

21/00668/FUL

**SITE OF BULLWOOD HALL, BULLWOOD HALL LANE,
HOCKLEY**

**SECTION 73 APPLICATION TO VARY CONDITION 5
(OBSCURE GLAZING TO SPECIFIED WINDOWS) TO
PERMISSION FOR RE-DEVELOPMENT OF FORMER
PRISON SITE APPROVED ON 17 DECEMBER 2018 UNDER
APPLICATION: 17/00964/FUL**

FROM CONDITION 5 STATING:

**‘THE FIRST FLOOR WINDOWS TO HOUSE TYPES A1, A2,
A3, B2 AND D1 SHALL BE GLAZED IN OBSCURE GLASS
AND TO WINDOW DESIGNS NOT CAPABLE OF BEING
OPENED BELOW A HEIGHT 1.7 METRES ABOVE FINISHED
FLOOR LEVELS. THE WINDOWS SHALL BE RETAINED AS
SUCH THEREAFTER FOR THE DURATION OF THE
DEVELOPMENT**

TO A VARIED CONDITION STATING:

**THE FIRST FLOOR SIDE WINDOWS TO HOUSE TYPES A1,
A2, A3, B2 AND D1 WITH THE EXCEPTION OF SPECIFIC
FIRST FLOOR WINDOWS FOR PLOTS 1, 11, 14, 19, 20, 21,
31, 34, 36 and 43 AS HIGHLIGHTED ON SITE PLAN
DRAWING REFERENCE NO 001 K AND ACCOMPANYING
PLOT ANALYSIS DOCUMENT, SHALL BE GLAZED IN
OBSCURE GLASS AND TO WINDOW DESIGNS NOT
CAPABLE OF BEING OPENED BELOW A HEIGHT OF 1.7
METRES ABOVE FINISHED FLOOR LEVEL. THE WINDOWS
SHALL BE RETAINED AS SUCH THEREAFTER FOR THE
DURATION OF THE DEVELOPMENT**

APPLICANT: SANCTUARY HOMES

**ZONING: METROPOLITAN GREEN BELT AND UPPER
ROACH VALLEY**

PARISH: **RAYLEIGH TOWN COUNCIL**

WARD: **TRINITY**

1 RECOMMENDATION

1.1 It is proposed that the Committee RESOLVES

That, subject to a decision the heading of which is consistent with the safeguard required by condition 5, the application be approved, subject to being written into and bound by the obligations to the legal agreement dated 17 December 2018 to which application 17/00964/FUL relates and to the following conditions:-

Standard Time Limit

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of the original permission granted planning permission on 17 December 2018.

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.

Implementation in Accordance with Approved Plans

- (2) The development hereby permitted shall not be carried out other than in accordance with the approved plans listed in the Drawing Register and Issue Sheet dated 29 March 2018 and the plans referenced Plot Analysis Plot(s) 1, 19, 20, 21, 34, 36 and 43 and Layout Plan reference 001K other than those details shown as such relate to Plots 11, 14 and 31 (which are not wholly acceptable).

REASON: For the avoidance of doubt and to ensure that the development is completed out in accordance with the details considered as part of the planning application.

Obscure Glazing to Specified Windows

- (3) Notwithstanding the details of the submitted Drawing Reference: Plot Analysis Plot 11, 14 and 31 and where also cross referenced by the Layout Plan reference 001K the east flank front aspect 1st floor window serving Plot 11 and the west front aspect 1st floor window serving Plot 14 and the north aspect 1st floor window serving plot 31 as highlighted in orange on the submitted plans shall be glazed in obscure glass and configured to a window design not capable of being opened below a height of 1.7m above finished floor level. These windows shall be modified to comply with this condition within 2 months of the date of grant of

consent. The windows shall be retained as such thereafter for the duration of the development.

REASON: In the interests of safeguarding privacy between adjoining occupiers

Prohibition of Further Side Windows

- (4) No further side windows other than those shown to the approved designs of the dwellings hereby approved shall be provided.

REASON: In the interests of safeguarding privacy between adjoining occupiers.

Yearly Logs: Surface Water Drainage

- (5) The applicant or any successor in title must maintain yearly logs of maintenance for the surface water drainage scheme which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon request by the Local Planning Authority.

REASON: To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Highway Surfacing

- (6) No unbound material shall be used in the surface treatment of the vehicular access and parking areas within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Provision of Travel Information Packs

- (7) Prior to the occupation of the proposed residential development, the developer shall provide a Residential Travel Information Pack for every household for sustainable transport, to include six one day travel vouchers for bus travel approved by Essex County Council.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the highway authority's development management policies, adopted as County Council Supplementary Guidance in February 2011.

Provision of Development Buffer

- (7) The existing outer wooded fence shall be retained to provide a buffer between the development boundary and the extent of the adjoining ancient woodland. The buffer shall be retained as semi natural habitat.

REASON: In the interests of protected species and the wider ecological enhancement and safeguarding of the adjoining woodland site.

Construction Traffic Control

- (8) The development shall be implemented in accordance with the details of the submitted Construction Management Plan dated 17 November 2017 Reference: SJT/18422-03_CTMP in particular the controlled management of the flow of construction traffic entering and leaving the site.

REASON: In the interests of safeguarding and protecting heritage assets adjoining the site access.

Delivery of Construction Materials and Plant

- (9) Construction delivery vehicles shall not access or exit the site between the hours of 0800 and 0930 and 1430 - 1530 hours Monday to Friday during local school term days.

REASON: In order to prevent conflict on the highway network during school run drop off and collection times given limitations for large vehicles to the site access and the large size of construction delivery vehicles in the interests of highway safety and the free flow of traffic.

2 PLANNING APPLICATION DETAILS

- 2.1 This current application is submitted further to the submission of a previous Section 73 application under planning reference 20/01156/FUL which was considered and refused by the Development Committee on 22 April 2021. That particular application sought to change the terms of condition 5 (relating to the treatment of window openings) attached to planning reference 17/00964/FUL which was the full consent granted to redevelop the former prison complex to provide 72 dwellings comprising 14 No. five-bedroomed, 13 No. four-bedroomed, 18 No. three-bedroomed, 9 No. two-bedroomed houses, 9 No. two-bedroomed and 9 No. one-bedroomed apartments
- 2.2 It is clarified that this current application is not a like for like resubmission of the same application previously refused by the Development Committee since this application infers that other than the plots now specified as part of this application the development will be developed in accordance with the express terms of the issued planning permission and condition 5 which forms part of that consent. The previous Section 73 application sought to revise the express terms of condition 5 by making revisions to the glazing details of first floor side windows as such related to Plot numbers 19, 20, 21, 34 and 36

(House Type A1), 11, 14 and 31 (House Type A2), 15, 18, 22, 33, 35 and 37 (House Type A3), 12, 13, 23, 25, 26, 32, 52 and 53 (House Type B2) and 1, 2, 3, 38, 39, 40, 41, 42 and 43 (House Type D1).

- 2.3 The permission required these windows to be glazed in obscure glass and designed so as to be incapable of being opened below a height of 1.7 metres above finished floor level being retained as such thereafter. That previous application effectively sought to minimise the number of plots and elevations to which the original condition pertained on the basis that the condition as originally worded was not necessary as there would be no consequence to particular windows at certain plots and elevations being clear glazed and capable of being opened below a height of 1.7 metres.
- 2.4 Members will note from the previous officer report written in connection with the 20/01156/FUL application, that the revision to the condition as was proposed by that application was not considered appropriate and wholly purposeful in safeguarding residential amenity by mitigating overlooking of private amenity space as the original condition had intended. Officers recommended an alternative condition as the Section 73 statute allows. The officer recommendation recognised that the condition as originally worded was overly onerous and which was not entirely required whilst the safeguards as required in other respects were still required in that not to have some first-floor side elevation windows obscured and incapable of being opened below a height of 1.7 metres would cause harm to adjoining or adjacent properties by way of overlooking.
- 2.5 This current application is accompanied by plans which relate to the respective plots in question which include plots 11, 1, 19, 20, 21, 31, 34, 36 and 43. Consent to develop the site at slight variance with condition 5 now relates to these plots only and no other plots. The submitted plans which are annotated as Plot Analysis Plans numbered respectively show by way of a colour key the 1st floor bedroom windows affected by condition 5 in that these windows are not wholly compliant with the condition. The same plan shows by way of blue shading within the respective floor plans for each plot the number, position and aspect/orientation of those windows relative to other properties which are to be installed in accordance with condition 5. These windows are obscured windows serving en-suite and bathrooms which will need to be installed to comply with condition 5.
- 2.6 All of those window openings shaded in blue on the respective plans are not for consideration as part of this current application as the Section 73 application as intended, only seeks to enable changes where clear glazed windows have been installed within the side elevations of a limited number of properties where the original condition stated otherwise. A layout plan is also submitted (drawing reference 001K) which shows by way of an orange arrow the affected elevations and the bedroom windows of the limited number of properties affected by condition 5. The same plan indicates by way of a red rectangle the specific plots seeking amendment to the wording of condition 5

whilst the green shading on the plan shows the location of designated open space relative to the plots in question.

3 MATERIAL PLANNING CONSIDERATIONS

Site and Context

- 3.1 This application site comprising an area of approximately 2.85 hectares was formerly the site of Her Majesty's Prison "Bullwood Hall" located south of High Road and adjoining Hockley Woods. The site is accessed from a junction made with High Road 390m west of the junction made with Fountain Lane. The former prison site was decommissioned by the Ministry of Justice (MoJ) and closed in March 2013 as part of the Government's wider modernisation programme to improve the operational efficiency of the prison estate. The closure of HMP Bullwood Hall was part of the wider Government's prison modernisation programme
- 3.2 Bullwood Hall although forming part of an outline application which approved the principle of its conversion and renovation for residential use is still standing undeveloped and does not form part of the approved substantive development now being built out. A separate application, reference 20/00450/FUL, for its subsequent demolition to provide 6 apartments is currently under consideration by officers and therefore remains undetermined.
- 3.3 Further north along Bullwood Hall Lane and closer to the site entrance are a number of detached residential properties, some of which are Grade II listed including North Lodge, Whitbreds, South Lodge and the barn on the west side of the lane, 70 metres north of South Lodge. The site is surrounded by a comprehensive network of public rights of way (PROW). Public footpath No. 3 follows Bullwood Hall Lane from its junction with High Road south towards the site. Public footpath 49 runs along the western edge of the site entering the site at its southern end.

Relevant Planning History

- 3.4 There are records of significant planning history to the former prison site. However, given the new chapter which has begun, the only relevant site history is that relating to the substantive full planning approval following an outline which did not progress by way of a Reserved Matters application and the subsequent discharge of any of the conditions which would not need to be repeated by any Section 73 approval.
- 3.5 Application No. 17/00964/FUL: Redevelopment of former prison complex to provide 72 dwellings comprising 14 No. five-bedroomed, 13 No. four-bedroomed, 18 No. three-bedroomed, 9 No. two-bedroomed houses, and 9 No. two-bedroomed and 9 No. one-bedroomed apartments: Granted Full Permission 17 December 2018.
- 3.6 Application No. 19/00397/DOC: Application to discharge condition 11 (Means to restrict surface water discharge onto the highway) on application

- 17/00964/FUL approved on 17 December 2018 for re-development of former prison complex to provide 72 dwellings comprising 14 No. five-bedroomed, 13 No. four-bedroomed, 18 No. three-bedroomed, 9 No. two-bedroomed houses, and 9 No. two-bedroomed and 9 No. one-bedroomed apartments: Conditions 30/08/2019. Condition Discharged 30/08/2019.
- 3.7 Application No. 19/00402/FUL: Variation of condition 15 to application 17/00964/FUL for development of 72 dwellings approved on 17 December 2018; allow for the development to proceed in accordance with a revised construction management plan: WITHDRAWN.
- 3.8 Application No. 19/00498/DOC: Application to discharge condition 7 (surface water drainage scheme) and condition 8 (surface water maintenance plan) to permission granted under application 17/00964/FUL for re-development of former prison complex to provide 72 dwellings comprising 14 No. five-bedroomed, 13 No. four-bedroomed, 18 No. three-bedroomed, 9 No. two-bedroomed houses, and 9 No. two-bedroomed and 9 No. one-bedroomed apartments. 30/08/2019: Condition Discharged 30/08/2019.
- 3.9 Application No. 19/00600/DOC: Discharge of condition 3 (Materials) on approved application 17/00964/FUL: re-development of former prison complex to provide 72 dwellings comprising 14 No. five-bedroomed, 13 No. four-bedroomed, 18 No. three-bedroomed, 9 No. two-bedroomed houses, and 9 No. two-bedroomed and 9 No. one-bedroomed apartments: Condition Discharged 30/08/2019: Pending.
- 3.10 Application No. 19/01167/DOC: Discharge of conditions 4 (Landscaping) and 17 (details of footway and bridleway) on approved application 17/00964/FUL: re-development of former prison complex to provide 72 dwellings comprising 14 no five-bedroomed, 13 no four-bedroomed, 18 no three-bedroomed, 9 no two-bedroomed houses, and 9 no two-bedroomed and 9 no one-bedroomed apartments: Condition Discharged 01/07/2020.
- 3.11 Application No. 20/00330/FUL: Proposed creation of a temporary marketing suite including the construction of a single storey building for use as an office for the purposes of marketing the adjacent housing development and associated laying of hard surface to create a car park of 5 No. parking spaces: Planning permission granted 19/08/2020.
- 3.12 Application No. 20/00450/FUL: Demolition of the existing vacant building and erection of 6 No. residential apartments with associated car parking, cycle storage and landscaping: Pending.
- 3.13 Application No. 20/00617/FUL: Variation of condition No. 17 of planning consent reference. 17/00964/FUL to allow for minimum width of the shared footpath and bridleway to be amended from 3 metres to 2 metres. Relating to proposal for re-development of former prison complex to provide 72 dwellings comprising 14 no five-bedroomed, 13 no four-bedroomed, 18 no three-

bedroomed, 9 no two-bedroomed houses, and 9 no two-bedroomed and 9 no one-bedroomed apartments. Application Withdrawn 23/09/2021.

- 3.14 Application No. 20/00980/DOC: Discharge of condition 17 (provision of a shared footway and bridleway) on application 17/00964/FUL dated 17/12/2018: Condition Discharged 02/02/2021.
- 3.15 Application No. 21/00051/DOC: Discharge of condition no. 6 (external lighting details) of planning consent reference 20/00330/FUL: Condition Discharged 23/02/2021.
- 3.16 Application No. 21/00277/TPO: All trees and vegetation within metal hoarding around main hall with exception of T1 Oak and T2 Bay Fell to near ground level only Stump grinding operations: Grind main stumps to approximately 250 – 300mm where viable Fell to ground level all trees and vegetation 10m outside of badgers exclusion zone and outside of metal hording as marked in yellow on drawing TPP02 NB: No works can take place within 10m of the sett entrance, appropriate signage and non-invasive barrier is to be erected prior to creating an exclusion zone.
- 3.17 All tree works within the 20 and 30m exclusion zones must be supervised by an ecologist and the use of hand tools and soft dismantle with lowering devices must be implemented where safe to do so. No grubbing out of tree roots is to take place. An ecologist must be present for watching brief purposes. Stump grinding operations (excluding badger sett area) Grind main stumps to approximately 250 – 300mm where viable. N.B. The presence of a suspected active badgers sett may restrict some tree works and stump grinding operations within 10m of the sett entrance. To be confirmed prior to works commencing. Soft dismantle for tree felling operations advised. (24/3/2021).

Assessment of Key Issue

- 3.18 Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a statutory responsibility on planning authorities to determine planning applications in accordance with the provisions of the Development Plan unless material planning considerations indicate otherwise. The National Planning Policy Framework (as revised in July 2021) indicates that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 3.19 The only matter which the local planning authority needs to consider in this instance is that of whether the revisions cited are acceptable such that the development can be lawfully implemented in accordance with the plans which still apply to the elements which remain unchanged and in accordance with those aspects which are revised as cited by this particular application. The fundamental and only question which needs addressing therefore in this instance is that of whether the underlying objective of the condition which was

to safeguard residential amenity would be undermined and whether the condition as it is proposed to be re-worded would uphold the remaining objective.

- 3.20 From a procedural perspective if granted, this section 73 consent would become the operative consent taking into account the plans as previously approved which remain unaffected together with any new updated plans and those conditions deemed to be still relevant. Section 73 of The Town and Country Planning Act indicates that applications such as the one in question are applications to develop land without compliance with conditions previously attached to previous planning permissions. The statute advises that on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and if they decide that planning permission should be granted subject to conditions differing from those subjects to which the previous permission was granted.
- 3.21 This application is limited in terms of the properties affected. Essentially some plots are served by 1st floor side elevation bedroom windows which by their aspect and treatment (not consisting of obscure glazing) are in breach of condition 5 of the original full planning permission which require such windows to be glazed in obscure glass and incapable of being opened below a height of 1.7 metres relative to bedroom floor level. This application essentially only relates to those windows highlighted in orange on the respective plot analysis plans seeking permission to be reissued in the main in accordance with the original planning permission but allowing clear glazed first floor windows to remain where installed.

Plot Assessment of Acceptability

Plot 11

- 3.22 More specifically the windows under consideration are as follows: Plot 11 (1 clear glazed window within the 1st floor west elevation serving a master bedroom, 2 clear glazed windows within the 1st floor east elevation serving bedroom space. This was reported by officers within the previous report (20/01156/FUL) considered by Members particularly in terms of the east aspect window (furthest to the front aspect of the property) which was the window opening from which the case officer stood at the time of the site visit and concluded that given the orientation and juxtaposition of this property relative to neighbouring Plot 12 that a clear glazed treatment of this window did give rise to a degree of overlooking into a part of the lounge area serving Plot 12 to the east.
- 3.23 This was reflected in the officer's report relating to the previously refused 20/01156/FUL application. It was reported that the window concerned is located at relatively close range to the front aspect of Plot 12, in particular the window which serves its lounge. It follows as a matter of consistency therefore that the plans indicating the retention of this particular window as clear glazing is not acceptable as to allow such would fundamentally

undermine the objective of the condition which sought to safeguard residential amenity of the occupants of Plot 12 by way of overlooking. It is considered in addition to being glazed in obscure glass this window should also be configured such as to be incapable of being opened below the height of 1.7 metres relative to bedroom floor level in line with the original condition.

- 3.24 It is considered that the other east aspect window is acceptable since its degree of set back from the front line of the property at Plot 11 and relative to Plot 12 entails that it does not offer a direct outlook into any living accommodation. The window to the other side elevation at first floor serving the same master bedroom is considered acceptable as it looks out onto an area of designated open space. This window also offers a means of escape and an outlook such that it further undermines any planning argument for the retention of the east flank window as a clear glazed window. It is considered that the requirement to preserve and safeguard the privacy of adjoining properties as the original condition had intended materially overrides any alternative planning argument which has not been put forward by the applicant.
- 3.25 It is noted that the officer's previous report at 3.35 set out the following: 'however, a condition is recommended which provides clarity that this window which gives rise to the current harm is obscured up to a height of 1.7 metres above finished floor level and incapable of being opened more than that shown by plan reference 839 which shows windows where they are opening windows on such affected elevations being restricted to a side hung opening of 13 degrees'. It is also noted that the report went on to state at 3.26 'This condition would ensure that overlooking would not occur as the degree of opening is simply not sufficient to enable a direct outlook providing the glazing at eye level is obscured. It is noted that there is another window within the middle east section of Plot 11. However, given the alignment of the front footprint of Plot 12 relative to the position of this window it is not possible to see directly into any living accommodation serving Plot 12. This window is acceptable as installed'.

Plot 1

- 3.26 Plot 1 is the end property in a row of 3 terraced properties at the northwest aspect of the site close to the site entrance adjacent to an area of open space. The north outer elevation of this property has an obscured window in situ which serves a bathroom in compliance with condition 5. There are, however, 2 windows (highlighted orange) that serve 2 bedrooms which have an outlook onto this open space. It is these windows as far as Plot 1 is concerned that the application seeks approval for. In assessing the acceptability of these windows the purpose of the original condition needs to be taken into consideration which it is noted was to safeguard privacy between adjoining occupiers. Occupiers of the dwellings on the development site have a large area of public open space to enjoy such that it is considered that there is no demonstrable harm to this enjoyment. Any case to resist these windows being clear glazed are further undermined by the fact that the

condition was not specifically intended to safeguard the enjoyment of open space but rather privacy between adjoining properties. It is concluded that the plan as shown (Plot Analysis Plot 1) is acceptable.

Plot 14

- 3.27 It is noted that the officer's previous report at 3.27 and 3.28 stated that Plot 14 has at its east elevation a bedroom window which looks out onto the corner plot and its own private amenity area set against a background of woodland, the latter of which is outside the application site. There is no property that will be affected by this bedroom window in terms of overlooking. It was then stated at 3.28 'It is considered that the value of such individual assessment is that it demonstrates that although considered necessary at the time of imposition such a blanket condition is nevertheless not a bespoke condition which takes account of the location, juxtaposition and outlook from individual properties taking into account importantly the limitation that exists on outlook from the flank windows of properties by reason of their functional use almost in most cases providing bathroom and en-suite rooms.
- 3.28 It is noted that this current application seeks approval for that east elevation window which is considered acceptable. However, given the similar relationship that exists between Plot 14 and Plot 13 (similar to the relationship that exists between Plots 11 and Plots 12, it is considered that one bedroom window (furthest forward on the west elevation) will have a similar effect to that window causing the same problem at Plot 11 affecting the amenity of Plot 12. The second window at this elevation is pulled back from the front west aspect such that it is considered will not offer an outlook into any living accommodation. However, for the very same reasons as that found with the offending window at Plot 11 this window is not acceptable and to safeguard the amenity of the occupiers of Plot 13 a condition would be necessary as part of a reissued consent and condition (what would not be condition 3) to safeguard the amenity of Plot 13.

Plot 19

- 3.29 Plot 19 is a detached house located at the northwest aspect of the site which is shown by the layout plan to look out onto open space. This is the only change shown by this plan which is acceptable since it does not undermine the objective of the condition or cause any demonstrable harm to the amenity of adjoining properties as Plot 18 is to the side and east of Plot 19.

Plot 20

- 3.30 This plot is located to the northwest aspect of the site south of plot 21. The layout plan 001K shows 1 bedroom window looking out over open space which is also considered acceptable.

Plots 21

- 3.31 This plot is a mirror image of Plot 20 but orientated in the other direction. Plan 001K shows one bedroom window looking out over open space in a northerly direction which is also considered acceptable.

Plot 31

- 3.32 It is noted that the officer's previous report at 3.32 indicated that 'Plot 31 located to the south east aspect of the site incorporates a long north flank elevation which faces the rear aspect of 2 pairs of semi-detached properties, these being 27, 28, 29 and 30. The submitted plans accompanying that previous application acknowledged and indicated by annotation that these first floor windows would be obscured and fixed shut in line with the original condition such as to mitigate the impacts on the rear amenity of the stated properties'. The fact that this detail was shown demonstrates that the applicant recognised the harm caused by a clear glazed window.
- 3.33 It is now, however, noted that this current application as shown by the plot plan submitted for Plot 31 and as further annotated by the layout plan seeks approval for one clear glazed window serving a bedroom which is served on the other side (southwest aspect) by another window. The distance shown by way of an arrow at 20 metres separation distance from the rear aspect of Plot 31 to the rear aspect of Plot 29 is not a determinant factor as the rear private and enclosed garden areas serving Plots 28, 29 and 30 are set adjacent to this very long flank elevation of Plot 31. The design layout and original condition sought to achieve privacy which not only extends to internal living space, but also outdoor garden space located within the immediate proximity of the affected elevation of Plot 31. A clear glazed window to the north elevation set adjacent to and mostly affecting Plots 29 and 30 is simply not acceptable as such a window incorporating clear glazing regardless of restrictions on opening serving the bedroom when in use would give rise to an overbearing and unavoidable degree of overlooking of the rear private amenity spaces serving the affected properties. This would be unacceptable and therefore what is shown on the plan for approval is unacceptable.
- 3.34 It is not considered that the two clear glazed windows to the southwest elevation due to the alignment of the Plot with Plot 32 will demonstrably impact upon its amenity.

Plots 34 and 36.

- 3.35 The only windows for which approval is being sought are windows looking out onto open space which is acceptable.

Plot 43

- 3.36 The only window for which approval is being sought are 2 windows looking in an easterly direction over the service road. This is considered acceptable.

4 CONSULTATIONS AND REPRESENTATIONS

- 4.1 No representations have been received.

5 EQUALITY AND DIVERSITY IMPLICATIONS

- 5.1 The Equality Impact Assessment (EIA) indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

6 CONCLUSION

- 6.1 The application as it seeks to modify the development is not entirely acceptable. The clear glazed window at the front east aspect of Plot 11 is not acceptable whilst the same is the case for that west front aspect window at Plot 14. The north aspect clear glazed window at Plot 31 is neither considered acceptable due to its considered demonstrable and overbearing impacts upon privacy which if allowed as a collective would undermine condition 5. Subject to a modified condition as the statutes enable accepting all other details it is considered that a section 73 permission could be granted.



Marcus Hotten,
Assistant Director, Place & Environment

Relevant Development Plan Policies and Proposals

National Planning Policy Framework (NPPF) (July 2021)

Rochford District Council Local Development Framework Core Strategy (Adopted December 2011) Policies H1, H4, H5, URV1, CP1, T8, ENV 1, ENV3, CLT5.

Rochford District Council Local Development Framework Development Management 17/00964/FUL Plan (Adopted December 2014) Policies DM1, DM2, DM4, DM10, DM25, DM26, DM27, DM28, DM30, DM31. Essex County Council Parking Standards Design and Good Practice (September 2009) Standard C3

Background Papers

None.

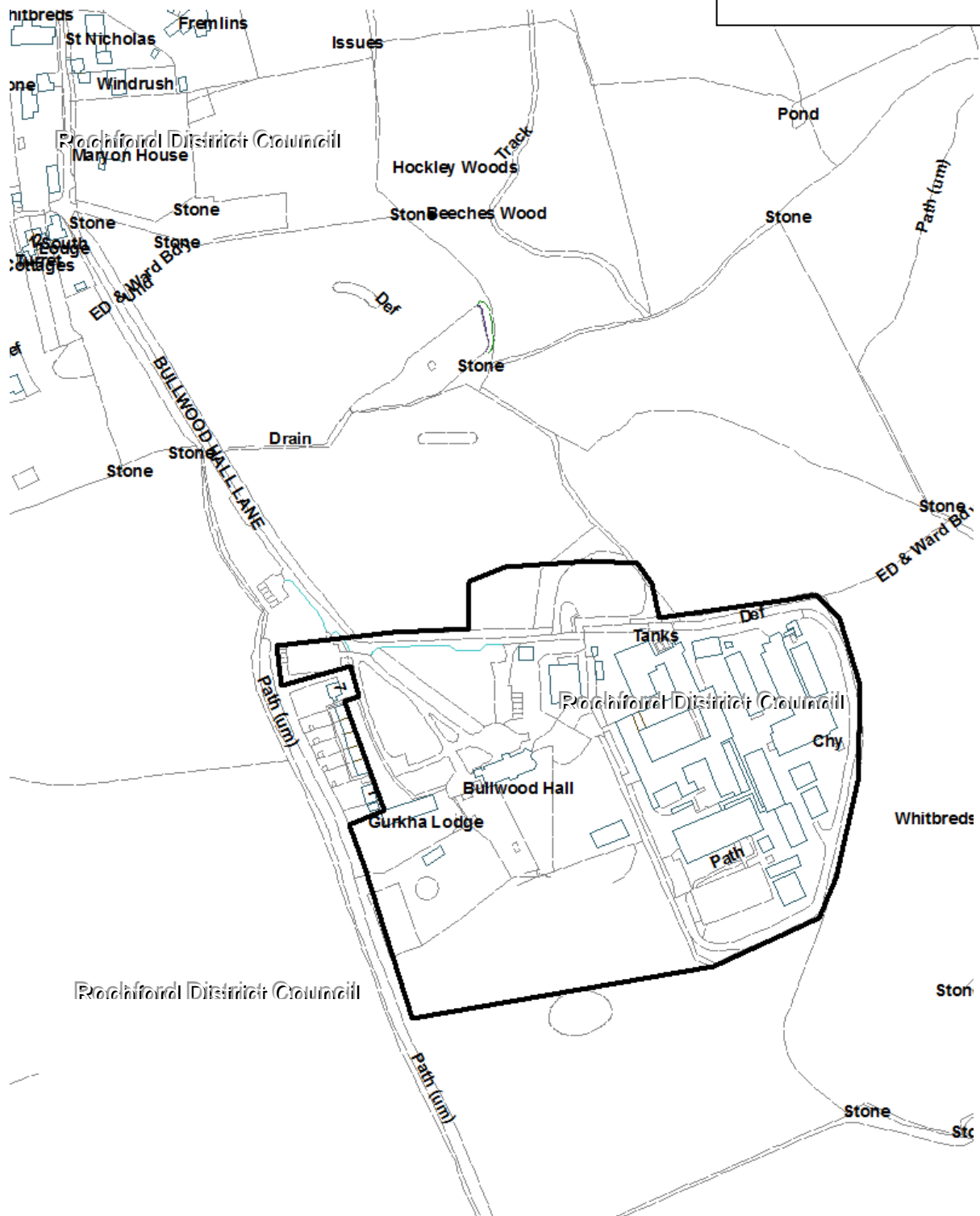
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