

**14/00568/FUL**

**LAND BETWEEN 35 AND 43 VICTORIA DRIVE, GREAT WAKERING**

**APPLICATION TO CONSTRUCT A THREE-BEDROOMED DETACHED DWELLING**

**APPLICANT: LAWRENCE & BROWNE LTD**  
**ZONING: RESIDENTIAL AND FLOOD ZONE 3A**  
**PARISH: GREAT WAKERING PARISH COUNCIL**  
**WARD: FOULNESS AND GREAT WAKERING**

**1 PLANNING APPLICATION DETAILS**

- 1.1 The application currently before the Council is for the construction of a three-bedroomed detached dwelling at land between 35 and 43 Victoria Drive, Great Wakering.
- 1.2 This application is currently before the Committee as one of the applicants is an employee of the Council.
- 1.3 The proposal is for a three-bedroomed house with a chalet style in appearance. It would have a pitched roof with half hips and pitched roofed gable ended front and rear projections. To the front the gable end would have a balcony at first floor and to the rear a small landing with external staircase is proposed. There would be two pitched roofed dormers to the front and two pitched roofed dormers to the rear.
- 1.4 The primary living accommodation would be at first floor level incorporating three bedrooms, en suite, bathroom, kitchen and lounge. At ground floor level there would be two car ports, two storage rooms, a utility, WC and open plan gym. The design, with primary accommodation located at first floor level, is due to the site's location within flood zone 3a.
- 1.5 An in and out driveway would be formed with some soft landscaping to the frontage.

## **2 THE SITE**

- 2.1 The application site is to the south east of the main residential settlement of Great Wakering within the residentially designated area of Great Wakering.
- 2.2 The site consists of a detached bungalow (No. 20) with garden, which stretches between Goldsworthy Drive to the north and Victoria Drive to the south. The site is surrounded by residential development. Within Victoria Drive, to the west of where the proposed dwelling would be sited is a detached chalet bungalow (No. 35) and to the east is a detached bungalow (No. 43). Within Goldsworthy Drive, to the west of the existing bungalow (No. 20) is a semi-detached pair of houses (No. 14 and 16 Goldsworthy Drive) and to the east is a detached bungalow (No. 24).
- 2.3 Whilst no works are proposed to No. 20 Goldsworthy Drive as part of this application, No. 20 is within the application site. This property has been the subject of various planning applications (summarised below).
- 2.4 The site is located within flood zone 3a.

## **3 RELEVANT PLANNING HISTORY**

- 3.1 There is no planning history that relates to this site as an independent site. The site is currently part of the rear garden area of No. 20 Goldsworthy Drive. Planning history relating to No. 20 is as follows:-

13/00699/NMA - Change of roof tiles from Marley Modern to sample provided.  
APPLICATION WITHDRAWN

13/00502/DPDP1 - Householder Prior Approval for Single Storey Rear Extension. Projecting 8m From Original Rear Wall, Eaves Height 2.4m Total Height 4m. PRIOR APPROVAL NOT REQUIRED

13/00162/FUL - Part Demolition of Dwelling and Construct Two Storey Extension to Form Two Storey Dwelling, Rear Extension (Conservatory), Front Porch and Detached Garage. APPROVED

12/00780/FUL – Part Demolition of Dwelling and Construct Two Storey Side and Rear Extensions Incorporating Garage to Side, Rear Conservatory and Front Porch. REFUSED

No planning history for 20 Goldsworthy Drive pre-dates 2012.

## **4 CONSULTATIONS AND REPRESENTATIONS**

### **4.1 Great Wakering Parish Council**

There is a vacant plot of land at this location. Victoria Drive is developed on both sides with residential properties. The down side to this application is this area is very low lying and seriously at risk from coastal flooding. Therefore we

would expect to see assurances that full flood protection measures are included.

#### 4.2 RDC Ecology

It is noted that the site consists mainly of scrub-type habitat highly suitable for nesting birds; the deliberate disturbance of nesting birds is an offence under the Wildlife and Countryside Act 1981. As a precaution it is recommended that no clearance or preparation of the site occurs between the dates of 1 March until 31 August.

#### 4.3 Essex County Council Highways

The Highway Authority would not wish to raise an objection to the above application as submitted, subject to the following requirements:-

1. Prior to occupation of the development the vehicular accesses shall be constructed at right angles to the existing carriageway, as shown in principle on planning application drawing number VD/NAK/002 prepared by The Draughtsman. The width of the accesses at their junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway and highway verge.
2. The provision of two on-site parking spaces. Each vehicular parking space shall have minimum dimensions of 2.9 metres by 5.5 metres.
3. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading/unloading/reception and storage of building materials, shall be identified clear of the highway, submitted to and approved in writing by the Local Planning Authority.
4. 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.
5. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

#### 4.4 Environment Agency

##### CONSULTATION RESPONSE

We have reviewed the information submitted and wish to raise an objection on flood risk grounds. Please see our detailed comments below.

### **Tidal Flood Risk**

Our maps show the site lies within Flood Zone 3, the high risk zone. The application is for the construction of a dwelling, which is considered to be a 'more vulnerable' land use in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. It is therefore necessary for the application to pass the Sequential and Exception Tests and to be supported by a site-specific Flood Risk Assessment (FRA), which can demonstrate that the 'development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.

### **Sequential Test**

No evidence has been submitted to demonstrate you have considered the Sequential Test. The requirement to apply the Sequential Test is set out in Paragraph 101 of the National Planning Policy Framework. This Test is your responsibility and should be completed before the application is determined.

### **Exception Test**

The first part of the Exception Test requires you to be satisfied that the development provides wider sustainability benefits to the community that outweigh flood risk. No evidence has been submitted to demonstrate you have considered this. This Test is your responsibility and should be completed before the application is determined.

The second part of the Exception Test requires the submission of an FRA which demonstrates the development will be safe for its lifetime, without increasing flood risk elsewhere, and will reduce the overall flood risk where possible. An FRA prepared by Evans Rivers and Coastal, referenced 1210/RE/11-13/01 Revision A, and dated April 2014 has been submitted to inform your decision on this.

In this instance the submitted FRA fails to:-

1. Demonstrate that the habitable development is 'safe' for its lifetime.

### **Reasons**

The Planning Practice Guidance (PPG) to the National Planning Policy Framework (NPPF) requires the Exception Test to be applied in the circumstances shown in tables 1 to 3. Paragraph 102 of the NPPF makes clear that both elements of the Test must be passed for development to be permitted. Part 2 of the Test requires the applicant to demonstrate in a site specific flood risk assessment that the development will be safe, without

increasing flood risk elsewhere, and, where possible will reduce flood risk overall.

The application site lies wholly within Flood Zone 3a defined by the NPPF as having a high probability of flooding. Development classified as more vulnerable is only appropriate in these areas following application of the Sequential Test and where the Exception Test has been applied in full and has been passed.

Despite the mitigating measures proposed, the risk to life and property, both within the development and on site from tidal inundation would be unacceptable, if the development were to be allowed. Consequently, there would be an unacceptable risk to the health and safety of the occupants as the development will flood up to 2.59m internally within 1 hour in the design flood event.

We expand upon this point within the technical appendix below, which you should read as it contains further information to inform your decision.

### **Overcoming our Objection**

You can overcome our objection by submitting evidence to demonstrate that the proposal will not pose risk to life and property, as highlighted above. We ask to be re-consulted on any relevant further information submitted.

Ideally ground floor levels should be set 300mm above the 1 in 200 year event inclusive of climate change to ensure the dwelling remains dry. The FRA states that this is not practical due to the height of flood water above ground level. Alternatively we recommend that a 2D overtopping model is produced in order to establish the risk posed to the site in all scenarios taking into account current defence information. This data is not available in the SFRA.

You could also overcome our objection by moving all habitable space onto the first floor. The gym and hallway area proposed could easily be converted into living accommodation, which would pose significant risk to residents. It would not be possible to enforce that this space is used as non-habitable. You should be satisfied that this use is non-habitable and will remain so for the lifetime of the development.

### **FURTHER COMMENTS:**

We note that the intention of the above development is to locate all habitable space on the first floor. However, in our previous response we raised the issue that a fairly large area of floor space on the ground floor was intended to be an open plan gym/reception hallway. We would generally consider a gym to be a habitable living space and therefore to be an inappropriate use of the ground floor. In addition, there is the potential for

this and the large reception hallway to be used as habitable living space, and there is no way of preventing it being used as that in the future.

Our previous response clearly sets out the consequences for this dwelling in a flood event. We therefore have no further comments to make on the flood risk to the property. The downstairs floor space could in future be converted, resulting in living space which is below the 1 in 200 year flood level. If you have taken this into account, and you also consider that the downstairs floor space is appropriate for a gym, then we will not pursue our objection.

#### 4.5 Neighbours

Two responses received (43 and 47 Victoria Drive) which can be summarised as follows:-

- No. 43 has a detached bungalow with 3 windows to the west elevation of her property. The dining room and bedroom have no other windows, the proposed plans showing the east elevation will cut out her natural light putting her rooms into darkness with only a view of a huge brick wall.
- The third window is her lounge where she sits all day due to her condition and again this will obscure the natural light with a wall as the only view.
- Due to the height of the proposed property No. 43's garden will be totally overlooked and with the size of the building will block out the sun to her rear garden. Her garden was her pride until the new owners caused much damage; this will be explained.
- The proposed plans show the ground floor to include mostly parking and storage, with the living accommodation to the first floor; surely this equates to a first floor flat and certainly not in keeping with neighbouring properties that consist of bungalows and chalets only. I therefore ask that you provide evidence of any flats in the road or any other property that is a flat but merely disguised as a house as this is in order to satisfy current building regulations due to a proposed new build on a flood area.
- The plans show rear access to the first floor accommodation by outside steps, this will cause neighbouring properties to be overlooked not to mention the noise and disturbance of people running up and down the steps; this is simply not acceptable.
- We also question why the new owners who purchased the land and the bungalow have only fenced off half their garden, leaving a rear access to the proposed site; does this indicate vehicle access from Goldsworthy Drive without the Council's knowledge.

- The new owners have shown total disregard to No. 43 with no consideration to her privacy and security whilst the renovations of the bungalow have continued; please find enclosed photographs for your attention showing how they have simply pulled down her boundary fence and leaving it smashed to the ground, they have pulled up trees and bushes and caused her paved area to be most unstable and very unsafe and have simply left it. The new fencing that can be seen has only just been re-erected after being taken down for months without No. 43's knowledge or consent and adding to her having no privacy or security.
- I therefore conclude by saying with all this in mind one can only imagine the disturbance this proposed new build will cause with no consideration to the occupier of No. 43's serious condition not to mention her security and privacy as none has been shown to date whilst the owners renovate and rebuild the bungalow, and to be deprived of natural light in 3 rooms including views of a huge brick wall and the sound of people up and down rear stairs and being totally overlooked by first floor accommodation. Surely a bungalow is in keeping with the neighbouring properties, not a first floor flat.
- It will overlook neighbouring gardens and will obscure the sunlight in our small north facing garden.
- We will also be overlooked as the living accommodation is on the first floor.
- I am aware the owners of the land and bungalow are the same family so I am concerned the rear access that has been left unfenced from the rear of the proposed site to the side of the bungalow will serve as a cut through to Goldsworthy Drive again causing noise and disturbance.
- We are almost most concerned for the welfare of our dear friend and neighbour at No. 43 who has Parkinsons Disease.
- Finally we applied to the Council many years ago for our rear master bedroom to have a Juliet balcony and were informed that this was not allowed as it would overlook neighbouring gardens; the same applied to our neighbours at No. 53 Victoria Drive. I therefore object to the fact a flat disguised as a detached house can apply for a property with outside stairs that will clearly overlook neighbours.

## **5 MATERIAL PLANNING CONSIDERATIONS**

- 5.1 The site is located within the residential area of Great Wakering where residential development would, in principle, be considered acceptable.

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## Flooding

- 5.2 The site is located within flood zone 3a and is considered within Table 2 of the Technical Guidance to the National Planning Policy Framework (NPPF) to be a 'more vulnerable' flood risk vulnerability classification. Within flood zone 3a it states that 'the more vulnerable uses and essential infrastructure should only be permitted in this zone if the Exception Test is passed'.
- 5.3 Appliance of the Exception Test is only necessary if 'following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding'. The sequential test involves looking at the flood zones and flood risk vulnerability classification tables 1 and 2 within the Technical Guidance to the NPPF, as referred to in the paragraph above. As a proposal for one dwelling could be located within the Rochford District in areas with a lower probability of flooding the proposal is considered to be contrary to paragraphs 101 and 102 of the NPPF. The Council has identified more suitable sites for residential development within the Allocations Plan 2014 that are not within flood zone 3a. Therefore, it is not considered appropriate or necessary to apply the Exception Test here as the proposal is considered to fall foul of the aspirations of the NPPF, which are to direct development away from areas at highest risk of flooding.
- 5.4 However, if the sequential test were considered to be passed, the Exception Test would still also need to be passed. In order for the Exception Test to be passed the proposal would need to:-
- 1) Demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
  - 2) Demonstrate via a site specific flood risk assessment that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 5.5 The application is supported by a Flood Risk Assessment (FRA) produced by Evans Rivers and Coastal Ltd. It is not considered that the FRA or the proposal in general demonstrates that the development provides wider sustainability benefits to the community that outweigh flood risk. The Environment Agency has concerns with regard to residential development at this site and do not consider that it has been demonstrated that the development will be safe for its lifetime. This is because there is a gym and hallway area proposed at ground floor level, which could easily be converted into living accommodation.
- 5.6 The proposal is considered to be contrary to policy ENV3 and paragraphs 100 and 101 of the NPPF, which seek to direct development away from areas at



risk of flooding by applying the sequential test and, where necessary, the exceptions test. A proposal for one dwelling in the Rochford District, which has residential land which could support infill development such as this outside of flood zone 3a, could occur in an area with a lower risk of flooding within this District than the application site. For this reasoning, the proposal is not considered to meet the sequential test and therefore it is not necessary to apply the exception test. To site the dwelling the subject of this application within flood zone 3a without meeting the sequential test is creating unnecessary flood safety risks to the future occupants of the dwelling.

### **Layout, Scale and Design**

- 5.7 The street scene of Victoria Drive is varied with bungalows, chalets and houses all present, some of semi-detached and some of detached style. The properties in closest proximity to the site are bungalows and chalets.
- 5.8 The proposal for a single detached house with chalet elements, including dormers and a projecting gable to the front and rear at first floor level, is considered to have an acceptable relationship with the street scene, using chalet elements present on neighbouring properties. Whilst the gable ended first floor projection would appear prominent, it is not considered that this would appear so prominent that it would be detrimental to the street scene in this location. The hipped roofing helps to reduce impact in terms of scale within the street scene.
- 5.9 In excess of 1m separation would be provided between the site boundaries and the habitable rooms of the dwelling house in accordance with SPD2. The 9.25m site frontage distance required for infilling with detached properties is provided here. The dormers proposed are pitched in style and proportionate within the roof slope.
- 5.10 The habitable floor space of the dwelling would not meet the minimum required for a three-bedroomed house under policy DM4 of the Development Management Submission Document 2013 (unadopted). However, as this document is unadopted this policy can only be given limited weight.
- 5.11 Policy ENV9 of the Core Strategy requires all new residential development to reach Code level 4 for Sustainable Homes. Code level 4 is dealt with under the building regulations, however, an informative could also be attached to an approval. In addition to this, policy H6 of the Core Strategy requires all new housing developments to comply with the Lifetime Homes Standard. A condition requiring details and plans demonstrating assessment of the dwelling against the Lifetime Homes Standard should be attached to an approval. Policy UT2 of the Local Plan 2006 requires the development to connect to mains sewerage, which is confirmed would be the case within the application form submitted with the application. It is not considered appropriate to apply policy DM5 relating to light pollution to a proposal for a single dwelling.

- 5.12 The proposal incorporates some soft landscaping to the frontage, which is considered acceptable and the full landscaping details could be agreed by planning condition.

#### **Parking, Amenity and Refuse**

- 5.13 The dwelling would need to provide 100m<sup>2</sup> of garden with No. 20 Goldsworthy Drive also retaining 100m<sup>2</sup> (extension works permitted in 2013 enable this property to be extended to form a four bedroomed property where 100m<sup>2</sup> of garden would be required). The dwelling would achieve this figure and No. 20 would retain well in excess of 100m<sup>2</sup> of garden.
- 5.14 The Parking Standards: Design and Good Practice Supplementary Planning Document adopted December 2010 requires that 2 plus bedroomed dwellings provide as a minimum, 2 vehicle spaces per dwelling and 1 secure covered cycle space per dwelling. Therefore this scheme would require a minimum of 2 vehicle spaces and 1 secure covered cycle space. 2 car ports and 2 storage areas are shown along with a driveway area. The car ports would exceed the 7m x 3m internal measurements for garage spaces and therefore these car ports alone provide acceptable vehicle parking provision at this site. In addition to this, a driveway area is shown which would provide additional parking capacity. The storage areas would provide the necessary secure covered space for a bicycle and sufficient space for bin storage.
- 5.15 ECC Highways does not object, but suggests various planning conditions be attached to an approval. All are considered reasonable except for the condition which relates to the loading/unloading/reception and storage of building materials as the site has capacity to allow for such provision and this is not considered reasonable for this scale of development on a non classified road.

#### **Impact on Neighbouring Properties**

- 5.16 One side window is proposed for this detached dwelling. This has the potential to generate unacceptable overlooking to No. 35, but a planning condition requiring this window to be obscure glazed and fixed shut below a height of 1.7m could be attached to an approval. This window would serve a bathroom where obscure glazing would be expected to be inserted anyway. A planning condition preventing the insertion of future first floor side windows should also be imposed to prevent future unacceptable overlooking.
- 5.17 The 45 degree angle would not be breached for No. 43. Whilst the 45 degree angle is used to assess unacceptable overshadowing by way of first floor extensions to existing dwellings it is also a useful way to assess such impact between a proposed dwelling upon existing dwellings. With regard to No. 35, the block plan supplied shows a stagger in the side elevation of this property, which is also shown on Ordnance Survey plans. However, such a stagger is

not present on site. Regardless, it does not appear that the 45 degree angle would be breached for this property.

- 5.18 Due to the design and scale of this chalet style property, it is not considered that the proposal would appear detrimental to neighbouring properties in terms of scale. The proposed dwelling would be the same height as No. 35.
- 5.19 Three windows are located within the side elevation of No. 43. According to the response provided on behalf of the occupier of No. 43, these serve a lounge, dining room and bedroom. The original 1955 plan for No. 43 shows that only one window originated on this elevation serving a bedroom, with the internal layout showing two bedrooms positioned on the side of the property alongside the garden area of No. 20 Goldsworthy Drive. In the 1960s an extension to the rear allowed for 3 bedrooms to this side elevation, each with a window. At some point after this time the bungalow was re-formatted inside to provide for the lounge, dining room and a bedroom on the side of the application site. Whilst the proposal would reduce light to the only window to two of these rooms, these serve a bedroom and dining room where protracted periods of time are unlikely to be spent. The lounge would continue to receive light from its second window. Bearing this in mind and also considering the approximately 3m distance between the side elevation walling of the proposed dwelling and No. 43 and sloping roof style, which would still enable some light through, it is not considered that it would be justified to refuse the current proposal due to the light loss to No. 43.
- 5.20 A balcony is proposed at first floor to the front elevation. However, the roof and walling would prevent unacceptable overlooking to No. 35 and No. 43. This would look towards No. 44 and No. 46 Victoria Drive. However, as this would not differ from the relationship already formed through properties on either sides of the road fronting each other, such a relationship here with a balcony to the front is not considered objectionable. To the rear a staircase is proposed leading to first floor level. A platform measuring 0.8m deep outside of the first floor doors is proposed. However, due to the limited depth of this platform and the clear intention for it to be an access rather than a balcony area, it is not considered that this would be easily used as a balcony and thus it would not generate unacceptable overlooking.
- 5.21 A 25m distance is achieved between the rear elevation of the proposed dwelling, No. 20, and other properties within Goldsworthy Drive, which would form an acceptable relationship with these properties to ensure no detrimental overlooking would occur.
- 5.22 The proposal is unlikely to have a detrimental impact upon any other neighbouring properties.

**Trees and Ecology**

- 5.23 There are no trees subject to Tree Preservation Order on the site. However, there do appear to be trees present towards the rear of the site. It is unclear whether these would be removed or retained. If they are to be removed then other tree planting would be expected to outweigh this loss and this could be controlled by a landscaping condition.
- 5.24 The Council's ecological consultant notes that the site consists mainly of scrub-type habitat highly suitable for nesting birds. As a precaution the consultant recommends that no clearance or preparation of the site occurs between the dates of 1 March until 31 August. This could be controlled by planning condition.

**6 CONCLUSION**

- 6.1 The proposal is considered to be unacceptable due to the site's location within flood zone 3a.

**7 RECOMMENDATION**

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

That planning permission be refused for the following reason:-

- 1 The proposal is considered to be contrary to policy ENV3 and paragraphs 100 and 101 of the National Planning Policy Framework (NPPF), which seek to direct development away from areas at risk of flooding by applying the sequential test and, where necessary, the exceptions test. A proposal for one dwelling in the Rochford District, which has residential land that could support infill development such as this outside of flood zone 3a, could occur in an area with a lower risk of flooding within this District than the application site. For this reasoning, the proposal is not considered to meet the sequential test and therefore it is not necessary to apply the exception test. To site the dwelling the subject of this application within flood zone 3a without meeting the sequential test is creating unnecessary flood safety risks to the future occupants of the dwelling.



Shaun Scrutton

Head of Planning and Transportation

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**Relevant Development Plan Policies and Proposals**

Policies H1, H5, H6, CP1, ENV3, ENV9, CLT1, CLT2, CLT3, CLT5, CLT6, CLT7, T1, T3 and T8 of the Core Strategy 2011

Policies HP6, HP10 and UT2 of the Local Plan 2006

Policies DM1, DM2, DM3, DM4, DM5, DM25, DM26, DM27, DM28 and DM30 of the Development Management Submission Document (unadopted)

Supplementary Planning Document 2

Allocations Plan 2014

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

National Planning Policy Framework 2012 (NPPF)

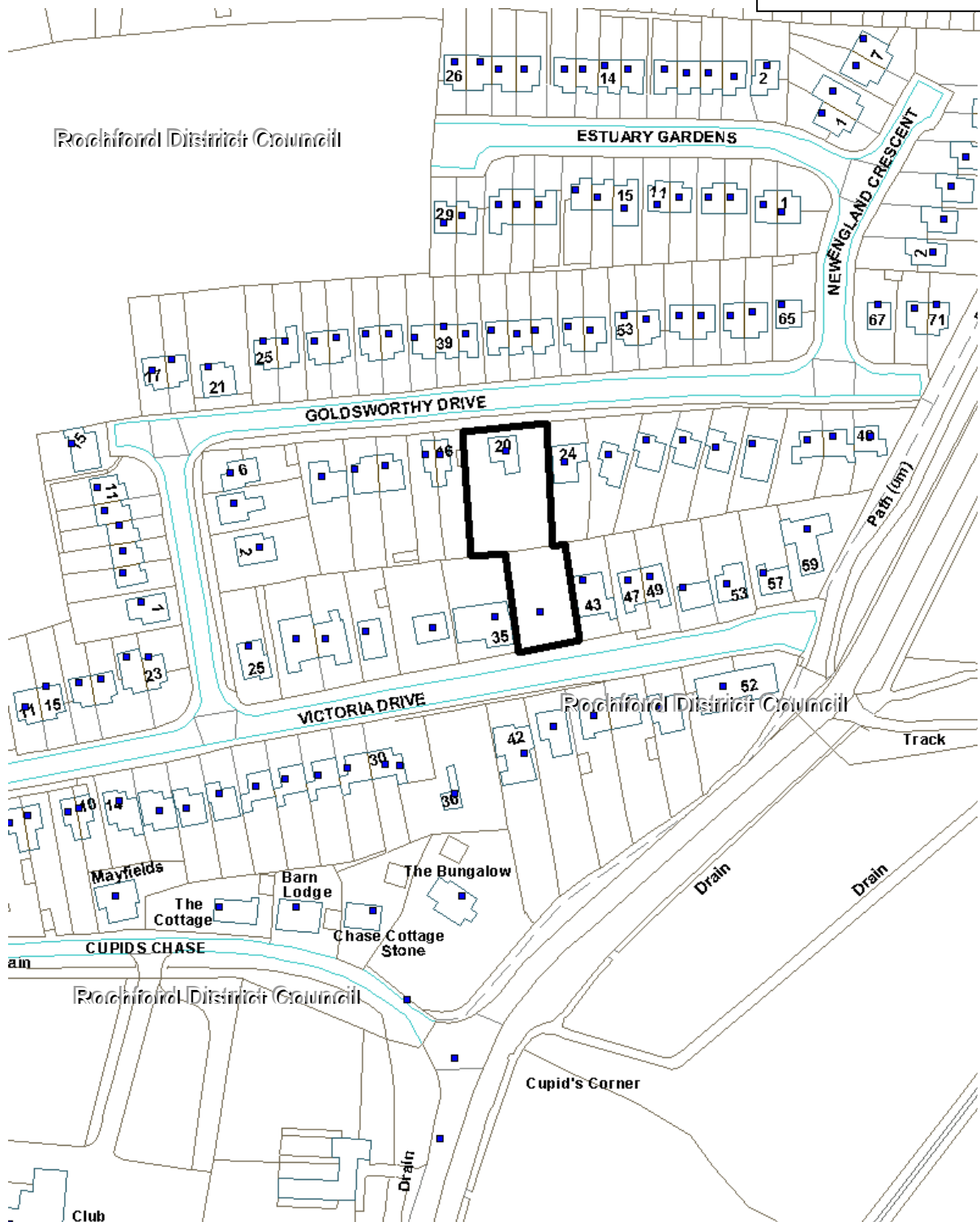
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