



**Rochford District
Council**

**SCHEDULE OF PLANNING APPLICATIONS TO BE CONSIDERED BY
DEVELOPMENT CONTROL COMMITTEE**

All planning applications are considered against the background of current Town and Country Planning legislation, rules, orders and circulars and any development, structure and local 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 and Transportation, Acacia House, East Street, Rochford and can also be viewed on the Council's website at www.rochford.gov.uk.

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



Ward Members for Committee

ROCHFORD

Cllr J P Cottis

Cllr K J Gordon

Cllr Mrs G A Lucas-Gill

SCHEDULE ITEMS

- | | | | |
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| | Application to Remove Condition 15 of Planning
Permission 08/00241/FUL dated 11 June 2008.
Land Rear Of 28 – 32 Rocheway Rochford | | |
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| | Remove existing timber frame windows and doors
and provide aluminium framed windows and doors.
Glenmore House, East Street, Rochford | | |

SCHEDULE ITEM 1

TITLE : 09/00595/FUL
APPLICATION TO REMOVE CONDITION 15 OF PLANNING PERMISSION 08/00241/FUL DATED 11 JUNE 2008. CONDITION 15: THE DEVELOPMENT HEREBY PERMITTED SHALL BE OCCUPIED BY DISABILITY ESSEX. AND TO ALLOW AUTHORISED BUILDING TO BE USED BY OTHER THAN DISABILITY ESSEX, SUBJECT TO A UNILATERAL UNDERTAKING REQUIRING THE DISTRICT COUNCIL'S PRIOR APPROVAL OF ALTERNATIVE FUTURE OCCUPIERS.
LAND REAR OF 28 – 32 ROCHEWAY ROCHFORD

APPLICANT : **DISABILITY ESSEX**

ZONING : **METROPOLITAN GREEN BELT**

PARISH: **ROCHFORD PARISH COUNCIL**

WARD: **ROCHFORD**

PLANNING APPLICATION DETAILS

- 1.1 This application is to a site forming part of the Rocheway Adult Community College almost opposite the junction with Mornington Avenue. The site is more specifically located on part of the playing field immediately to the rear of two existing bungalows and the former school house now in use for the training of children with learning disabilities.
- 1.2 Planning permission was granted on 11 June 2008 under application reference 08/00241/FUL for the construction of a building to provide offices and teaching/training facilities for Disability Essex who sought to operate alongside an educational establishment because of the inherent sharing between mainstream education and its specialist provision. The site is within the Green Belt but the Council considered the applicants to have demonstrated very special circumstances that would allow an exceptional permission to be granted against the normal presumption against inappropriate development in the Green Belt.
- 1.3 The applicants have commenced construction, which is at an advanced stage nearing completion and occupation in the new year.
- 1.4 The permission was subject to a specific condition (Condition 19) limiting the use of the building to Disability Essex in view of those very special circumstances, as were demonstrated in the application.

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- 1.5 The current application seeks to remove that condition in favour of the Council and applicants having an alternative agreement that in each case the applicants would give the Council 28 days' notice of a proposed occupier who would be allowed to occupy the building with approval in writing of the Council or upon the expiry of 28 days without such approval or refusal having been received by the applicant.
- 1.6 The proposal solely relates to the consideration of the user condition and those very special circumstances around it.

RELEVANT PLANNING HISTORY

- 1.7 Application No. 07/00483/FUL
Construct Single Storey Pitched Roofed Building to Provide Administration and Training Centre for Disability Essex. Construct Driveway and Parking Areas, Widen Pedestrian and Vehicular Access.
Permission granted 19 November 2007
- 1.8 Application No. 08/00241/FUL
Revised Application For Single Storey Pitched Roofed Building to Provide Administration and Training Centre for Disability Essex. Construct Driveway and Parking Areas, Widen Pedestrian and Vehicular Access.
Permission granted 11 June 2008

CONSULTATIONS AND REPRESENTATIONS

- 1.9 **Rochford Parish Council:** Wish to express strong objection to the application. Despite many concerns from local residents and Councillors, approval for the building was given purely for the use of Disability Essex and no change of this condition should be granted. Allowing this application could also set a precedent if an applicant had intention of circumventing the strict Green Belt development regulations.
- 1.10 **Essex County Council Highways and Transportation:** De-minimis.
- 1.11 15 letters have been received in response to the public notification and which in the main raise the following comments and objections:-
- o Permission was granted as applicants claimed to be a special case.
 - o If permission granted the building could be used by a variety of other bodies or businesses who do not meet the special requirements and who would never have been given permission, affecting the nature and character of the area in which we live.
 - o Breach of the consent and change of use.
 - o Proposal would remove control and raise issue of inadequacy of the site access from Rocheway, which is inadequate for current traffic flows.
 - o Would intrude on neighbours' privacy.

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- Noise, traffic, annoyance to neighbours.
- Any change of use should be discussed by the Council on a case by case basis.
- Application is a vague “cart blanche.”
- Applicants taking advantage of previous compassion shown.
- On street parking/double parking problems.
- Under hand to seek a revised application particularly as so little information to go on as to who will use it.
- Previous permission has been obtained under false circumstances.
- Precedent.
- Would have objected previously if had been aware of the future plans.
- Difficult to make a good case given so little information to go on.
- Project was turned down by many other Councils before it was accepted by RDC and wonder why?
- A few scare stories about how they cannot afford to move into their new building.
- The condition is central to it being there in the first place and must not be removed.
- Building would not have been built on playing fields if the original application had not been for the use by Disability Essex considered a worthy cause and which received a lot of support.
- Object because we have no description of what will take place.
- Applicants should have made adequate provision for their financial stability before seeking to force the Council to change the rules once they had gone too far to turn back.
- Appalling attempt at playing games and trying it on with RDC and local residents.
- Surprised at the application, given the building is not yet complete.
- Applicants previously were accommodated in two portable buildings at Chelmsford and now two rooms in the community centre so must have been aware of the size of accommodation they required.
- Seems strange applicants commenced knowing the condition to be in force.
- Proposal was previously accepted because most of those attending would have been ferried by taxi and mini buses.
- Site already busy, including weekend use of pitches.

MATERIAL PLANNING CONSIDERATIONS

- 1.12 The site remains located within the Green Belt. The construction of new buildings is inappropriate development unless, as in the case of the building at issue, very special circumstances can be demonstrated to justify an exception. The condition at issue was essential to the consent previously given in order that the building allowed was used for the very special circumstances that justified its approval. An alternative use without such special circumstances that would not have justified the approval.

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- 1.13 The supporting statement to the revised application that is now being implemented on the site set out the situation that the enlarged building (by some 117m.sq. additional floor space) would allow for the organisation to grow but to avoid 'mothballing' of that part of the building the applicants envisaged the sharing of that part of the building with users, specifically related charities or organisations. Southend University Hospital was specifically identified as having expressed particular interest. The applicants want Condition 15 to be revised so that the Local Planning Authority can agree the occupiers of the building and argue this arrangement would have the effect of preserving the very special circumstances crucial to the original grant of planning consent.
- 1.14 The applicants advise that account has been taken of the advice from the East of England Development Agency, who also made a substantial grant towards the construction of the building, regarding the size of the building to be provided, circumstances are that such funding would not be likely to be available for future extension as the organisation grew so it was essential to take advantage of that offer whilst available. The applicants advise, however, that it is a condition of that grant funding that, until required by the applicants, extra floor space be leased to make the building more self sufficient in terms of income and that the resource would otherwise be wasted. The applicants further find that if they are unable to lease the additional floor area the grant funding would have to be partially or fully repaid due to claw back clauses.
- 1.15 Circumstances arose whereby an advertisement appeared in professional press advertising part of the building (202 square metres) as available with use class D1 permission (which would enable non-residential education and training, places of worship, church halls, clinics, health centres, crèches, day nurseries, museums, public halls, libraries). This floor area advertised would only be part of the overall 536 square metres of the building as a whole.
- 1.16 The applicants have explained this advertisement as "...a poorly constructed advertisement offering a "wing" of the building for lease by an eager estate agent". They state the aim of the marketing to have been discreet, specifically targeted and subtle and to identify the range of suitable charity or business tenants that may be available in the event that the applicants were not able to lease part of the building to one of its existing partner organisations.
- 1.17 Officers have since been in discussions with the applicants but could not establish a revised condition or approach that would give the applicants the flexibility but still rest comfortably with the scope of the permission given to the building and the very special circumstances on which that decision is based.
- 1.18 The applicants offer to enter into an agreement whereby the alternative occupiers would essentially be vetted by the Local Planning Authority would allow for only 28 days and insufficient time to consult with neighbours or present the matter to committee given the sensitivity of the history of this development.

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1.19

There is a procedure established in planning practice that new occupiers not being the applicants for all or part of the building would need to be the subject of a fresh application to alter or vary condition 15. Officers consider that, if the applicants need to lease out part of the building to alternative occupiers, those occupiers should be the subject of applications to vary the condition and allow formal consideration against a backdrop of current or future policy. Where permission may be refused the applicants would be able to appeal that decision if they so wish. Officers therefore consider that permission to revoke condition 15 should be refused and that condition 15 be retained as part of the consent.

RECOMMENDATION

1.20 That the Committee resolves to **REFUSE PERMISSION** for the following reason:-

- 1 The site is located within an area of Metropolitan Green Belt, as identified in the Rochford District Replacement Local Plan (2006), as saved by Direction of the Secretary of State for Communities and Local Government in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004.

Within the Green Belt the construction of new buildings is inappropriate development and harmful to the character and openness afforded the Green Belt. The building to which this application relates was allowed in very special circumstances, as demonstrated by the applicant in the need for the applicant, amongst other things to be located alongside a mainstream educational establishment and the necessary synergy with the existing college facilities. The proposal to remove the condition limiting the use of all or part of the building to future users other than the applicant on the basis of funding and operational constraints does not amount to very special circumstances that now justify the use of that part or parts of the building against established Green Belt policy. If allowed, the proposed alternative agreement would prove impractical and would avoid the proper consideration of the merits of a particular user that ought to be considered formally by way of a variation to the existing condition.

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Relevant Development Plan Policies and Proposals

Policy CS10 of the Rochford District Replacement Local Plan (2006) as saved by Direction of the Secretary of State for Communities and Local Government in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004.

Supplementary Planning Document 5 Vehicle Parking Standards (January 2006)

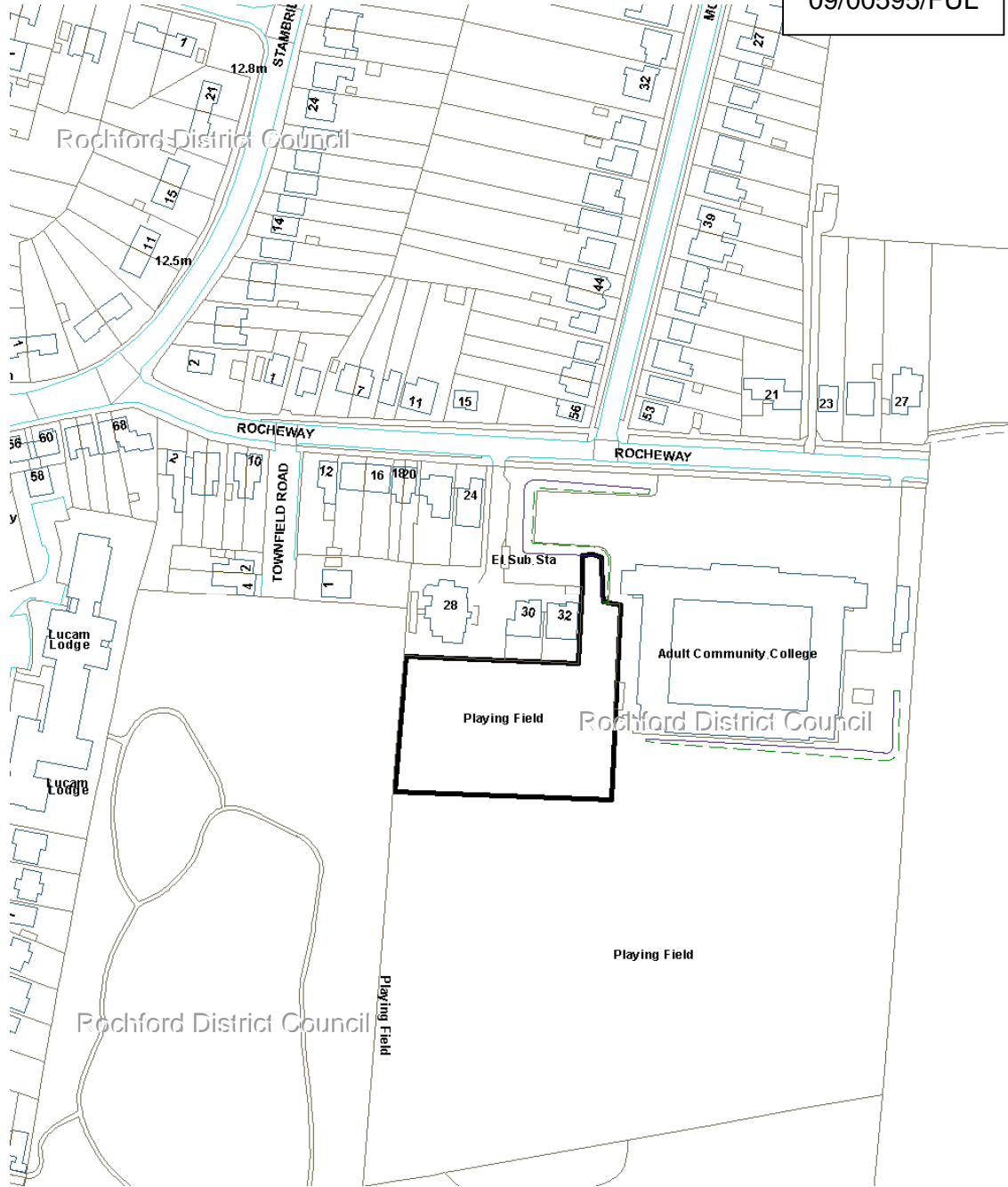


Shaun Scrutton
Head of Planning and Transportation

For further information please contact Mike Stranks on (01702) 318092.

SCHEDULE ITEM 1

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NTS



REFERRED ITEM 2

TITLE : 09/00533/FUL
REMOVE EXISTING TIMBER FRAME WINDOWS AND DOORS AND PROVIDE ALUMINIUM FRAMED WINDOWS AND DOORS
GLENMORE HOUSE EAST STREET ROCHFORD

APPLICANT : **SPRINGBOARD HOUSING ASSOCIATION LTD**

ZONING : **RESIDENTIAL**

PARISH: **ROCHFORD PARISH COUNCIL**

WARD: **ROCHFORD**

In accordance with the agreed procedure this item is reported to the meeting for consideration.

This application was included in Weekly List no. 1011 requiring notification of referrals to the Head of Planning and Transportation by 1.00 pm on Wednesday, 9 December 2009, with any applications being referred to this meeting of the Committee. The item was referred by Cllr K J Gordon.

The item that was referred is appended as it appeared in the Weekly List, together with a plan.

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- 2.1 **Rochford Parish Council:** Object on the basis that the proposal is not in keeping with the Conservation Area.

NOTES

- 2.2 This application is to a site on the southern side of East Street almost opposite the junction with Old Ship Lane. On the site is a modern two storey building comprising residential flats. The building is adjoined by a Grade II Listed cottage at No. 20 East Street and also adjoins similar flatted developments at Saxon Place also fronting East Street and Lever Lane to the rear of the site.
- 2.3 The existing building has timber framed windows, as provided in the original construction. The applicant states that these windows are single glazed and in some cases have become rotten with the passage of time, that they are high maintenance liability and contribute to heat loss.

REFERRED ITEM 2

2.4 The proposal is to replace the existing windows and doors with aluminium framed double glazed units. The windows would be fitted with draught seals and offer enhanced acoustic insulation in comparison to the existing windows. The aluminium framing would have a white finish. The current application is a revision to a similar proposal refused earlier this year under application reference 09/00327/FUL.

2.5 The site is within an area allocated as existing residential development in the Council's adopted Local Plan (2006), as saved by ministerial direction dated 5 June 2009. The site is also within the Rochford Conservation Area.

Relevant Planning History

2.6 As well as the previous application refused on this site this type of development has been considered to the adjoining flatted developments, as follows:-

Application No. 05/00786/FUL

Replace aluminium sliding sash windows with PVC casement windows
At Saxon Place, East Street, Rochford.
Permission granted 29 November 2005

Application No. 05/00875/FUL

Provide replacement windows and doors removing existing timber frames and provide aluminium frame windows and doors to existing openings.
At 1-4/21-28 Lever Lane, Rochford.
Permission granted 22 December 2005.

Application No. 05/00971/FUL

Replace existing windows with aluminium casement windows
At 5 - 20 Winnowers Court, Lever Lane, Rochford.
Permission granted 23 January 2006

Application No. 06/00095/FUL

Replace existing windows and doors with PVC Windows and doors
At 1-4/21-28 Lever Lane, Rochford.
Permission refused 31 March 2006 for the following reason:-

1. The proposal, by way of the design and use of inappropriate materials, will have a detrimental effect upon and fail to enhance the character and appearance of the Rochford Conservation Area contrary to Policy UC3.

Appeal dismissed on 2 November 2006.

REFERRED ITEM 2

Application No. 09/00327/FUL

Remove existing timber frame windows and doors and provide replacement Aluminium framed windows and doors.

At Glenmore House, East Street, Rochford.

Permission refused on 8 September 2009 for the following reason:-

1. The proposal, by way of the disproportionate areas of glazing to the double and triple window options, would fail to provide satisfactory symmetry and glazing proportions between windows within the building and would, as a result, detract from the well preserved and appropriately detailed character of the Rochford Conservation Area contrary to parts (i) and (iii) to Policy BC1 to the Rochford District Replacement Local Plan, as saved by Direction of the Secretary of State for Communities and Local Government and dated 5 June 2009.

Material Planning Considerations

- 2.7 Policy BC1 to the Council's adopted Local Plan is saved by ministerial direction and provides five criteria for the consideration of applications within a Conservation Area generally.
- 2.8 Of particular relevance in this case is that (i) the design of the proposal should respect the townscape character, (iii) that the proposal should use appropriate detailing to reinforce the character of the Conservation Area and (iv) that the external materials are appropriate.
- 2.9 In dismissing the appeal on the neighbouring building to the current site, as detailed above, the Inspector acknowledged that the character and appearance of the area derives to a significant extent from the fact that the centre of town is well preserved and contains a number of attractive period buildings. The Inspector noted that more modern developments within the Conservation Area had been constructed using appropriate materials, including timber framed windows and doors of an appropriate style and form. The Inspector concluded that, whilst the appeal property was not of a particularly special design, the use of appropriate materials, especially for windows and doors, has helped to preserve the character and appearance of the area.
- 2.10 The Inspector noted the example of the use of PVC windows, as approved and implemented to Saxon Place, but considered that such an example illustrated how harmful an impact inappropriate materials can have upon the character and appearance of the area. The Inspector went on to dismiss the appeal, which featured UPVC materials. The Inspector was not considering the use of aluminium frames, as currently proposed.

REFERRED ITEM 2

- 2.11 The current application is for windows of an aluminium framed design. The use of aluminium frames has previously been granted permission to two similar developments neighbouring the current site and as set out in the above history. The principle of the use of this material is also supported by the County Council's specialist adviser. The particular detailing to the sample submitted in advance of the application features mitred framing, which compares to timber style joinery and bevel window beading, which compares to puttied glazing in traditional timber window finishes. There is no external trickle vent to this design. For these reasons the design proposed is supported by the County Council's specialist adviser.
- 2.12 The use of aluminium framing is, in principle, considered acceptable and accords with Part (iv) to Policy BC1.
- 2.13 The previously refused application featured a number of window options where the double and triple window units showed disproportionate glazing areas and that would lose the proportions of glazing to frame considered so important to the character of the Conservation Area. Whilst this effect is actually true to a few existing windows and triple units in particular, that previously proposed design would have exaggerated this failing, detrimental to the character of the Rochford Conservation Area.
- 2.14 The applicant has now revised this detail in the current application. The windows now proposed to all elevations achieve satisfactory proportion of glazing to framing.
- 2.15 Officers are aware that new double glazing sealed units such as those proposed cause a shimmer or warping to the glazing known as "Rollerwave". The applicant has advised that this effect results from heat treatment to toughen the glazing in some windows that is necessary to comply with the Building Regulations. It may also result from the use of moisture removing chemicals. Officers understand this effect to be unavoidable and no alternative solution to be possible with current technology to avoid this effect, which is regrettable given its effect on the appearance of the building. This matter may be resolved by condition.
- 2.16 The current application now overcomes the other previous objections to the detail of the window design and is now considered, on balance, acceptable within the Rochford Conservation Area.
- 2.17 **Essex County Council Highways and Transportation: De-Minimis.**
- 2.18 **Essex County Council Historic Buildings and Conservation Advice:**
The application incorporates amendments based on comments and recommendations from ourselves over a considerable period. The revision "A" appears satisfactory.

REFERRED ITEM 2

- 2.19 Consider these designs no worse and are probably better than the existing windows and doors and raise no objections on conservation grounds.

APPROVE

- 1 SC4B Time Limits Full - Standard
- 2 The windows hereby approved shall be implemented in accordance with the details submitted in support of the application and to type Smarts Alitherm 47, outer frame ETC 018, Vent ETC 022, Mullion ETC 031N AND 28mm glazing, as per the submitted application unless otherwise agreed in writing by the Local Planning Authority.
- 3 Notwithstanding the submitted details in support of the application, no toughened glass shall be used in the implementation of the development hereby approved unless as may be agreed in writing following the submission of details to the Local Planning Authority. The development shall be implemented in accordance with such details as may be agreed by the Local Planning Authority.

REASON FOR DECISION

The proposal is considered not to cause significant demonstrable harm to any development plan interests, other material considerations, to the character and appearance of the area, to the street scene or residential amenity such as to justify refusing the application; nor to surrounding occupiers in the neighbouring streets.

Relevant Development Plan Policies and Proposals

BC1, of the Rochford District Council Adopted Replacement Local Plan
As saved by Direction of the Secretary of State for Communities and Local Government in exercise of the power conferred by paragraph 1(3) of schedule 8 to the Planning and Compulsory Purchase Act 2004. (5 June 2009)

Supplementary Planning Document 6 (Design Guidelines for Conservation Areas)



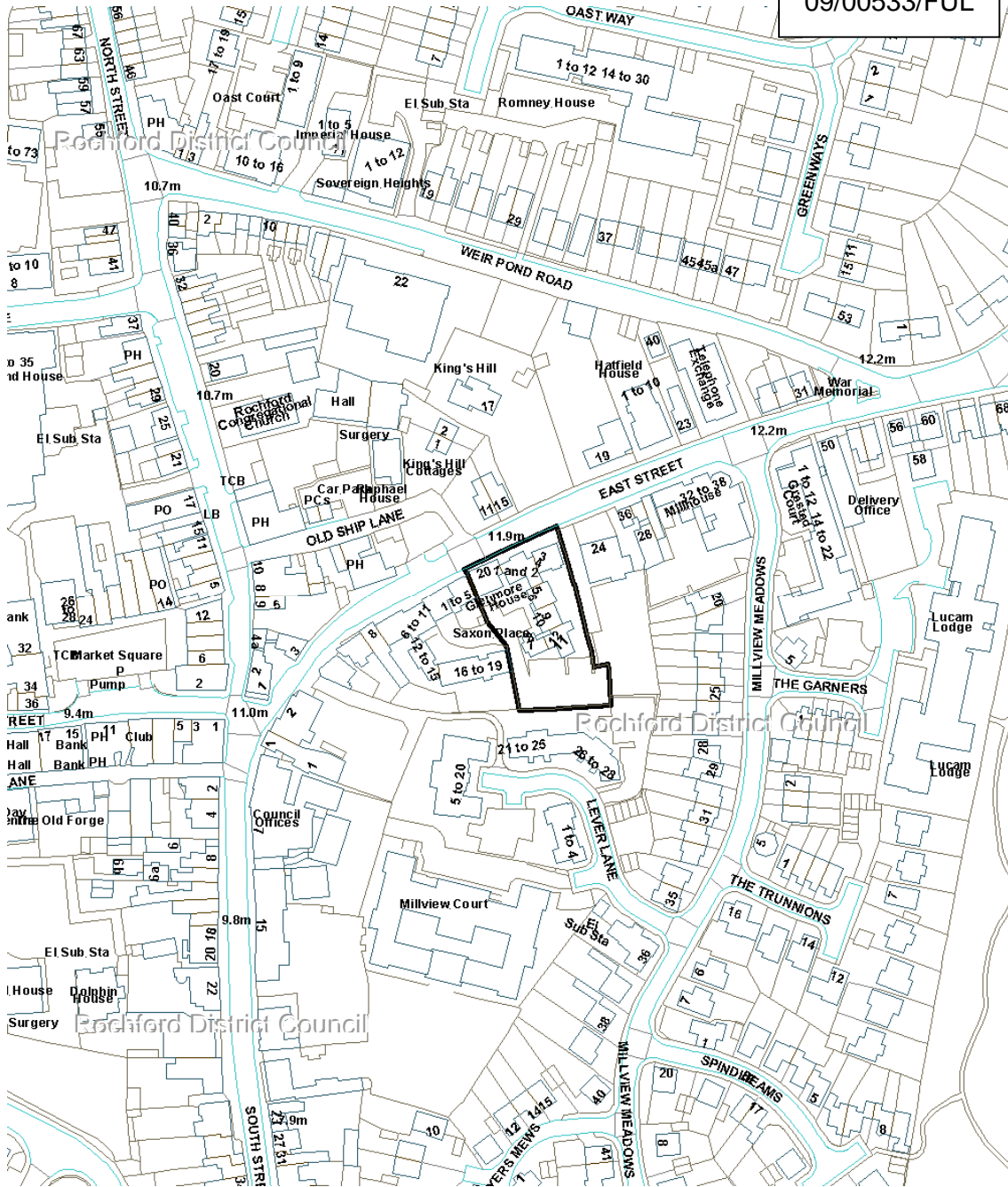
Shaun Scrutton
Head of Planning and Transportation

For further information please contact Mike Stranks on (01702) 318092.

The local Ward Members for the above application are Cllrs J P Cottis, K J Gordon and Mrs G A Lucas-Gill.

REFERRED ITEM 2

09/00533/FUL



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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.**