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**14/00164/FUL**

**CONSTRUCT TWO STOREY FOUR-BED DETACHED HOUSE AND DETACHED GARAGE WITH NEW VEHICULAR ACCESS TO SIDE OFF CHURCH ROAD**

**LAND SOUTH OF WINDFIELD, CHURCH ROAD, HOCKLEY**

**APPLICANT: MR DUDLEY BALL**

**ZONING: RESIDENTIAL**

**PARISH: HOCKLEY**

**WARD: HOCKLEY WEST**

**1 PLANNING APPLICATION DETAILS**

- 1.1 Planning permission is sought for a detached house and detached garage at land south of Windfield, Church Road, Hockley.
- 1.2 The proposal is for a detached four-bedroomed house located at an angle to Church Road with detached double garage to its northern boundary. It would have a Tudor style in design with a hipped roof and a front two storey gable ended projection and balcony to the rear elevation. The garage would also be hipped in style with roof lights. It should be noted that this application in terms of layout and design is the same as that considered and refused planning permission under reference 12/00147/FUL and subsequently dismissed on appeal. Application reference 12/00147/FUL was considered prior to the site's inclusion for release from the Metropolitan Green Belt (MGB) and thus its re-designation to residential within the Allocations Plan 2014.
- 1.3 Members should be aware that this application has now been appealed for non-determination. Therefore, this application is now with the planning inspectorate for determination. This report would form the view of the Council on appeal.

**2 THE SITE**

- 2.1 The site is an overgrown area of land within the residential area of Hockley. Some trees and vegetation are located within and bordering the site.

- 2.2 Immediately to the south is a collection of 3 residential properties granted planning permission under the reference 06/01095/FULL, which allowed 8 dwellings to be erected within this southern area in place of the residential properties 'Westview' and 'Oakhurst', the latter of which is still present on site. The site is now under different ownership and works are currently proceeding to complete this development.
- 2.3 The site is located to the north-west of Hockley. The distance of the site from Hockley town centre and the railway station is approximately 1260m and 2000m respectively. To the north the property borders 'Windfield,' a dwelling located within the MGB and to the west is Church Road and directly opposite are properties also located within the MGB.
- 2.4 To the eastern boundary is the Pond Chase Nursery site, which has been the subject of a resolution to grant planning permission (issue of decision pending completion of S106) for 'Outline Application For Residential Development To Comprise Up To 50 Dwelling Units, Improvements To Existing Vehicular Access, New Pedestrian Access. Provision For Public Open Space And Play Space And Provision Of Area Preserved For Ecology' (Reference 12/00283/OUT)'.
- 2.5 It should be noted that the location plan site length from west to east measures approximately 83m and borders the Pond Chase Nursery site, however, the block plan site length measures approximately 56m and therefore would not border the Pond Chase Nursery site, leaving an area of land between the application site and the Pond Chase nursery site. For the purposes of this application, the location plan outlining the site in red (the block plan does not outline the site boundary in red) is considered to form the accurate position and the proposal has been assessed on this basis. If planning permission were to be granted for the development it is considered that a planning condition should be imposed requiring an accurate block plan to be provided.

### **3 PLANNING HISTORY**

- 3.1 There is extensive planning history relating to this site. A summary of the relevant planning history from the 1990s onwards is below:-

94/00043/FUL - Demolish Existing Dwelling and Erect Seven Detached 4-bed Houses With Garage and Associated Access Road. REFUSED. APPEAL DISMISSED.

95/00131/OUT - Erect Four 4-bed Detached Chalet Style Dwellings With Detached Garages. WITHDRAWN.

98/00490/OUT - Outline Application to Use Land for Residential Development (Demolish Existing Dwelling). REFUSED. APPEAL PART ALLOWED/PART DISMISSED.

99/00785/LDC - Application for a Certificate of Lawfulness in Relation to Proposed Buildings and Operation, Namely: New Access and Driveway, Indoor Swimming Pool, Snooker Room and Gym, Sauna, Garden Store and Garage. LDC GRANTED WITH DIFFERENT DESCRIPTION.

00/00407/OUT - Outline Application for Residential Development (12 Units of Which 4 to Constitute Affordable Housing). REFUSED. APPEAL DISMISSED.

00/00892/OUT - Outline Application for Residential Development (15 Units of which 10 Units to Constitute Affordable Housing). REFUSED. APPEAL DISMISSED.

02/00400/OUT - Demolish Existing Dwelling and Erect Residential Dwellings Renewal of OL/490/98/ROC. APPLICATION RETURNED.

02/00453/REM - Application for Approval of Reserved Matters for the Erection of Five Residential Units together with Access Road. APPEAL AGAINST NON-DETERMINATION. APPEAL NOT DETERMINED.

02/00455/REM - Erect Six 3-Bed Semi-Detached Dwellings, Layout Access and Parking Areas. (Reserved Matters Following Outline Permission OL/490/98). APPEAL AGAINST NON-DETERMINATION.

02/01035/OUT - Outline Application for Residential Development. PARTIALLY APPROVED/PARTIALLY REFUSED. APPEAL SUBMITTED BUT UNCLEAR IF PROCEEDED WITH.

03/00324/REM - Erect Six 3-Bed Semi-Detached Dwellings. Layout Access and Parking Areas (Re-Submission Following Reference 02/00455/REM). APPROVED. APPEAL SUBMITTED BUT UNCLEAR IF PROCEEDED WITH.

04/00594/OUT - Renewal of Outline Permission OL/0490/98/ROC Dated 17 June 1999. Allowed on Appeal (Reference 1153373) Outline Application to Use Land for Residential Development (Demolish Existing Dwelling). APPROVED. APPEAL AGAINST PLANNING CONDITIONS ALLOWED AND PLANNING DECISION VARIED.

04/00596/REM - Renewal of Outline Permission OL/0490/98/ROC Dated 17 June 1999. Allowed on Appeal (Reference 1153373) Outline Application to Use Land for Residential Development (Demolish Existing Dwelling). RETURNED APPLICATION

05/00169/FUL - Demolish Existing Dwelling and Construct One Detached Three Storey 8 Bedroomed House. REFUSED. APPEAL SUBMITTED AND WITHDRAWN.

05/00787/FUL - Demolish Existing Dwelling and Construct One Detached Three Storey 8-Bedroomed House. REFUSED.

06/00201/REM - Approval of Reserved Matters for the Erection of Six Residential Units Together With Access Road. RETURNED APPLICATION

06/00536/FUL - Demolish Westview and Oakhurst and Erect 8 Detached 4 - Bedroom Houses. 3 Units to be Accessed Direct from Church Road, 5 Units to be Served by Access Road off Church Road. All Development to be Within the Residential Zone. APPROVED.

06/01095/FUL - Demolish Two Properties (Westview and Oakhurst) and Erect 8 Detached (4-Bedroom) Dwelling Houses, 7 Dwellings to have Detached Double Garages, 1 Dwelling to have Open Parking Spaces. 2 of the Dwellings Served by Direct Vehicular Access off Church Road; 6 of the Dwellings Served by Vehicular Access Road off Church Road. All of the Development to be within defined Residential Zone of Hockley. (Revised Elevations and Garage Sizes to Approved Scheme 06/00536/FUL). APPROVED.

07/00684/FUL - Erect Detached Garage at Plot 8 Westview Church Road Hockley. REFUSED.

12/00147/FUL – Sub-Divide Site and Construct Two Storey Four-Bedroomed Detached House and Detached Garage. REFUSED. APPEAL DISMISSED.

12/00586/OUT - Outline Application for Construction of 7 Detached Four Bedroomed Dwellings. APPEALED FOR NON-DETERMINATION. APPEAL DISMISSED.

- 3.2 It should be noted that the supporting statement submitted with the application states that all 'preceding decisions both at a local level and at the Planning Inspectorate level can be considered nullities'; the applicant taking issue with the historical designation of the site as Green Belt dating back to the early 1960's. This is not considered to be the case from the Council's perspective. Whilst planning history is a material consideration, how a MGB site was historically designated via the planning policy process is not a matter to which this application should reach a view; the application must necessarily be determined against the most recent up to date development plan, national planning guidance, etc.

#### **4 CONSULTATIONS AND REPRESENTATIONS**

##### **Hockley Parish Council**

- 4.1 This application is for new residential build in the Green Belt. One of the policies of this Committee is not to approve new build in Green Belt unless under exceptional circumstances. Members cannot therefore recommend approval of this application. Members also thought that approval of this application would provide an unwarranted precedent.

**RDC Ecology**

- 4.2 The application is not accompanied by any ecological information. In response to outline application 12/00586/OUT it was noted that the site supported trees and semi-natural vegetation and that the habitat appeared to be suitable for reptiles. Although refusal at outline stage wasn't recommended, it was pointed out that more supporting ecological information would be expected if a detailed application were to be forthcoming.
- 4.3 The Design and Access Statement makes reference to the presence of slow worms in 2007, then subject to translocation presumably prior to obtaining planning consent, which is not consistent with best practice. Given the past presence of this species and unless an effective barrier has been maintained around the site in the intervening years, it would be reasonable to expect that this species, and possibly other reptiles, may have recolonised.
- 4.4 It appears that no ecological information has been provided since at least 2009 and possibly 2007, which is well beyond the limit of acceptability. Therefore, it is recommended that the application be refused pending receipt of an updated Preliminary Ecological Appraisal for the site, with specific consideration of the presence of reptiles, together with the results of any further survey work that is recommended within it.

**RDC Engineering**

- 4.5 The site is located where public foul and sewer water sewers are not available.

**RDC Arborist**

- 4.6 Please note that Tree Preservation Order TPO/00004/14 was served on the above site on 10.04.2014.
- 4.7 There is no arboricultural information supporting the application indicating specifically what trees will be removed and how the retained trees will be impacted upon by the development/construction or how they will be protected.
- 4.8 Within the supporting Statement and Design and Access Statement in relation to a re-submission (received by Rochford District Council 07.03.14) states in Section 7.8 'No significant boundary trees will be adversely affected and there are no 'on site' trees of any significance.'
- 4.9 A mature oak is located directly adjacent to Church Road and in my opinion will be directly affected by the current proposal due to the location and levels of the proposed driveway. To ensure the tree will be protected adequately in the future a Tree Preservation Order has been served upon T1 Oak on 10

April 2014 (TPO 04/14).

- 4.10 There are further trees on site, which do not warrant a Tree Preservation Order, nonetheless if retained will need adequate protection.

#### Recommendations

- 4.11 In principle there is no arboricultural objection to the proposal, given that the driveway is relocated outside the Root Protection Area of the T1 Oak. Given that there is around 0.75-1m difference in soil level between Church Road and the site, in my opinion it would be impossible to construct a driveway in that location without detrimentally damaging the T1 Oak.
- 4.12 It may be possible to condition the relocation of the driveway if the application was successful. In this case the following arboricultural conditions are recommended:-

#### 1. Condition

No work shall take place on the application site until a Tree Protection Plan to BS5837:2012 Trees in relation to design, demolition and construction – Recommendations methodology has been submitted and agreed in writing by the LPA that clearly identifies:=

- the location and specification of protective tree fencing (in accordance with BS 5837:2012 sub clause 6.2 'Barriers and ground protection' ) and appropriate ground protection (if applicable) for all the retained on and off site trees within influencing distance of the site;
- The landscaping prescriptions (including fencing) within the root protection areas of retained trees;
- Details of any special engineering operations within Root Protection Areas of retained trees e.g. specifications for pile foundations and 'no dig' driveway, parking bays etc.;
- The location of the site accesses, storage of materials, site huts and on site welfare facilities.

The scheme shall be implemented strictly in accordance with the agreed Tree Protection Plan. Signs will be placed and retained on the tree protective fencing outlining its importance and emphasising that it is not to be moved, nor the area entered into, until the end of development. Any changes to the above must be requested in writing and granted by the LPA prior to them being undertaken.

Reason 1: To enable the Local Planning Authority to assess and control the full effect of the development on the existing trees, shrubs and hedgerows on and immediately off site and to secure the protection and retention of those

species to be incorporated in the development hereby permitted in the interests of amenity.

### **ECC Highways**

- 4.13 It appears that the land under the applicant's control includes the access road to the south of the proposed development. The view of the Highway Authority is that access be sought from this link to ensure that access points onto Church Road be kept to a minimum.
- 4.14 No objection subject to the following conditions being attached:-
1. There should be no obstruction above ground level within a 2.4 m wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.
  2. Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority, shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.
  3. 2 vehicular hardstandings having minimum dimensions of 2.9 metres x 5.5 metres for each vehicle shall be provided.
  4. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be greater than 6 metres and shall be provided with an appropriate vehicular crossing.
  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 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 the reception and storage of building materials clear of the highway.
  7. 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.

8. Prior to occupation of the proposed development, the developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, (to include six one day travel vouchers for use with the relevant local public transport operator)

### **Environment Agency**

4.15 We have been consulted on the above application and have no objection. The application form states that a package treatment plant is proposed to dispose of foul water from the development. A private means of foul effluent disposal is only acceptable when foul mains drainage is unavailable. According to our maps the site is more than 100m away from the main sewer network. If our maps are correct, the use of non-mains drainage, given the scale of the proposed use, would therefore appear to be appropriate in this case.

4.16 If it is proposed to discharge treated sewage effluent at a volume of either:

- 5 cubic metres per day or less to a river, stream, estuary or the sea from a sewage treatment plant, or
- 2 cubic metres per day or less to ground water via a drainage field or infiltration system from a septic tank or sewage treatment plant, then you may wish to register an exemption rather than a permit. Registration is optional and free, with forms available on line at the following link:  
<http://www.environment-agency.gov.uk/business/topics/permitting/116406.aspx>

If, however, you are over the volume specified a Permit may be required. For further information contact should be made with the National Customer Contact Centre on 03708 506 506.

It is an offence to cause or knowingly permit a water discharge activity (or ground water activity) without a permit or registered exemption or to fail to comply with permit conditions. The plant should be installed, operated and maintained in accordance with the manufacturer's instructions as updated from time to time.

### **London Southend Airport**

4.17 No safeguarding objections.



## 5 MATERIAL PLANNING CONSIDERATIONS

### Principle of Residential Development

- 5.1 The proposal for residential re-development has to be assessed against the most up to date relevant planning policies and with regard to any other material planning considerations.
- 5.2 In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 5.3 The adopted development plan is the Rochford District Core Strategy 2011, the Allocations Plan 2014, saved policies in the Rochford District Replacement Local Plan (2006) not superseded by the Core Strategy, and saved policies in the Essex and Southend-On-Sea Structure Plan. The East of England Plan (2008) was revoked via an Order, which came into effect on 3 January 2013.
- 5.4 In addition, the Development Management Submission Document 2013 (unadopted) has reached a stage such that its policies can now be given some weight. This document was submitted to the Government for independent examination on 13 December 2013 and a hearing was held on 26 March 2014. The Council will be re-consulting on a schedule of modifications at the end of July for an 8 week period.
- 5.5 The application site is within the general location of West Hockley, which is one of the general locations in which land has been allocated for release from the MGB in Policy H2 of the Core Strategy, to meet a rolling up-to-date five year supply of deliverable sites for residential development up to 2021. The Allocations Plan refers to this site at policy SER3, describing the requirements that would need to be met, including infrastructure requirements, to comply with this policy and to form a structured approach to the development of the West Hockley site. SER3 incorporates both the site the subject of this application and the Pond Chase Nursery site.
- 5.6 As the Allocations Plan has been adopted, this site can now be considered taken out of Green Belt designation, superseding the Local Plan proposals map. For this reasoning, residential development is, in principle, considered acceptable here. Such development must, however, accord with policy H2 of the Core Strategy, which also requires the infrastructure requirements within Appendix H1 to be met and policy SER3 of the Allocations Plan 2014, as well as other local policies and national guidance and material planning considerations.

### Infrastructure Provision

5.7 Policy H2 not only prescribes the number of dwellings and the time frame for delivery but also the infrastructure provision which must be delivered at each general location in order to ensure that new residential development across the District is comprehensively planned.

5.8 The lack of such provision represented a reason for refusal by the Council when defending an appeal for non-determination of the previous outline application at this site (ref: 12/00586/OUT), although it should be noted that with the Allocations Plan yet to be adopted in that case, the site was still considered to be designated MGB. This reasoning stated as follows:-

*The Rochford District Replacement Local Plan (2006) shows the site to be within the Metropolitan Green Belt. Paragraph 89 of the National Planning Policy Framework states that the Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt unless it is for one of the exceptions listed to which the proposed development does not fall within. Within the Green Belt inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.*

*Due to the lack of compliance with the public open space, play space, educational contributions and affordable housing requirements within policies H2 (which refers to Appendix H1), H4, CLT2, CLT5 and CLT7 of the Core Strategy 2011 it is not considered that such very special circumstances exist. There are no material planning considerations that indicate that this proposal should be determined favourably and not in accordance with the adopted development plan, which requires proposals for residential development within the general location of West Hockley to be comprehensively planned and to comply with the necessary infrastructure requirements. Policy H1 which looks at the efficient use of land for housing requires residential development to conform to all policies within the Core Strategy to which this proposal does not. Without compliance with such policies, the justification for release of this site from the Green Belt is greatly reduced. A small site such as this has the potential to be unsustainable without adherence to such policy requirements which look to seek infrastructure to support the provision of the additional dwellings within the West Hockley general location, in a comprehensively planned manner.*

5.9 An appeal inspector in a decision on this application dated 20 November 2013 concluded as follows:-

*16. At the heart of the Framework, there is a presumption in favour of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. Good design is a key aspect of sustainable development and it should contribute positively to making places better for people. It is not clear that the development would*

*represent good design or that it would provide or contribute towards the infrastructure and facilities required to make places better for people. Consequently I cannot conclude that the appeal proposal would represent sustainable development as sought by the Framework.*

*17. Overall, whilst I attach significant weight to the proposed release of the appeal site from the Green Belt, I cannot conclude that the appeal proposal would meet the requirements of the local development plan. Consequently, there are no considerations that, when taken together, clearly outweigh the harm to the Green Belt and there are no very special circumstances to justify the development.*

5.10 The current application does not provide any information to address the Council's or appeal inspector's concerns with regard to the lack of infrastructure and service facilities. The only supporting information supplied by the applicant is a design and access statement, which does not refer to infrastructure provision, and documents from 1947 through to 1967 which appear to suggest that the land was historically incorrectly designated as MGB. These historic documents are not considered to be relevant to the determination of this application as per the 2004 Act.

5.11 In any event, the site today is now no longer designated as MGB but rather falls within the general location of West Hockley through adoption of the Allocations Plan 2014. Prior to this the site was designated as MGB and considered against MGB policy by the Local Planning Authority. An appeal inspector, when considering an application for the refusal of planning permission for one dwelling at the site (ref: 12/00147/FUL) concluded as follows on the argument relating to the claimed incorrect designation of this site within the MGB:-

*Whether or not these errors occurred (and, for the reasons outlined above, it is not for me to review current development plan policies, much less those prepared in 1964 or before), the development plan for the area has been reviewed a number of times following the expiry of the 1962 permission. For example the Rochford Local Plan was prepared in the mid 1980's and adopted in 1988. The First Review of that Plan was adopted in 1995. Those were appropriate proceedings at which to address any errors. However, the Green Belt boundary as it affects the appeal site was not altered. Therefore, whilst I recognise that the appellant is aggrieved by what he considers to be an injustice, I can give limited weight to matters which have been overtaken by subsequent events.*

5.12 Therefore it is the case that the Council's concerns as highlighted within the report submitted as part of the non-determination appeal for 7 dwellings, are still relevant to the current proposal for one dwelling. These concerns are reiterated below and considered in light of the proposal now for one dwelling.

- 5.13 The infrastructure requirements for the West Hockley general location are as follows:-
- Local highway capacity and infrastructure improvements;
  - Public transport infrastructure improvements and service enhancements;
  - Link enhancements to local pedestrian/cycling and bridleway network;
  - Sustainable drainage systems;
  - Public open space;
  - Play space; and
  - Link to cycle network.
- 5.14 Although the application site would provide only a small proportion of the housing required within the West Hockley general location it is still important that the infrastructure requirements within appendix H1 are considered and met for the application site in a proportionate manner. The release of small MGB sites is considered to be the antithesis of sustainable development, which is a core principle within the National Planning Policy Framework. This site, although small, is part of a larger site allocated for residential development and in order for the West Hockley general location as a whole to be considered acceptable, all of the infrastructure requirements need to be met for the West Hockley site as a whole.
- 5.15 An appeal statement by RDC against the refusal of planning permission to 'Sub-Divide Site and Construct Two Storey Four-Bedroomed Detached House and Detached Garage' (reference 12/00147/FUL) raises concerns with regard to the proposal for a single dwelling that would be treated in isolation of a wider proposal for residential development in West Hockley. Development of a single dwelling was considered to be inappropriate, impacting on the viability of a comprehensively developed scheme to provide the necessary affordable housing provision and infrastructure improvements required by Core Strategy Policy H2. This therefore reiterates the need to ensure that infrastructure requirements for the application site are considered in relation to the West Hockley general location as a whole, which includes the Pond Chase Nursery site. The Council is taking a consistent approach with the current application to that within the application reference 12/00147/FUL.
- 5.16 The local highway capacity and infrastructure improvements, set out in appendix H1, require the ECC Highways department to itemise the specific works required in this area in relation to the proposal. No specific works have been requested as part of this application, presumably because the proposal only seeks one dwelling (although has the site capacity to carry more) and therefore it is not considered necessary, for this particular application, for any local highway capacity and infrastructure improvements to be required. However, this does not mean that any future applications for a greater quantity of development, which would form a better use of this allocated site as discussed later, may not require such provisions. ECC Highways would be

consulted for their view on any future applications in terms of their requirements.

- 5.17 No public transport infrastructure improvements and service enhancements have been put forward by the applicant. Public transport and service enhancements would, if necessary, be sought by ECC and despite being identified as a requirement of the West Hockley general location, have not been sought by the County Council in this instance. However, a planning condition relating to the need for the developer to be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator has been suggested and could be required by planning condition.
- 5.18 The applicant has not proposed any new links to the cycle network or link enhancements to the local pedestrian/cycle and bridleway network, however the Allocations Plan 2014 states that the site in the general location of West Hockley should provide linkages and enhancements, in particular that it should facilitate the development of the proposed Sustrans cycle network. The Sustrans cycle route is being developed in conjunction with ECC and is intended, in the longer term, to provide a cycle route through Rochford District (ultimately connecting the District's settlements with Chelmsford and Southend). The intention is for larger development sites in the Rochford District to link into this network.
- 5.19 The outline planning application at Pond Chase Nursery considered that a planning condition be imposed to require provision within the detailed layout of a cycle connection point to the land to the west (part of the current application site). If the land to the west were then developed a cycle connection from the Pond Chase site directly to Church Road could be provided. However, although the outline application allowed the potential for this kind of connection, the current application does not finish at the boundary with Pond Chase nursery in order to facilitate such a connection according to the block plan supplied. This is in contrast, however, to the location plan supplied with this application, which suggests that it would. As the red outlined location plan suggests, such an arrangement would be possible it is considered that a scheme for the residential re-development of this appeal site should incorporate this facility. If planning permission were to be granted for the application now under consideration it is considered reasonable to require such a connection within the current application by planning condition as a requirement of appendix H1. As highlighted earlier, it is important that clarity is sought with regard to the block plan. Any new application should ensure that the block plan accurately reflects the location plan in terms of boundaries.
- 5.20 In order to ensure some level of integration between the two sites access to pedestrians as well as bicycles between the two sites should also be

provided. This would require a revised layout to incorporate such a connection, particularly to the east and could be controlled by planning condition. The site to the rear currently under construction known as The Astors has a requirement to provide a pedestrian footpath to the frontage. The applicant is advised within any re-submission, in the interest of pedestrian connectivity, a pedestrian footway to the front should be provided.

5.21 Public open space, play space and SUDs requirements under appendix H1 will be discussed later.

5.22 It is considered that the application site, together with the Pond Chase Nursery site, collectively forms the most suitable site to meet the housing target for the West Hockley area, given reasonable alternatives.

5.23 However, a small site such as this has the potential to be unsustainable without adherence to policy requirements which look to seek infrastructure to support the provision of 50 additional dwellings within the West Hockley general location, in a comprehensively planned manner. The site is currently contrary to the following policies:-

- Public open space and play space - policy H2 of the Core Strategy 2011 refers to infrastructure requirements for the West Hockley general location identified in Appendix H1. No public open space or play space is provided for within this application, as physical space or as part of a financial contribution to construction and future maintenance arrangements via policy CLT1. In addition, policies CLT5 and CLT7 require new public open space to accompany additional residential development.
- Affordable housing – policy H4 of the Core Strategy 2011 requires at least 35% of dwellings on all developments of 15 or more units, or on sites greater than 0.5 hectares to be affordable. Therefore the West Hockley general location as a whole should provide for this. It is not considered reasonable for the Pond Chase nursery site to have to comply with this requirement but not the application site. It is considered that for the West Hockley general location, a proportionate amount of affordable housing for both Pond Chase Nursery and the application site should be provided here.
- Education – policy CLT2 of the Core Strategy 2011 seeks developer contributions to increase the capacity of existing primary schools where required. It is considered to be the case that, for the same reason as for the affordable housing position, educational contributions should be provided for in a proportionate manner at the application site.

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**Density**

- 5.24 The net developable area of the site for residential use would be an area of some 0.2ha (taken from the block plan supplied) or 0.27ha (taken from the location plan supplied). However, the measurement also equated to 0.31ha when taken from the previous outline application plan. Therefore, there appear to be some plan discrepancies here. For the purposes of this application, the 0.31ha figure, used within the Council's appeal statement for the outline application and not contested by the appeal inspector will be used.
- 5.25 It is necessary to consider whether this area could reasonably accommodate the one dwelling proposed at an appropriate density and in a way that would achieve the high standard of design and layout required of new residential developments in order to create a high quality place to live. It is also important to consider whether the quantity proposed would provide the best use of land allocated for residential development, only recently released from the MGB as part of the Allocations Plan 2014 to meet the five year housing supply of the Rochford district.
- 5.26 National planning policy no longer stipulates a minimum density requirement for residential developments and nor does adopted local planning policy. Policy DM2 of the Development Management Submission Document 2013 (unadopted) requires most efficient use of land to be achieved and policy H1 of the Core Strategy is headed as such.
- 5.27 The proposal for one dwelling on a 0.31ha net developable area would result in an average site density of 3.2 dwellings per hectare (dph). The outline application proposed 22.6 dph and was considered to make the best use of MGB land. 21.9 dph was accepted at Pond Chase Nursery.
- 5.28 By way of comparison in the locality, the average density for the area close to the site around the western end of Folly Lane is some 11.79 dph and the eastern end some 20.32 dph. The average density for the area to the south of Folly Lane, taking in Gay Bowers, Silvertree Close, Hawthorne Gardens, Sunnyfield Gardens, Laburnum Grove and Laburnum Close is some 26.9 dph.
- 5.29 3.2 dph is not considered to make the most efficient use of the application site. The application site was released from the MGB as part of the Allocations Plan 2014 in order to meet the Council's five year housing supply. To provide only one dwelling here where a previous outline application showed that up to 7 could easily be accommodated would not make the most efficient use of this site which was only released from the MGB to meet the demand for land to address the Council's need for housing. The effect of inefficient use of land released from the MGB for residential development is to then push future housing needs to require more MGB land for release which would not necessarily need to be the case if the allocation sites are built out to

an appropriate density making the most effective use of land released from the MGB.

- 5.30 The applicant advises that the density is akin to 'Arcadian'. The Essex Design Guide at page 39 explains that Arcadia has densities of up to 8 dwellings per hectare with space enclosed by trees, hedges and shrubs rather than buildings. Whilst this approach, on the edge of the MGB, would be acceptable here a higher density could still be accommodated whilst still providing the Arcadian context. This would enable a more acceptable density level for this former MGB site whilst still providing an Arcadian context. However, it is considered that an even higher density, not in an Arcadian format, would also be acceptable here more akin to the neighbouring site The Astors.

### **Design and Scale**

- 5.31 The design and scale of the proposed house is considered acceptable and in accordance with policy CP1 of the Core Strategy and HP6 of the Local Plan 2006. Church Road has a variety of property style and ages and the mock Tudor design sought would not be considered detrimental to the street scene here.
- 5.32 The property would rise to a height of 8.3m which is not considered objectionable. There are properties close to this site including at the neighbouring The Astors site which rise to similar or greater heights. The orientation to the street is also not considered objectionable. The neighbouring property 'Windfield' has an angled orientation to the street.
- 5.33 1m separations to the boundary are provided for the dwelling. The site has a frontage of approximately 40m in accordance with SPD2. Well in excess of 100m<sup>2</sup> of private amenity would be provided. Due to the site's location on the edge of the MGB, a good level of soft landscaping should be provided to the front of the property.
- 5.34 Policy DM4 of the Development Management Submission Document (unadopted) requires new dwellings to adhere to minimum habitable floor space standards. For a dwelling of the proposed size the minimum habitable floor space should be 106m<sup>2</sup> which is adhered to here.

### **Dwelling Types and Affordable Housing**

- 5.35 Policy H5 of the Core Strategy requires new housing developments to contain a mix of dwelling types to ensure that they cater for and help create mixed communities. With a proposal for one dwelling a mix would not be possible here, however the size of property sought is considered acceptable within this location. It is the Council's view that the site should accommodate more than 1 dwelling and that a suitable mix of dwellings could be achieved at this site. Policy H6 of the Core Strategy requires that new housing developments



comply with the Lifetime Homes Standard; the Council would wish to see supporting information to demonstrate how the scheme would meet this requirement. If planning permission were to be granted for the proposed single dwelling the Council suggest that a planning condition should be imposed to ensure that the proposal demonstrates assessment against and compliance with this criteria.

- 5.36 Policy H4 of the Core Strategy requires at least 35% of dwellings on all developments of 15 or more units, or on sites greater than 0.5 hectares to be affordable. The West Hockley general location, including the Pond Chase Nursery and application site, would provide for 51 dwellings. It is considered reasonable to look at the West Hockley general location as a whole, rather than just the one dwelling proposed at the application site, when considering affordable housing requirements. Each site should provide for a proportionate quantity of affordable housing in order to ensure a sustainable and comprehensively planned form of development within this general location. It is not considered reasonable to require Pond Chase Nursery to meet all of this requirement without a proportionate amount also being provided at the application site.
- 5.37 At the application site, only one dwelling is proposed which is already considered to represent an inadequate use of land recently released from the MGB. With only one dwelling proposed, this one dwelling would need to provide the affordable housing provision at this site. No indication has been provided within the supporting documents to the current application with regard to how affordable housing would be addressed here. Therefore, without the indication that such affordable housing could be provided here by the applicant, the Council is not in a position to recommend approval with a legal agreement to deliver the affordable housing provision.

### **Ecology**

- 5.38 The application site does not include any nationally, regionally or locally designated wildlife sites although there are trees that border the site to the north and east and the site is vegetated. The site therefore offers the potential for habitat that supports protected species.
- 5.39 When reviewing the Natural England 'Decision Tree' which assists in determining when ecological surveys are required, a survey is considered to be required at this site in order for the Local Planning Authority to consider the impact of the proposal on protected species for the following reasons:-
- A previous application at the now neighbouring site Westview (Reference 06/00536/FUL) provided an ecological survey which confirmed that no badgers were present but slow worms and a grass snake were discovered and mitigation was suggested. It is unclear as to whether this survey covered just the residential area of Westview to which this application

related or whether it covered the entire site including the MGB area. Regardless, the proximity and relationship to the current site is relevant in terms of considering the ecological implications.

- The site is historically a large garden in a rural area.
- A ditch is located to the east of the site and a pond is within 500m of the site (to the north-east) linked by hedging and trees.
- The site is Previously Developed Land.

5.40 The site therefore offers the potential for habitat that supports protected species.

5.41 The Council's ecological consultant did not object to the lack of such ecological information within the outline application. However, does object to such lack of information within the current application as no ecological information has been provided since at least 2009 and possibly 2007, which he considers is well beyond the limit of acceptability. However, the situation between the previous outline application and the current application has not changed in terms of the lack of information supplied and therefore it is considered that it would be unreasonable to now recommend refusal for the current application on the lack of such ecological surveys. However, the submission of surveys prior to commencement of development would need to be controlled by planning condition with any necessary mitigation carried out if planning permission were to be granted.

### **Trees**

5.42 No tree survey has been submitted with this application. There are several trees located on and bordering the site. Many to the northern boundary are subject to Tree Preservation Order 32/92 and one, an oak tree to the north-west corner of the site, was served a Tree Preservation Order (TPO/00004/14) on 10 April 2014 (T1 Oak).

5.43 The Council's arborist advises that in principle there is no arboricultural objection to the proposal so long as the driveway is relocated outside the Root Protection Area of the T1 Oak. He goes on to advise that given that there is around 0.75-1m difference in soil level between Church Road and the site, in his view it would be impossible to construct a driveway in that location without detrimentally damaging the T1 Oak. He suggests that a condition may be possible for the relocation of the driveway. However, with no knowledge of the precise RPA spread and resulting impacts relocation of the driveway outside of the RPA may have upon access and highway safety considerations, it is not considered that a planning condition could reasonably be imposed.

- 5.44 A previous outline application considered that a planning condition would sufficiently address the proximity of the proposed driveway/access to this tree. However, since this outline application was considered and determined this tree has now been subject to a preservation order, giving it greater protection and consideration. Therefore it is even more important now that clarity is reached surrounding the works to construct an access/driveway close to this preserved tree.

#### **On-site Renewable Energy and Code for Sustainable Homes**

- 5.45 Policy ENV8 requires developments of 5 or more dwellings to secure at least 10% of their energy from decentralised and renewable or low-carbon sources unless this is not feasible or viable. As this site is residentially allocated as part of the SER3 release of land from the MGB in Hockley it is considered that this site must be seen as a wider development and therefore that this policy should be applied here.
- 5.46 It is recommended that a condition be imposed that would require at least 10% of the energy from the dwelling to be secured from decentralised and renewable or low-carbon sources unless this is not feasible or viable if planning permission were to be granted.
- 5.47 The proposal would need to ensure, as required within Policy ENV9 of the Core Strategy, that the dwelling meets Code for Sustainable Homes (CSH) 4. An informative is therefore recommended that would require all dwellings to meet CSH level 4.

#### **Open Space and Play Space**

- 5.48 Policy CLT5 of the Core Strategy requires the incorporation of new public open space within residential developments, which is accessible and designed to integrate into the development having regard to local current and projected future need. This is also a requirement for the West Hockley site referred to within appendix H1.
- 5.49 This application site does not propose any public open space for the dwelling proposed, which is contrary to policy CLT5. The Pond Chase Nursery site would provide the 0.4ha of amenity green space required of the West Hockley general location within the Allocations Plan 2014 and appendix H1 of the Core Strategy by legal agreement using an area to the north shown to be part of the site reserved for ecology.
- 5.50 However, although this site incorporates such provision, it is not considered reasonable to allow Pond Chase Nursery to provide for all of this requirement including future maintenance arrangements of the West Hockley general location when the application site is also a part of this general location. A proportionate amount of either open space or a financial contribution towards

public open space and maintenance should be provided for from the application site, whether the site is to provide only one or more dwellings.

- 5.51 If public open space and play space were to be placed at the Pond Chase Nursery section of the general location, it is considered that the site would be within reasonable distance, with pedestrian/cycle access through, to the application site and would be usable space for the occupants of the dwelling at the application site.
- 5.52 In addition, policy CLT7 requires the incorporation of appropriate communal play space, which would be accessible, subject to natural surveillance and comply with the Council's Play Space Strategy. The Allocations Plan 2014 also identifies that the West Hockley general location should deliver at least one local area for play (LAP) on a minimum area of 0.01ha.
- 5.53 Play space was shown to be provided on the Pond Chase Nursery application and it was concluded that this would be made a requirement of the s106 legal agreement, including maintenance of the equipment and space by an appropriate management company in accordance with the requirements of Policy CLT7. Similarly to the public open space assessment, it is considered that such play space requirements should be proportionately provided either in physical form or as a financial contribution towards construction and maintenance at the application site.

### **Education**

- 5.54 Within a previous outline application for 7 dwellings the site was considered to be part of the wider general location area of West Hockley and like with the affordable housing and infrastructure provision, this site was considered as a whole along with Pond Chase Nursery when considering provision.
- 5.55 ECC Education department was not consulted on the current proposal. With the outline application they advised that they would view the application alongside Pond Chase Nursery as a whole and would seek a financial contribution around the £7335 figure, which was considered to be reasonable and justified for this part of the site. This was also considered to be in accordance with policy CLT2 of the Core Strategy which seeks contributions to increase the capacities of existing primary schools where required. It is considered that the current proposal, whilst only for one dwelling, should still contribute proportionally to the requirements of the West Hockley general location in terms of education provision.
- 5.56 Like with the affordable housing, the current application does not propose a contribution towards education provision within the supporting documents provided. Therefore, without the indication that such a contribution towards education could be provided here, the Council is not in a position to

recommend approval with a legal agreement to deliver the education provision.

### **Highways/Access**

- 5.57 The application site is located on Church Road, which is a residential street that links to Fountain Lane (one-way), High Road and Folly Lane to the south and Lower Road to the north.
- 5.58 The proposal would include a new access onto Church Road. It is considered that a further access here would not be objectionable and should not represent a reason for refusal so long as the suggested conditions to ensure highway safety are attached to an approval.
- 5.59 It is not considered that the proposed addition of a dwelling using Church Road would generate additional traffic of a level to be considered to add materially to traffic flows on the adjacent road network.
- 5.60 ECC advises that it appears that the land under the applicant's control includes the access road to the south of the proposed development. The view of the Highway Authority is that access be sought from this link to ensure that access points onto Church Road be kept to a minimum. However, whilst historically this land has been owned by the applicant, it is not clear that this is currently still the case. Therefore the access suggested by ECC Highways is not considered potentially feasible. This did not represent a reason for refusal of previous applications, which proposed new accesses onto Church Road and therefore would not represent a reason for refusal of the current proposal.
- 5.61 The Parking Standards document requires properties of this size to provide two off-street parking spaces measuring 5.5m x 2.9m per space and any double garages to have internal measurements of 7m x 5.5m to be considered usable spaces. The driveway as currently shown would be able to accommodate two spaces to the required bay sizes. Even if this were to be relocated due to the TPO oak tree, there would still be space to the front of this site to accommodate two off-street parking spaces. The proposed double garage would meet the 7m x 5.5m criteria. The garage would provide adequate cycle storage and the driveway and frontage in general would have sufficient capacity to provide visitor, powered two wheeler and disabled parking. Adequate parking provision is supplied here.
- 5.62 All ECC Highways planning conditions are considered reasonable and should be incorporated. One planning condition refers to the need for a 2.4m wide parallel band visibility splay. This cannot be incorporated where the TPO tree is located, however, it could be accommodated across the majority of this frontage.

- 5.63 As referred to earlier, a pedestrian/cycle access will be required by planning condition to the eastern boundary in accordance with the requirements found in appendix H1 of the Core Strategy.

#### **Sustainable Drainage and Utilities**

- 5.64 Policy ENV4 of the Core Strategy requires all residential development over 10 units to incorporate surface water run-off control via a sustainable urban drainage system and this is also a requirement of the West Hockley general location, as identified in appendix H1 of the Core Strategy. As with the on-site renewable energy part of this report, as this site is part of the SER3 release of land from the MGB in Hockley it is considered that this site must be seen as a wider development and therefore that this policy should be applied here.
- 5.65 The applicant proposes that surface water run-off be dealt with either by drainage to soakaways or to the ditch to the rear of the site. Such SUDs measures could potentially be integrated with those proposed at the Pond Chase Nursery site, which included utilising existing drainage ditches, creating swales and a detention pond. Bearing in mind the SUDs measures currently put forward and the potential for integration with Pond Chase Nursery it is considered that adequate SUDs measures under appendix H1 could be provided at this site and more detail surrounding this could be required by planning condition.
- 5.66 It is noted that as a result of the proposed development there would be an increase in the amount of hard surfacing at this site. Permeable surfacing and a sustainable surface water drainage strategy could sufficiently be controlled by planning condition.
- 5.67 No foul water drainage strategy has been submitted and Anglian Water has not provided comment on the application. The Council's engineer advises that the site is located where public foul and water sewers are not available. The Environment Agency advises that a private means of foul effluent disposal is only acceptable when foul mains drainage is unavailable. According to their maps the site is more than 100m away from the main sewer network. If their maps are correct, they advise that use of non-mains drainage, given the scale of the proposed use, would therefore appear to be appropriate in this case. Acceptable drainage arrangements could be controlled by planning condition and/or by Building Regulations.
- 5.68 No utilities assessment has been submitted with the application, however, it is not suggested that there would be any capacity issues in terms of water, electricity, gas or telecommunications.

### Residential Amenity

- 5.69 Due to the approximately 17m distance between the side elevation of the proposed dwelling and the side elevation of the nearest house within The Astors development (closest house not currently constructed) this is considered to form an acceptable relationship. All first floor side windows would serve bedrooms and an en suite where protracted periods of time are unlikely to be spent. A balcony at first floor may generate unacceptable overlooking to the garden areas of properties to the south at The Astors. A planning condition requiring an obscure screen to the southern elevation of the balcony should be attached to an approval.
- 5.70 Due to the approximately 56m between the rear elevation of the proposed dwelling and the boundary with Pond Chase nursery, it is considered that this would form an acceptable relationship with this site, including use of a balcony at first floor.
- 5.71 The property to the north, Windfield, is angled so that its rear elevation faces at an angle towards the proposed dwelling. There is vegetation on the boundary which would prevent unacceptable overlooking to some extent. However, as there is the potential for unacceptable overlooking a planning condition requiring an obscure screen to the northern elevation of the balcony should be attached to an approval.
- 5.72 Windows to the first floor side elevation serving a bedroom and en suites may provide views towards Windfield but due to the vegetation cover on the boundary, the distance of these windows to the rear elevation of Windfield and the protracted period of time that would be spent within the rooms to which these windows would serve, it is not considered that unacceptable overlooking would be generated. The occupier of Windfield has not objected to the proposal.

## 6 CONCLUSION

- 6.1 In determining this application regard must be had to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 The Local Planning Authority does not support the proposal for the reasons referred to below.

## 7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES**

That this report be put to the Planning Inspectorate on appeal, stating **that had the Authority been in a position to determine** this application, it would have been **REFUSED**, for the following reasons:-

- (1) Policy SER3 of the Allocations Plan 2014 shows the site to be designated as residential representing the release of Metropolitan Green Belt land to meet the Local Planning Authority's five year housing supply across the Rochford District and more specifically, the West Hockley general location for residential development within policy H2 of the Core Strategy 2011. Due to the lack of compliance with the public open space, play space, educational contributions and affordable housing requirements within policies H2 (which refers to Appendix H1), H4, CLT2, CLT5 and CLT7 of the Core Strategy 2011 and policy SER3 of the Allocations Plan 2014 the proposal would not be considered to represent sustainable development, the presumption in favour of which is at the heart of the National Planning Policy Framework.

There are no material planning considerations that indicate that this proposal should be determined favourably and not in accordance with the adopted development plan, which requires proposals for residential development within the general location of West Hockley to be comprehensively planned and to comply with the necessary infrastructure requirements. Policy H1 which looks at the efficient use of land for housing requires residential development to conform to all policies within the Core Strategy to which this proposal does not. A small site such as this has the potential to be unsustainable without adherence to such policy requirements which look to seek infrastructure to support the provision of the additional dwellings within the West Hockley general location, in a comprehensively planned manner.

- (2) The proposal for one dwelling at a site where a previous outline application (reference 12/00586/OUT) showed that up to seven could easily be accommodated would not make the most efficient use of this site, which was only released from the Metropolitan Green Belt (MGB) as part of policy H2 of the Core Strategy 2011 West Hockley general location and policy SER3 of the Allocations Plan 2014 to meet the demand for land to address the Council's need for housing.

Policy DM2 of the Development Management Submission Document 2013 (unadopted) requires residential development to make efficient use of the site area in a manner that is compatible with the use, intensity, scale and character of the surrounding area, including potential impact on areas of nature conservation importance, and the size of the site. It is considered that the proposal does not make efficient use of this site bearing in mind the other factors which require consideration on an individual site basis when considering density. The effect of inefficient use of land released from the MGB for residential development is to then push future housing



needs to require more MGB land to be released which would not necessarily need to be the case if the allocation sites are built out to an appropriate density making the most effective use of land released from the MGB.

- (3) No tree survey has been submitted with this application. There are several trees located on and bordering the site. Many to the northern boundary are subject to Tree Preservation Order 32/92 and one, an oak tree to the north-west corner of the site, was served a Tree Preservation Order (TPO/00004/14) on 10 April 2014 (T1 Oak).

The proposed access and driveway is likely to be located within the Root Protection Area (RPA) of T1 Oak. Due to around 0.75-1m difference in soil level between Church Road and the application site the Council's Arborist has confirmed that it would be impossible to construct a driveway in that location without detrimentally damaging the T1 Oak. With no knowledge of the precise RPA spread and resulting impacts relocation of the driveway outside of the RPA may have upon access and highway safety considerations, it is not considered that a planning condition could reasonably be imposed. Therefore such a condition would fall foul of the 'reasonable' test set out within the Planning Practice Guidance and referred to within paragraph 206 of the National Planning Policy Framework.



Shaun Scrutton

Head of Planning and Transportation

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### Relevant Development Plan Policies and Proposals

HP6, HP10, HP21 and UT2 of the Rochford District Replacement Local Plan 2006.

H1, H2, H4, H5, H6, CP1, ENV8, ENV9, CLT1, CLT2, CLT5, CLT7, T1, T3, T6 and T8 of the Core Strategy 2011

DM1, DM2, DM3, DM4, DM5, DM25, DM27, DM28 and DM30 of the Development Management Submission Document 2013 (unadopted)

Policy SER3 of the Allocations Plan 2014

Parking Standards Design And Good Practice Supplementary Planning Document  
(Adopted December 2010).

Supplementary Planning Document 2 – Housing Design

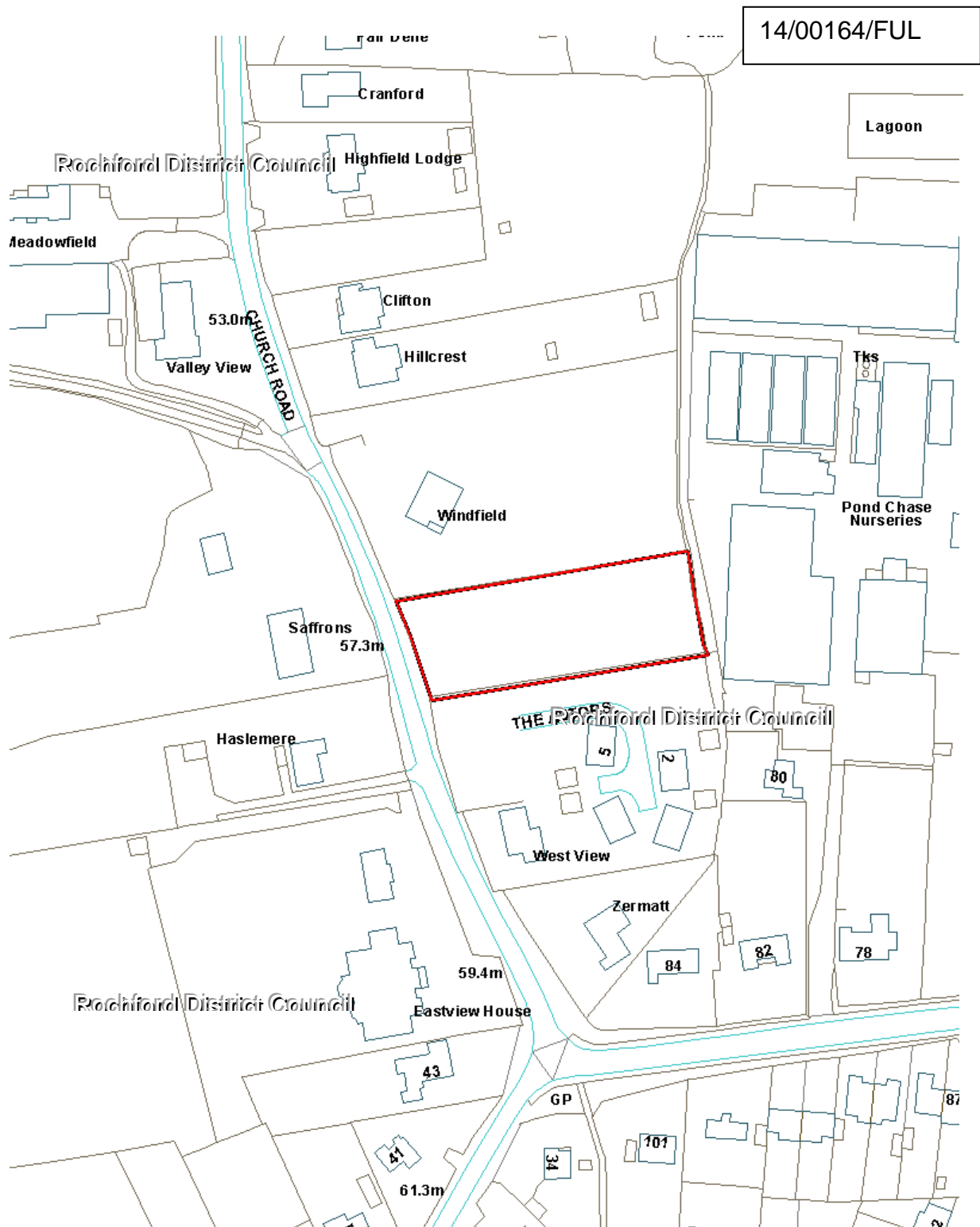
National Planning Policy Framework (NPPF)

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