36 It is proposed that this Committee **RESOLVES to APPROVE** the application, subject to the following heads of conditions:-
1. SC4B – Standard time limit.
 2. Prior to the commencement of the development a mechanical extraction system shall be provided to the kitchen area in accordance with details, which shall be submitted to and agreed in writing with the Local Planning Authority. Such works as may be agreed, shall be fully implemented prior to the commencement of any use hereby permitted and shall be maintained in the approved form in accordance with the manufacturers instructions while the premises are in use for the permitted purpose.
 3. The use of the premises for hot food takeaway shall be open to trade to customers between 1000 hours and 1900 hours on any day.
 4. Provision of 1.5m x 1.5m pedestrian visibility splay.
 5. The vehicular access shall be provided with an appropriate dropped kerb crossing.
 6. The vehicular hardstandings shall have minimum dimensions 2.9m x 5.5m.
 7. Provision within the curtilage for the duration of the construction period for the parking of operatives' vehicles and reception and storage of materials.
 8. No unbound materials to the surface treatment of the vehicular access within the first 6m of the highway.

SCHEDULE ITEM 3**REASON FOR DECISION**

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in neighbouring streets.

RELEVANT DEVELOPMENT PLAN POLICIES AND PROPOSALS

SAT6, Rochford District Replacement Local Plan (2006) as saved by Direction of the Secretary of State for Communities and Local Government and dated 5 June 2009 in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004.

Parking Standards: Design and Good Practice Supplementary Planning Document adopted December 2010 – Standard A5



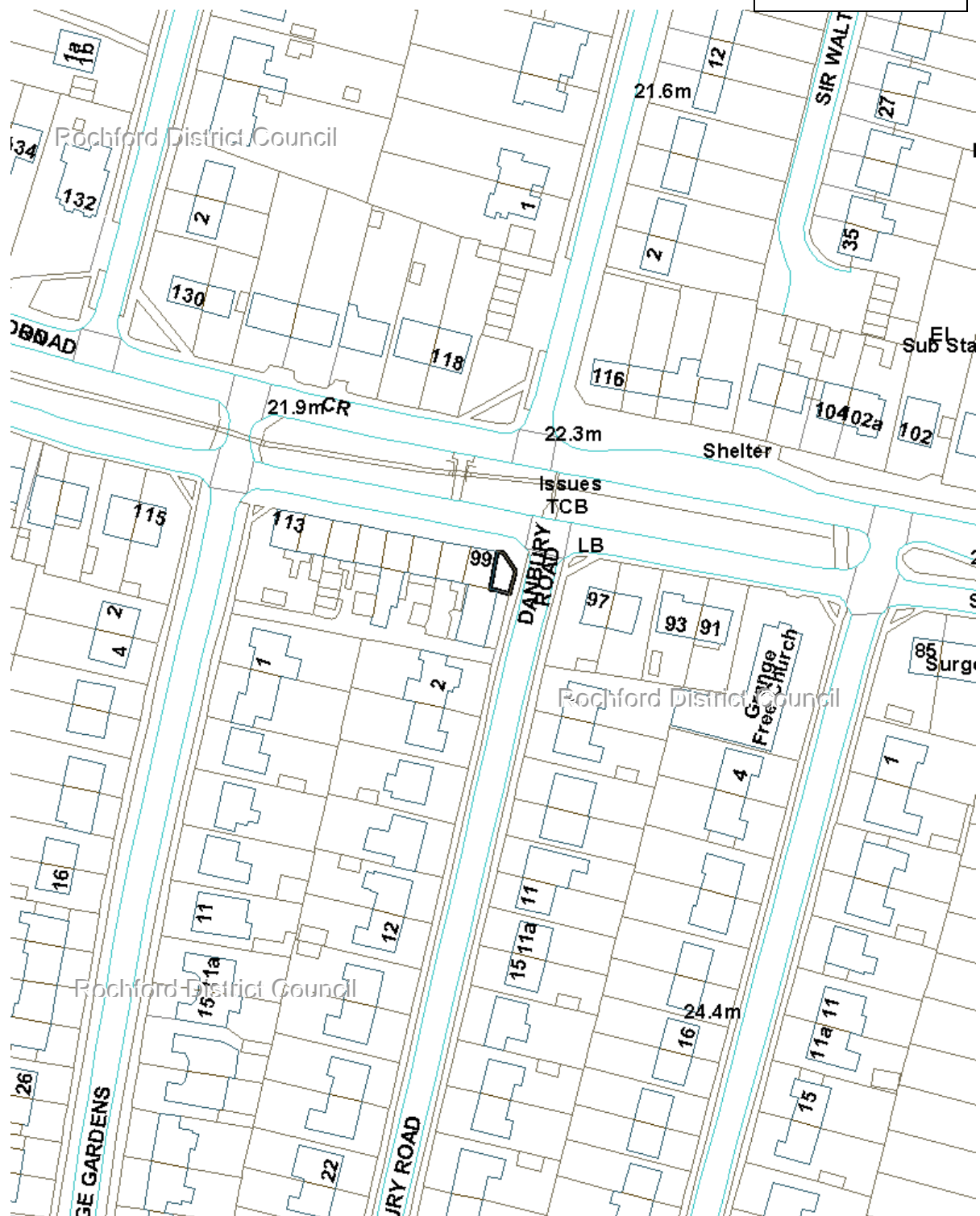
Shaun Scrutton

Head of Planning and Transportation

For further information please contact Mike Stranks on 01702 318092.

SCHEDULE ITEM 3

11/00439/COU



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SCHEDULE ITEM 4

TITLE: 11/00497/FUL

**CONSTRUCT COVERED SMOKING SHELTER TO TUDOR
SUITE AND STABLE BAR/RESTAURANT**

THE CHICHESTER, OLD LONDON ROAD, RAWRETH

APPLICANT: RANOM LTD.

ZONING: METROPOLITAN GREEN BELT

PARISH: RAWRETH

WARD: DOWNHALL AND RAWRETH

PLANNING APPLICATION DETAILS

- 4.1 The application site is The Chichester, located to the eastern side of Old London Road. The premises comprise of a complex of buildings varied between single and two storeys. On the site exists a hotel and restaurant/public house/function rooms. The site plan for this application only identifies the function room/restaurant buildings and associated car parking area as the site area and not the hotel.
- 4.2 The Chichester is remotely positioned to the eastern side of the District, sited within an area classified as Metropolitan Green Belt. The original farm buildings were converted in 1975 and have since been renovated and significantly extended. The buildings present a traditional appearance.

THE PROPOSAL

- 4.3 Permission is sought for the provision of a pitched roofed structure to provide a smoking shelter alongside the entrance to the Tudor Suite and stable bar. The structure would have an overall width of 3m and depth of 3.5m. The structure would be open sided with seating beneath and to an overall height of 3.25m but sited on a lower ground level of some 0.45m below the surrounding roadway surface. The visible height of the structure would be 2.8m above surrounding levels.
- 4.4 A similar structure has been approved recently to the Essex Barn under application 11/00219/FUL. This proposal is in addition to that permission and would serve the restaurant and bar facilities as distinct from the functions in the Essex Barn.

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RELEVANT PLANNING HISTORY

- 4.5 The site has been subject to a number of planning applications. That which is relevant is detailed as follows:-

99/00373/FUL – Extension to existing hotel to provide office accommodation – application refused on Green Belt grounds and dismissed on appeal

00/00021/FUL – Two storey extension to provide offices and additional bedrooms – Application refused on Green Belt grounds

01/00219/FUL – Underground store and office and ground floor entrance lobby – Application approved

01/00254/FUL – provision of 2 no. dormers – application approved

10/00522/FUL – Construct covered smoking shelter – application refused

Applications 02/00335/FUL, 03/00586/FUL, 04/00238/FUL, 05/00386/FUL and 06/00743/FUL all proposed a single storey extension to the building to provide office accommodation and a reception area. All of the applications were withdrawn before a decision was issued.

10/00522/FUL – Construct Covered Smoking Shelter
Permission refused 13 October 2010.

11/00219/FUL – Construct Covered Smoking Shelter to Essex Barn
Permission granted 1 June 2011

CONSULTATIONS AND REPRESENTATIONS

- 4.6 **Rawreth Parish Council:** Comments received.

No observations or comments to make.

- 4.7 **Essex County Highways:** Comments received.

De Minimis.

MATERIAL PLANNING CONSIDERATIONS

- 4.8 The site is located within the Metropolitan Green Belt as identified in the Council's saved Local plan (2006).

- 4.9 The application is made on the basis that the applicant wishes to respond to clientele comments to provide a smoking shelter facility at the site. At present the smokers use the area in front of the entrance doors in conflict with customers entering or leaving the premises. The approved smoking shelter for the Essex Barn is to a size only suited to the numbers of persons accommodated in the function suite.

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The approved shelter would, in the applicant's view, be too remote for the smoking needs of patrons to the Stable bar and Tudor suite.

- 4.10 The applicant argues that there is a further need for a further smoking shelter to satisfy demand from patrons to the restaurant and bar, distinct from the function rooms as often the two facilities are occupied at the same time with large numbers of persons at the venues and wishing to smoke in groups.
- 4.11 The Tudor suite can accommodate up to 225 people. The stable bar and restaurant can accommodate 80 people. The applicant states that 21% of the population are smokers. Most of the 60 or so smokers that could typically be expected at an event smoke socially in groups between breaks in meals. This would be in addition to the patrons present to the Essex Barn. The shelter is required closely sited to the venue doors but not to obstruct them. The siting should neither allow smoke to enter the premises but disperse outside.
- 4.12 The proposed smoking shelter would be constructed with timber posts supporting a hipped roofed tiled canopy structure. The materials for the proposed shelter, namely oak timber posts and red clay roof tiles, would be sympathetic to the Essex Barn and would not appear out of keeping.
- 4.13 Although not directly applicable in this case, the Ministerial Statement issued by the Government in March 2011 which sets out the steps the Government expects Local Planning Authorities to take with immediate effect with regard to economic growth must be taken into consideration, along with all other material considerations. The Local Authority should support economic recovery and not place unnecessary burdens on development, in order to promote sustainable economic growth.
- 4.14 The site is located within the Green Belt and as such must be assessed in relation to Government advice contained within PPG 2: Green Belts. There are no local plan policies relevant to the determination of the application.
- 4.15 With regard to the impact of the development upon the Green Belt, PPG2 provides Government advice with regard to the provision and safeguarding of Green Belts. There is a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances (shown in paragraphs 3.4, 3.8 and 3.11 and 3.12 of PPG2). Inappropriate development is, by definition, harmful to the Green Belt. It is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- 4.16 The proposed structure amounts to inappropriate development in the Green Belt by definition. The applicant puts forward that very special circumstance do apply in this case.

SCHEDULE ITEM 4

It is argued that the smoking ban in July 2007 has impacted upon The Chichester's business as patrons have no covered area outside of the Function Rooms in which to smoke. The ban on smoking in public places is a legal obligation upon the business.

- 4.17 The applicant argues that in previous correspondence the Council has accepted that very special circumstances exist that would allow a modest shelter arrangement. In the view of officers this was, however, achieved in the grant of permission for the shelter to the Essex Barn under application 11/00219/FUL. Officers consider it is not that the smoking ban demonstrates a very special circumstance for a particular smoking shelter, but that weight should be given to the principle of such provision. Many businesses in the Green Belt could put forward pressing operational needs for the addition of buildings/structures and the enlargement of existing buildings
- 4.18 The design and access statement suggests that the proposal is in response to the clientele who have made requests for such a facility to support the function rooms. Green Belt policy does not prescribe such development in all cases, but imposes a strict requirement that it should only be permitted where the balance in the arguments is clearly sufficient to outweigh the substantial harm to the Green Belt which inappropriate development represents. Should this policy not strictly be adhered to, there would be numerous new buildings and extensions which would cumulatively undermine both Green Belt policy and the openness of the Green Belt.
- 4.19 Although the development is inappropriate, it must also be assessed whether the development results in any other harm to the Green Belt.
- 4.20 The existing scale and visual impact of the complex of buildings at the site is particularly substantial. The shelter will be a noticeable addition to the front elevation of the Tudor Suite but behind a forward projection in the building on the western side. This would limit views of the addition from the wider area to the west. The structure would be shielded from views to the north and east by the envelope of the existing buildings. Views would be possible from the footpath to the south of the site but between landscaping and against the backdrop of the existing building and the slightly lower land level in comparison to the car parking area. In considering appeals for development within the Green Belt inspectors have opined that even though an extension would not be generally seen by the public at large, the fundamental aim of Green Belt policy is to keep land permanently open, an aim which is not contingent upon that openness being visible to the general public.
- 4.21 The structure would increase the built development on site, particularly given the shelter already approved. The shelter would have an impact on the openness of the Green Belt notwithstanding its design and that it is positioned against the back drop of the existing barn buildings at a slightly lower level on the site.

SCHEDULE ITEM 4

- 4.22 The erection of this additional shelter is still inappropriate development within the Green Belt and inevitably by its very presence would harm the openness of the Green Belt; very special circumstances have not been demonstrated to justify exceptionally granting consent.

RECOMMENDATION

- 4.23 It is proposed that the Committee **RESOLVES to REFUSE** the application for the following reasons:-

1. The Replacement Rochford District Local Plan (2006) as saved by Direction of the Secretary of State for Communities and Local Government and dated 5 June 2009 in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004 shows the site to be within the Metropolitan Green Belt. Within the Green Belt, planning permission will not be given, except in very special circumstances, for the construction of new buildings or for the extension of existing buildings (other than reasonable extensions to existing buildings, as defined on Policies R2 and R5 of the Local Plan). Any development, which is permitted shall be of a scale, design and siting such that the appearance of the countryside is not impaired.
2. The proposed development is inappropriate by definition and no very special circumstances have been demonstrated that would outweigh the harm that would be caused to the Green Belt. In addition, the proposed structure would be a prominent addition to the Tudor Suite and Stable Bar elements of the building and would add to the built development at the site, reducing the degree of openness to the front of the existing building to which it attaches. Should the Council allow the proposed structure this would set a precedent for piecemeal additions to buildings which would cumulatively erode the openness of the Green Belt and would be detrimental to the character and appearance of the part of the Green belt of which the site forms part'.

RELEVANT DEVELOPMENT PLAN POLICIES AND PROPOSALS

Planning Policy Guidance 2: Green Belts (1995).

SCHEDULE ITEM 4

A handwritten signature in black ink, appearing to read 'Shaun Scrutton', with a stylized flourish at the end.

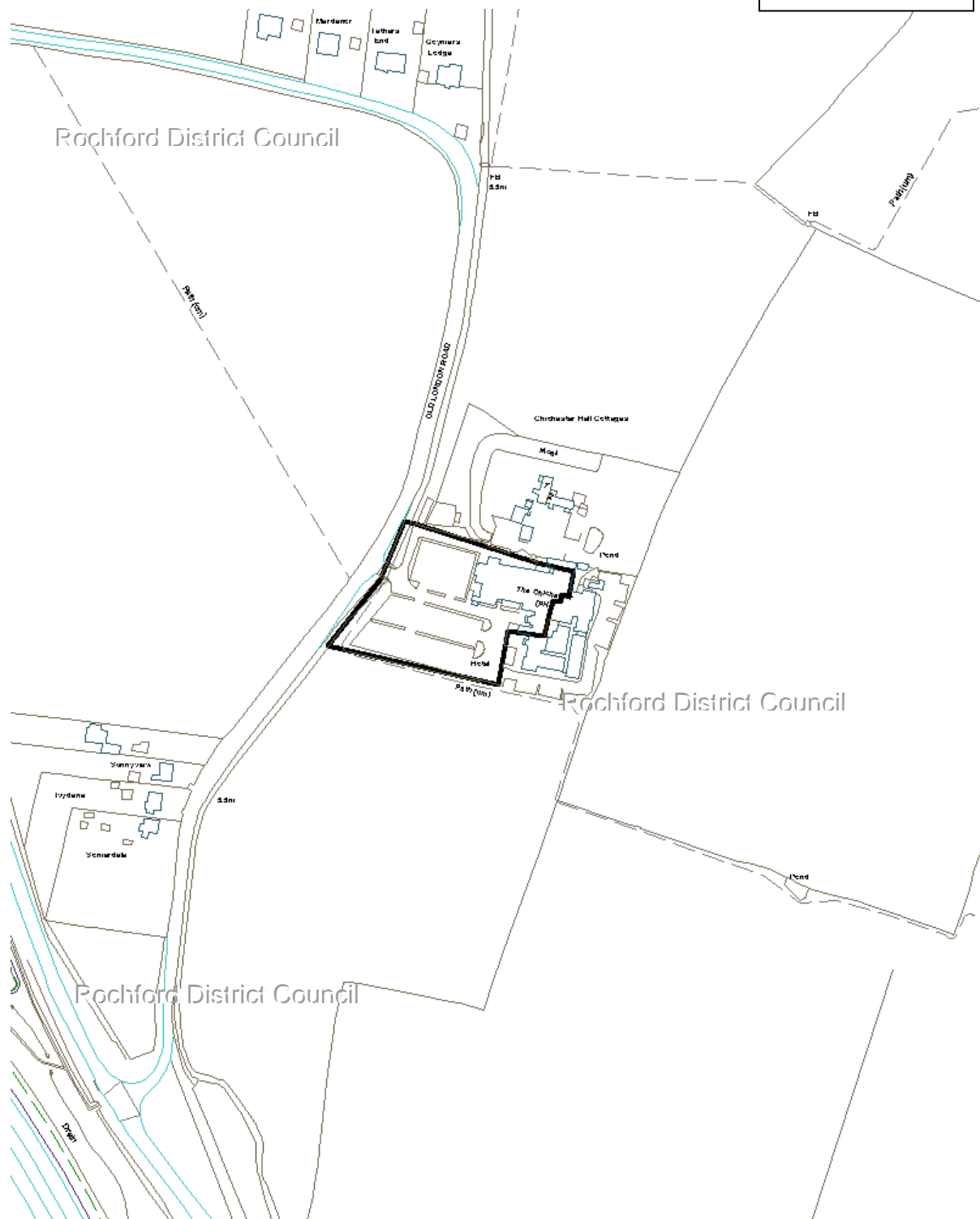
Shaun Scrutton

Head of Planning and Transportation

For further information please contact Mike Stranks on 01702 318092.

SCHEDULE ITEM 4

11/00497/FUL



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CODE OF GOOD PRACTICE FOR PLANNING MATTERS

A Introduction

1. The aim of this code of good practice

To ensure that in the planning process all decisions are unbiased, impartial, and well founded.

2. Your role as a Member of the Planning Authority

To control development and to make planning decisions openly, impartially, with sound judgment and for justifiable reasons.

3. When the Code of Good Practice applies

This code applies to Members at all times when involving themselves in the planning process (this includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public, and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

B Relationship to the Code of Conduct – Points for Members

- **Do** apply the rules in the Code of Conduct for Members first.
- **Do** then apply the rules in this Code of Good Practice for Planning Matters, which seek to explain and supplement the Code of Conduct for Members for the purposes of planning control.
- Failure to abide by this Code of Good Practice for Planning Matters may put:-
 - the Council at risk of proceedings in respect of the legality or maladministration of the related decision; and
 - yourself at risk of a complaint to the Standards Committee or Standards Board for England.

C Development Proposals and Interests under the Members' Code

- **Do** disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members.
- Preferably, disclose your interest at the beginning of the meeting and not just at the commencement of discussion on that particular matter.
- **Do** then act accordingly.

Where your interest is personal and prejudicial:-

- **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the planning authority.
- **Don't** get involved in the processing of the application, save as mentioned below.
- **Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a councillor. This would include, where you have a personal and prejudicial interest in a proposal, using your position to discuss that proposal with officers or members when other members of the public would not have the same opportunity to do so.
- **Do** be aware that, whilst you are not prevented from seeking to explain and justify a proposal in which you have a personal and prejudicial interest to an appropriate officer, in person or in writing, the Code places limitations on you in representing that proposal. You may address the Committee but only to make a presentation in the same manner that would apply to a normal member of the public, after which you must leave the room whilst the meeting considers it (you may not remain to observe the meeting's considerations on it from the public gallery).
- **Do** notify the Monitoring Officer of the details.

D Fettering Discretion in the Planning Process

- **Don't** fetter your discretion and therefore your ability to participate in planning decision making by making up your mind, or clearly appearing to have made up your mind (particularly in relation to an external interest or lobby group), on how you will vote on any planning matter prior to formal consideration of the matter at the Committee and of your hearing the officer's presentation and evidence and arguments on both sides.

Fettering your discretion in this way and then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination or a failure to take into account all of the factors enabling the proposal to be considered on its merits.

- **Do** be aware that you are likely to have fettered your discretion where the Council is the landowner, developer or applicant and you have acted as, or could be perceived as being, a chief advocate for the proposal (this is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the

proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits).

- **Do** consider yourself able to take part in the debate on a proposal when acting as part of a consultee body (where you are also a member of the parish council, for example, or both a district and county councillor), provided that the proposal does not substantially affect the well being or financial standing of the consultee body, and you make it clear to the consultee body that:-
 - your views are expressed on the limited information before you only;
 - you must reserve judgment and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Committee and you hear all of the relevant information;
 - you will not in any way commit yourself as to how you or others may vote when the proposal comes before the Committee; and
 - you disclose the personal interest regarding your membership or role when the Committee comes to consider the proposal.
- **Don't** speak and vote on a proposal where you have fettered your discretion. You do not also have to withdraw, but you may prefer to do so for the sake of appearances.
- **Do** explain that you do not intend to speak and vote because you have or you could reasonably be perceived as having judged (or reserve the right to judge) the matter elsewhere, so that this may be recorded in the minutes.
- **Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have represented your views or those of local electors and fettered your discretion, but do not have a personal and prejudicial interest. Where you do:-
 - advise the proper officer or Chairman that you wish to speak in this capacity before commencement of the item;
 - remove yourself from the member seating area for the duration of that item; and
 - ensure that your actions are recorded.

E Contact with Applicants, Developers and Objectors

- **Do** refer those who approach you for planning, procedural or technical advice to officers.
- **Do** contact the Head of Planning and Transportation where you think a formal meeting with applicants, developers or groups of objectors might be helpful. You should never seek to arrange that meeting yourself. If a meeting is organised, officers will ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.
- **Do** otherwise:-
 - follow the rules on lobbying;
 - consider whether or not it would be prudent in the circumstances to make notes when contacted; and
 - report to the Head of Planning and Transportation any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

In addition, in respect of presentations by applicants/developers:

- **Don't** attend a private planning presentation not open to the general public unless an officer is present and/or it has been organised by officers.
- **Do** attend a public meeting or exhibition to gather information about planning proposals.
- **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Development Committee.
- **Do** be aware that a presentation is a form of lobbying – you can express views, but must not give an indication of how you or other Members might vote.

F Lobbying of Councillors

- **Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality and therefore your ability to participate in the Committee's decision making to express an intention to vote one way or another or such a firm point of view that it amounts to the same thing.
- **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.
- **Do** promptly refer to the Head of Planning and Transportation any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.
- **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to investigate.
- **Do** note that, unless you have a personal and prejudicial interest, you will not have fettered your discretion or breached this Planning Code of Good Practice through:-
 - listening or receiving viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
 - attending a meeting with the developer or applicant organised by the Head of Planning and Transportation that is conducted in accordance with the rules set out in the Code of Conduct and this good practice guide;
 - seeking information through appropriate channels; or
 - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

G Lobbying by Councillors

- **Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals. If you do, you will have fettered your discretion and are likely to have a personal and prejudicial interest.
- **Do** feel free to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, Ramblers Association or a local civic society, but disclose a personal interest where that organisation has made representations on a particular proposal and make it clear to that organisation and the Committee that you have reserved judgment and the independence to make up your own mind on each separate proposal.
- **Don't** excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.
- **Don't** decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Members should vote on a planning issue.

H Site Visits

- **Do** request an early site visit if you think one is required.
- **Do** try to attend site visits organised by the Council where possible.
- **Don't** request a site visit unless you feel it is strictly necessary because:
 - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
 - there are significant policy or precedent implications and specific site factors need to be carefully addressed.
- **Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.
- **Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.
- **Don't** hear representations from any other party, with the exception of the Ward Member(s) whose address must focus only on site factors and site issues. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

- **Don't** express opinions or views to anyone.
- **Don't** enter a site not open to the public which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias unless:-
 - you feel it is essential for you to visit the site other than through attending the official site visit,
 - you have first spoken to the Head of Planning and Transportation about your intention to do so and why (which will be recorded on the file) and
 - you can ensure you will comply with these good practice rules on site visits.

I Public Speaking at Meetings

- **Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- **Do** ensure that you comply with the Council's procedures in respect of public speaking.

J Officers

- **Don't** put pressure on officers to put forward a particular recommendation (this does not prevent you from asking questions or submitting views to the Head of Planning and Transportation, which may be incorporated into any Committee report).
- **Do** recognise that officers are part of a management structure and only discuss a proposal, outside of any arranged meeting, with a Head of Service or those officers who are authorised by their Head of Service to deal with the proposal at a Member level.
- **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.
- **Do** give officers the opportunity to report verbally on all applications reported to the Development Committee for determination.

K Decision Making

- **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation following a Weekly List report, you discuss your reasons with the Head of Planning and Transportation.
- **Do** comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.
- **Do** come to your decision only after due consideration of all of the information reasonably required upon which to base a decision, including any information presented through an addendum to a Committee report or reported verbally by officers.
- **Don't** vote or take part in the meeting's discussion on a proposal unless you have been present during the entire debate on any particular item, including the officers' introduction to the matter.
- **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan, that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded.
- **Do** be aware that in the event of an appeal the Council will have to justify the resulting decision and that there could, as a result, be a costs award against the Council if the reasons for refusal cannot be substantiated.

L Training

- **Don't** participate in a vote at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.
- **Do** endeavour to attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively.