



Rochford District Council

**SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY
PLANNING SERVICES COMMITTEE 16th December 2003**

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

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

The above documents can be made available for inspection as Committee background papers at the office of Planning Services, Acacia House, East Street, Rochford.

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

PLANNING SERVICES COMMITTEE - 16 December 2003

WHEATLEY

Cllr J M Pullen

Cllr Mrs M J Webster

PLANNING SERVICES COMMITTEE 16th December 2003

SCHEDULE ITEMS

- | | | | |
|---|---|--------------------|---------|
| 1 | 03/00720/OUT
Outline Application for One 2 Bed Bungalow (Siting to be Considered Now)
Land Adjacent 4 The Bailey Rayleigh | Mr Leigh Palmer | PAGE 4 |
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| 2 | 03/00979/COU
Change of Use From Retail to A3
(Restaurant/Takeaway)
45 Eastwood Road Rayleigh | Miss Lorna Maclean | PAGE 13 |

**ANY OTHER ITEMS REFERRED BY MEMBERS FROM THE
WEEK ENDING 12 DECEMBER 2003 WEEKLY LIST**

TITLE : **03/00720/OUT**
OUTLINE APPLICATION FOR ONE 2 BED BUNGALOW
(SITING TO BE CONSIDERED NOW)
LAND ADJACENT TO 4 THE BAILEY RAYLEIGH

APPLICANT : **MR M J DRISCOLL**

ZONING : **RESIDENTIAL**

PARISH: **RAYLEIGH TOWN COUNCIL**

WARD: **WHEATLEY**

PLANNING APPLICATION DETAILS

- 1.1 **SITE AND SURROUNDING AREA:-** The application plot is roughly 'P' shaped with the top of the site having an independent access onto the highway (The Bailey). There is a significant change of levels down from the front to the rear of the site, in addition there is a change of levels up from the properties in Mount Close up to the properties in The Bailey.
- 1.2 The majority of the application site forms part of the established formal garden area of No 32 Crown Hill, and as such it does contain mature trees and shrubs throughout including along the boundaries of the plot. As the plot abuts Rayleigh Mount the garden area becomes more informal, but it remains part of the domestic curtilage of the application property.
- 1.3 The predominant pattern of the development in the area comprises residential properties of mixed styles and sizes.
- 1.4 **APPLICATION DETAILS:-** Outline planning permission is sought for the erection of one 2 bedroom bungalow on land that currently forms the rear garden of No 32 Crown Hill, Rayleigh. Save for the siting of the new building all matters that deal with the landscaping, design, means of access and external appearance of the property have been reserved for subsequent approval.
- 1.5 The siting (footprint) of the building is adjacent to the rear boundary of No 9 Mount Close, and also respects the general rear building line of No 4 The Bailey.

RELEVANT PLANNING HISTORY

- 1.6 Application 02/0553/FUL sought permission for a split level 3-bed bungalow. This was refused permission on the basis it would not offer an acceptable degree of privacy or amenity to the proposed occupants due to overlooking of its garden and side window. An appeal was dismissed, the Inspector doing so on balance, his concern being two fold. Firstly concern for the occupiers of the new bungalow in that the windows to two rooms on the side facing towards 4 The Bailey would have restricted natural light and outlook for those rooms (kitchen and bedroom). Secondly, impact of the proposal on the dwellings to the north-west especially No. 7 Mount Close by reason of the proximity, length and height of the new bungalow relative to the neighbouring properties, would be dominant and intrusive in the outlook across the relatively short back gardens. This being reinforced by the loss of vegetation within the appeal site, close to the boundary, which currently acts to soften the outlook resulting in the new and existing building beyond (No. 4 The Bailey) appearing overbearing.
- 1.7 Application 00/00453/FUL was for the development of a split level 3-bed bungalow. Refused on the basis of impact on amenity (of both the existing and new properties) and dominance.
- 1.8 Application 00/00240/FUL. Split 3-bed detached bungalow which was to be placed further to the north-east. Refused on the basis of amenity and dominance.
- 1.9 Application 99/00758/FUL. Detached 2-bed bungalow with detached single garage. An appeal was lodged on the basis of non-determination and it was subsequently resolved that the Authority would have refused the application on the basis of amenity and the impact of the proposals on the integrity of the Mount. The appeal was dismissed on the same grounds.
- 1.10 Application ROC/751/77 outline application for two dwellings. Refused on the basis of impact on character, amenity and loss of trees and hedges.
- 1.11 Application ROC/374/79 outline application for one detached house and two garages. Refused on the basis of the same matters as the application above and an appeal was dismissed.
- 1.12 Application ROC/395/85 outline application for a house with detached garage. This was refused due to the impact on amenity and the loss of trees and hedges.
- 1.13 Application ROC/247/86 outline application for a bungalow. This was refused due to the impact on character, appearance and amenity and on the basis of the loss of foraging for protected animal species. This was the subject of an appeal, which was dismissed, although it was noted that the foraging issue was not considered to be a determining factor.

CONSULTATIONS AND REPRESENTATIONS

- 1.14 **English Heritage** No objection to the siting of the bungalow in relation to the setting of the castle bailey earthworks. However were this to be agreed it would be necessary to ensure that any garaging was not located where it would impinge on the setting of the monument, and that landscaping was similarly appropriate in the vicinity of the earthworks.
- 1.15 **Essex County Council Archaeology Section.** No objection but would like a watching brief imposed on any approval in order to allow a nominated archaeologist access to the site to oversee the works.
- 1.16 **The National Trust** Requests that the Council consider the following points that the development will add another 20 century development to the curtilage of the Scheduled Ancient Monument , which is already surrounded on all sides by modern development, it will therefore detract from the setting of the monument. The National Trust acquired the Outer Bailey in an attempt to prevent further urbanisation of the site. They also highlight that the Bailey is home for a number of protected species.
- 1.17 **English Nature** The proposal will not affect a SSSI, if protected species are protected on site then they should be surveyed and mitigation in place with any permission to redevelop the site.
- 1.18 **County Surveyor (Highways)** De Minimus
- 1.19 **Buildings and Technical Support** No objections. Drainage will need to be carefully considered due to ground levels.
- 1.20 **Head of Housing and Community Care** No adverse comments subject to the standard informative SI16 Control of Noise .
- 1.21 **Rayleigh Civic Society** Possibly overlooking by No4 The Bailey and 32 Crown Road, difficult to accept new siting.
- 1.22 **Essex County Council Conservation Officer** No real objections to the proposal although can not make a recommendation on an outline application.
- 1.23 4 letters of objection from local residents:- Numerous applications on this site in the past, has not overcome the comments made by the inspector on the previous appeal in terms of light to existing property, impact upon surrounding properties and poor relationship between existing and new development, noise and headlights from the car parking, width of the plot has caused concerns in the past, will be overlooked from No 4 The Bailey, no real private amenity space, over-development , the traffic entering and leaving the site will have an adverse effect on the wildlife in the area, devaluation of property values, trees in the area will be affected by the construction of the building.

- 1.24 One letter makes reference to the plans being inaccurate due to the presence of a garage to the rear of one of the neighbouring dwellings. This garage is present on all previous applications and the assessment of this submission is based on the garage not being in situ.

MATERIAL PLANNING CONSIDERATIONS

- 1.25 The starting point for this current application is the Inspectors latest decision letter dated 5 June 2003.

- 1.26 In dismissing the latest application 02/00553/FUL the Inspector made the following comments:-

POSITIVE COMMENTS

- ...proposal would be relatively unobtrusive...and therefore this scheme is unlikely to cause material harm to the setting of the ancient monument...'
- ...I am not persuaded that an additional dwelling here need generate so much extra traffic as to cause material hazard to inconvenience the existing residents or detriment to the objectives of the Local Plan...'
- ...With regard to appearance and massing, the bungalow would be very different from the relatively substantial detached houses which front on to The Bailey.

- 1.27 However, because of its discreet position and low profile it would not be viewed in conjunction with them, but as part of the wider surrounding area which includes a mixture of types and sizes of dwellings. For this reason the appeal development would not to my mind be unduly out of character with or cause significant detriment to the appearance of the locality, nor be harmful to the objectives of the structure plan...

- ...the present appeal scheme has evidently sought to overcome issues raised by previous planning applications on this site. In principle, the residential development of this parcel of land complies with structure plan policy CS1 and local plan policy H2 and others, which seek to encourage and give priority to development opportunities within built up areas, and with Planning Policy Guidance Note 3...
- ...an area at the north east end is suitable in size and location to provide an adequate and sufficiently private open amenity area for occupiers of the new dwelling...
- in terms of protected species the site is in a secondary location and evidence submitted on previous schemes indicates appropriate safeguards are available.

- 1.28 **NEGATIVE COMMENTS**

- ...No 4 The Bailey has recently been rebuilt with a re conservatory and terrace which are elevated relative to neighbouring land and overlook the garden house behind, No 30 Crown Hill, and the area which would become the rear garden to the proposed bungalow...
- ...at a distance of barley one metre from the existing or any replacement screening and two metres or so from the two storey flank wall of the neighbouring house the restricted natural light to and outlook from those rooms would produce an unsatisfactory living environment for any occupiers of the bungalow...

- ...the likely impact...especially No 7 Mount Close, notwithstanding the care which has been taken with the levels, design and positioning of the proposed building the new building, because of its proximity, length and outlook across their relatively short back gardens. Furthermore it is reasonable to assume that for access and maintenance reasons vegetation within the appeal site close to the boundary which currently softens the visual impact of the large flank wall of No4 The Bailey some 23 metres away would be removed. These two buildings would thus appear overbearing as seen from No 7 Mount Close in particular, making that dwelling much less pleasant to live in...
- ...the appeal proposals would not result in satisfactory relationships between new and existing dwellings as required by local plan policy H20(ii) or a reasonable standard of residential amenity...

- 1.29 It is considered that this application differs from the appeal proposal in that it proposes a reduction in the number of bedrooms from three to two, a reduction in its size from 16m in length to 13m long; and it is located on a different part of the site moved some 4m away from the rear outlook of No. 7 Mount Close in particular.
- 1.30 **General Principles:** There is no objection in principle to the redevelopment of the plot for residential purposes, this accords with Government advice and development plan policies.
- 1.31 The Inspector on the previous appeal decision commented that the principle of a new residential unit on this part of the site complies with structure plan and local plan policies.
- 1.32 **Differences from the previous scheme:** There are two main difference from the previous application these relate to the reduction in the number of bedrooms from three to two together with the reduction in size of the building, and the re-siting of the building, the previous siting of the building was along the rear boundary of No 7 Mount Close.
- 1.33 **As outlined above the previous decision by the Appeal Inspector was finely balanced with the main concern relating to:**
- i) **The living conditions for the future occupiers of the new dwelling in terms of flank windows and useable amenity space:**
- The living conditions of the future occupiers of the proposed building was concern for the previous Inspector. The concern centred on the provision of flank windows and proximity to the existing property at No. 4 The Bailey, and that the position of the private amenity space to the rear of the new dwelling would be overlooked.

This submission is an outline application where the matters relating to the design and external appearance of the building is reserved for subsequent approval, notwithstanding this it is considered that the layout of the bungalow could be controlled by suitable planning condition so as not to be reliant on any flank windows being inserted into this elevation of the new building.

In addition it is accepted that No 4 The Bailey is a much larger property that together with its neighbouring properties and the elevated geography of the site is such that it does command views over the neighbouring plots. Given this existing situation it is considered that a refusal based solely on the over-looking of the rear garden of the new dwelling could not be justified. As the siting of the proposed dwelling is to be considered here it is evident that sufficient private amenity space is provided within the application plot, in this instance it is proposed to be located adjacent to the Rayleigh Mount itself at the front of the site which the Inspector found absolutely acceptable.

ii) Impact that the proposal would have upon the amenities of the occupiers on specifically No 7 Mount Close:

The second main area of concern for the Inspector on the previous application was the impact the development would have upon the amenities of the occupiers of dwellings in Mount Close especially No. 7.

As stated above the siting of the building is to be considered here. The siting of the building as highlighted by the drawings that accompany the application show that the proposed building is located in a different part of the site than any previous submission and more specifically in a different location in relation to No 7 Mount Close.

The siting of the proposed building has moved deeper into the site in a south westerly direction and taken the new building away from directly behind the rear boundary of No. 7 Mount Close. This new location is considered to be acceptable as there is the potential for soft landscaping to be planted along the boundary with the north western boundary with No. 7 in order to soften the built form if it is considered to be necessary. In addition its new location there is the existing garden of No 30 Crown Hill between the new building and the properties at 9 and 11 Mount Close and their gardens. This would act as a further soft buffer between the development and the properties in Mount Close. Further it is considered that its new position would result in views from No 7 & 9 Mount at an angle only and some 15m distant. Also the reduction in the size of the building by 3m reduces its impact.

Whilst matters of detail and specifically the size and design of are reserved for subsequent approval the proposal is for a two bedroom bungalow, it is proposed that the height of the bungalow be controlled by condition to a height lower than that considered by the previous Inspector (5.4m the condition requires 5m).

As commented by the appeal inspector the provision of a bungalow at the site whilst not conforming to the predominant pattern of development in the area would not be unduly out of character with or cause significant detriment to the appearance of the locality.

CONCLUSIONS

- 1.34 The Inspector had no objection to the principle of the plot being developed for residential purposes, and commented that the principle was in accordance with both the Structure Plan and Local Plan policies.
- 1.35 It is considered that for the reasons outlined above that the application to be determined here is materially different from the previous appeal decision and has overcome the concerns raised on balance by the Inspector in his decision letter.
- 1.36 There is no impact upon The Bailey in terms of visual intrusion nor from any increase in traffic.
- 1.37 Subject to conditions that control the height of the new building and further ones that control any further development at the property without first obtaining written approval from the Local Planning Authority then it is recommended that the application be recommended for approval.

RECOMMENDATION

- 1.38 It is proposed that this Committee **RESOLVES** to **APPROVE** the application, subject to the following conditions:-
- 1 SC3 Time Limits Outline - Standard
 - 2 SC2 Reserved Matters for all but the siting of the building
 - 3 The height of the proposed dwelling shall not exceed an external height above natural ground level of 5.0m
 - 4 SC17 Restricted - Extensions
 - 5 SC18 PD Restricted - Outbuildings
 - 6 SC16 PD Restricted - Fences
 - 7 The development hereby permitted shall only take place in accordance with a programme of archaeological work as set out in a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority prior to the commencement of work. The archaeological work approved shall only be carried out by a suitably qualified investigating body acceptable to the Local Planning Authority.

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- 8 No development shall commence before an ecological impact assessment of the site has been undertaken and submitted to and agreed in writing by the Local Planning Authority in consultation with English Nature. The assessment shall include appropriate mitigation measures for any protected species which maybe found on site. Furthermore, before development shall commence, all reasonable steps necessary shall be taken to implement the identified mitigation measures for all protected animal species on the site. No trans-location of these species, should it prove necessary, shall commence until written details of receptor sites together with a management plan including monitoring, have been submitted to the Local Planning Authority and approved by it in writing.
- 9 The reserved matters as approved under Condition 2 above shall show in terms of fenestration only high level and/or obscure glazed windows in either flank wall of the proposed dwelling. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any Statutory Instrument revoking, re-enacting or amending that Order, no further doors, windows or openings of any kind (other than those approved under Condition No. 2 above, which shall be retained in the form shown under Condition 2 above) shall be inserted in either flank wall of the property without the grant of a further specific permission from the Local Planning Authority.

Relevant Development Plan Policies and Proposals

H1, H2, H11, H19, H20, TP15, UC12, UC13, PU3 of the Rochford District
Local Plan First Review

CS1, HC5, BE1, H2, H3, H4 of the Essex and Southend-on-Sea Replacement
Structure Plan



Shaun Scrutton
Head of Planning Services

For further information please contact Leigh Palmer on (01702) 546366.

TITLE : **03/00979/COU**
CHANGE OF USE FROM RETAIL TO A3
(RESTAURANT/TAKEAWAY)
45 EASTWOOD ROAD, RAYLEIGH

APPLICANT : **MR P SEAGER**

ZONING : **SECONDARY SHOPPING**

PARISH: **RAYLEIGH TOWN COUNCIL**

WARD: **WHEATLEY**

PLANNING APPLICATION DETAILS

- 2.1 The application is for the change of use of number 45 Eastwood Road, Rayleigh from retail to A3 restaurant/take away. The site is located to the east side of Eastwood Road, within secondary shopping frontage.

RELEVANT PLANNING HISTORY

- 2.2 There is no relevant planning history.

CONSULTATIONS AND REPRESENTATIONS

- 2.3 **Building Control** – state that consideration should be given to ensuring level/ramped access exists or is provided and disabled toilet facilities are provided.
- 2.4 **Essex County Council (highways)** – have no objections.

MATERIAL PLANNING CONSIDERATIONS

- 2.5 The main planning considerations material to this application are local plan shopping policies, PPG6 Town Centre policy and impact on the surrounding neighbourhood.
- 2.6 The application site is located within an area zoned as secondary shopping frontage. As a guide but not part of the policy the local plan suggests that in secondary shopping frontage areas the Council should endeavour to retain at least half of the frontage in these areas in retail use and to avoid an over concentration of non retail uses. The policy also promotes A2 (Financial and Professional) Uses and A3 (Food and Drink) uses as appropriate uses, reinforcing the retail function.

- 2.7 Government guidance given in PPG6 is that local authorities should seek to retain a wide range of uses, which includes complementary uses such as restaurants, cafes, and pubs. It advises that proposals should be assessed on their positive contribution to diversification as well as the cumulative effects on such matters as loss of retail outlets, traffic, parking and local residential amenity.
- 2.8 The adjacent property number 43 is an Estate Agents and number 47 is currently vacant as is the application site, 65% of the frontage of this secondary shopping area is in retail use. This will fall to 56% if this permission is granted, but this is still above the 50% guide figure. It may also help bring the vacant premises back into use. No. 47 a former A2 Financial and Professional use has a planning permission to change to A3 Food and Drink, but that does not result in any further reduction in A1 retail use.
- 2.9 Potential problems with takeaway premises are the potential increase in comings and goings leading to traffic congestion and potential noise disturbance. This part of Eastwood Road is marked out with double yellow lines preventing parking on the road outside the premises. Additionally there is a large car park nearby in Websters Way.
- 2.10 The first floor maisonettes are situated in a town centre thus due to their location a certain level of noise is expected and any potential impact from the change of use will be acceptable.

CONCLUSION

- 2.11 Taking the above material considerations into account, it is considered on balance, the application should be permitted.

RECOMMENDATION

It is proposed that this Committee **RESOLVES** to **APPROVE** the application subject to the following conditions:-

- 1 SC4 Time Limits Full – standard
- 2 SC37 Hours of Use – Restaurants
- 3 SC92 Extract Ventilation

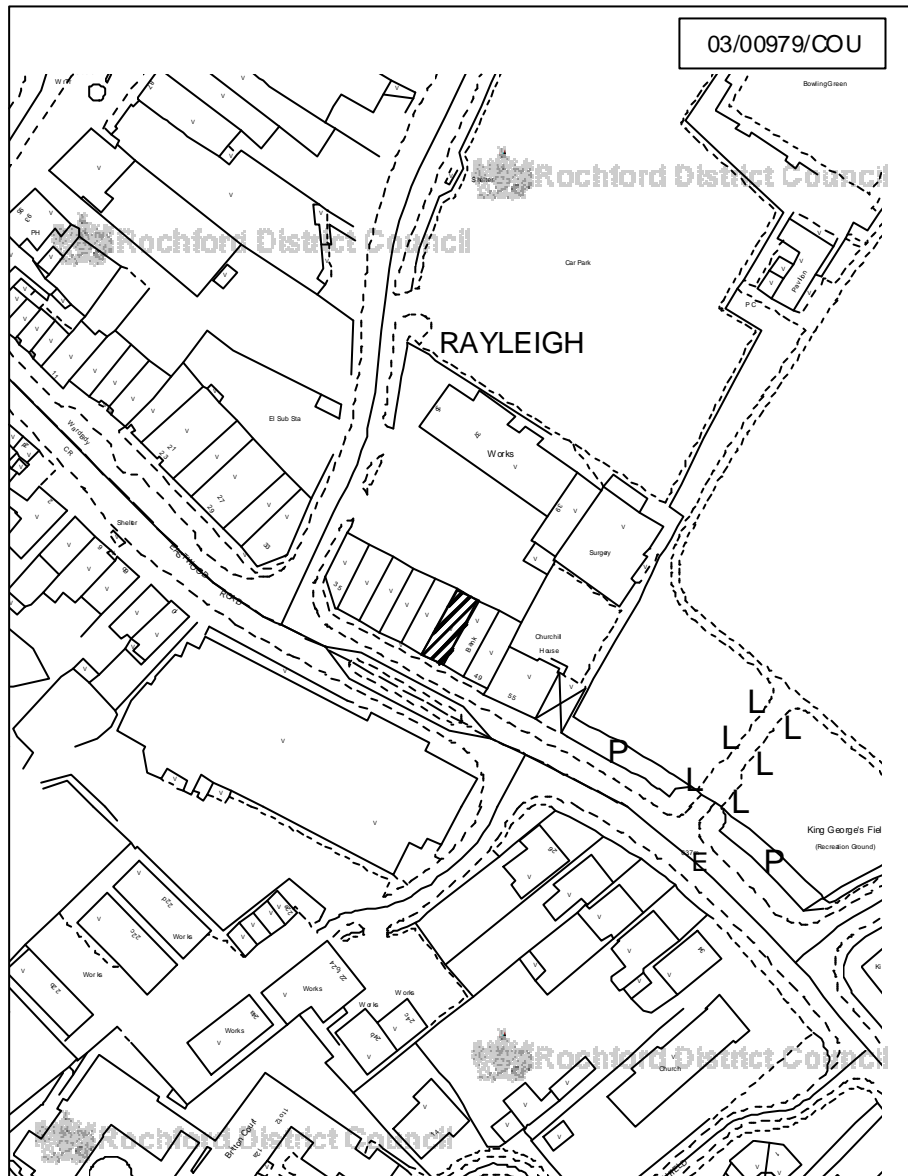
Relevant Development Plan Policies and Proposals

SAT3 of the Rochford District Local Plan First Review



Shaun Scrutton
Head of Planning Services

For further information please contact Lorna Maclean on (01702) 546366.



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NTS



CODE OF CONDUCT FOR PLANNING MATTERS

GENERAL PRINCIPLES

Members and Officers must:-

- **at all times act within the law and in accordance with the code of conduct.**
- **support and make decisions in accordance with the Council's planning policies/Central Government guidance and material planning considerations.**
- **declare any personal or prejudicial interest.**
- **not become involved with a planning matter, where they have a prejudicial interest.**
- **not disclose to a third party, or use to personal advantage, any confidential information.**
- **not accept gifts and hospitality received from applicants, agents or objectors outside of the strict rules laid down in the respective Member and Officer Codes of Conduct.**

In Committee, Members must:-

- **base their decisions on material planning considerations.**
- **not speak or vote, if they have a prejudicial interest in a planning matter and withdraw from the meeting.**
- **through the Chairman give details of their Planning reasons for departing from the Officer recommendation on an application which will be recorded in the Minutes.**
- **give Officers the opportunity to report verbally on any application.**

Members must:-

- **not depart from their overriding duty to the interests of the District's community as a whole.**
- **not become associated, in the public's mind, with those who have a vested interest in planning matters.**
- **not agree to be lobbied, unless they give the same opportunity to all other parties.**
- **not depart from the Council's guidelines on procedures at site visits.**
- **not put pressure on Officers to achieve a particular recommendation.**
- **be circumspect in expressing support, or opposing a Planning proposal, until they have all the relevant planning information.**

Officers must:-

- **give objective, professional and non-political advice, on all planning matters.**
- **put in writing to the committee any changes to printed recommendations appearing in the agenda.**