

**19/01063/REM**

**LAND EAST OF RUGBY CLUB, AVIATION WAY,  
ROCHFORD**

**RESERVED MATTERS APPLICATION FOR THE APPROVAL  
OF SITE LEVELS AND RELATED LANDSCAPING  
INCORPORATING ENHANCED BOUNDARY TREATMENTS  
INCLUDING THE PROVISION OF A BOUNDARY WALL IN  
RELATION TO THE IPECCO UNIT, AVIATION WAY,  
ROCHFORD.**

**APPLICANT: HENRY BOOT DEVELOPMENTS LTD**

**ZONING: LONDON SOUTHEND AIRPORT AND  
ENVIRONS JOINT AREA ACTION PLAN  
(JAAP)**

**PARISH: ROCHFORD PARISH COUNCIL**

**WARD: ROCHFORD**

## **1 RECOMMENDATION**

1.1 It is proposed that the Committee **RESOLVES**

That planning permission be approved, subject to the following conditions:

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

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

- (2) All soft landscaping works as indicated and scheduled on plan reference 1311-JSA-XX-XX-DR-A-01052 Rev P3 shall be implemented in its entirety during the first planting season (October to March inclusive) following the grant of Reserved Matters approval or in accordance with any phased scheme which shall be the subject of the written approval of the local planning authority. Any tree, shrub or hedge plant (including replacement plants) removed, uprooted,

destroyed, or be caused to die, or become seriously damaged or defective, within five years of planting, shall be replaced by the developer(s) or their successors in title with species of the same type, size and in the same location as those removed (or otherwise affected), in the first available planting season following removal.

REASON: To enable the Local Planning Authority to retain adequate control over the landscaping of the site in the interests of visual amenity and to promote biodiversity in compliance with policies DM1 and DM27 of the Local Development Framework Development Management Plan.

- (3) The retaining boundary wall as shown on the submitted plans shall be erected and fully completed prior to the first use of the operational yard area. Thereafter the boundary wall shall be retained in the approved form.

REASON: To ensure that the development is undertaken and completed in full with the provisions and details of the submitted plans.

## **2 PLANNING APPLICATION DETAILS**

- 2.1 This application relates solely to landscaping details including changes to site levels across parts of the site and the provision of boundary treatments incorporating a retaining boundary wall along the southern boundary of the site.
- 2.2 This application seeks further Reserved Matters approval in respect of works which were not approved by the previous application for Reserved Matters (application reference 18/00584/REM) which was considered by the Development Committee on 18 October 2018 and in relation to which a decision notice was issued dated 30 October 2018. This 2018 application sought approval for matters which were reserved for future consideration following the grant of outline planning consent reference 15/00781/OUT. The outline consent relates to the business park as a whole, whilst this application relates to development within a particular parcel of this wider site in connection with a proposed employment unit for B1/B2 (Business/General Industrial) use. The details considered in connection with planning reference 18/00584/REM included details of access, layout, appearance, scale and landscaping.
- 2.3 In this application, the applicant does not seek approval for matters relating to any Reserved Matters other than relating to landscaping. The Reserved Matters of access, scale, layout and appearance of development remain as previously approved under planning reference 18/00584/REM and as subsequently revised by planning application reference 19/00082/NMA which 'sits alongside' the Reserved Matters approval. The proposed changes to land levels fall to be considered under the Reserved Matter of 'landscaping' as the national planning practice guidance defines the Reserved Matter of

'landscaping' as '...the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earth works; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features'. The impact of the changes to land levels and the other proposed landscaping works are considered in detail in this report.

- 2.4 The appearance and scale of the building which occupies the site and comprises a twin span rectangular structure being 143 metres in length and 70 metres in width providing a total gross internal floor area of 11,463 m<sup>2</sup> is unchanged as is the car parking and servicing yard which would remain accessed from the spine road approved under planning reference 18/00411/REM.
- 2.5 The change in the land levels as part of landscaping details was not indicated as part of the previous application for Reserved Matters and the outline planning permission would not have considered any land level changes unless such explicitly formed part of the outline application.
- 2.6 The proposed changes to land levels have been partly implemented and the proposal is therefore in part retrospective. The proposed boundary wall, perimeter fence and landscaping relating to this application have not yet been installed or implemented. The building on site is substantially complete.

#### Site Level Changes

- 2.7 This application seeks Reserved Matters approval in respect of works to change the ground levels across parts of the site. The submitted site sections show the areas across the site at which changes in land levels are sought and include changes to land levels towards the south and eastern aspect adjacent to commercial premises located on Aviation Way. The original land levels indicated on the submitted plans show that the site was not originally level; land at points on the western boundary was found to be higher than land at points on the eastern boundary and a bund ran along parts of the southern boundary.
- 2.8 The changes to land levels within the site have been undertaken in order to achieve a broadly level site and vertical alignment with the service road previously approved beyond the western boundary. Works were carried out on the southern boundary in order to facilitate the delivery of drainage and achieve an integrated landscaping solution designed to ensure that all rain water run off from the service delivery yard at the site would fall away from the site boundary back into the site.
- 2.9 The change in land levels across the site is not uniform given the original sloping nature of the site levels. At the western boundary for instance, the land level was originally approximately level with the service road just beyond;

the maximum increase in land level proposed is approximately 1.5 metres although this only relates to parts of the site, the majority of increases in land level across the site are significantly less.

- 2.10 The changes in land levels are represented by sectional drawings which show the finished ground levels relative to the original land levels within the site. The greatest change in land levels is evident along a section of the site on its boundary with commercial premises No's 18-19 and 20-21 Aviation Way, although the 1.5m increase in height of the land level occurs at a point some 4 metres into the application site and at a point beyond an original bund which was itself only slightly lower in height than the proposed maximum land level now. These adjacent premises are served by narrow strips of land at their rear aspects which adjoin the south eastern extremity of the application site. As a result of the proposed changes to land levels, the original bund along the southern boundary would be replaced by a retaining wall with a fence atop of this. The original bund would be scraped away to the south resulting in the retaining wall being visible to the commercial premises adjacent by approximately 1 metre above ground; the height of the wall would not be significantly greater than the height of the original bund but the wall would be more visible due to the scraping away of the previously sloped bund.
- 2.11 It is indicated that levels have been confirmed by Readie Construction Ltd who conducted a joint measured survey of the site levels in October 2019. The details relating to agreed and final site levels are highlighted by plan reference 1311-BWB-PV-PH3-DR-C-0600 Status B Rev CO3. The final site level for the service yard would be 12.058m-12.441m AOD on the southern boundary of the site.
- 2.12 Section drawings have been submitted which show the proposed site level changes relative to original ground levels and relative to adjoining third party land (plan reference 1311-JSA-XX-XX-DR-A-03201 Rev P8). This plan shows sections at intervals through the site. Section A-A shows a profile through the western part of the site running south-north and includes a swale located at the south west extremity of the site. Sections B-B and C-C are taken progressively eastwards respectively and also run south-north; these show the profile of the land at the southern extremity of the site being raised beyond the proposed retaining wall with the extent of the increase in height of the land reducing northwards. Section C-C shows the area of the site where the maximum (approximately 1.5 metre) increase in land level is proposed relative to pre works land levels at a point located some 4 metres north of the retaining wall.
- 2.13 The proposed land levels would result in the land level sloping upwards very gently from the top of the retaining wall in a northwards direction to the point at which the service yard occupies the southern portion of the site; the land forming the service yard would then slope gently downwards towards the north and the building occupying the site. It can be seen from Sections D-D and E-E that due to the natural pre-existing slope in the land, which was not discernible at the time of the previous reserved matters application, that the

land level had fallen from west to east which required some infilling at the eastern aspect of the building. This has not, however, resulted in a building any higher than that previously indicated as the levels are unchanged relative to the levels at the western elevation of the building. The current proposal does not seek to alter the scale of the building.

#### Landscaping

- 2.14 The submission sets out the extent of landscaping which is to be implemented around the perimeter of the site (plan reference 1311-JSA-XX-XX-DR-A-01052 Rev P3). This shows a triangular area (28 metres in depth tapering to approximately 8 metres over a length of 63 metres) to the south western extremity of the site which coincides with a flood storage area. A further 97 metre length of landscaping buffer strip is shown to extend along the southern boundary of the site; this would vary in depth from 4 metres to 2 metres at the south eastern corner. The landscaping strip would continue along the majority of the eastern boundary flanking the eastern aspect of the service yard and the car parking area.
- 2.15 The details indicate the provision of a mixture of Wetland Meadow Mix and General Meadow Mix planting within that triangular area to be utilised for flood storage whilst a proposed native buffer mix is proposed along the entire southern boundary and peripheral areas on the eastern boundary, the latter of which would also be planted with a flowering lawn mix. The narrow wedge of land (approximately 29 metres in length) at the western boundary of the site north of the vehicular access to the service yard would be planted with the same native buffer mix whilst a further wedge approximately 46 metres in length would be planted to form a lawn. Both of the landscaped areas would be framed by a hedge incorporating formal native hedge species which itself would be framed by a 2-metre depth of ornamental shrub planting. The northern aspect of the site reflects the previously approved plan in terms of ornamental planting framed by a formal native hedge which would enclose the car parking area.
- 2.16 The native planting on the southern boundary would provide a buffer between the service yard and the strip of land to the rear of No's 18-19 and 20-21 Aviation Way. It is stated that this mix has been chosen due to minimal maintenance requirements. It is indicated that access to the southern boundary is easily accessible from the south west corner of the service yard where the barrier ends adjacent to the service yard entrance gates.
- 2.17 The peripheral area of landscaping would also include the planting of native tree species at intervals ranging from 8-20 metres apart with specimens typically 425-600mm in height at their time of planting. Species to be planted would include *Betula Pendula* (Silver Birch, Warty Birch, European White Birch), *Prunus avium* (Wild or Sweet Cherry), *Alnus glutinosa* (Common Alder, Black Alder, European Alder), *Carpinus betulus* (European or Common Hornbeam) and *Quercus roba* (Common Oak).

### Enhanced Boundary Treatments

- 2.18 A 97-metre length of low-level retaining wall is proposed which coincides with the extent of the area where land level changes have taken place to the rear of No's 18-19 and 20-21 Aviation Way. This retaining wall would extend from the south east corner of the site in a westerly direction along the boundary of the site. No part of this retaining wall would encroach on third party land. The submitted Landscape Plan also shows the provision of a retaining wall to a section of the eastern boundary over a length of approximately 22 metres which is to form the boundary of the service yard.
- 2.19 The submitted particulars indicate the location and extent of a barrier to be installed around the southern periphery of the service yard which is shown in cross sectional form by drawing reference 1311-JSA-XX-XX-DR-A-90006 Rev P1. The steel barrier is shown by a section drawing to be bolted onto posts at a height of 315mm.
- 2.20 The plans indicate the provision of a 2.4 metre high paladin fence along the majority of the site boundaries. This type of fence is a welded mesh fence which has the features of high strength and security, anti-climbing, anti-cutting, and faster installation. The specification submitted indicates that the fence would be powder coated in a black finish.
- 2.21 On the southern affected boundary this fence would be located 0.5 metres from the retaining boundary wall the latter of which due to the profile of the land on the adjoining site would present a height of approximately 1 metre when viewed from the adjoining strip of land located to the rear of No's 18-19 and 20-21 Aviation Way.

## 3 MATERIAL PLANNING CONSIDERATIONS

### Site and Context

- 3.1 The site is located to the south eastern corner of the business park site which was granted outline planning permission under reference 15/00781/OUT. The site is situated north of Aviation Way Industrial Estate and south of the new relocated rugby club.
- 3.2 The site is broadly rectangular in shape being approximately 190 metres in length at its northern boundary, 143 metres at its east boundary, 190 metres at its southern boundary and 200 metres at its western boundary at which point the site is accessed from a part of the spine road which was the subject of approval under planning reference 18/00411/REM. The southern boundary of the site runs parallel with the rear boundary of a two-storey business unit, which fronts onto Aviation Way whilst the eastern boundary runs along the field edge which borders an area of uncultivated land which is densely vegetated.
- 3.3 As previously reported to Members in connection with the previous reserved matters application 18/00584/REM, the site will deliver the first phase of built

development as conceived by the Joint Area Action Plan (JAAP) which cites B1 (Office) and B2 (General Industrial) as predominant uses within the site to deliver economic growth in alignment with the overarching objectives of policy within this plan. A new roundabout has been constructed within Cherry Orchard Way to the north-west of the application site, together with a new roundabout within the business park and a spine road linking to the entrance to the relocated Westcliff Rugby Club site.

- 3.4 The business park at the time of the submission of this current application is in the process of being developed further following the granting of Reserved Matters under application reference 18/00411/REM which relates to infrastructure works across the site as a whole.
- 3.5 At the time of the submission of this application the building on the application site in terms of its 'shell' appears substantially complete whilst ground works associated with the infrastructure (services and drainage) required to support the use are ongoing. The section drawings submitted show the proposed final land level within the site relative to original land levels and land levels at the adjoining site to the south. The land level works are most evident when viewing the site at its south and south east extremity at the boundary of the site with the strip of land serving commercial properties at No's 18-19 and 20-21 Aviation Way. The profile of the land clearly shows that materials have been deposited to raise land levels which has been graded out to form a shallow banked area which on the introduction of the low retaining wall would be backfilled against the internal surface of the concrete retaining wall.
- 3.6 With the exception of this backfilling along a 97-metre length of boundary line no further alterations in land levels are proposed. The land levels as observed on site and as represented by the section drawings constitute the final proposed levels.
- 3.7 Currently the boundary of the site with Aviation Way and the boundary to the rear of the commercial units is secured by mesh security fencing. At the time of the submission of the application no works had commenced with regard to the installation of the retaining wall or the Paladin security fencing.

#### **Relevant Planning History**

- 3.8 15/00776/OUT - Hybrid application for outline planning permission with all matters reserved apart from access to the site for the provision of a rugby club, associated pitches and facilities with submission of full details for vehicular access to the site and pitches. APPROVED.
- 3.9 15/00781/OUT - Outline application with all matters reserved apart from access to the site off Cherry Orchard Way to create a business park to comprise use classes B1 (business), B2 (general industrial) and ancillary uses to include A1 (retail), A3 (restaurants/cafés), A4 (drinking establishments), C1 (hotel), D1 (non-residential institutions), D2 (assembly and leisure) and B8

- (storage and distribution). Provide hard and soft landscaping and demolition of existing rugby club and associated works. APPROVED.
- 3.10 16/00898/ADV – Erection of two signs at Airport Business Park, Cherry Orchard Way. APPROVED.
- 3.11 16/01110/DOC - Submission of details pursuant to conditions 7, 11, 15, 22, 23 and 27 of outline planning permission to create a business park to comprise Use Classes (B1) (Business), B2 (General Industrial) and Ancillary uses Reference 15/00781/OUT. DISCHARGED.
- 3.12 17/00192/DOC - Application to discharge condition number 22 (Mitigation of construction run off) to permission granted 31 October 2016 for business park under application reference 15/00781/OUT. PENDING DECISION.
- 3.13 18/00411/REM - Reserved Matters application for phase 2 infrastructure works comprising a spine road and associated infrastructure, including the creation of green corridors pursuant to creating access to all parts of the business park following approval of application reference 15/00781/OUT. APPROVED.
- 3.14 19/00256/DOC Discharge of condition No. 3 (Archaeology) of 18/00584/REM. DISCHARGED.
- 3.15 19/00254/DOC Discharge of condition No.24 (Archaeology) of 15/00781/OUT. DISCHARGED.
- 3.16 18/00584/REM Reserved matters application (following outline permission reference 15/00781/OUT) to consider details in connection with a proposed employment unit for B1/B2 (Business/General Industrial) use including details of access, layout, appearance, scale and landscaping. APPROVED.
- 3.17 19/00082/NMA Application for non-material amendments to planning consent ref 18/00584/rem to; make changes to elevations and to amend conditions 2, 4, 5 and 8 to require that the development be constructed with this NMA application in respect of landscaping, parking provision for powered two-wheeled vehicles, materials for use in external construction and details of outbuildings respectively. APPROVED.

### **Appraisal**

- 3.18 Planning consent has already been granted for development at this site under the outline planning consent and the 2018 Reserved Matters approval. The only matters for consideration in this application therefore relate to landscaping matters, including the proposed (part retrospective) changes to land levels, not previously presented and considered by the reserved matters approval reference 18/00584/REM.
- 3.19 Reserved Matters are those aspects of a proposed development which an applicant can choose not to submit details of with an outline planning



application, (i.e. they can be 'reserved' for later determination). A Reserved Matters application can provide details regarding a number of different aspects of development which were not submitted as part of the outline application. These aspects are categorised and are defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as Access, Appearance, Scale, Layout and Landscaping.

- 3.20 Applications for approval of Reserved Matters may be made either for all Reserved Matters at once, or individually. Even after details relating to a particular Reserved Matter have been approved, one or more fresh applications can be made for approval of alternative details in relation to the same Reserved Matter. Once the time limit for applications for approval of Reserved Matters has expired, however, no further applications for such an approval may be submitted.
- 3.21 There is no limit in terms of how many Reserved Matters applications can be submitted pursuant to a valid outline planning consent providing that the first reserved matters application is made within a specified time limit, which is normally 3 years from the date outline planning permission was granted in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990. The outline planning permission that relates to this site, reference 15/00781/OUT, was granted on 31 October 2016 and provides scope for any subsequent reserved matters applications beyond the initial Reserved Matters application to be considered within a 5 year period from this date.
- 3.22 As already set out, landscaping as a Reserved Matter is defined as '...the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated and includes: (a) screening by fences, walls or other means; (b) the planting of trees, hedges, shrubs or grass; (c) the formation of banks, terraces or other earthworks; (d) the laying out or provision of gardens, courts, squares, water features, sculpture or public art; and (e) the provision of other amenity features.'
- 3.23 The key matters for consideration are:
- (a) The acceptability of the landscaping details in terms of the achievement of good and appropriate design given the details previously approved under application reference 18/00584/REM and the impact on the character and appearance of the area.
  - (b) The acceptability of the proposed increase in land levels across parts of the site, the installation of a low retaining wall, a boundary fence and peripheral planting with regard to impact on the amenity of occupants of neighbouring properties.

- (c) Whether the changes to land levels relative to original land levels would have any adverse implications on the ability of the site to achieve appropriate surface water drainage arrangements.

### Design

- 3.24 The previous report written in connection with planning reference 18/00584/REM at paragraph 3.45 indicated that condition 19 of the approved outline consent (15/00781/OUT) application requires all Reserved Matters applications to accord with the principles of design, as set out in the landscape and design codes. The codes are not intended to fix the design or pre-determine the requirements for each of the separate Reserved Matters applications but rather set out principles for the design elements of the scheme. Landscaping comprises a fundamental aspect of design as it integrates the development within its wider setting and contributes to maintaining separation and screening of the development relative to neighbouring sites.
- 3.25 The extent of the area of landscaping as shown on the Landscape Plan (reference 1311-JSA-XX-XX\_DR-A-01052 Rev P3) supporting this current application is almost, if not identical to, the previously approved Landscape Plan reference 1311-JSA-XX-XX-DR-A-01002 Rev P6. The planting schedule highlighted on the Landscape Plan indicates the use of a variety of plant species including trees and shrub species which would incorporate widespread use of a mix of native species which would be a predominant feature along the southern and eastern boundaries of the site.
- 3.26 The landscaping mix includes the provision of grass mixtures for wet soils coinciding with the provision of a swale located at the south western aspect of the site. Ornamental shrub planting and native hedge species with interval planting of tree species is a notable feature of landscaping along the northern boundary. On this basis, from a design perspective it is considered that the proposed landscaping details are acceptable.
- 3.27 From the perspective of the raised land levels which only cover a part of the site there is considered to be no overall significant change in the appearance of the development when considered as a whole. The development at the site as a result of the proposed land level changes would not have an adverse impact on the character and appearance of the locality. The layout of the site is unaltered, as is the scale and appearance of the building proposed.
- 3.28 Although the eastern part of the building would be raised slightly compared to original ground levels this would not be significant in the context of the development at the site overall and would result in no greater impact on visual amenity or the amenity of neighbouring occupiers. It is acknowledged that the low boundary wall along its length of 97 metres is a new introduction; however, given its low height, it is not considered that its introduction would detract from the overall landscape design. The proposed wall, whilst visible to neighbouring occupiers to the south, would not be harmful to visual amenity.

The proposed boundary fencing would also be a visible addition to the site, particularly to occupants of neighbouring premises to the south but would be considered appropriate in the business park setting along the boundaries proposed. The fencing would have a mesh appearance allowing for the soft planted areas beyond to be seen when planting matures in time; this would soften the appearance in the interests of visual amenity.

### **Impact on Amenity of Surrounding Occupiers**

- 3.29 The section and topographical drawings submitted in support of this application clearly indicate the relationship of the site with adjoining properties at the southern boundary of the site. The land levels representing the works which have been undertaken and which represent the finished land levels (with the exception of an element of backfill against a low retaining concrete wall over a length of 97 metres when the wall is installed) relative to the land levels at the southern boundary of the site are clearly shown.
- 3.30 It is evident from the plans which reflect the prevailing circumstances noted by the case officer whilst visiting the site, that a flat area of land exists within the boundary strip serving the rear of No's 18-19 and 20-21 Aviation Way and the nearest part of the application site. This strip varies slightly in depth over the entire length of the boundary with the application site; however, a distance of approximately 3.5 metres is provided between the rear of the properties highlighted and the application site.
- 3.31 The green dotted line shown on the section drawings indicating pre works land levels relative to finished land levels (an unbroken black line) indicates that the gradient and profile of the land is shallower for a distance of 3.8 metres to the north of the proposed retaining wall than original ground levels before works commenced. The height of the retaining wall which the section plans indicate is located at this point set back 3.8 metres from the site boundary is approximately 300mm higher than original land levels at this location. The same section drawing indicates that approximately 700mm of this retaining wall would be placed in the ground supported by a plinth design leaving approximately 1 metre evident above the finished land levels at this point.
- 3.32 Beyond (northwards) the point at which the wall is to be installed, the original land level fell away for a distance of 2.5 metres (approximately) at an angle of approximately 30 degrees. The proposed land level changes include raising the land north of the boundary wall to achieve a more level site, with a very gentle rising slope to a point some 3.3 metres north of the wall, following by a very gentle declining slope to the land following this across the service yard in a northerly direction towards the building on the site. As has already been highlighted, the maximum increase in height of the land is approximately 1.5 metres. The sections indicate that the levels working back from the boundary in the direction of the building across the service yard are on average 1.3 metres higher over a part of that area with a fall in the direction of the building.

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- 3.33 The proposed retaining wall with the land immediately to the south (that had formed a sloped bund) scraped away would result in the wall being visible to the occupiers of the commercial premises to the south of the site. Whilst the wall would run for a significant distance given the scale of the site, the height of the wall would be modest. Concerns have been raised in response to notification of this proposal that the proposed land level increase, the wall and the boundary treatment would have a harmful impact on the amenity of the occupants of the commercial premises to the south by way of the development being overbearing and causing loss of light. The impact of the proposal on the amenity of occupants of adjoining commercial premises is considered below.
- 3.34 Although noting the concerns expressed regarding the perceived loss of light and overshadowing arising as a consequence of the development there is no scientific or other evidence which indicates that this would be the case. The commercial premises to the south do contain windows; however, given the proximity of the adjoining properties to the proposed retaining wall and the height of the wall, it is considered that the proposal would not result in significant overshadowing or loss of light to the premises such as would unreasonably impact on the occupiers of these commercial units. The proposed fence above the wall would, being mesh allow daylight to filter through. The proposed landscaping, including tree planting to the southern boundary, would be a sufficient distance from the commercial premises so as not to give rise to an unacceptable relationship and harmful impact by way of overshadowing.
- 3.35 It is not considered, for the same reasons as above, that the development would have an overbearing relationship with the commercial premises to the south. It is the case that the proposed (part retrospective) change in land levels have resulted in a raised land level that is clearly visible from within the adjacent commercial units on Aviation Way, something particularly noticeable at ground floor level. The outlook from within the adjacent commercial units would change as a result. However, given the scale of the change in land levels and the degree of separation with the neighbouring units, the visual impact would not be detrimental to the amenity that ought reasonably be expected by the occupants of the commercial units and it is considered that the proposed works would not result in development which would have an overbearing impact on the neighbouring commercial units. The relationship that would result between the proposed service yard and the neighbouring commercial units would be acceptable.
- 3.36 The building on the site remains in the same location being no greater in height than as already approved relative to the highest point on the site. The building is sited sufficiently far from the neighbouring commercial premises to mean that changes in land level here would not give rise to any greater impact.
- 3.37 It is considered that the installation of a security perimeter Paladin fence at a distance of approximately 4.5 metres from the southern site boundary would

not constitute an overbearing or an oppressive feature finished in black. Whilst the proposed boundary fence above the retaining wall would make the overall boundary treatment more significant in scale, there would be sufficient separation to the neighbouring commercial units to the south such that the overall boundary treatment would not be unreasonably imposing. This fence would be set against a backdrop of buffer planting which would soften its visual prominence from the perspective of adjoining commercial premises.

- 3.38 Overall, it is considered that the proposed changes in land levels and new boundary treatments would not give rise to any detrimental impacts on the occupiers of nearby commercial units. It is considered that the prevailing conditions that one would reasonably expect to enjoy, defined in the meaning of amenity in planning terms would not be fundamentally changed by the proposed works already undertaken or those works which are proposed and remain to be undertaken. The works, given the scale of the site and the context of the site in terms of its allocation and intended use, which remains in line with planning policy, is considered inconsequential in terms of considered amenity impacts. The works do not fundamentally render the development to be any different in terms of its character and use.

#### **Impact on Surface Water Drainage**

- 3.39 Changes in land levels across parts of the site may have implications with regard to the details of surface water drainage which were required to be submitted to and agreed by the Local Planning Authority in relation to condition 22 of the outline consent (15/00781/OUT). This condition required details of surface water drainage to be submitted and approved for each separate parcel of land the subject of Reserved Matters applications. These details have been submitted in relation to this site and are currently under consideration (Discharge of Condition Application reference 17/00192/DOC).
- 3.40 In the course of the determination of this current application, the Local Planning Authority has met with Essex County Council's Lead Local Flood Authority (LLFA) to discuss the details of the drainage works required for discharge as part of the separate application for discharge in the light of this current Reserved Matters application.
- 3.41 The surface water drainage arrangements fundamentally remain the same whilst as part of the process of assessing the details of drainage under planning reference 17/00192/DOC, the LLFA has indicated that it has no fundamental objection to the drainage proposals relating to this particular parcel of land. Further technical information relating to flow rates, storage capacity and run off areas have been requested to support the principles which have been agreed prior to discharging the condition.
- 3.42 The applicant has confirmed that the surface water drainage for this site would be contained wholly within the application site, with no need for drainage infrastructure to be placed on adjoining land which is outside the application site.

- 3.43 Given the information supported by this application it is concluded that there would be no surface water run off from the site to the land located beyond the southern boundary of the site. Given the recent detailed discussions which have taken place regarding drainage details, taking into account land level changes which are now reflected in the details supporting the 17/00192/DOC application, it is concluded that the works the subject of this Reserved Matters application, implemented in accordance with the principles supporting the latter application, would not have any impacts on third parties.
- 3.44 In summary, the proposed changes to land levels across parts of the site would not preclude an acceptable surface water drainage scheme, which takes account of the proposed changes to land levels, for the site from being agreed. Indeed, the LLFA has to date considered details of surface water drainage for the site required in relation to the relevant planning condition which take account of the changes in land levels which the Local Planning Authority anticipates will be agreed shortly.

#### **Other Matters**

- 3.45 The report has clearly set out the limitations of the scope of consideration in this application which does not include the principle of the use at the site or any other matter which has previously been considered.
- 3.46 Not all the points raised within the representations are relevant to this application, including the points raised by an objector with regard to the location of refuse bins and operational noise. Whilst the refuse bins are shown on the submitted site plan close to the southern boundary, this current application only deals with landscaping details and not matters of layout. In any case, it would not be considered that the proposed refuse storage area would be unreasonably sited in relation to neighbouring commercial units. Operational noise would not materially increase as a result of the proposed development.
- 3.47 The legislative framework for consideration of Reserved Matters applications has been highlighted for the benefit of the reader. A number of points raised within one representation are considered worthy of clarification and are so clarified below.
- 3.48 One representation expresses the view that this current application is outside the scope of the outline application. The purpose and scope of outline planning permission has been highlighted within the report and it has been clarified that there is scope for the submission of subsequent and unlimited applications for Reserved Matters approval providing that such are submitted within statutory timescales. The development would not be at odds with the outline consent which established the principle and overall quantum of development for the whole business park site. The development proposed would also not be at odds with any conditions on the outline consent, some of which required certain details to be submitted and agreed.

- 3.49 The outline consent did not imply any land level changes one way or the other and neither did it need to as such matters are considered under the purpose and scope of future Reserved Matters applications relating to 'landscaping'. It is also not the case that the submitted plans do not show the site and land levels relative to adjoining boundaries and properties. Careful consideration has been given to the proposed development, particularly in relation to impacts on nearby commercial premises which have been assessed in relation to the submitted plans and following a site visit.

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

##### **Rochford District Council Principal Street Scene Officer**

- 4.1 No objection / comment.

##### **Rochford District Council Arboricultural and Conservation Officer, Environmental Services**

- 4.2 No objection.

##### **Essex County Council Minerals and Waste**

- 4.3 No comment.

##### **Essex County Council Lead Local Flood Authority (SuDS)**

- 4.4 No objection. No drainage information has been submitted as part of this application therefore we have no comments. However, we would recommend that the drainage conditions put on at the outline planning stage remain in place.

##### **Essex County Council Specialist Archaeological Advice**

- 4.5 No objection. Archaeological investigations have been carried out on this site and are complete. Therefore no further archaeological recommendation is being made on this application.

##### **Essex County Council Place Services Urban Design**

- 4.6 No objection. Overall, it is felt that there are no major concerns to this proposal from an urban design perspective. It is considered that the increase in levels and proposed boundary treatment – both fencing and landscaping – are adequate for this development and should provide suitable screening of the building from its built context.

**London Southend Airport**

- 4.7 The development would conflict with safeguarding criteria unless any planning permission granted is subject to limitations on height – no taller than 56.46 AOD and scheme to be EASA compliant to ensure that there is no impact on the operation of London Southend Airport.

**Natural England**

- 4.8 No objection.

**Rochford District Council Economic Development**

- 4.9 No objection. Raise issue with concern expressed by neighbouring land owners with regard to the application and request that the concerns are taken into account.

**Public Representations**

- 4.10 A total of 3 representations of objection have been received which include representations from the occupant of Number 19 Aviation Way, a separate objection from the Managing Director of ec2i Lt 18-19 Aviation Way and an objection submitted by Setford Solicitors on behalf of the owner of Cohav House at 16-17 Aviation Way, Southend-on-Sea.
- 4.11 The issues of concern raised are highlighted (summarised) as follows:
- 4.12 The levels are far too high, visually causing a problem and potentially causing a drainage problem.
- The location of a waste bin area directly behind our building, noise, unsightly and potential hazard with the material stored.
  - The level of this development is much higher than originally outlined. Company owner employing 55 people who work directly next to this site. Concern expressed that the environs have been grossly compromised but also the overwhelming aspect of the site that now confronts them and the corresponding natural daylight that has been lost.
  - Concern expressed as to how the drainage at this higher level will directly impact upon 18-19 Aviation Way.
  - 16-17 Aviation Way is immediately adjacent to the application site, to the south of where the IPECO building is under construction. Our client's buildings are the ones which are most affected by the proposals in this application.



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- It is indicated that the objection is lodged on behalf of the owner and those occupying the building, who are those who are suffering the effects of the development. They are, if anything, more aggrieved by this than the owner. Strong objection is raised to the “proposals”. In fact, these are not so much proposals as existing works which are unlawful; this application is an attempt to regularise this unlawful development.
  - Firstly, as a matter of law, what is being proposed/has been done, is, in our view, outside the remit of the outline consent. What has been done is not a simple levelling of the land or minor re-grading, all of which may be considered to be ancillary or incidental to the development, it is a substantial engineering or other operation involving a wholesale raising of the level of the land immediately to the north of our client’s buildings. In our submission, a new full planning application is the only way this could be regularised. This is not to imply that our client would be any less unhappy about that, but the Council would then have to look at this in its proper context which may well lead to a different perspective.
  - The relationship between the application site and our client’s buildings cannot be fully appreciated from plans and sections. We enclose/attach photographs showing the relationship “on the ground”. Our client’s buildings are mainly single storey and relatively low level. The result of the raising of the land means that this development now has an oppressive effect on the occupiers of those buildings. In addition, this application proposes boundary treatment that would exacerbate that situation.
  - Whilst we appreciate that the boundary treatment proposed may be inspired by an attempt to prevent overlooking, this is only necessary because of the unlawful raising of the level of the land. If the land had retained the levels as implied when the outline application was submitted and approved, the boundary treatment may have been quite acceptable, and indeed may not have been necessary at all.
  - We note that none of the plans now submitted do anything other than note the location of the adjoining owner’s boundary. No attempt is made to represent the relationship between the application land and the adjacent land and almost treats the application site as if it was some sort of island.
  - We also note that the sections shown on plan 1311–JSA-XX-XX-Dr-A-03202 Rev P3 indicate that the land has been built up so that there is now a fall away from the boundary into the application site. We do not understand why that is necessary or even desirable but in any event no account appears to have been taken of the relationship with neighbouring land. If, as the planning statement implies, the raising of the land was for drainage purposes, then clearly this runs entirely contrary to the outline application which carried a condition that required the drainage to be installed in accordance with plans that had been submitted at that stage.

For that reason, if no other, we repeat that this application “proposal” is outside the four corners of the outline consent and therefore should not be dealt with as an additional reserved matter.

- We have reviewed the planning statement and the policy context set out in that document. We do not here propose to repeat large chunks of policy that are well known to the planning authority, but would assert that what is proposed does not create better places in which to live and work and does not help make development acceptable to communities, contrary to the advice in paragraph 134 of the National Planning Policy Framework (NPPF). Clearly the level of objection to this proposal from those who are part of that community must underscore that. In the context of paragraph 127 NPPF the current proposals do not add to the overall quality of the area; they detract from it. The layout and landscaping are far from visually attractive and because of their size and location are hardly sympathetic to local character.
- We do not propose to go through all the other policies quoted but every planning document throughout the country recognises that development should, as far as possible, respect the amenities of neighbouring land and should not sacrifice that amenity to other interests save in the case of development which is in the national interest. The result of this “proposal” is to create an overbearing development, impacting on the day to day usability of our client’s buildings by way of noise and disturbance and restrictions on the amount of light that the premises used to enjoy and for those reasons we ask that the Council reject these plans.
- Plans showing the drainage of the site were previously found to be acceptable and we see no reason why those proposals should not be honoured now and, if for some technical reason of which we are not made aware of, those previous plans cannot now be implemented, the applicant should be advised to go away and come up with something else that works which requires the current levels to be reduced to what they were before the development took place and if that involves a reduction in the level of the site overall, or a large part of it, that should be considered and given considerable weight in any future deliberations.

## **5 EQUALITY AND DIVERSITY IMPLICATIONS**

- 5.1 An equality Impact Assessment has been completed and found that there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

## **6 CONCLUSION**

- 6.1 The proposal is considered not to cause undue demonstrable harm to any development plan interests, other material considerations or to the character

and appearance of the area nor the amenity of neighbouring commercial units such as to justify refusing the application.



Marcus Hotten

Assistant Director, Place and Environment

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### **Relevant Development Plan Policies and Proposals**

Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 as Access, Appearance, Scale, Layout and Landscaping.

Policies: E1,E3,E5,E6,T1,T3,T4,T5,T6,T7, ENV5 and ENV7 of the Joint Area Action Plan (JAAP)

Policies CP1, T1, T3, T6, T7, ED1, ED2 and ED4 of the Core Strategy 2011

Policies DM1, DM25, DM26 and DM31 of the Development Management Plan 2014.

National Planning Policy Framework

Planning Practice Guidance

### **Background Papers**

None.

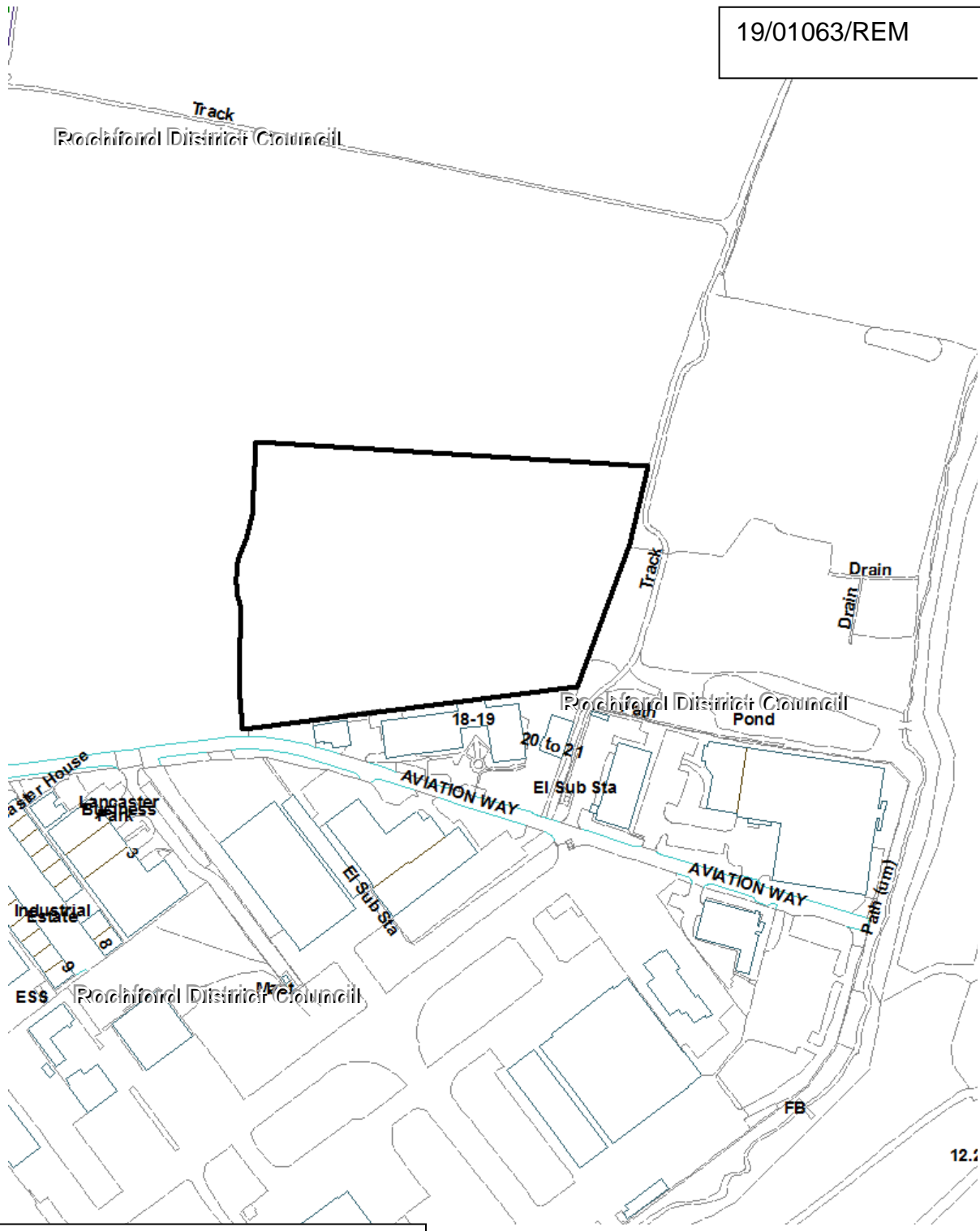
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