

12/00741/FUL**LAND AT END OF AND BETWEEN PARK GARDENS AND
HAWKWEEL PARK DRIVE HAWKWEEL****TWO DETACHED 3/4 BEDROOMED HOUSES AND THREE
DETACHED 2-BEDROOMED BUNGALOWS WITH GARAGE,
CONSTRUCT PRIVATE DRIVE WITH ACCESS FROM PARK
GARDENS (RE-SUBMISSION FOLLOWING REFUSAL OF
11/000369/FUL)****APPLICANT: THE SKINNER CONSORTIUM****ZONING: RESIDENTIAL****PARISH: HAWKWEEL PARISH COUNCIL****WARD: HAWKWEEL WEST**

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

This application was included in Weekly List No. 1172 requiring notification of referrals to the Head of Planning and Transportation by 1.00 pm on 20 February 2013, with any applications being referred to this meeting of the Committee. The item was referred by Cllrs Mrs C M Mason and J R F Mason.

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

1 NOTES

- 1.1 Planning permission is sought for two detached 3/4 bedroomed houses and three detached 2-bedroomed bungalows with associated garages between Park Gardens and Hawkwell Park Drive in Hawkwell.

2 RELEVANT PLANNING HISTORY**The Site**

- 2.1 The site occupies a linear strip of disused land within the residential area of Hawkwell measuring approximately 1991 sq.m. It lies at the ends of two roads, Park Gardens to the north and Hawkwell Park Gardens to the south. To the west it borders existing residential dwellings and their rear gardens. To

the east the plot borders the Metropolitan Green Belt (MGB) and along the entire length of this boundary there is a bridleway (No. 36) beyond which is public open space.

- 2.2 Within Hawkwell Park Drive the site adjoins a detached house (No. 63) before widening to run behind the rear garden to this dwelling and thereafter running alongside the rear garden to a detached bungalow (No. 61) in the same road. From the Park Gardens frontage the site adjoins a pair of semi-detached houses (Nos. 60 and 62) before running alongside the rear garden to No. 62.
- 2.3 To the north east corner of the site there is a public car and pavilion serving the public open space, which is accessed from Park Gardens.
- 2.4 The adjacent bridleway to the eastern boundary is 3m in width, which contains two mature oak trees protected by Tree Preservation Order No. 08/99.

The Proposal

- 2.5 The application involves the provision of 5 dwellings: 2 detached 3/4 bedroom houses and 3 detached 2-bedroomed bungalows with associated garages and parking, together with the construction of a private drive accessed from Park Gardens. Each of the proposed dwellings has a single garage space and a single parking space.
- 2.6 Plot 1 proposes a detached 3/4 bedroomed house of two storeys with integral garage fronting onto Hawkwell Park Gardens with vehicular access from this road. It has a footprint measuring 16.3m in length and 10m in width with a hipped roof to an overall height of 8.5m.
- 2.7 Plot 2 proposes a detached 2-bedroomed bungalow with a footprint measuring 15m in length and 8m in width with a hipped roof to a height of 5.4m.
- 2.8 Plots 3 and 4 are 2-bedroomed detached bungalows of identical design with a footprint measuring 13.2m in length and 7.1m in width with a hipped roof to a height of 5m.
- 2.9 Plot 5 is a 3/4 bedroomed detached house of two storeys fronting onto Park Gardens with an overall footprint of 13.2m in length and 8.65m in width with a hipped roof to a maximum height of 8.55m.
- 2.10 Plots 2, 3 and 4 are accessed from a new private drive, which runs along the eastern boundary adjacent to bridleway No. 36 and also gives vehicular access to the front of Plot 5. In addition two detached garages are proposed, accessed off the private drive, located between and shared by Plots 2 and 3 and Plots 4 and 5. These have a footprint measuring 7.15m in length and 6.9m in width to a height of 5.2m with a gable hatted pitched roof.

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- 2.11 Various applications have been considered for the residential development of different parts of the site since the late 1990s. This includes the following:-
- 2.12 97/00454/OUT – Detached House with Integral Garage – application refused on 10/19/97 98/00454/FUL – Erect Pair of 4-Bed Houses Linked by Semi-integral Garages – application withdrawn.
- 2.13 99/00002/FUL – Erect Pair of 4-Bed Houses Linked by Semi-Integral Garages (Revised Submission Following Application F/0454/98/ROC). Application refused on 31/05/01.
- 2.14 APP/B1550/A/01/1076779 - Appeal against the decision to refuse planning permission under 99/00002/FUL dismissed on 25/09/02.
- 2.15 99/00389/OUT – Erect One Detached Dwelling and Garage. Application approved on 09/03/00.
- 2.16 01/00937/FUL – Erect Pair of 4-bed Linked Houses with Semi-Integral Garages (Re-submission Following 99/00002/FUL). Application refused on 13/02/02.
- 2.17 APP/B1550/A/02/1084117- Appeal against the decision to grant planning permission under 01/00937/FUL dismissed on 25/09/02.
- 2.18 02/00893/FUL – Detached Bungalow and Garage. Application approved on 11/03/03.
- 2.19 02/00964/OUT – Outline Application to Erect One Chalet Bungalow. Application withdrawn.
- 2.20 03/01118/OUT – Outline Application to Erect One Chalet Bungalow and (all matters reserved for subsequent approval). Application withdrawn.
- 2.21 08/00329/FUL – Two Detached 3/4 Bedroomed Houses and Three Detached 2-Bedroomed Bungalows with Garages, Construct Private Drive with Access from Park Gardens and Re-Route existing Bridleway. Application withdrawn.
- 2.22 11/00369/FUL – Two Detached 3/4 Bedroomed Houses and Three Detached 2-Bedroomed Bungalows with Access from Park Gardens – Application refused on 30/9/11. This most recent application was for a near identical scheme and was refused on the following three grounds:-
1. The proposal is considered to amount to over-development of the site. The proposal for five detached dwellings on the site, each with the necessary car parking provision, amenity space and access, has led to the siting of the dwelling to plot 4 in very close proximity to two oak trees adjoining the site, which are both subject to Tree Preservation Orders. The relationship of this dwelling to these trees, which make an important contribution to character and appearance of the area adjoining the public open space to

the east, is considered to be unacceptable given the potential for the trees to overshadow the dwelling such as to give rise to pressure to allow cutting back or other works to the trees to an extent that could be detrimental to the viability or amenity value of the trees. There is also some doubt as to whether the development can be accommodated, as indicated on the site as well as the bridleway being in the position shown on the definitive rights of way map. The proposal gives rise to the need for the re-siting of the sewer off site, which may not be a viable option and also indicative of an over-development of the site.

2. Standing advice issued by Natural England advises that animals translocated as a result of development should be transferred to a suitable site within the Local Authority boundary in preference to transfer out of the Authority boundary. The Local Planning Authority is not satisfied that a suitable site for translocation of slow worms could not be found within the Rochford District
 3. The Local Planning Authority is not satisfied that sufficient information has been provided to demonstrate that adequate surface water drainage would be developed at the site to ensure surface water flooding does not arise as a consequence of the proposed development.
- 2.23 APP/B1550/A/11/2166953 – An appeal against the refusal to grant planning permission under 11/00369/FUL. This was dismissed on 6/03/12 due to the adverse impact of two adjacent protected trees on natural light to bedrooms at the bungalow to Plot 2.

3 CONSULTATIONS AND REPRESENTATIONS

- 3.1 **HAWKWELL PARISH COUNCIL:** Object to the application on the grounds of:-
- o over-development,
 - o restricted vehicular access, and
 - o the threat to the remaining trees (TPO1 and TPO2).
- 3.2 Advise that by taking out Plot 2 closest to the TPO trees the development would be satisfactory, reducing the application to 2 bungalows and 2 houses.
- 3.3 **RDC ENVIRONMENTAL SERVICES:** The Head of Environmental Services has no adverse comments in respect of this application, subject to Standard Informatives SI 16 (Control of Nuisances) and SI 25 (Contaminated Land) being attached to any consent granted.
- 3.4 **RDC WOODLANDS:** No arboricultural objections to the application. Comments that the submitted arboricultural survey development constraints

report details adequate methodologies to protect the on site trees and the two offsite oak trees subject to a tree protection order (TPO) with additional details outlined in the conditions below.

- 3.5 There still remains the likelihood of future pruning pressure on the two oak trees on the eastern boundary subject to a TPO. It is noted that these two oak trees have been recently thinned by 20% after consent was issued by Rochford District Council. Although the pruning has retained their crown shapes, in my opinion both trees have been incorrectly thinned – that is, instead of the tips of the crown being thinned, internal branches along primary scaffold branches have been removed. The removal of the internal branches has ensured that there are no suitable growth points for future crown reductions to be undertaken. Therefore, it is very unlikely that any further tree works (crown thinning or crown reduction) will be allowed until the internal crown branching architecture has re-established. If planning consent is granted then the following conditions are recommended:-
1. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. Implementation shall be in accordance with the approved schedule and plan.
 - (i) Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant sizes and proposed numbers and densities, where appropriate.
 - (ii) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936 'Nursery stock'.
- 3.6 All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4228:1989 'Code of Practice for General Landscape Operations (excluding hard surfaces)'.
- 3.7 All new tree planting shall be positioned in accordance with the advice within annex A and specifically the requirements of Table A.1 of British Standard BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations'.
2. No work shall take place on the application site (including soil stripping, pre-construction delivery of equipment or materials, the creation of site accesses, positioning of site huts) until all the following have taken place:-
 - (i) The appointment, by the developer of a competent arboriculturalist for the development who shall monitor, record and confirm the

implementation and maintenance of the tree protection and ground protection measures throughout construction;

- (ii) A pre-construction site meeting between the site agent, the developer's chosen arboriculturalist and the LPA's Arboricultural Officer.
 - (iii) Tree protection fencing shall be erected according to the specification and locations outlined in the arboricultural survey development constraints report dated 26 November 2012, except where ground protection will be utilised, namely:-
3. Adjacent to the oak trees subject to a TPO, T1 and T2 where a 1.5-2m construction corridor shall be established. Fencing will be aligned on the corridor's edge and the tree's RPA will be protected with secured scaffold boards on top of a 150 mm bed of hard wood chip laid on a geotextile membrane such as Terram 1000.
- 3.8 Development shall take place with reference to the principles, specifications and methodologies outlined in the arboricultural survey development constraints report dated 26 November 2012.
- 3.9 Regarding 'no dig' construction techniques, there is no requirement for excavation within the RPA of T2 to accommodate car parking without prior written consent from the LPA's Arboricultural Officer.
- 3.10 **ECC HIGHWAYS:** No objection raised to the proposals, subject to the following conditions being attached to any permission granted:-
- 1. Prior to occupation of the development the driveways serving plots 1 and plots 2-5 shall be provided with appropriate dropped kerb vehicular crossings of the footway.
 - 2. The existing vehicular crossings outside plot 1 and plot 5 shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway footway kerbing, to the satisfaction of the Highway Authority immediately the proposed new accesses are brought into use.
 - 3. Prior to the occupation of plots 2-5, the proposed private drive shall be constructed to a width of 4.8m for at least the first 6m within the site, tapering one-sided over the next 6m to 3.7m
 - 4. The vehicular hardstandings shown on drawing number 104 01c shall each have minimum dimensions of 2.9metres x 5.5 metres.
 - 5. No unbound material shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.

6. Prior to the commencement of the development a 1.5m x 1.5metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular accesses. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.
 7. Prior to the commencement of works on site the applicant shall indicate in writing to the Local Planning Authority an area within the curtilage of the site for parking of operatives' vehicles and the reception and storage of building materials clear of the highway.
 8. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.
 9. Prior to occupation of the proposed development, the developer shall be responsible for the provision and implementation of a travel information and marketing scheme for sustainable transport, approved by Essex County Council.
 10. Prior to commencement of the proposed development details of a wheel washing facility within the site and adjacent to the egress onto the highway shall be submitted and approved in writing by the Local Planning Authority. The wheel washing facility shall be provided at the commencement of the development and maintained during the period of construction.
 11. The public's rights and ease of passage over the bridleway shall be maintained free and unobstructed at all times.
- 3.11 **ECC PUBLIC RIGHTS OF WAY:** Comments that the proposed 'site' remains immediately adjacent to Bridleway 36 Hawkwell and my concerns remain the same namely:-
- o Potential encroachment of the bridleway by residents and/or visitors accessibility to their driveways, etc.
 - o Obstructions at either end to the bridleway by the parking of vehicles either by the residents and/or visitors.
 - o The long established oak trees, which I understand are subject of Tree Preservation Orders – their close proximity to the proposed dwellings and that once the residents have moved in, there may be demands for the

trees to be cut back should the sun cast shadows over their gardens, especially during the summer period.

3.12 **LONDON SOUTHEAST AIRPORT:** No safeguarding objections. Advise that if a crane or piling rig is required this will need to be safeguarded separately and dependant on location may be restricted in height.

3.13 **ENVIRONMENT AGENCY:** Comment as follows:-

- o The site is recorded as less than 0.2ha and therefore in accordance with our Flood Risk Standing Advice we are not providing any comments on surface water management.
- o Anglian Water Services should be consulted regarding the available capacity in the foul water infrastructure. If there is not sufficient capacity in the infrastructure then we must be consulted again with alternative methods of disposal.
- o Suitable conditions should be appended to any planning approval with regard to sustainability, resource management and climate change.
- o Any submitted scheme should include detailed information (capacities, consumption rates, etc.) on proposed water saving measures.
- o The developer should consider how they will incorporate recycled/recovered materials into the building programme and also incorporate design facilities to aid the ability of residents to recycle their waste.
- o Advise that as part of any landscaping proposals thought should be given to maximise potential ecological enhancement.

3.14 **ANGLIAN WATER SERVICES:** Advise that unless there are additional documents relating to the disposal of surface water, our original comments would still stand.

3.15 **NATURAL ENGLAND:** Comment as follows:-

- o The application is in close proximity to the Hockley Woods SSSI.
- o Given the nature and scale of the proposal there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the submitted details. Advise that this SSSI does not represent a constraint in determining this application.

3.16 In addition Natural England expects the Local Planning Authority to assess/consider the other possible impacts from this proposal on the following:-

- o Green Infrastructure – the proposed development is within an area Natural England considers could benefit from enhanced green infrastructure (G) provision. They encourage the incorporation of this into the development.
- o Protected Species –possible presence of a protected species or Biodiversity Action Plan (BAP) species on the site; the Authority should request survey information from the applicant before determining the application. Our standing advice on protected or BAP species provides advice to enable planners to better understand the impact of this particular development on protected species should they be identified as an issue at particular developments.
- o Local Wildlife Sites – if the proposal could result in an impact on a Local Site, Local Nature Reserve or priority habitat the Authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before determination.
- o Biodiversity enhancements – application may provide opportunities to incorporate features into the design, which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The Authority should consider securing measures to enhance the biodiversity of the site from the applicant, if minded to grant permission.
- o Local Landscape – this proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals, however, should complement and where possible enhance local distinctiveness.

3.17 **RDC ECOLOGY CONSULTANT:** No reason to object. Comment that it is rather irregular to carry out the ecological mitigation prior to planning consent being granted, but given the low potential and the low number of animals involved, then it is probably acceptable in this case

NEIGHBOURS:

3.18 10 responses to public consultation have been received from 63 Park Gardens, 65 Park Gardens, 25B Belchamps Way (Vice Chair Hawkwell Residents Association), 26 Malvern Road, 19 Folly Lane, 30 Fairmead Daws Heath Road (British Horse Society) and an email with no address, which can be summarised as follows:-

- o Problems with existing drainage and additional properties will increase this.
- o Number of properties proposed excessive.

- o Extra strain on outdated water drainage, gas facilities and infrastructure.
- o Objection to any removal of trees on the bridleway.
- o Blue bridleway marker and post have been dug up.
- o Drainage round the two trees on the bridleway is very poor.
- o Too many houses in a small area (urban cramming).
- o Unacceptable increase in traffic.
- o No parking and no access for vehicles, especially when the park gates are shut.
- o Road sometimes floods, which will be made worse by development.
- o Third application for development in the last 5 years.
- o Exactly the same as the previous refusal the reasons for which have not changed.
- o Developer already started site preparations and has made the site look unsightly
- o Over-development.
- o Proposed 3/4 bedroomed houses out of character with this end of the road.
- o Two bedroom bungalows more in keeping with surroundings, but concern they could be extended and become two storey.
- o Insufficient parking, especially for the 3/4 bedroomed houses, which will spill into Park Gardens.
- o The end of Park Gardens can be very congested particularly when the park gates are shut; the development will increase congestion and restrict access for emergency vehicles.
- o Surrounding roads already nearing their safe capacity and will be even more dangerous and congested following planning approvals in Hall Road and Christmas Tree site.
- o Loss of turning area at the end of Park Gardens.
- o New access road will hinder vehicles turning as well as impacting on the bridleway.

- o Possibility of cars from access road coming into direct contact with horses.
- o Bridleway used by pedestrians and is a main route to Clements Hall sports centre.
- o Due to the alteration of the bridleway two large trees are in the middle of the path, which is unacceptable for horse riders, cyclists or pedestrians.
- o The bridleway is in a poor state and should be returned to its original condition and location.
- o The end of Park Gardens can become heavily water logged and with loss of this natural soakaway even greater volumes of surface water will be deposited onto this area of road.
- o Development is on Green Belt land.
- o New private drive appears to impinge on the public right of way, which should not be allowed.
- o The front garden to plot 5 appears to be part of the bridleway although it is fenced in by the developer.
- o The existing dropped kerb in Hawkwell Park Drive overlaps the bridleway and would encourage people to park blocking the bridleway entrance.
- o The building line encroaches the bridleway by 1m.
- o Objection to the application as it is encroaching on the width of the PROW bridleway No. 36.

4 MATERIAL PLANNING CONSIDERATIONS

Street Scene

- 4.1 The site is located within a prominent position, adjacent to a bridleway as well as being visible from two residential roads and an area of public open space. Furthermore, it also directly borders on the MGB.
- 4.2 Park Gardens, to the northern end of the site, is in general characterised by a mixture of different dwelling types and styles. Towards the end of the road it is predominantly semi-detached bungalows, although immediately adjacent are a pair of semi-detached houses at Nos. 60 and 62 and directly opposite is a detached bungalow at No. 65. This part of the site is in close proximity to the car park, which forms the entrance to the adjacent public open space. The proposed two storey house (Plot 5) fronting Park Gardens is sited in line with the front elevations of the existing dwellings at Nos. 60 and 62. Both these properties have single storey rear extensions and whilst the rear elevation to

the proposed dwelling would also fall in line with these additions, it would have a slightly greater mass and bulk due to being two storeys throughout. Notwithstanding this, the proposed frontage is similar in width to the adjacent pair of semi-detached house and it is not considered that the house proposed to Plot 5 would be out of character to the street scene here.

- 4.3 The proposed house to Plot 5 would be separated from the adjacent bridleway by a new private drive (3.7m wide) and is further separated from the adjacent public open space by the associated car park. It is not considered that it will have any undue or detrimental impact on these designations.
- 4.4 Hawkwell Park Drive, to the southern end of the site, contains a wide mix of dwelling types to different designs; towards the end of the road these are predominantly chalets and houses. Within the immediate vicinity of the site there are a number of larger style properties. To the western boundary is No. 63, a detached house of chalet style appearance, and immediately opposite are two substantially detached houses at Nos. 40 and 42. These three dwellings are of a height and mass that is similar to the proposed two storey house at Plot 1 and additionally the latter pair is similar in design. It is not considered that the dwelling proposed to Plot 1 would be out of character or harmful to the street scene within Hawkwell Park Drive.
- 4.5 The house to Plot 1 lies in close proximity to bridleway No. 36 and due to its depth presents a somewhat dominant elevation to this boundary. However, due to the stepped design of the dwelling it would measure only 12.3m (at two storey level) immediately adjacent to the public right of way, which effectively reduces its bulk. The impact of this elevation is further relieved by the fenestration pattern, which includes a decorative oriel window over two floors.
- 4.6 The three proposed bungalows (Plots 2, 3 and 4) are contained within the middle of the site and are concealed from both roads by the proposed new houses (Plots 1 and 5) . They would only be visible from the adjacent bridleway and public open space. These dwellings are modest in size with overall heights of 5m and 5.4m and are further separated by detached double garages, which themselves are set back from the building line. The overall scale to this part of the development site is not considered to be overly dominant or detrimental to the character of the adjacent MGB
- 4.7 The overall design of all the proposed dwellings is considered to be acceptable. Park Gardens and Hawkwell Park Drive contain properties with a wide variety of different styles and it is not considered that the development would be out of character with the appearance of the existing housing pattern or street scene.

Layout

- 4.8 Supplementary Planning Document 2 (SPD2) requires that for infill development, site frontages for detached properties must be to a minimum width of 9.25m. All the development plots adequately meet this criterion.
- 4.9 In addition SPD2 requires that 1m separation is achieved between side boundaries and habitable rooms. In this respect Plot 1 has a garage that adjoins the western boundary at ground floor level but as this is not a habitable room it is not considered to be in conflict with this separation criterion. The northern elevation to the bungalow at Plot 3 adjoins the boundary with Plot 4. However, a parking space serving Plot 4 is also positioned to this common boundary and would provide a distance of 2.9m between the side elevations of the two bungalows. Retention of the parking space can be conditional to any planning approval and 'permitted development' rights to Plot 4 can also be removed by the same means. In addition, the bungalows are separated by detached double garages, set back from their building line, which further enhances the sense of space between them
- 4.10 The bungalows at Plots 2, 3 and 4 are positioned at 90 degrees in relation to existing dwellings within Park Gardens and Hawkwell Park Drive, fronting the adjacent public open space. A similar arrangement can be found at Nos. 48-54 Hawkwell Park Drive where four detached houses have frontages that overlook the adjacent public open space.
- 4.11 The development does not create any unacceptable relationships with either existing properties or between any of the proposed dwellings. The overall scale of the proposal is considered appropriate and would not result in an overbearing or cramped appearance.

Neighbours

- 4.12 The house to Plot 5 is located between 1m and 1.6m from the common boundary with the adjacent dwelling at No. 62 and does not extend beyond the front or rear of this property. Whilst of greater mass and bulk it is not considered that the proposed house will have any unduly harmful impact on the occupiers of this neighbouring dwelling. Notwithstanding this, the shower room to the first floor western elevation is considered to allow for an unacceptable degree of overlooking to the rear of No. 62 and for this reason it is considered that it be condition to be obscure glazed and fixed shut below a height of 1.7m above floor level.
- 4.13 On the western boundary the proposed dwelling to Plot 1 extends 2.6m at two storey level beyond this adjacent house (No. 63), thereafter it is single storey for a further 1.4m. Any over shadowing to the site that may occur in the morning is not considered to be unacceptable. However, two first floor side windows to Plot 1 have the potential to create direct overlooking to the rear of

No. 63 and for this reason it is considered necessary to condition that they be obscure glazed and fixed shut below a height of 1.7m.

- 4.14 The proposed bungalows are modest in scale and located a minimum of 4m from the garden boundaries to No. 61 Hawkwell Park Drive and No. 62 Park Gardens. It is not considered that they would be unduly detrimental to the occupiers of these dwellings. Notwithstanding this, there is potential for future impact on residential amenity through the addition of rear dormers within both the bungalows and double garages. For this reason it is considered necessary to condition that any future insertions should be subject to planning control.
- 4.15 With regard to overlooking within the proposed development (between the two houses and the 3 bungalows), the detached double garage to the rear of Plot 5 and the angle of Plot 1 in relation to Plot 2 limits this to an acceptable level.

Amenity Space

- 4.16 Both proposed houses (Plots 1 and 5) have rear gardens in excess of 100 sq m, which complies with the criteria set out in SPD2. The garden space proposed to the bungalows (Plots 2, 3 and 4) is limited in depth, but notwithstanding this, they all exceed the 50sq m requirement for two bedroom dwellings in SPD2. Although the length of these gardens would be short, it is considered that they remain of practical use.

Parking

- 4.17 The development provides each plot with a single garage space and in addition a separate single parking space on hardstanding immediately adjacent to each dwelling. These measure 7m x 3m for the internal garage spaces and 5.5m x 2.9m for the external bay spaces. The proposal therefore accords with the provisions of the Council's adopted Parking Standards: Design and Good Practice Supplementary Planning Document.

Access

- 4.18 The application shows a new 3.7m wide private driveway from an existing dropped kerb within Park Gardens, which gives access to Plots 2, 3 and 4, as well as vehicular access to the parking provision for Plot 5. Plot 1 is to be directly accessed from Hawkwell Park Gardens.
- 4.19 The Highway Authority does not raise any objections to the application, subject to a number of conditions including provision of 1.5m visibility splays to both accesses and the stopping up of the existing dropped kerb in Hawkwell Park Drive. The application plans show provision for the required splays to Plot 1 in conjunction with the removal of the existing vehicle cross over. The entrance to the new drive shows provision for a 1.5m visibility splay to the eastern side from within the front garden to Plot 5, but no provision to the western boundary. Notwithstanding this, the site immediately adjoins the

adjacent public right of way, which is likely to remain obstruction free. Furthermore, any means of enclosure to this boundary can be conditioned to be no more than 600mm in height.

Drainage

- 4.20 Anglian Water states that its comments in relation to the previous application under 11/00369/FUL still stand for the current application as follows:-
- o That the sewage system has the available capacity for the foul flows from the development.
 - o That the drainage problems experienced by customers in recent years have been the result of operational issues and exceptional weather conditions rather than the incapacity of the public sewers.
 - o That the submitted surface water strategy assessment is unacceptable.
- 4.21 In respect of surface water it recommended the following planning condition, should the Local Planning Authority be minded to grant planning approval:-
- 4.22 No development shall commence until a surface water strategy/flood risk assessment has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the surface water strategy so approved, unless otherwise approved in writing by the Local Planning Authority.
- 4.23 In addition, it raised concerns about the foul and surface water sewers, which run through the site. Stating that, as these are considered to be strategically important, under no circumstances would it allow these sewers to be built over.
- 4.24 The current application shows the proposed diversion of the foul sewer within the north of the site and the surface water sewer to the south, which would re-route them so that they run under the proposed drive and existing bridleway respectively. Anglian Water has not commented on the acceptability of these proposed diversions and an informative could be placed on an approval, which highlights its concerns

Public Right of Way

- 4.25 The public right of way to the eastern boundary of the site was relocated to its present position following the upgrading of footpath No. 23 to bridleway No. 36 via a legal order on 23 March 2011. As a result of this re-routing two large oaks were brought within its boundaries.
- 4.26 Consultation responses on the previous application 11/00369/FUL showed a difference of opinion on the precise location of the bridleway at the southern end of the site. The ECC Public Rights of Way Officer was content with the

position shown, whilst the ECC Definitive Maps Officer raised a concern that the bridleway runs along the side elevation of plot 1, rather than 1m away, as shown on the plans.

- 4.27 The question of the precise alignment of the bridleway is not felt to be of relevance in planning terms, as in both cases the relationship of the development to this public right of way is considered to be acceptable; this was clearly the conclusion of the Inspector on the earlier appeal.
- 4.28 Concern has been raised with regard to the potential for the blocking of the bridleway entrance, parking within the bridleway and possible encroachment by residents. The application proposes a post and rail fence to the bridleway boundary, which would prevent direct access from the new drive and at the same time provide additional visibility/security to the users of the public right of way. Should any obstruction/encroachment occur in the future, this is within the control of Essex County Council.

Ecology

- 4.29 Natural England has not raised any objection to the application.
- 4.30 The current application has been accompanied by an ecological assessment and reptile mitigation report dated 26 November 2012. This includes details of a trapping and translocation methodology whereby two grass snakes have been translocated to a receptor site within Mars Hall Estate, Marks Tay, Essex.
- 4.31 The Council's ecology consultant does not object to the application, although he comments that it is rather irregular to carry out the ecological mitigation prior to planning consent being granted. However, given the low potential and low number of animals involved, he advises that it is probably acceptable in this case.
- 4.32 The two protected oak trees located within the adjacent bridleway have Root Protection Areas (RPA), which extend into the site. The applicant has submitted an arboricultural survey and development constraints report dated 26 November 2012, which includes measures to protect the integrity of these TPO trees. The Council's Arboriculturalist Officer notes that, subject to additional recommended conditions, the submitted report details adequate methodologies to protect the offsite oaks.
- 4.33 The arboriculturalist does not comment on the tree-related light issues, but notes that the oak trees have been recently thinned by 20% after consent was issued by Rochford District Council. Although the pruning has retained the crown shape of the trees, he is of the opinion that they have been incorrectly thinned. He therefore advises that it is very unlikely that any further tree works (crown thinning or crown reduction) will be allowed until the internal branching has re-established

- 4.34 It is not unusual for preserved trees to be located in close proximity to buildings, particularly in urban situations where mature trees may have reached a considerable size adjacent to residential dwellings, such as in tree lined avenues . As the trees adjacent to the site already enjoy the protection of a TPO it is within the Council's power to control any future works that many threaten their integrity.

Appeal Decision

- 4.35 With minor exceptions the proposal is substantially the same as the scheme refused under 11/00369/FUL.
- 4.36 With regard to Plots 1 and 5 these relate to a slightly re-designed fenestration pattern, the omission of chimney stacks, the addition of a single storey rear extension to Plot 1 to a maximum depth of 1.5m with sloped roof to a height of 3.6m and the infilling of the loggia to Plot 5 (no increase in overall footprint). With regard to Plots 3 and 4 the omission of chimney stacks and larger patio windows.
- 4.37 With regard to the proposed bungalow at Plot 2, upon which the Inspector concluded the protected trees had a harmful impact such as to dismiss the appeal, the current proposal includes the internal re-arrangement of rooms in conjunction with slight alterations to the external appearance as follows:

Internally

- o Movement of the two bedrooms to the rear of the dwelling
- o Movement of the bathroom and utility room to the front of the dwelling

Externally

- o Omission of chimney
- o Additional window to northern elevation (living/dining room)
- o Small extension (1m) to western elevation (living/dining room)
- o Increase in size of patio doors to rear
- o Addition of two sky lights to front (eastern elevation) elevation (bathroom and utility room)
- o Additional window to southern elevation (bedroom)
- o Gabled projection to front (eastern) elevation replaced with smaller open sided porch to north east corner (positioned further from protected trees)

4.38 This refusal under 11/00369/FUL was dismissed on appeal under APP/B1550/A/11/2166953. The Inspector's decision with regard to this appeal is therefore a primary material consideration in relation to the current application.

4.39 In consideration of the appeal the Inspector identified three main issues:-

- o The effect the proposal would be likely to have on the two trees protected by Tree Preservation Order No. 08/99.
- o Protected species at the site.
- o Surface water drainage.

4.40 His assessment of these issues and all other matters raised in the appeal is summarised below:-

Protected Trees

- o The combined canopy of the two trees would have a serious effect on daylight levels of the bedrooms in the front elevation within the bungalow at Plot 2 and therefore on living conditions, as the only window in each of these bedrooms would be affected.
- o With regard to the Council concern that a future resident of Plot 2 might seek to consent for alterations to the protected trees, he comments that the application before me does not rely on proposed works to the protected trees.

4.41 He concludes that with regard to the effect of the protected trees on natural light in two of the habitable rooms in the bungalow at Plot 2, the development would not meet the standard of design sought by PPS3 and LP Policy HP6.

4.42 On this basis he dismisses the appeal.

Protected Species

- o He notes that there is no dispute that translocation could satisfactorily protect the interest of ecology at the site and is satisfied that the location of the receptor site and other details of the translocation could be the subject of a condition.

Surface Water Drainage

- o He notes that comments from Anglian Water include a proposed planning condition which, in his view, would prevent environmental and amenity problems arising from flooding. He concludes that the Council's concerns in this respect could be addressed by a condition.

- 4.43 The Council's case in the appeal rested on the view that the proposal amounted to over-development of the site due to the accumulative effect of the siting of the bungalow at Plot 2, (in close proximity to the protected oaks coupled with possible pressure to cut these back), together with the need to re-site a sewer off-site and the question as to whether the development could be accommodated as indicated, as well as the bridleway being in the position shown on the definitive map.
- 4.44 However, as detailed above, the Inspector did not consider the proposal amounts to over-development and is satisfied that any concerns with regard to protected species and surface water drainage can be overcome by suitable conditions. Furthermore, in respect of protected species, the two grass snakes trapped on site have already been translocated.
- 4.45 In dismissing the appeal, the Inspector's reasoning relates solely to the impact of the oak trees on the living conditions for future occupiers of the bungalow at Plot 2 and not to any effect the development has on these trees. The Inspector's reasoning and his decision in dismissing the appeal is of great material weight in the determination of the current application.
- 4.46 The current application seeks to overcome the appeal dismissal by re-arranging the internal space so that the rooms identified by the Inspector as not meeting a satisfactory standard of design with regard to natural light are re-located to the rear of the dwelling. Thus the current layout shows both bedrooms, as well as the kitchen, having windows to the western elevation of the dwelling. To the eastern (front) elevation it is proposed to have a utility room, bathroom and en-suite shower room to the main bedroom. The shower room has a window only to the southern elevation. The bathroom and utility rooms have a window to the eastern elevation as well as each having a roof light.
- 4.47 It is considered that by re-arranging the internal habitable space the application has successfully overcome the Inspector's reason for dismissal and furthermore has reduced any future pressure for the protected trees to be cut back due to over-shadowing.

Conclusions

- 4.48 The proposed development is within the residential area of Hawkwell where, in principle, residential development is considered to be acceptable. The design of the dwellings is considered satisfactory and is compatible with the character of the surrounding area. It is not considered that the proposal would have any detrimental impact on the existing street scene.
- 4.49 The proposed layout, with dwellings fronting public open space, would be similar to the existing arrangement at the end of Hawkwell Park Drive (Nos. 48-54). It is considered that the development complies with HP6 and SPD2 with regard to garden space, site frontage and side separations. Subject to

conditions, it is not considered that the proposed development would be detrimental to the residential amenity of the occupiers of any neighbouring properties. Impact on residential amenity, amenity space provision, side separation or site frontage were not reasons for refusal of the previous application.

- 4.50 Whether the dwelling proposed to Plot1 is 1m nearer to the boundary with the adjacent bridleway than is shown on the submitted plans is not of significance to any consideration of this planning application, as either arrangement would be acceptable.
- 4.51 The value and need to retain the protected trees within the adjoining public right of way is not in doubt and the tree officer has confirmed the adequacy of the tree protection measures, which can be controlled by condition.
- 4.52 No previous objections were raised to the layout in terms of the two houses at plots 1 and 5 or the arrangement of the bungalows fronting the public open space, to parking provision or the access driveway.
- 4.53 With regard to the previous reasons for refusal and consideration of these by the Planning Inspectorate on appeal:-
- o Concerns with regard to surface water drainage can be satisfactorily controlled by condition.
 - o Any ecology concerns are no longer relevant, as the protected species present have been removed from the site.
 - o Re-arrangement of the internal living space has overcome design objections based on lack of natural light to habitable rooms.
- 4.54 In his appeal decision the Inspector did not find any other matters, which led away from his decision.
- 4.55 It is considered that the current application has successfully overcome the previous reason for refusal.

5 RECOMMENDATION

- 5.1 It is proposed that the Committee **RESOLVES**

That planning permission be granted, subject to the following conditions:-

- (1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- (2) The external materials to be used in construction of the development, hereby approved, shall be as detailed in the submitted schedule of materials date stamped as received 03.12.2012, unless alternative

materials are proposed and agreed in writing by the Local Planning Authority, in which case the alternative materials as agreed shall be used in the construction.

- (3) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the window(s) marked OBS on the approved drawing(s) no. 104 02 revision A date stamped 03.12.2012, shall be glazed in obscure glass and shall be of a design not capable of being opened below a height of 1.7m above first floor finished floor level. Thereafter, the said windows shall be retained and maintained in the approved form.
- (4) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no window, door or other means of opening shall be inserted above first floor finished floor level on the western side elevation of the dwellings at Plot 1 and Plot 5 hereby permitted, in addition to those shown on the approved drawing no. 104.02 Revision A date stamped 03.12.2012.
- (5) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) the dwellings to plots 3 and 4 of the layout hereby approved on drawing nos. 104 01 Revision C and 104 03 Revision B date stamped 03.12.2012 shall not be extended without the prior written approval of the Local Planning Authority.
- (6) Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class B and Class C, of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no dormers or roof light windows shall be inserted, or otherwise erected, within the roof area (including roof void) on the west elevation of the bungalows and detached garages to plots 2, 3 and 4 hereby permitted on approved drawing nos. 104 03 Revision B and 104 01 Revision C date stamped 03.12.2012.
- (7) No development shall commence, before plans and particulars showing precise details of any gates, fences, walls or other means of screening or enclosure, to be erected at the site, have been submitted to and agreed in writing by the Local Planning Authority. Such details of screening or other means of enclosure as may be agreed in writing by the Local Planning Authority, shall be erected prior to the dwellings to

which they relate first being occupied and thereafter maintained in the approved form.

- (8) No development shall commence (including soil stripping, pre-construction delivery of equipment or materials, the creation of site accesses, positioning of site huts) until a schedule of tree works has been approved in writing by the Local Planning Authority such schedule to include details of the following matters:-
- (i) The appointment, by the developer of a competent arboriculturalist as per British Standard 5837, for the development who shall monitor, record and confirm the implementation and maintenance of the tree protection and ground protection measures throughout construction;
 - (ii) A pre-construction site meeting between the site agent, the developer's chosen arboriculturalist and the Local Planning Authority's Arboricultural Officer.

Thereafter the development shall take place in accordance with the approved schedule.

- (9) No development shall commence (including soil stripping, pre-construction delivery of equipment or materials, the creation of site accesses, positioning of site huts) until the tree protection measures detailed in sections 5.2, 5.3, 5.4 and 5.5 of the arboricultural survey development constraints report dated 26 November 2012 have been implemented.

The position of such protective fencing to be as detailed in Drawing 3 of the Arboricultural Survey Development Constraints report dated 26 November 2012 except where the bungalow to plot 2 adjoins the RPA of the TPO trees (T1 and T2) where the fencing shall be aligned to provide a 1.5m construction corridor which shall be protected with secured scaffold boards on top of a 150mm bed of hard wood chip laid on a geotextile membrane.

Such tree protection barriers and ground protection measures that are implemented must be confirmed in writing by the Local Planning Authority.

- (10) The development hereby approved shall take place in accordance with the methodologies detailed in sections 6.2, 6.3, 6.4, 6.5, 6.6 and 6.7 of the arboricultural survey development constraints report dated 26 November 2012 except with respect to the RPA to T2 where the three dimensional root protection system as detailed in appendix 4 to the arboricultural survey development constraints report dated 26 November 2012 shall be implemented.

- (11) Prior to occupation of the dwellings the driveways serving plot 1 and plots 2-5 shall be provided with appropriate dropped kerb vehicular crossings of the footway.
- (12) Prior to the occupation of the dwellings the vehicular accesses and access drive to the site shall be laid out and constructed in all respects, in accordance with the approved drawing no.104 01 Revision C date stamped 03.12.2012. At this time, all other means of access to the site shall be permanently and effectively "stopped-up" in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the said vehicular access shall be made available for use and thereafter retained and maintained in the approved form.
- (13) The dwellings shall not be occupied before the garage(s) and hardstanding(s) shown on the approved drawing no. 104 01 Revision C date stamped 03.12. 2012 have been laid out and constructed in their entirety and made available for use and the parking space at plot 5 is extended to 5.5m in length. Thereafter, the said garage(s) and hardstanding(s) shall be retained and maintained in the approved form and used solely for the parking of vehicles and for no other purpose that would impede vehicle parking. Such hardstandings shall also be constructed either of a porous material or provision be made to direct surface run-off water from the hard surface to a permeable or porous area or surface within the site or to a drain within the site.
- (14) No unbound material shall be used in the surface treatment of the vehicular accesses within 6 metres of the highway boundary.
- (15) The vehicular accesses to plot 1 and plots 2–5 hereby permitted shall not be used by vehicular traffic before a plan showing the pedestrian sight splays to be provided with unobstructed visibility of pedestrians using the adjoining footway at both sides of the accesses at their junction with the adjoining highway, is submitted to and agreed in writing by the Local Planning Authority. Once agreed, the said visibility splays shall be retained thereafter and maintained in their approved form free of obstruction above a height of 600mm above the finished surface of the approved vehicular accesses.
- (16) Prior to commencement of the development details shall be submitted for the provision of a contractors' compound to provide parking and storage areas clear of the highway to service the development. Such details as may be agreed by the Local Planning Authority shall be implemented for the duration of the construction period.
- (17) No development shall commence, before plans and particulars showing precise details of the hard and soft landscaping, which shall form part of the development hereby permitted, have been agreed in

writing by the Local Planning Authority. Any scheme of landscaping details as may be agreed in writing by the Local Planning Authority, which shall show the retention of existing trees, shrubs and hedgerows on the site and include details of:-

- schedules of species, size, density and spacing of all trees, shrubs and hedgerows to be planted;
- existing trees to be retained;
- areas to be grass seeded or turfed, including cultivation and other operations associated with plant and grass establishment;
- paved or otherwise hard surfaced areas

shall be implemented in its entirety during the first planting season (October to March inclusive) following commencement of the development, or in any other such phased arrangement as may be agreed in writing by 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, in the first available planting season following removal.

All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936 'Nursery stock'.

All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4228:1989 'Code of Practice for General Landscape Operations (excluding hard surfaces)'.

All new tree planting shall be positioned in accordance with the advice within annex A, specifically the requirements of Table A.1 of British Standards BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations'.

- (18) Prior to commencement of the development plans and details showing the means to prevent the discharge of surface water from the development onto the highway and bridleway shall be submitted to and approved in writing by the Local Planning Authority. This should also include a surface water drainage strategy to be assessed by Anglian Water and the Environment Agency. The approved scheme shall be carried out in its entirety prior to the accesses becoming operational and shall be retained at all times.

- (19) Prior to commencement of the development details of a wheel washing facility to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority. The details as may be agreed in writing shall be implemented for the duration of the construction period.
- (20) Prior to commencement of the development hereby approved, plans and details shall be submitted to and agreed in writing by the Local Planning Authority demonstrating assessment of the development against the Lifetime Homes Standard criteria. Once agreed, the development shall be built in accordance with these details.
- (21) Prior to commencement of the development hereby approved details of how the proposal will achieve at least 10 per cent of its energy from decentralised and renewable or low carbon sources shall be submitted to and agreed in writing with the Local Planning Authority (unless agreed by the Local Planning Authority in writing to be not feasible or viable). The measures, as agreed, shall be fully installed and operational prior to the first occupation of the dwellings hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

REASON FOR DECISION AND STATEMENT

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, assessed against the adopted Development Plan, and the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. 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 neighbouring streets.



Shaun Scrutton

Head of Planning and Transportation

Relevant Development Plan Policies and Proposals

National Planning Policy Framework

CP1, H1, H5, H6, ENV8, ENV9, T1, T3, T8 of the Core Strategy December 2011

CS8, HP6, HP10, UT2 of the Rochford District Replacement Local Plan (2006)

Supplementary Planning Document 2 Housing Design

Parking Standards Design and Good Practice Supplementary Planning 2009
adopted December 2010

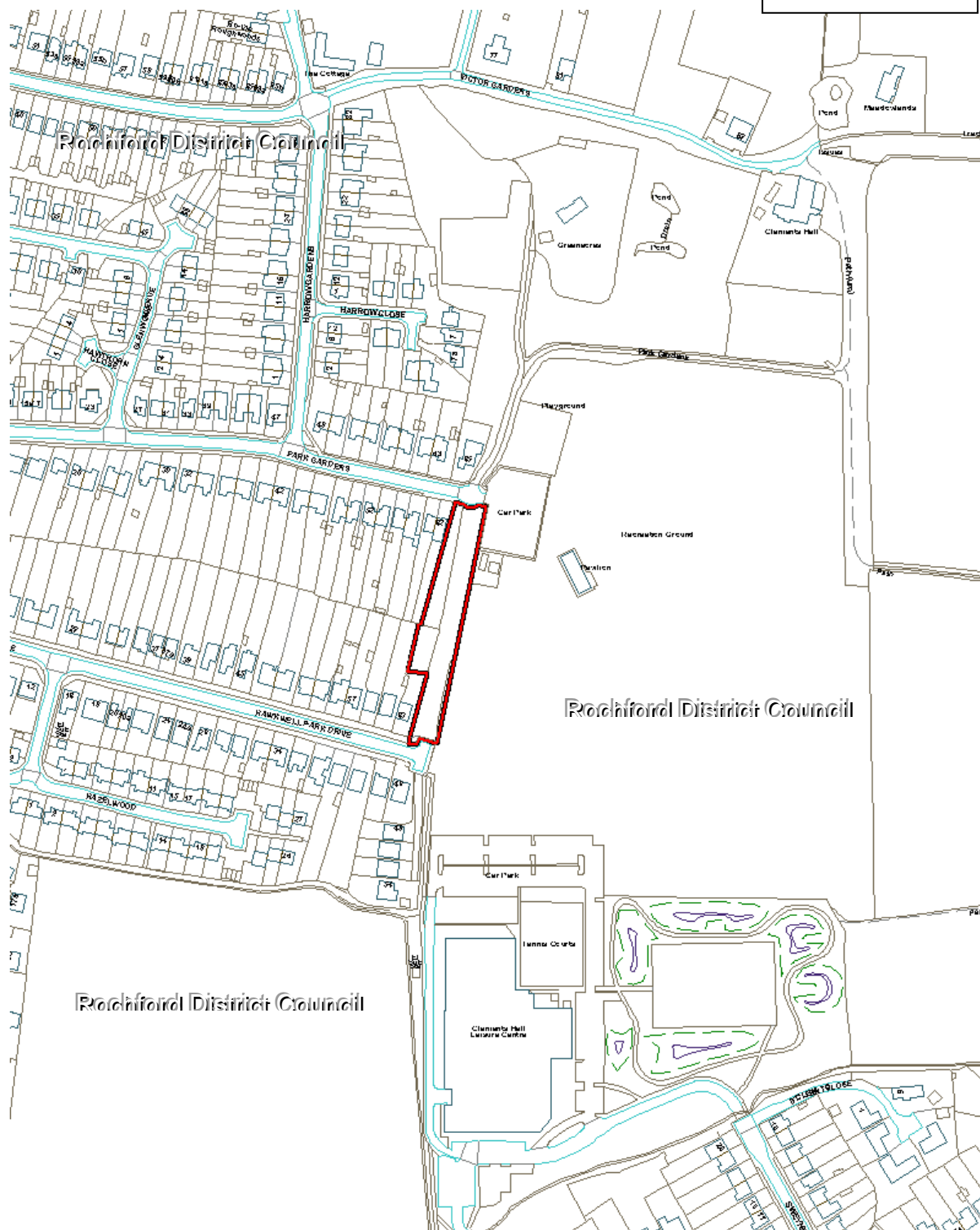
For further information please contact Judith Adams on:-

Phone: 01702 318094 Ext 3414

Email: judith.adams@rochford.gov.uk

If you would like this report in large print, Braille or another language please contact 01702 318111.

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