



**Rochford District  
Council**

<b>APPLICATION NO.</b>	23/00087/FUL
<b>ADDRESS</b>	16 Glencrofts, Hawkwell, Essex, SS5 4GN
<b>APPLICATION DETAILS</b>	Change of use of land from woodland to a residential garden and the erection of boundary fencing.
<b>APPLICANT</b>	Mrs Jenny Channing
<b>ZONING</b>	No Allocation
<b>PARISH</b>	Hawkwell
<b>WARD</b>	Hawkwell West

**REPORT SUMMARY**

1. This application is to be considered by Development Management Committee on the basis that the site currently is within the ownership of the council. This application seeks planning permission relating to the proposed material change of use of an area of woodland (comprising an area of approximately 700m<sup>2</sup>) adjoining a residential property in order that it can be used as part of the residential curtilage serving 16 Glencrofts. The application also seeks planning permission in respect of boundary treatments with particular regards to boundary fencing to be erected along the boundary of the site with White Hart Lane. The submitted plans indicate that a post and rail fence would be set back 2 m from the edge of the highway and screened by new hedge planting. This particular fence given its relative proximity to White Hart Lane would require planning permission of its own right as such would not benefit from permitted development rights as conferred by Schedule 2 Part 2 (Minor Operations) Class A (gates, fences, and walls) of the Town and Country Planning (General Permitted Development) (England) Order (UK Statutory Instrument 2015 No 596) (as amended).
2. The application is supported by plans which demarcate the area subject to the proposed change of use and which indicate the type and extent of fence boundaries proposed although planning conditions are considered necessary to ensure adequate controls over site boundary treatments. Additional information was submitted on the request of the case officer in relation to Ecology, as an assessment of the site in this regard and any potential implications arising from the development was considered necessary. Essex Place Services Ecology was consulted and originally issued a holding objection pending further clarification on

the matters raised. Further information was received from the applicant to address this holding objection as a result of which on consideration Place Services withdrew its holding objection and recommended that a condition (requiring biodiversity enhancements be incorporated into the development) be attached to any recommendation. This consideration and response received from Place Services Ecology confirms that the development would have no impacts upon ecology interests within this unmanaged woodland area which is low in biodiversity value terms. There is no evidence to support the fact that this development would result in net biodiversity loss sufficient to support a case for a recommendation to refuse this application.

3. There is no presumption against the change of use of land as proposed in this instance as there is no statutory designation to this woodland area of which this site forms part of. The site is not designated as a village green designated under statute or as a formal recreation area or as an important local wildlife site or a site of recognised regional or national importance such as a Site of Special Scientific Interest.
4. In this instance there is no presumption against such use providing that the amenity and character of the area is not demonstrably affected by the increase in the extent of the curtilage which there is no reason to consider would be the case. The visual impacts of any fence boundaries proposed particularly along its boundary with White Hart Lane is recognised by the case officer and this is mitigated through a revised plan and those planning conditions recommended.
5. Despite the level of third-party objection to this application, there are no material planning policies or considerations at local level as embodied by the councils 'Development Plan' or at national level as set out by the National Planning Policy Framework (The Framework) as updated December 2023 which inform a recommendation that the application should be refused. It is therefore the position that this application should be approved subject to the following recommendations.

## **RECOMMENDATIONS**

It is proposed that the Committee **RESOLVES**

That planning permission be granted subject to the following conditions:

### Commencement Condition

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

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

### Development in Accordance with Approved Plans

- (2) The development shall be undertaken in strict accordance with the details of the approved plans referenced: TQRQM23032190159658 (Proposed Site Area Plan), TQRQM23032919199742 (Site Location Plan), Site Block Plan: Fence Boundary Details Version 3 (Revised 9<sup>th</sup> June 2023) and Site Block Plan: Fence and Planting Details (submitted 9<sup>th</sup> June 2023)

REASON: In the interests of clarity to define the scope of the application considered.

Removal of Permitted Development Rights for Garden Buildings

- (3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings shall be erected within the area subject of this planning permission without the formal approval of such by the Local Planning Authority.

REASONS: To control future development in the interest of safeguarding amenity in compliance with policy DM1 of the council's Development Management Plan.

Method Statement for the installation of fencing

- (4) Prior to the installation of any fencing a Method Statement shall be submitted to the Local Planning Authority for its written approval. The fencing shall be implemented in accordance with the approved details.

REASON: To safeguard trees subject of a Tree Preservation Order in compliance with policies DM25 and DM26 of the council's Development Management Plan.

Fencing and hedge boundary along boundary with White Hart Lane to be undertaken in accordance with revised plans submitted 9<sup>th</sup> June 2023.

- (5) The fencing shall be installed in accordance with the revised fencing details submitted 9<sup>th</sup> June 2023 which shows a post and rail fence which is to be installed along the entire boundary of the site adjacent to White Hart Lane and set back 2 m in distance from the edge of the highway. This fence, the height of which shall not exceed 1.5 m in height relative to existing ground levels shall incorporate upright supporting posts and horizontal post solely of a timber construction only and no other material. The 2 m deep new hedge boundary shall be planted in accordance with the further details required by conditions 7 and 8.

REASONS: To ensure adequate control over design and to ensure a satisfactory appearance in the interests of visual amenity in compliance with policy DM1 of Rochford District Council's Local Development Framework Development Management Plan (adopted December 2014) and to enhance protected and

Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

Implementation of Soft Landscaping

- (6) The soft landscaping comprising the planting of a hedge along the boundary of the site with White Hart Lane shall be implemented in its entirety in accordance with the submitted and approved details (as required by conditions 7 and 8) within the first planting season (soft landscaping) and within one year respectively (boundary treatments) from the date of occupation of any development. 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 an agreed location, in the first available planting season following removal.

REASON: To ensure adequate control over design and to ensure a satisfactory appearance in the interests of visual amenity in compliance with policy DM1 of Rochford District Council's Local Development Framework Development Management Plan (adopted December 2014) and to enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

Submission of Biodiversity Enhancement Strategy

- (7) Notwithstanding the details of the submitted plans including an indication of planting (which is not sufficiently detailed) within 3 months of the date of consent, a Biodiversity Enhancement Strategy for bespoke biodiversity enhancements, prepared by a suitably qualified ecologist in line with the recommendations of the (the Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023), shall be submitted to and approved in writing by the local planning authority. The content of the Biodiversity Enhancement Strategy shall include the following: a) Purpose and conservation objectives for the proposed enhancement measures; b) detailed designs or product descriptions to achieve stated objectives; c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant); d) persons responsible for implementing the enhancement measures; and e) details of initial aftercare and long-term maintenance (where relevant).

REASON: To enhance protected and priority species and to meet the requirements of Local Plan Policies DM25 and DM27.

- (8) The planting and biodiversity enhancement works shall be implemented in its entirety in accordance with the submitted and approved details within the first

planting season following approval of the details. 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 an agreed location, in the first available planting season following removal.

REASON: To ensure adequate control over design and to ensure a satisfactory appearance in the interests of visual amenity in compliance with policy DM1 of Rochford District Council's Local Development Framework Development Management Plan (adopted December 2014). And to enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2023 and s40 of the NERC Act 2006 (Priority habitats & species).

**SUPPORT ING INFORMATION**

**1.0 PLANNING APPLICATION DETAILS**

<b>DRAWING NOS.</b>	<p>TQRQM2302191919742 (Existing Location Plan)                  TQRQM23032190159658 (Proposed Site Area Plan)                  TQRQM23032919199742 (Site Location Plan)</p> <p>Site Block Plan: Fence Boundary Details Version 3 (Revised 9<sup>th</sup> June 2023)</p> <p>Site Block Plan: Fence and Planting Details (submitted 9<sup>th</sup> June 2023)</p>
<b>SUBMITTED DOCUMENTS</b>	<p>Preliminary Ecological Appraisal / Low Impact EclA (Version 1 May 2023)</p> <p>Further supporting information: Hybrid Ecology Ltd</p>

1.1 The application details are covered by the opening summary cited at points 1-5 of this report. Other than the Location Plan and Proposed Site Area Plan the plans have been prepared by the applicant. The plans are considered sufficient to enable the council to understand and to assess the application and to make a recommendation which includes a number of conditions. The additional information in the form of the Preliminary Ecological Appraisal and further supporting information has been adequately assessed by the council's statutory consultee such that there is not considered to be any further outstanding information required prior to a decision being made.

## **2.0 MATERIAL PLANNING CONSIDERATIONS**

### **Site and Context**

- 2.1 The land shown as a rectangular area on the submitted plans is located directly North West of 16 Glencrofts and to the North East of 42 White Hart Lane. Although constituting undeveloped ground the site is located within the built-up area of Hawkwell such that it cannot be considered to constitute Green Belt as cited by the Local Development Framework Allocations Plan (adopted February 2014) which shows the area as shaded white as opposed to shaded green which it would be shaded as such if the site was allocated as Metropolitan Green Belt.
- 2.2 The site constitutes an area of what has been described as a woodland area which would form an extension to the existing amenity space which serves the residential occupation of 16 Glencrofts. There are no obvious signs that this wider woodland strip set adjacent to White Hart Lane is used by the public at large in that there are formal paths or access points to this woodland from any private or public access point.
- 2.3 At the time of the case officers site visit, the boundary of the application site with White Hart Lane was well vegetated at intervals with woodland shrub species whilst views into the site and wider woodland strip was possible due to the gaps in vegetation when viewed from White Hart Lane by car and on foot. The gaps were more pronounced whilst viewing the site on foot as compared by viewing the same when travelling by car.

### **Relevant Planning History**

- 2.4 08/00787/FUL: Revision to Approval Reference F/0521/93/ROC Involving Substitution of House Types, Plot 43 With 2 Bed Bungalow and Plot 44 With 3 Bed Chalet: Granted Planning Permission 4.12.2008.
- 2.5 23/00075/TPO: Issued 31.01.2023.

### **Principle of Development**

- 2.6 There is no specific policy which can be cited within the Rochford Councils Local Development Framework Core Strategy nor within the Development Management Plan which specifically relates to extension of domestic gardens within locations located outside the Green Belt although there is a policy within the Development Management Plan which relates to such extensions within the green belt (Policy DM22). As this site is not within the green belt this



policy does not apply although some of the general principles and considerations would be applicable to the change of land to residential curtilage outside the Green Belt as proposed in this instance.

- 2.7 Given the thrust of planning policy in terms of safeguarding Green Belt from development considered to be inappropriate, given that the site is not within the designated Green Belt there would be no presumption against such a change of use providing that the change of use would not result in any harmful material impacts. These are discussed further within the following sections of this report.

**Potential Impact of Use on Trees subject of Tree Preservation order**

- 2.8 It is noted that pre application advice issued in 2017 drew attention to this matter. It was stated then that given that the site is stated to constitute woodland, providing that the use in terms of its implementation can demonstrate that the use would not result in the loss of any trees or woodland that could be demonstrated to be of conservation importance or would result in the loss of trees which contribute to the amenity of the area there would be no reason on these grounds to find the use objectionable. This principle is covered by policy DM25 of the Development Management Plan whilst policy DM26 seeks to safeguard other important landscape features including hedgerows, semi natural grasslands, and water courses.
- 2.9 It is understood from the applicant that discussions have been ongoing with the council's Arboricultural Advisor for a number of years to purchase this area of woodland from Rochford council. The applicant indicates that the woodland is subject of a blanket Tree Preservation Order (TPO). It is indicated that the applicant has been granted permission to thin the woodland by 25%, remove some trees close to 16 Glencrofts and to remove a large amount Laurel which is growing within the area under consideration.
- 2.10 A letter on the council's file confirms the position in that it states that further to the application made by the applicant for tree works dated 31st January 2023, the following decision has been reached: (quote)

Consent is granted for the following works: W1 - Land as shown on the application plan - thin woodland by 25% removing occasional oak, hawthorn, and laurel - species to be selected and marked up by the contractor and tree officer prior to works. Reduce occasional Oak on the boundaries of the site by 2-3m to reduce from dwellings, highway, and overhead services. Trees to be selected and marked up by the contractor and tree officer prior to works. This authority may not give you permission to carry out works to trees that are not in your ownership, for this you must speak to the owner of the tree. You may

require a felling license for this work – you should check with the Forestry Commission prior to carrying out this work.

This consent is subject to the following conditions: 1 The work is carried out to British Standard 3998 (2010) Reason: To ensure the tree works are to a suitable standard to maintain the health of the tree/s 2 The person carrying out the work must have a copy of this decision notice with them. Reason: To ensure the person carrying out the works has seen and read the decision notice 3 The consent is valid for 2 years from the date of this decision notice Reason: To ensure the work is carried out in a timely fashion and to avoid confusion with any future consents.

- 2.11 Noting the objections from third parties in this regard, although the approval of these works does not pre-empt the acceptance of a planning application relating to a change of use, the fact that the site has trees which are protected neither form the basis of a refusal of a planning application providing that these trees are safeguarded which they will be under the prevailing statutes.
- 2.12 In communication with the council's Arboricultural advisor on this matter it was confirmed that the area will remain protected as a woodland TPO and therefore all trees, seed trees, shrubs and the woodland unit will remain protected (tested in case law). It is indicated that the applicant has been advised that the council would not permit loss of the woodland but would allow suitable woodland management, such as thinning to allow a more diverse habitat whilst retaining the woodland structure albeit trying to hold back the woodland succession in order to retain a more structured / diverse woodland flora (to be provided as a TPO application).

### **Ecology and Biodiversity**

- 2.13 It was advised as part of pre application advice on 29<sup>th</sup> November 2017 that policy DM27 (Species and Habitat Protection) also cites the importance of safeguarding priority species and habitats identified under Section 41 of the Natural Environment and Rural Communities Act. An example of this may be that of dormice populations which have become fragmented due to habitat loss and fragmentation, and which may remain and be present in certain pockets which are nevertheless reliant on green corridors (hedgerows) and inter connected habitats to sustain viable populations. Another example of this may be bat species many of which are protected under European habitat regulations many of which are woodland specialists such a Natterer's Bat. It was advised at that time that if the site is currently ungrazed by animals there is potential that the site may be utilised by amphibians and reptiles including slow worm which are also protected under the Wildlife and Countryside Act 1981 legislation.



- 2.14 It was advised that the potential of any use to impact upon the above if at all present will depend on the material state of the land at the time of the application which would in certain circumstances justify the submission of a phase 1 habitat survey to support the planning application, the purpose of which would be to identify any reptile, amphibian, mammal and invertebrate species which may be utilising the site in addition to flora which would assist in the assessment of the impact of the use on these species if present - particularly in terms of whether the favourable conservation status of such species would be affected by the proposed use and if so what mitigation could be put forward to make the development in planning terms acceptable.
- 2.15 The National Planning Policy Framework (The Framework) at paragraph 185-188 indicates the importance of avoiding impacts on protected species and their habitat and where impact is considered to occur appropriate mitigation to offset the identified harm. The council's Local Development Framework Development Management Plan at Policy DM27 requires consideration of the impact of development on the natural landscape including protected habitat and species. National planning policy also requires the planning system to contribute to and enhance the natural environment by minimising impacts on biodiversity, providing net gains in biodiversity where possible. In addition to the UK Biodiversity Action Plan, proposals for development should have regard to Local Biodiversity Action Plans, including those produced at District and County level.
- 2.16 Section 40 of the Natural Environment and Rural Communities (NERC) Act (2006) places a duty on public authorities to have regard for the purpose of conserving biodiversity. PAS 2010 aims to reduce the varied applications of this obligation, ensuring that all parties have a clearer understanding of information required at the planning stage. Section 41 of the NERC Act (2006) identifies habitats and species which are of principal importance for the conservation of biodiversity in England. There are 56 habitats and 943 Species of Principal Importance in England (SPIE), and most of the UK's protected species are listed under Section 41. Whilst the possible presence of a protected species is accompanied by legal obligations and will remain the first consideration of planning departments, the total biodiversity value of a site must now be considered.
- 2.17 The case officer advised the applicant that a Preliminary Ecological Appraisal was required to support the application drawing attention to the same advice provided within the pre application advice issued in 2017 to the same effect. The submitted survey indicates that the woodland provides ecological functionality as a corridor for wildlife through an urban landscape. However, it is currently unmanaged, the canopy layer is dense and restricts light to the ground, therefore structure and biodiversity value is limited. There are also garden escape plants and litter is present throughout. The survey considers

the proposal provides an opportunity to enhance the woodland through removal of ornamental species, selective removal of trees and installation of habitat boxes for nesting birds and bats. It is indicated that a native hedge to define the north-eastern boundary is proposed whilst there are trees within the site with bat roost potential, although the applicant confirms they will be retained. The survey indicates that garden lighting should be controlled to ensure the environment remains as a dark corridor for nocturnal wildlife. It is not considered that this aspect could be reasonably included as a planning condition.

- 2.18 Paragraph 180 of the Framework indicates that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 2.19 The submitted survey indicates that the site is a small, roughly rectangular-shaped parcel of woodland, covering an area of approximately 0.1 hectares. The woodland is secondary in that it has developed through natural processes on land previously cleared of trees. Secondary woodland is usually species-poor compared to ancient woodland. The woodland includes oak *Quercus robur* and field maple *Acer campestre* as the canopy layer with understorey field maple, hawthorn *Crataegus monogyna*, holly *Ilex aquifolium*, privet *Ligustrum vulgare*, yew *Taxus baccata*, prunus sp. and bramble *Rubus fruticosus* agg. The ground layer includes cow parsley *Anthriscus sylvestris*, ivy *Hedera*, lords and ladies *Arum maculatum*, cleavers *Galium aparine*. Along the northern boundary there are several lapsed field maple coppices and hornbeam *Carpinus betulus*. There are several garden escape shrub species including cherry laurel *Prunus laurocerasus* and litter is present throughout. There is a small area in the centre where light reaches the ground layer –

there are woodland grasses here including brome sp. and other common ruderal species, including hedge garlic *Alliaria petiolate* and celandine. Some selective thinning of trees would promote further areas of grasses/wildflowers to establish. There are various brush piles along the western edge from recent tree work authorised by the council.

- 2.20 The survey assesses the woodland as an ecological corridor through a predominantly urban landscape, however it is unmanaged and ecological value is being lost as the canopy layer shades out the understorey and ground flora. There are several undesirable “garden escape” shrub species, including cherry laurel. The proposal provides an opportunity to bring a declining woodland into active conservation management and therefore should be acceptable on ecological grounds. There is an opportunity for nesting birds to use the trees and understorey – therefore mitigation measures are required during future tree work. Any fencing should also be permeable in nature to allow wildlife, including Priority Species such as hedgehog to disperse through as required. Lighting should also be controlled to maintain a dark environment for nocturnal wildlife, including bats.
- 2.21 The survey indicates that there are no ponds on the site. According to aerial imagery (MAGIC, accessed 24th May 2023) there are no ponds within 250 metres of the site. As Great Crested Newts rarely disperse beyond 250 metres of a breeding pond, terrestrial presence is reasonably unlikely. There is no risk of killing, injury, disturbance as a result of changing the use of woodland to a garden. The hazel dormouse requires wooded habitats, usually semi-natural woodland containing hazel coppice and oak, and a rich understorey cover through which to disperse safely between trees (English Nature 2006). The woodland is not ancient and does not contain any of the species that are ordinarily associated with this species, including hazel. There are also no species-rich hedgerows linking into or associated with the woodland, nor any continuous dense bramble scrub. Based on the sub-optimal habitats, dormouse is reasonably likely to be absent.
- 2.22 One water vole record was returned 1.6km from the site. Both species require flowing water, deep enough to support foraging behaviour and with connectivity into the wider landscape. There is no suitable aquatic habitat on or adjacent to the site. All four common/widespread reptile species (common lizard, slow worm, grass snake and adder) have been recorded within 2km of the site. Common lizard, slow worm, grass snake and adder require mosaic habitats with features in which to bask, forage and shelter. These habitats need to have onward connectivity for dispersal. Suitable habitats include grassland with scrub edges or small woodland coppices (Edgar et al. 2010). The woodland is densely shaded and provides little in the way of basking opportunities, except potentially along the woodland edges, which adjoin gardens. There are various brush piles but the habitat surrounding is sub-

optimal. Whilst the occasional reptile such as slow worm can never be ruled out in undisturbed settings (particularly those linking to back gardens), the risk of presence, and the risk of killing/injury as a result of a change of use planning application is not sufficient grounds for carrying out any further survey work.

- 2.23 There are extensive local records for several Schedule 1 and Priority bird species in the area. The site does not provide suitable nesting habitat for Schedule 1 species, and the woodland is generally only suitable for common, widespread nesting birds.
- 2.24 The site is likely to attract several common bird species during nesting season, which is generally accepted as March – September inclusive. Therefore, any clearance of trees or scrub will be carried out between October – February inclusive, unless an ecologist has visited site and confirmed active nests are absent and work can proceed. The survey recommends that vegetation removal be undertaken between October and February to avoid the nesting season. If this conflicts with the work programme, an ecologist will undertake a check for active nests the day before work is planned. If active nests are found during vegetation removal, all works must cease in the area and the nest left undisturbed with a species-appropriate buffer (advised by project ecologist) until the young have fledged. It is indicated that there is scope to install a variety of bird boxes on retained trees within the woodland. One disused outlier badger sett was identified close to the north-eastern corner. The entrance was completely blocked with leaf litter and soil. There were no signs of active use. To ensure the woodland remains suitable for wildlife to disperse through generally, any fences installed will be permeable. This will also benefit Priority Species, including hedgehog.
- 2.25 No records for legally protected plants or invertebrates have been returned for the site or the immediate surrounding area. Assessment: The woodland is secondary and lacks notable flora. There is likely to be an associated lack of insect activity given the closed nature of the woodland and obvious lack of species that would attract pollinators.
- 2.26 The assessment indicates that it is understood that a new hedgerow is proposed to the east of the site to define the garden boundary. This will comprise native, shade tolerant hedge species including hawthorn, hazel, beech, holly, yew. Garden varieties including cherry laurel and pyracantha should be avoided. Where possible, shrubs that are night-scented should be included to benefit bats, including: Evening primrose (*Oenothera biennis*) Honeysuckle (*Lonicera periclymenum*) Night-scented catchfly (*Silene noctiflora*) Night-scented stock (*Matthiola bicornis*) Nottingham catchfly (*Silene nutans*) Soapwort (*Sapnoria officinalis*) White jasmine (*Jasminum officinale*)

- 2.27 It is recommended that three bat boxes should be installed on a retained tree on a woodland edge, in a cluster facing south, south-east and south-west between 3 and 5 metres. These boxes will provide permanent and long-lasting roosting opportunities. It is recommended that a variety of open fronted and 32mm boxes are included on retained trees, facing north or east and installed above 2 metres to provide permanent and long lasting nesting opportunities. It is recommended that a hedgehog box could be provided in the garden to provide a safe sheltered place to nest.

### **Place Services Ecology consideration**

- 2.28 Place Services considered the information submitted Summary relating to the likely impacts of development on designated sites, protected and priority species / habitats.

It indicated the following : ‘We are generally satisfied with the submitted the Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023), which demonstrates that impacts will be avoided upon the designated sites, protected and priority species from the change of use, albeit further bat surveys of the trees would be required if a further planning application is submitted. However, we are not satisfied that sufficient ecological information is available, as we recommend further clarification is provided on the status of the woodland and whether this should be classed as Priority habitat. The Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023) outlines woodland is not designated for any conservation reason and is not mapped as a Priority Habitat on the Priority Habitat inventory, as outlined on [Magic.defra.gov.uk](http://Magic.defra.gov.uk). In addition, it is considered secondary woodland, with a number of native species and serves as an important ecological corridor through a predominate urban landscape’.

- 2.29 It went on to state ‘However, given that the woodland can be felled without planning permission if the change of use is granted and that the Priority Habitat inventory is not fully accurate, we recommend that further clarification on the habitat description of the woodland should be provided by the applicant’s ecologist. Therefore, to justify the value of the on-site woodland, we recommend that the applicant’s ecologist should reference the UK Habitats Classification to indicate whether the habitat should be classed as ‘lowland mixed deciduous woodland’ or ‘other broadleaved woodland’. In addition, the UK Biodiversity Action Plan Priority Habitat Description should be used to clarify whether the woodland contains any lowland mixed deciduous woodland features and the historic OS maps on the National Library of Scotland should be used to confirm the age of the woodland. If the woodland is determined to be lowland mixed deciduous woodland Priority Habitat, we recommend that change of use should not be accepted by the LPA unless

appropriate compensation for the woodland can be demonstrated by the applicant. If the woodland is clarified to be other broadleaved woodland, we are satisfied that no further measures are required. This is needed to enable the LPA to demonstrate its compliance with its biodiversity duty under s40 NERC Act 2006' .

**Further response by applicant to points raised by Place Services Ecology**

- 2.30 The applicant responded further to the holding objection in the form of an additional letter speaking to the points raised. The letter expands upon the information provided in the Low Impact EclA (Hybrid Ecology, May 2023). It explained 'that the woodland in question is mostly early mature oak, approximately 30-40 years of age with occasional hawthorn, field maple and ash. The age of trees along White Hart Lane suggest it was an ancient hedgerow that has been left resulting in early secondary succession of this wider area, the part along White Heart Lane has some hornbeam, field maple, oak and occasional spindle. There are occasional dead trees due to shading and some have collapsed in the central area. From an ecological perspective, the applicant does not propose to change the character of the woodland – the application just proposes “use” of the woodland as a garden. A Tree Preservation Order prevents felling of any trees without written permission from Rochford District Council. The northern boundary contains lapsed coppices (which will be retained), but the remainder of the woodland is self-sown and young. We are therefore confident that the proposal will not result in the loss of Priority Habitat. There will be no loss of aged or veteran trees. We have consulted the UKHAB1 categories and the JNCC Priority Habitat descriptions<sup>2</sup> . The woodland meets the description for “other lowland mixed deciduous woodland” which is “self-sown or recently established woodland in an urban setting.”
- 2.31 It went on to explain 'Moreover, the proposal will result in biodiversity enhancements, including the removal of invasive garden ornamental species which will encourage recovery of native ground flora and understorey. The proposal also includes woodland management, installation of bat boxes on boundary trees and understorey planting. These measures will serve to improve the ecological value of the woodland. From an arboricultural perspective, we are confident that tree impacts can be mitigated with hand dug holes for any boundary fencing. This may require an Arboricultural Method Statement (AMS). For the reasons given above, we consider the proposal can be made acceptable on ecological and arboricultural grounds'.

**Further consideration by Place Services Ecology**



- 2.32 On consideration of this further information Place Services has no objection subject to biodiversity enhancement measures. In its response Place Services indicated the following: ‘We have reviewed the submitted documents, including the Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023) and the response to Place Services’ comments (Hybrid Ecology Ltd, September 2023) relating to the likely impacts of development on designated sites, protected and priority species / habitats. The response to Place Services’ comments (Hybrid Ecology Ltd, September 2023) provides additional clarification on the impacts of the change of use upon the deciduous woodland. This information does not include the technical information requested historic information in line with the National Library of Scotland. Nevertheless, I agree that the woodland is likely around 40 years old and loosely falls into the UK Hab and BAP Priority Habitat category “other lowland mixed deciduous woodland”. However, as the woodland contains TPO trees has certainty that these trees will not be felled without approval with the council’.
- 2.33 It states further that ‘the change of use may still affect the understory and ground flora of the woodland, as this could be fully cleared once in residential use. Nevertheless, the Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023) confirms that the ground flora is of low value with no ancient woodland indicator species. As a result, we recommend that a finalised Biodiversity Enhancement Strategy should be secured for this application. This should be in line with the Preliminary Ecological Appraisal/Low Impact EclA (Hybrid Ecology Ltd, May 2023), which includes the finalised measures for the removal of invasive garden ornamental species which will encourage recovery of native ground flora and understorey The proposal also includes woodland management, installation of bat boxes on boundary trees and understorey planting. This is necessary to demonstrate net gains for biodiversity as part of the change of use application and ensure that woodland is reasonably enhanced for biodiversity purposes. This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006. Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013’. The condition as recommended is attached to the officer’s recommendation at conditions 7 and 8.

### **Visual Amenity Considerations**

- 2.34 The concern expressed by third parties regarding the visual impact of any fence cited close to White Hart Lane is noted. The matter is covered by the revised plan proposing post and rail fencing which should be of a timber construction set behind a 2 m deep hedge to maintain the verdure prevalent along White Hart Lane. The matter is covered by planning condition.

**3.0 CONSULTATIONS AND REPRESENTATIONS**

**Hawkwell Parish Council: Objection**

- 3.1 My Council objects to this application on several grounds. Firstly, that if this wooded area is permitted to be sold for a garden extension to No. 16 it would set a precedent for other houses on the Glencroft estate to do the same. If permitted and the area fenced off, it would spoil the appearance of this delightful, wooded area which was given to the public to compensate for the loss of greenbelt land. Historically the spinney or woodland area fronting White Hart Lane was gifted to Rochford District Council, along with Glencroft Open Space, in exchange/compensation for releasing Greenbelt land at the site (Glencroft estate) during the 1990s, when permission was granted for 50+ houses. Secondly, that this land could potentially be developed in future. Members enquired if there were protected trees in the woodland and were concerned these may be removed. Lastly, Hawkwell Parish Council has signed up to the Essex Wildlife Trust's Wilder Villages Initiative, where the mission is to encourage more green corridors within the parish and protect and enhance existing green corridors and this application goes against these aims. Members respectfully request a site visit be considered that Parish Councillors could attend.

**Essex Wildlife Trust: Objection**

- 3.2 On the basis that the site forms an area of woodland habitat which currently provides important benefits for both wildlife and people. It forms part of the planning compensation gifted to Rochford District Council in relation to the release of Green Belt land for housing in the 1990's. Concern is expressed regarding localised biodiversity loss on the application site coupled with biodiversity loss in the remaining woodland due to the reduction in area. In the current biodiversity crisis this is unacceptable. The site comprises habitat that is likely to support protected species contrary to the claims made in the application.

- 3.3 **Place Services Ecology:** No objection

- 3.4 **Rochford District Council Arboricultural Officer:** No objection

**Third Pary Representations**

- 3.5 A total of 13 representations of objection have been received including representations from the following:

Numbers: 42, 45 A, 47, 49, 53,55, 57, 61, 63, 63 A, 65 White Hart Lane, Hockley

29 Hawkwell Chase, Hawkwell.

Representation from a household unknown but with reference to a family member living at 63 White Hart Lane.

The representations are highlighted as follows:

- This piece of wooded land has had a preservation order on it for many years and we can see no reason for this to be removed simply for the extension of a garden. Destroying trees and wildlife habitats unnecessarily is not acceptable in this day and age. Some of the trees are well established now and thriving. Erecting a concrete post and wooden panel fence at the end of the plot facing on to White Hart lane would be an eyesore and would look completely out of place At least some trees should be left in this area to maintain the continuity of the tree line.  
Having said that we strongly object to the destruction of this wooded section and would urge the council to reverse their decision.
- Concerns relating to removal of trees and the impact of the proposed development on wildlife. Concern regarding the installation of 7 foot fencing and its impacts upon amenity. Concern regarding the extent of the area and the impact of the use on the overall amenity and the visual appearance of the wooded area.
- Concern that this application if approved would set a precedent for other householders to make similar application with the eventual loss of the woodland area.
- What is the need for this Change of Use – it will massively increase the size of the applicant’s garden with no benefit to the community whilst significantly reducing the size of the public amenity – so the applicant will benefit very significantly at the expense of the Community both now and for generations to come.
- There is a need to ‘safeguard the countryside’ – this proposal doesn’t – it reduces the amenity space available to the local community, it will impact on the flora and fauna of the area and significantly reduce the tree cover at a time when everyone is being urged to protect woodland AND plant more trees. It also would set a precedent which others will seek to follow. The proposed fence will significantly impact adversely on the street scene and reduce the habitat area for the resident animal population.

- I think the Council has been doing a fantastic job of ensuring this district is kept as a healthy and attractive place for people and wildlife to live especially when its faced the significant pressure caused by the need to provide more homes and the consequent increase in road traffic. However the construction of this fence would change this protected woodland into private garden space and would be seen as a backward and unnecessary step.
- In summary I believe that the proposed application for ‘Change of Use’ should be refused.
- The proposed area for the change of use makes up 1/5 of the woodland. At the moment, the woodland is home to a lot of wildlife, namely foxes, badgers, numerous birds, butterflies, and I’m sure many more animals and insects. This proposed development, including the felling of the trees, the heavy presence of workpeople on the site and the subsequent garden use of the site, would severely negatively impact the wildlife in the woodland. In addition, I understand that the woods are an A1 Protected Conservation Area and Tree Protection Order. It is my understanding that a Tree Preservation Order is to protect all trees under its protection, not just 75% of the trees, if the applicant were to get their way by felling 25% of the trees in the woodland. In a recent brochure, I got the impression that Rochford Council was very much in favour of protecting wildlife and trees.
- Therefore, I cannot understand why the Council would permit the loss of trees, which would amount to around 20% of the site. I believe that it is disgusting that the Council would consider reversing the Tree Protection Order for this residential use. In addition, I am also strongly opposed to the proposed 7-foot "traditional" wooden and concrete fence that will surround the site. It will severely ruin the character, appearance and ambience of the area.
- The appearance of a 7-foot wooden and concrete fence would not be in keeping with the character of the surrounding area and would be an extremely unattractive change from the current woodland. Our family has been living at this house for 22 years. When the houses in the Glencrofts area were built, the Council assured the residents of White Hart Lane that the woodland would be protected. This was reinforced by the existence of the A1 Conservation Area Protection and the Tree Preservation Order. Also, the planning application states that they are “fully aware that we are unable to turn the land into a garden.” However, the application then goes onto state that they would like to change its use “from woodland into a residential garden,” which is a direct contradiction. If they do not intend to use the land as a garden, then what are they planning on doing with the land? In respect to the precedent that this application would create, I anticipate that the selling of this land would then lead to the rest of the woodland being destroyed, which would be absolutely devastating to the residents of White Hart Lane. This would be a

direct contradiction of the voting promises that Rochford Council has made, which vowed to protect the wildlife in Hockley and Hawkwell. There are TPO on the trees and I feel that these should be preserved. We need trees!!

- There will be less space for wildlife.
- The 7ft fence would be ugly and spoil the look of the area.
- If this application is successful other residents in Glencroft will attempt to do the same thing and we will lose the green area totally.
- Once this area of land has change of use from Woodland to Residential, it is only a small step for planning permission to be sought for building a dwelling on the land.
  
- I feel that this the thin end of the wedge and before long the pleasant green space will be covered with houses.
  
- I am housebound and sit looking at this green space. I get a great deal of pleasure from watching the birds and the changing of the seasons in this green space. I feel that my mental health will suffer from lack of stimulation and pleasure.
  
- The fence that the applicant wishes to erect around the site (which is approx. 20% of the protected woodland) is extremely inappropriate for this natural woodland area. The 28 seven foot high concrete posts and the 28 six foot long concrete gravel boards that the applicant wishes to erect are not 'natural' materials and would not blend in but instead would seriously detract from the visual amenity value of the wooded area. Twelve of these concrete fence posts and 12 six foot long concrete gravel boards would be bordering the highway and will be visible to the many families, runners, cyclists, dog walkers, ramblers and car drivers who make very good use of White Hart Lane. The remaining sixteen sections of concrete fencing will be dividing the woodland and easily visible to anyone wishing to enjoy the 80% of the wooded public amenity area that will remain.
  
- If this fence is given planning permission then as a consequence 25% of the trees within the newly fenced area will be felled and therefore lost forever. The consequence of this will be the loss of habitat (food availability, shelter and nesting sites) for the birds and animals that currently live there and overall this would be of significant harm to this established woodland environment.
  
- The leaves of these felled trees will have been absorbing carbon dioxide, one of the major green-house gases, which contributes to Climate Change. No mention has been made regarding the replacement of these trees and I therefore have concern that addressing the problem of Climate Change is not being prioritised.

- We all enjoy nature and it is important that the community's enjoyment of woodland is protected and if anything enhanced. The presence of trees and the aesthetic value of woodland are essential for people and wildlife alike. Every effort should be made to protect the environment that we all share and this proposed change of use does not do that. This application would result in 20% of a TPO protected public amenity area being lost to a private garden with no gain / benefit whatsoever to the community. This is totally wrong and I would request that the Council refuse this planning application. Further to the notice placed on a telegraph pole opposite our house this week. I am writing to inform you that we are objecting to this planning application to change the land to residential use.
- As you are aware the parcel of land in question is contained within TPO 7/80, dated 7/11/80. The TPO remains highly relevant today, particularly with the amount of interest in environmental conservation. Nature (wildlife habitat and woodland) is not a luxury and should be properly managed by the responsible authority. In this case Rochford District Council.
- Our main objection is that this application would reduce the woodland in White Hart Lane significantly and therefore have a detrimental impact on the neighbouring amenity.
- Aesthetically, a 7 foot, 22.8 metre-long wooden fence, with concrete gravel boards, bordering the road, is out of context with properties in the road itself and does nothing to improve the local landscape.
- One would have thought that the Lady purchased her property in the full knowledge of the TPO constraints on the adjacent parcel of land. As did we when we moved in a couple of years ago. It was one of the reasons we relocated to White Hart Lane. The woodland had a special character to them.
- According to the written application, planning applications have been rejected in the past, what has changed to make this application any different?
- We note that the Council has apparently agreed in principle to the applicant removing and/or thinning certain trees next to her property. This would be understandable if the trees were impinging on her property or causing damage to it. If not, then one must ask why has this been granted?
- The parcel of the woodland the applicant is seeking planning permission on is substantial (700sq.metres) and if successful, could potentially lead to other applications from local homeowners/property developers for the remainder of the site.



- Public amenity The National Government web site states ‘A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity.’ The wooded area in question is a significant portion of the area designated ‘A1’ in Tree Preservation Order 7/80 which is a public amenity enjoyed by residents and passing walkers. Wildlife There is significant wildlife in the wooded area. This would be negatively impacted by annexation of the area in question, particularly by the proposed 7 foot tall fence.
- Tree removal 16 Glencrofts was built in the knowledge of substantial trees adjacent to the plot. The applicant bought 16 Glencrofts in that knowledge. It is understandable if the applicant requested permission to trim back trees adjacent to their property. It is unreasonable for a request for / permission to be granted for those trees’ removal. The Woodland Trust states: If a tree has been felled which is protected by a TPO the landowner has a duty to replace the tree. This is also true if the tree is dead, dying or has become dangerous. The landowner must plant another tree: 1. of an appropriate size and species, 2. at the same place, 3. as soon as he or she reasonably can. If the land is sold before the landowner has replanted the tree, this duty passes to the new owner.
- If the Council stands by the applicant’s assertion that permission has already been agreed for trees adjacent to 16 Glencrofts to be removed the Council can be expected to replace / insist on replacement of said trees. Tree thinning The applicant states that the Council has already agreed to thinning of the trees by 25%. Given that the applicant wants to convert the woodland to private garden, thinning and inevitable clearance of the undergrowth will exacerbate the effect on wildlife and increase the likelihood of subsequent permitted garden buildings on the site. That would be desecration of what is currently natural woodland. Perimeter fence The applicant wishes to erect a 7 foot tall ‘traditional fence’ around the site. A fence with 7 foot tall concrete posts and concrete gravel boards (as proposed) is totally out of keeping with the rest of the wooded area and an eyesore in White Hart Lane.
- elevation\_plan0.pdf and block plan 1.pdf do not state the distance the proposed fence would be from the White Hart Lane kerb. The area the applicant is seeking is excessive; it is larger than the plot of their existing property. It unnecessarily impinges on the amenity of the overall wooded area and the visual appearance of the wood in White Hart Lane. Previous applications According to the written application, planning applications for change of use of this land have been rejected in the past. What could have changed to make this application any different? Unacceptable precedent Allowing this application would set an unacceptable precedent and inevitably lead to further applications reducing or even losing the public amenity of the woodland. Conflict of interest and bias Rochford Council owns the land of the

wood Area A1 in TPO 7/80. Selling any of this land would reduce the area of responsibility and provide income for the Council. This is a conflict of interest in consideration of the application and inevitably leads to bias in consideration of the application. That is unacceptable.

- The Oak Tree(s) are the UK's most important tree for biodiversity supporting many species over 2000 such as the hedgehog, squirrels & others animals that have taken up home here.
- Not only are we facing disastrous changes to the climate but doubling UK tree cover could remove 10% of our greenhouse gas emissions from the atmosphere every year. The council should be encouraging this rather than consider this application for No 16 Glencroft's because they would like a larger garden.
- This woodland provides Wildlife Species such as the Hedgehog. Although not fully protected hedgehogs are still under some degree of legal protection in the UK & are listed under schedule 6 of the Wildlife & Countryside Act (1981) which makes it illegal to kill or capture wild hedgehogs. They are also listed under the Wild Mammals protection act (1996) which prohibits cruel treatment of hedgehogs. This woodland provides shelter food & protection to these animals & destroying this lovely wooded area is cruel to the surrounding wildlife taking away their homes & putting their lives in danger.
- Ground Heave. Problems can arise if mature trees near houses are cut down or if a site is cleared of vegetation. When removing large trees or large shrubs the moisture builds up, causing the ground to swell. Although this can take many years the damage caused by heave in most cases is much more severe than that caused by subsidence. This could have an impact on the surrounding houses to plot A1 in TP07/80 along with the road & water mains in WHL. Is the council aware of this. Would the council have the money to repair the road & water mains should this collapse due to Heave?
- This land should remain open and not enclosed ; This is based on the following:
- The land in question has Ancient Wood status and this planning application is in direct breach of the National Planning Policy Framework , paragraph 175: *"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework<sup>58</sup>; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries"*.

- There is also a Tree Preservation Order (TPO) in place for this piece of land. This plan impacts a significant portion of the land, which is designated 'A1' in the TPO 7/80 which is a “public amenity” enjoyed by local residents from all over Rochford District Council. It will also destroy the aesthetic value of the surrounding area due to the reduction of trees and wildlife. Trees that have felled and are “cover” by the TPO, require the landowner to replace them, in the same place and of the same size. How will they do this in a private garden?
- There will be devastating negative impacts in relation to the size and quality of the current habitat that this piece of land currently provides to local wildlife as “tree thinning” will take place. A 7ft fence would also prevent wildlife from travelling freely within the area.
- If approved, the other houses in that section/road of Glencroft's could then apply and if all successful, the forest land would be completely destroyed and disappear forever.
- When I moved to the area, the council confirmed to me of the status of the land; they confirmed that it could not be built upon – is there any reason why this would have changed as previous applications have been rejected.
- I see no reason why the council would need the funds or any requirement to sell this piece of land to the applicants.
- In summary, are we willing to risk all the above for the sake of providing someone a bigger garden? A garden of which they knew the size when they purchased the property!
- We are all painfully aware that wildlife and biodiversity generally are under great threat, the UK being one of the most nature depleted countries in the world. The area of woodland in question, being unmanaged, represents a rapidly diminishing type of habitat that is easily accessible to mammals and other wildlife. Putting a high fence around it and making it part of a garden with the disturbance that this will inevitably lead to should be avoided. It is far more preferable to see trees and hedges when viewed from the highway, rather than a tall fence. We believe that this land should remain open and not be enclosed, which is why we are registering our objection.

#### **4.0 EQUALITY AND DIVERSITY IMPLICATIONS**

- 4.1 An equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.
- 5.1 The Town and Country Planning (Consultation) (England) Direction 2021 requires that the Council consult the Secretary of State on certain planning applications where the local planning authority does not propose to refuse the application.
- 5.2 The proposal has been reviewed against the criteria for referral to the Secretary of State and it is confirmed that the Council would not be required to consult the Secretary of State prior to issuing a grant of planning permission in respect of this application.



Steve Summers  
Strategic Director

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**RELEVANT DEVELOPMENT PLAN POLICIES AND PROPOSALS**

National Planning Policy Framework (The Framework) December 2023

Rochford District Core Strategy (2011)

Rochford District Allocations Plan (2014)

Rochford District Development Management Plan (2014).

Local Development Framework Development Management Plan (2014) Policies

DM1, DM25, DM26, DM27.

**BACKGROUND PAPERS**

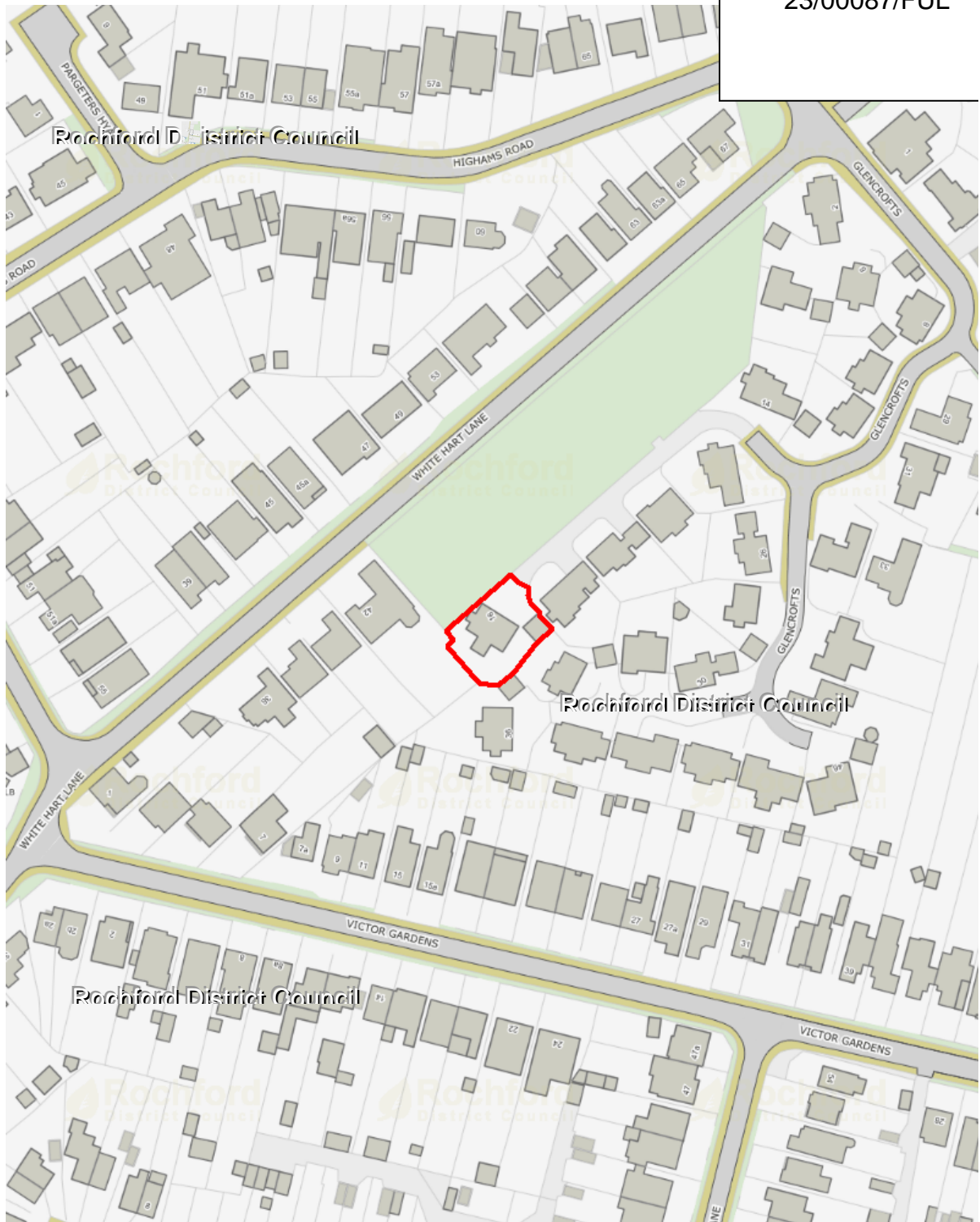
None.

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>

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