

# Planning Committee Agenda

**13 April 2021 at 6pm**

**Remote Meeting**

**Membership**

Councillor J A Sosin (Chair)

**and Councillors**

L Ashley, H Ayres, S Dobson, J Frasca, P Hughes, R J Hyland,  
R Lee, L A Millane, G H J Pooley, R J Poulter, T E Roper,  
E Sampson, C Shaw and I Wright

Local people are welcome to attend this meeting remotely, where your elected Councillors take decisions affecting YOU and your City. There is also an opportunity to ask your Councillors questions or make a statement. These have to be submitted in advance and details are on the agenda page. If you would like to find out more, please telephone Brian Mayfield in the Democracy Team on Chelmsford (01245) 606923 email [brian.mayfield@chelmsford.gov.uk](mailto:brian.mayfield@chelmsford.gov.uk)

# PLANNING COMMITTEE

13 April 2021

## AGENDA

### 1. CHAIR'S ANNOUNCEMENTS

### 2. ATTENDANCE AND APOLOGIES FOR ABSENCE

### 3. DECLARATIONS OF INTEREST

All Members are reminded that they must disclose any interests they know they have in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they become aware of the interest. If the interest is a Disclosable Pecuniary Interest they are also obliged to notify the Monitoring Officer within 28 days of the meeting.

### 4. MINUTES

To consider the minutes of the meeting on 9 March 2021

### 5. PUBLIC QUESTION TIME

Any member of the public may ask a question or make a statement at this point in the meeting, provided that they have been invited to participate in this meeting and have submitted their question or statement in writing and in advance. Each person has two minutes and a maximum of 15 minutes is allotted to public questions/statements, which must be about matters for which the Committee is responsible. The Chair may disallow a question if it is offensive, substantially the same as another question or requires disclosure of exempt or confidential information. If the question cannot be answered at the meeting a written response will be provided after the meeting.

Where an application is returning to the Committee that has been deferred for a site visit, for further information or to consider detailed reasons for refusal, those who spoke under public questions at the previous meeting may not repeat their questions or statements.

Any member of the public who wishes to submit a question or statement to this meeting should email it to [committees@chelmsford.gov.uk](mailto:committees@chelmsford.gov.uk) 24 hours before the start time of the meeting. All valid questions and statements will be published with the agenda on the website at least six hours before the start time and will be responded to at the meeting. Those who have submitted a valid question or statement will be entitled to put it in person at the meeting, provided they have indicated that they wish to do so and have submitted an email address to which an invitation to join the meeting and participate in it can be sent.

6. 2A COVAL LANE, CHELMSFORD – 21/00121/FUL
7. 37 GOODWIN CLOSE, GREAT BADDOW, CHELMSFORD – 21/00185/FUL
8. 214 BEECHES ROAD, CHELMSFORD – 21/00149/FUL
9. LAND SOUTH OF BREWERS ARMS, MAIN ROAD, BICKNACRE, CHELMSFORD –  
20/01507/FUL
10. PIPERS FARM, MILL ROAD, GOOD EASTER, CHELMSFORD – 20/01900/FUL
11. PLANNING APPEALS

**MINUTES**  
**of the**  
**PLANNING COMMITTEE**  
**held on 9 March 2021 at 6:00pm**

Present:

Councillor J A Sosin (Chair)

Councillors L Ashley, H Ayres, S Dobson, J Frasca, P Hughes, R Hyland,  
R Lee, G H J Pooley, R J Poulter, T E Roper, E Sampson, C Shaw and I Wright

Also present: Councillors J A Potter and S Young

### 1. Chair's Announcements

For the benefit of the public, the Chair explained the arrangements for the meeting.

### 2. Attendance and Apologies for Absence

The attendance of those present was confirmed. There were no apologies for absence.

### 3. Declarations of Interest

All Members are reminded that they must disclose any interests they knew they had in items of business on the meeting's agenda and that they must do so at this point on the agenda or as soon as they became aware of the interest. If the interest was a Disclosable Pecuniary Interest they were also obliged to notify the Monitoring Officer within 28 days of the meeting. Any declarations are recorded in the relevant minute below.

### 4. Minutes

The minutes of the meeting on 9 February 2021 were confirmed as a correct record.



## 5. Public Question Time

There were no questions or statements from the public.

## 6. Land Adjacent to 4 James Croft, Galleywood, Chelmsford – 20/01249/FUL

Councillor R J Hyland informed the Committee that he had chaired the committee of Galleywood Parish Council that had come to a view on this application and therefore would not participate in its consideration.

(M7, PL27, 2020, M7, PL31, 2020 and M6, PL35, 2021) At its last meeting the Committee had again deferred for a site visit consideration of an application for the construction of a single detached house on land adjacent to 4 James Croft, Galleywood. That site had been held on 2 March 2021 and the Committee had before it all the relevant information on the application that had been received since it had first been considered.

The Committee was generally of the opinion that the proposed development was not appropriate to the site or the area in which it was located. The site was too narrow to accommodate a property of the size proposed and the development would be out of keeping with the other properties in the area. It would have an overbearing effect on 4 James Croft and would result in a loss of light to the kitchen and conservatory of that property, both of which the Committee regarded as living accommodation. Whilst the narrow access to the rear could accommodate a small refuse bin, a normal size bin would need to be stored at the front of the property and reduce the space available for car parking.

Responding to questions on the application, the officers said that the proposal met the required parking standards and that although a previous application had been refused in 2005 for reasons similar to the concerns expressed by members on this application, a new National Planning Policy Framework and Local Plan had been adopted since then and the proposal met the requirements and standards of both.

RESOLVED that application 20/01249/FUL in respect of land adjacent to 4 James Croft, Galleywood, Chelmsford be refused for the following reasons:

### Character/street scene

The National Planning Policy Framework (NPPF 2019) gives significant weight to good design. Chapter 12 sets out planning principles and guidance in achieving well-designed places. This includes seeking to secure good design that would add to the overall quality of the area and be sympathetic to local character and setting. Paragraph 127 (c) of the NPPF states that planning decisions should ensure that developments, amongst other matters, “are sympathetic to local character and history, including the surrounding built environment and landscape setting”. Paragraphs 130 of the NPPF states that planning permission “should

be refused for development of poor design that fails to take opportunity for improving the character and quality of the area”.

Policy DM23 of the Chelmsford Local Plan states that planning permission will be granted for development that respects the character and appearance of the area in which it is located. Development must be compatible with its surroundings having regard to scale, siting, form, architecture, materials, boundary treatments and landscape. It also requires (amongst other things) that the design of all new buildings are compatible with the character and appearance of the area in terms of their siting, scale, form, massing, materials and detailing.

James Croft is characterised by wide span detached houses. The development proposed seeks a narrow width property on a cramped plot creating a form of development at odds with and visually discordant with the existing character and characteristics of the street scene and is contrary to policy DM23 of the Chelmsford Local Plan and the design principles of the National Planning Policy Framework.

#### Relationship with No 4 James Croft

Policy DM29 of the Chelmsford Local Plan requires that development safeguards the living environment of the occupiers of any nearby residential property by ensuring that the development is not overbearing and does not result in unacceptable overlooking or overshadowing.

The development as proposed by reason of its scale and siting and projection along the boundary with and beyond the rear of No 4 James Croft would be unduly overbearing and cause a harmful reduction in light for the occupiers of No 4 contrary to Policy DM29 of the Chelmsford Local Plan.

(6.10pm to 6.40pm)

### 7. Offices at Galleywood Hall, 279 Beehive Lane, Great Baddow, Chelmsford – 19/01180/FUL

The Committee considered an application for the erection of B1 light industrial units at Galleywood Hall, 279 Beehive Lane, Great Baddow. A Green Sheet of additions and amendments had been circulated that set out a proposed change to one of the conditions should the application be approved.

A ward councillor attended the meeting to speak against the application for the following reasons:

- The proposed use conflicted with the rural nature of the site and was not in keeping with the residential nature of other properties in the vicinity
- It was a large building that would be better located on a site designated for industrial use

- The new building would be slightly higher than the existing one
- The boundary between the site and 285 Beehive Lane was narrow and no landscaping was proposed between them to reduce the impact on No 285
- There were no conditions restricting the hours of operation at the units and there were concerns of potential disturbance to neighbours

Some members of the Committee expressed similar reservations during their discussion of the application. In addition, they asked whether:

- There was a potential for safety concerns in view of the proximity of the site to a nearby school
- The access to the site was close to an existing footpath alongside it, giving rise to concerns about pedestrian safety
- The proposal was contrary to Local Plan policy DM6 as the site was in the Green Belt
- The number of electric vehicle charging points complied with Policy DM25
- The combined footprint of the buildings on the site included the proposed glasshouse
- The loss of the albeit redundant educational facilities at Galleywood Hall was contrary to policy DM21 which envisaged the retention of educational and community facilities, where possible
- Great Baddow Parish Council had objected to or supported the application, as their views were not clear

In response to those points and questions, officers said that:

- Although the proposed building was higher than those it would replace, it was set back further within the site and would be screened by landscaping; it would therefore not be harmful to the character of the area
- In terms of the units' relationship with 285 Beehive Lane, they were set back from the bungalow and there was a degree of separation, with the nearest unit being 3.2 metres from the boundary with No 285. Taking into account the units' hipped roof, it was not thought that the proposal would be detrimental to the amenity of residents of No 285. A condition could be added about the boundary treatment between No 285 and the site if the Committee considered it necessary
- A condition on the hours of operations at the units was not considered appropriate because the nature of the proposed use would not cause disturbance, noise or pollution and would take place entirely within the buildings
- A condition was proposed requiring a service and delivery plan that avoided delivery times that coincided with school drop off and collection times
- Policy DM6 allowed, as an exception, the redevelopment of previously developed land provided it had no greater impact on openness. In this case, taking into account the size and visual impact of the development, the proposed landscaping and the fact that the footprint of the units was 17% less than the current buildings' combined footprint, there would be no greater impact on the openness of the Green Belt

- New railings and a landscaping strip would provide greater separation between the access to the site and the footpath than existed at present
- The number of charging points met current standards but could be increased if the Committee wished
- Great Baddow Parish Council appeared to have no objection in principle to the proposal but had concerns about traffic and the appearance of the site in the street scene
- Galleywood Hall had not been used as an education facility for a long time and such facilities did not come within the policy that governed the retention of community facilities. Protection of Education Establishments is covered by Policy DM22 and allows their redevelopment where they are surplus to requirements.
- The combined footprint of the new buildings included the glasshouse, which had been used as part of the previous use of Galleywood Hall, was not classed as an agricultural building and therefore was considered to be part of the previously developed land

On balance, the Committee felt that the application was acceptable and that there were no reasonable grounds for refusing it.

RESOLVED that application 19/01180/FUL in respect of the offices at Galleywood Hall, 279 Beehive Lane, Great Baddow, Chelmsford be approved, subject to the conditions set out in the report to the meeting, with the amendment to condition 17 set out in the Green Sheet.

(6.40pm to 7.19pm)

## 8. Mosaic Play Area, Guys Farm Road, South Woodham Ferrers, Chelmsford – 20/01848/FUL

The Committee had before it an application for the change of use of the site at the Mosaic Play Area, Guys Farm Road, South Woodham Ferrers from public open space and playground to residential garden land.

During discussion of the application, members asked whether consideration had been given to using the site as allotments; who would be acquiring it; why it had taken so long to reach agreement for the sale; whether the sale would set a precedent for disposing of other areas of open space; whether the Town Council was interested in acquiring the land; and whether a local school might use it for an environmental project.

The Committee was informed that a review of open space held by the Council in 2012 had resulted in the decommissioning of a number of sites that were regarded as being of poor quality and unsuitable, this site being one of them. Associated with this, play areas near such sites had been enhanced to make up for their loss. The delay in the sale of this site had been caused by legal issues associated with its disposal to three adjoining landowners who intended to use it as extensions to their gardens. South Woodham Ferrers Town Council had previously been offered the site but had declined to take it on.

RESOLVED that application 20/01848/FUL in respect of the Mosaic Play Area, Guys Farm Road, South Woodham Ferrers be approved, subject to the conditions detailed in the report to the meeting.

(7.19pm to 7.43pm)

## 9. Planning Appeals

RESOLVED that the information on appeal decisions between 27 January 2021 and 25 February 2021 be noted.

(7.43pm to 7.44pm)

The meeting closed at 7.44pm

Chair

## **PLANNING POLICY BACKGROUND INFORMATION**

The Chelmsford Local Plan 2013 – 2036 was adopted by Chelmsford City Council on 27th May 2020. The Local Plan guides growth and development across Chelmsford City Council's area as well as containing policies for determining planning applications. The policies are prefixed by 'S' for a Strategic Policy or 'DM' for a Development Management policy and are applied across the whole of the Chelmsford City Council Area where they are relevant. The Chelmsford Local Plan 2013-2036 carries full weight in the consideration of planning applications.

## **SUMMARY OF POLICIES REFERRED TO IN THIS AGENDA**

- DM2A** Policy DM2 (A) - Affordable Housing & Rural Exception Sites - The Council will require the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new residential sites which comprise 11 or more residential units.
- DM1** Policy DM1 - Size & Type of Housing - The Council will protect existing housing from redevelopment to other uses and will require an appropriate mix of dwelling types that contribute to current and future housing needs and create mixed communities. For developments of 10 or more dwellings, 50% of the new dwelling shall be constructed to meet requirement M4 (2) of the Building Regulations. On sites of 30 or more dwellings 5% off the affordable units shall also be provided as wheelchair user dwellings. Sites of 100 dwellings or more will need to comply with Ai), A ii) and Bi) and provide 5 % self-build homes which can include custom housebuilding; and provision of Specialist Residential Accommodation taking account of local housing needs.
- DM13** Policy DM13 - Designated Heritage Assets - The impact of any development proposal on the significance of a designated heritage asset or its setting, and the level of any harm, will be considered against any public benefits arising from the proposed development. The Council will preserve Listed Buildings, Conservation Areas, Registered Parks and Gardens and Scheduled Monuments.
- DM16** Policy DM16 - Ecology & Biodiversity - The impact of a development on Internationally Designated Sites, Nationally Designated Sites and Locally Designated Sites will be considered in line with the importance of the site. With National and Local Sites, this will be balanced against the benefits of the development. All development proposals should conserve and enhance the network of habitats, species and sites.
- DM17** Policy DM17 - Trees, Woodland & Landscape Features - Planning permission will only be granted for development proposals that do not result in unacceptable harm to the health of a preserved tree, trees in a Conservation Area or Registered Park and Garden, preserved woodlands or ancient woodlands. Development proposals must not result in unacceptable harm to natural landscape features that are important to the character and appearance of the area.
- DM18** Policy DM18 - Flooding/Suds - Planning permission for all types of development will only be granted where it can be demonstrated that the site is safe from all types of flooding. All major developments will be required to incorporate water management measures to reduce surface water run off and ensure that it does not increase flood risk elsewhere.

- DM23** Policy DM23 - High Quality & Inclusive Design - Planning permission will be granted for development that respects the character and appearance of the area in which it is located. Development must be compatible with its surroundings having regard to scale, siting, form, architecture, materials, boundary treatments and landscape. The design of all new buildings and extensions must be of high quality, well proportioned, have visually coherent elevations, active elevations and create safe, accessible and inclusive environments.
- DM26** Policy DM26 - Design Specification for Dwellings - All new dwellings (including flats) shall have sufficient privacy, amenity space, open space, refuse and recycling storage and shall adhere to the Nationally Described Space Standards. These must be in accordance with Appendix B. All houses in multiple occupation shall also provide sufficient communal garden space, cycle storage, parking and refuse and waste storage.
- DM27** Policy DM27 - Parking Standards - The Council will have regard to the vehicle parking standards set out in the Essex Parking Standards - Design and Good Practice (2009) or as subsequently amended when determining planning applications.
- DM29** Policy DM29 - Protecting Living & Working Environments - Development proposals must safeguard the amenities of the occupiers of any nearby residential property by ensuring that development is not overbearing and does not result in unacceptable overlooking or overshadowing. Development must also avoid unacceptable levels of polluting emissions, unless appropriate mitigation measures can be put in place and permanently maintained.
- SPS3** Strategic Policy S3 Conserving & Enhancing the Historic Environment - The Council will conserve and where appropriate enhance the historic environment. When assessing applications for development, the Council will place great weight on the preservation and enhancement of designated heritage assets and their setting. The Council will also seek to conserve and where appropriate enhance the significance of non-designated heritage assets and their settings.
- SPS4** Strategic Policy S4 Conserving & Enhancing the Natural Environment - The Council is committed to the conservation and enhancement of the natural environment through the protection of designated sites and species, whilst planning positively for biodiversity networks and minimising pollution. The Council will plan for a multifunctional network of green infrastructure. A precautionary approach will be taken where insufficient information is provided about avoidance, management, mitigation and compensation measures. Where appropriate, contributions from developments will be secured towards mitigation measures identified in the Essex Recreational disturbance Avoidance and Mitigation Strategy (RAMS)

## **VILLAGE DESIGN STATEMENTS**

VDS: Sets out the local community's view on the character and design of the local area. New development should respect its setting and contribute to its environment.

## **NATIONAL PLANNING POLICY FRAMEWORK**

The National Planning Policy Framework (NPPF) was published in February 2019. It replaces the first NPPF published in March 2012 and almost all previous national Planning Policy Statements and Planning Policy Guidance, as well as other documents.

Paragraph 1 of the NPPF sets out the Government's planning policies for England and how these should be applied. Paragraph 2 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and should be read as a whole.

Paragraph 7 says that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development meant that the planning system has three overarching objectives; an economic objective; a social objective; and an environmental objective. A presumption in favour of sustainable development is at the heart of the Framework.

The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.





**Planning Committee**  
**13<sup>th</sup> April 2021**

<b>Application No</b>	:	21/00121/FUL Full Application
<b>Location</b>	:	2A Coval Avenue Chelmsford Essex CM1 1TF
<b>Proposal</b>	:	<b>Change of use to a hostel for single homeless persons and internal alterations to facilitate the proposed use.</b>
<b>Applicant</b>	:	Mr Ian Ralph Moat Housing Group Limited
<b>Agent</b>	:	Mr Lemar Darien-Campbell
<b>Date Valid</b>	:	22nd January 2021

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Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

## 1. Executive summary

- 1.1. The application is referred to the Planning Committee as Chelmsford City Council have an interest in the proposal (as it would provide homeless accommodation on behalf of Chelmsford City Council).
- 1.2. The proposal is to change the use of 2A Coval Avenue from a Mother & Baby Unit to a hostel for single homeless persons. The applicant is Moat Housing Group, however the support would be provided by CHESS, a local charity with considerable experience working with those who are homeless in Chelmsford. CHESS assesses service users' needs and engages them in support. Each service user is given an allocated Support Worker who will work with them on accessing other services. Each resident would be signed up to a licence agreement with CHESS, which would include signing up to their code of conduct.
- 1.3. The proposed use is critical to meeting the needs of rough sleepers and single homeless persons in Chelmsford in both the short and long term. It was the only scheme in the Next Steps Accommodation Programme to receive capital funding in Chelmsford. With a newly arising need of between 50 and 70 single homeless households per annum, who would have no alternative but to sleep rough if a safe alternative is not made available, the supported accommodation offer that the proposal would provide is essential.
- 1.4. The proposal has generated a significant amount of local objection, primarily raising concerns of residential amenity and the potential for crime and anti-social behaviour. A previous use of the building, in breach of planning restrictions, as a housing scheme for young people with reduced support (commissioned by Essex County Council operated by Nacro) generated issues of crime and anti-social behaviour. An objection has been made on behalf of a group of residents which summarises the issues residents faced (see Appendix A).
- 1.5. There is nothing to say that local residents would suffer the same experience as they did when the property was used by younger people and operated by Nacro as a result of the proposed use. As part of the application consultation, the Police have advised that there are no apparent concerns regarding the change of use of the property and that if there were to be any cases of crime or anti-social behaviour then these would be investigated and addressed by Essex Police in an appropriate measured manner in conjunction with the Chelmsford City Council Community Safety Partnership.
- 1.6. It is clear from the information supplied that there are procedures for dealing with the operation and management of the building and that local resident's perception of fear of crime and disorder can be mitigated and managed. In this regard it is not considered that refusal of planning permission on this ground could be sustained and it is concluded that the proposal is not likely to have a detrimental impact on the quality of life of local residents and could be provided in a manner which is compatible with the predominantly residential nature of the surrounding area.
- 1.7. The application is recommended for approval, subject to conditions.

## **2. Description of site**

- 2.1. The application property is within the Chelmsford Urban Area, just outside of the City Centre. It is close to a large number of residential properties to the north-west, west and south-west. Parkway, a main route around the City Centre is to the north-east of the site. The Chelmsford City Council offices are on the opposite side of Parkway. To the south of the site is a small area of employment providing office accommodation.
- 2.2. The property sits close to residential properties, sharing boundaries with the rear gardens of houses in Tudor Avenue. There is a footpath to the south of the site which is heavily used by pedestrians as it serves a signalised crossing of Parkway. The footpath also serves footways which lead to Central Park.
- 2.3. The building is positioned towards the south of the site and has an enclosed garden area to the north of the building. There is also a parking area to the north-west of the building. The main entrance to the building is through the parking and private garden space.

## **3. Details of the proposal**

- 3.1. The proposal is to change the use of 2A Coval Avenue from a Mother & Baby Unit to a hostel for single homeless persons. The applicant is Moat Housing Group, however the support would be provided by CHESS, a local charity with considerable experience working with those who are homeless in Chelmsford.
- 3.2. The building would provide seven individual bedrooms with en-suites. Living spaces, a kitchen and laundry room would be shared. No external alterations to the building are proposed. Parking would remain unaffected by the proposal; at least two car parking spaces would be available for operational purposes, primarily support workers and staff.
- 3.3. The proposed use would not have 24 hour on-site supervision, however CCTV would be installed and monitored from CHESS on New London Road.

## **4. Relevant Planning History**

- 4.1. 95/05200/FUL - Approved 13th February 1995

New two storey building for 6 bed Mother & Baby Unit with associated parking.

- 4.2. 18/00450/ENFB – Enforcement Investigation 2018

Breach of condition 12 to permission 95/05200/FUL alleged use of mother baby unit as hostel to house young offenders

## 5. Summary of consultations

- One Chelmsford BID Ltd – No response.
- South Essex Parking Partnership – No response.
- Essex County Council Highways – Acceptable.
- Police - Designing Out Crime –

From policing and designing out crime perspectives there are no apparent concerns regarding this change of use of the property. Should there be cases of crime or ASB these would be investigated and addressed by Essex Police in an appropriate measured manner in conjunction with Chelmsford City Council Community Safety Partnership.

- Public Health & Protection Services – No comments.
- Local residents – Letters of objection from 59 local residents. The main concerns of local residents relate to safety and crime based on their experience of the previous unauthorised use of the building.

Representations include letters from Collins & Coward (instructed by a group of residents) and Williams Gallagher (instructed by Canada Life; a company who provide retirement, investment and protection solutions). Copies of these letters are provided at Appendix 1.

## 6. Planning considerations

### *Main Issues*

- 6.1. The main issue is whether the proposed development would safeguard the amenity of local residents.

### *Background*

- 6.2. The Homelessness Reduction Act took effect from April 2018. It created a statutory duty on all councils to prevent homelessness and for a number of other public bodies to become more involved in supporting this work. Nationally there has been an increase in homelessness but the increase in Chelmsford has been proportionally much higher than the county-wide and national average (Chelmsford City Council Homelessness and Rough Sleeping Strategy 2020 - 2024).
- 6.3. In March 2020 in response to the Covid-19 pandemic, the Government launched the 'Everyone In' scheme, to provide funding for emergency shelter for homeless people to help them self-isolate, with many housed in hotels. This initial emergency response funding enabled Chelmsford City Council to support more than 30 local rough sleepers into emergency accommodation and the majority of these to then move on into more settled and independent housing with support where needed from specialist agencies such as CHESS.
- 6.4. In July 2020 the Government issued the Next Steps Accommodation Programme. This made funding available to local authorities and their partners to increase accommodation and support for the homeless. This was to reduce the risk that some people would return to rough sleeping and being homeless after the 'Everyone In' scheme earlier in the year.

- 6.5. A bid for funding was submitted by Essex County Council on behalf of Chelmsford City Council and other neighbouring authorities. Chelmsford has an identified need of an additional 73 bed spaces and support in a variety of accommodation settings. This is based on current levels of rough sleepers, households in temporary accommodation who have slept rough, previous demand and projected additional cases of rough sleeping.
- 6.6. In March 2021 the Government published the Rough Sleeper Accommodation Prospectus 2021-2024 which targets Move-On homes with support to achieve a sustainable reduction in rough sleepers. This is another part of the range of measures to meet the Government's manifesto commitment to end rough sleeping by the end of this parliament. The proposed use of 2A as a hostel with support would be a steppingstone that residents reside and receive support in until they are able to 'move on' to more settled accommodation with continued support. The proposal provides a critical pathway to more settled accommodation.
- 6.7. The proposed use is critical to meeting the needs of rough sleepers and single homeless persons in both the short and long term in Chelmsford. It was the only scheme in the Next Steps Accommodation Programme to receive capital funding in Chelmsford. With a newly arising need of between 50 and 70 single homeless households per annum, who would have no alternative but to sleep rough if a safe alternative is not made available, the supported accommodation offer that the proposal would provide is essential.
- 6.8. In response to the Covid-19 pandemic the Government published emergency legislation which grants planning permission for emergency development by or on behalf of a local authority for the purposes of reducing, controlling or mitigating the effects of an emergency or taking other action in connection with an emergency. This is known as 'Part 12A' and means that certain development can be carried out without specific planning permission as 'permitted development'. Homelessness is an example of damage to human welfare which can be addressed through the emergency development provisions. Emergency development is subject to the caveat that any use of land ceases on or before 31<sup>st</sup> December 2021.
- 6.9. It is important to note that, whilst the Planning Statement makes reference to the Part 12A being used in the short term, the proposed development has not commenced and the building is vacant. Part 12A has not been relied on. As the current application seeks specific planning permission the caveats, conditions and restrictions of Part 12A do not apply. Instead, the proposed development must be considered against the policies within the Chelmsford Local Plan and any other material planning considerations.
- 6.10. Paragraph 59 of the National Planning Policy Framework (NPPF) states that it is important that the needs of groups with specific housing requirements are addressed. Policy DM1 of the Chelmsford Local Plan identifies that there are certain groups of people within the community that need Specialist Residential Accommodation that caters for their specific needs.
- 6.11. The proposed use would assist Chelmsford City Council to address the gap in accommodation for those who are homeless and provide safe and secure accommodation with support to help people plan and secure independent, settled accommodation in the medium to longer term. The proposal would help bridge the gap between those who may have been sleeping rough with others who still want to retain some communal sense of living.
- 6.12. The proposal would provide seven bedrooms, each with an en-suite. The ground floor of the building would provide an office, communal kitchen and living spaces and a laundry room. The accommodation would be managed by CHESS who own several other properties within Chelmsford and operate the local night-shelter.

### Site History

6.13. The site is located on the corner of Coval Avenue and Coval Lane. It adjoins properties in Tudor Avenue to the north-west, a footpath to the south and Parkway to the east. It sits in a predominantly residential area, although there are office buildings to the south and the Chelmsford City Council buildings on the opposite side of Parkway.

6.14. The property is a two storey rectangular building originally granted planning permission in 1995 for use as a six bed mother and baby unit. Condition 12 of the Planning Permission (95/05200/FUL) states:

*"The premises shall be used as a Mother and Baby unit only and for no other purpose whether or not that other purpose is falling within Part C of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that Order).*

#### *Reason:*

*To ensure no alternative use of the premises would be made which would result in parking or amenity problems."*

6.15. In 2018 the Council's Planning Enforcement service received complaints that the building was being used as accommodation for young people with reduced supervision. The use was operated by Nacro and provided temporary accommodation, commissioned by Essex County Council. This use was in breach of condition 12 of planning permission reference 95/05200/FUL.

6.16. During the period that the building was used as accommodation for young people there were a number of issues and instances of anti-social behaviour. These issues have been set out in the representation made by Collins and Coward (on behalf of local residents) and include:

- Lewd behaviour from the windows.
- Threats to several neighbours.
- Fireworks let off on a number of occasions and times.
- Broken glass, windows and litter around the site.
- Regular bonfires in the garden.
- Damage to the property and neighbouring properties.
- Graffiti.
- Regular drug dealing and drug use.
- Regular shouting, fighting, loud music, smoke alarms.
- Regular visits from police and fire brigade.

6.17. Following discussions between Nacro, local residents and Chelmsford City Council, Nacro issued eviction notices on the residents of the property and the property was subsequently vacated. The breach of planning condition 12 ceased.

#### *Residential Amenity (including crime and anti-social behaviour)*

6.18. The main issue for consideration is whether the proposed use would safeguard the amenity of nearby residential properties and whether the proposal is compatible with neighbouring or existing uses in the vicinity. The risk of crime and disorder, and the perception of it, arising from the proposed use is a material planning consideration. The issue is a key area of public concern

through the representations submitted objecting to the proposal. This is largely based on past experience of the use of the building as accommodation for young people and based on general perceptions of the homeless community.

- 6.19. The accommodation would be provided by CHESS who also provide short and long term support to those who are homeless. CHESS is a local charity with seven other properties within Chelmsford including a night-shelter and main building on New London Road. The application site is close to this, as well as the local housing authority within Chelmsford City Council. CHESS also operates other properties close to other residential properties including Bishop Road, George Street and Goldlay Avenue.
- 6.20. Those who are homeless are initially assessed through an outreach service and then in most cases for a short period at the night-shelter on New London Road. Service users would be given a room at the night-shelter for up to 28 days, having signed a licence agreement. During that time the service users are given a room and CHESS assesses their needs and engages them in support. Each service user is given an allocated Support Worker who works with them on accessing other services such as a GP, housing benefit, counselling, training etc, dependant on needs.
- 6.21. The proposed accommodation would be the next step on from the initial assessment period. Service users would already be signed up to the CHESS support service and would have a Support Worker. Each resident would be signed up to a licence agreement with CHESS, which would include signing up to their code of conduct.
- 6.22. The code of conduct would prohibit any illegal acts that would breach licence conditions, such as threats to staff and residents, possession of illegal substances. It also includes the requirement to comply with all reasonable requests of the landlord, and compliance with support plans.
- 6.23. Minor breach of the code of conduct or licence agreement would trigger a warning. Major breach would end the service user's accommodation. As CHESS does not give tenancies the notice only has to be reasonable and proportionate. A serious breach would therefore end the accommodation of that service user immediately.
- 6.24. CHESS acknowledge that local residents have concerns about the proposed use. The supporting statement to the application says that local residents will be written to and offered a meeting to discuss arrangements. Further, CHESS would introduce a designated key-worker as a point of contact for local residents to discuss or report any issues. An incident log will also be kept in order to keep track of small issues, track resolution and build a relationship with local residents.
- 6.25. Concern has been raised that the residents of the building would not have 24 hour on site supervision. This is not considered to be necessary as residents will already be part of the CHESS service. The scheme is not for those with the highest level of support need and this is reflected in the level of funding that is being made available by MHCLG and Homes England for revenue. This proposed hostel would be for those people that have been through the first stages of the CHESS assessment process that helps them deal with the issues that saw them become homeless in the first place. Therefore, those moving into the property would not be placed if they had high needs. CHESS do however provide a 24hr response for residents, which is not dissimilar to the level of support that was provided when the property was used as a mother and baby unit, prior to the change of use to a scheme for young people with no on-site support.
- 6.26. CCTV would be installed at the property. A condition requiring details of this is recommended. The main centre on New London Road would monitor activities at 2A Coval Avenue and is only a 5 minute drive away should anyone need to attend the site.

- 6.27. Local residents have expressed the bad experiences they have encountered in the past with the use of the application property but it must be noted that that use was different to the homeless hostel use which is now proposed. That previous use related to accommodation for young people under the management of Nacro.
- 6.28. An appeal decision has been submitted on behalf of the local residents. Although that appeal dealt with similar issues of disturbance, anti-social behaviour and the well-being of local residents, it is crucial to note that the appeal was against an Enforcement Notice issued in Walthamstow. This means that the Inspector was essentially considering the continued use of the property against the evidence given by local residents. In the instance of 2A Coval Lane, we are not considering whether the previous use as accommodation for young people by Nacro can continue, we are considering a new use carried out by a different operator (CHESS).
- 6.29. There is nothing to say that local residents would suffer the same experience as they did when the property was used by young people and operated by Nacro as a result of the proposed use. There is, of course, the possibility for anti-social behaviour, and in the short term there is likely to be a nervousness amongst local residents about the potential for anti-social behaviour, however this could be the case for any residential type use in any area. It is largely down to the individual users.
- 6.30. As part of the application the Police have advised that there are no apparent concerns regarding the change of use of the property and that if there were to be any cases of crime or anti-social behaviour then these would be investigated and addressed by Essex Police in an appropriate measured manner in conjunction with the Chelmsford City Council Community Safety Partnership.
- 6.31. It is clear from the information supplied that there are procedures for dealing with the operation and management of the building and that local resident's perception of fear of crime and disorder can be mitigated and managed. In this regard it is not considered that refusal of planning permission on this ground could be sustained and it is concluded that the proposal is not likely to have a detrimental impact on the quality of life of local residents and could be provided in a manner which is compatible with the predominantly residential nature of the surrounding area.
- 6.32. The proposal makes no changes to the external appearance of the building. It would also not generate a need for any additional car parking. The proposed development would comply with the Chelmsford Local Plan. Approval of the application, subject to conditions, is therefore recommended as the proposal would meet a critical need for specialist accommodation in accordance with Policy DM1 whilst also adequately safeguarding the amenity of local residents in compliance with Policy DM29.

## **7. Community Infrastructure Levy (CIL)**

- 7.1. The proposed use is not CIL liable.

**The Application be APPROVED subject to the following conditions:-**

### **Condition 1**

The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason:

In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.



**Condition 2**

The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice.

Reason:

In order to achieve satisfactory development of the site

**Condition 3**

a) Details of the proposed CCTV system, including the cameras, their field of vision and their location shall be submitted to and approved in writing by the local planning authority.

b) The development shall not be occupied until the CCTV system has been provided in accordance with the approved details.

c) The CCTV system shall remain as approved and operational unless otherwise agreed in writing with the local planning authority.

Reason:

In the interests of the amenity of local residents in accordance with Policy DM29 of the Chelmsford Local Plan.

**Condition 4**

The site and building shall only be used as a hostel for no more than 7 single homeless persons and for no other purpose.

Reason:

To ensure no alternative use of the premises would be made which would result in parking or amenity problems in accordance with Policy DM29 and Policy DM27 of the Chelmsford Local Plan and .

**Background Papers**

Case File

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**One Chelmsford BID Ltd**

Comments
No response received

**South Essex Parking Partnership**

Comments
No response received

**Essex County Council Highways**

Comments
01.03.2021  As far as can be determined from the details submitted, the proposal will not alter the existing access arrangements to the local highway network. The proposal as submitted is not considered detrimental to highway safety, capacity or efficiency, therefore; From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority.

**Police - Designing Out Crime**

Comments
24.03.2021  From policing and designing out crime perspectives there are no apparent concerns regarding this change of use of the property. Should there be cases of crime or ASB these would be investigated and addressed by Essex Police in an appropriate measured manner in conjunction with Chelmsford City Council Community Safety Partnership.

**Public Health & Protection Services**

Comments
08.02.2021 - No PH&PS comments with regard to this application.

**Local Residents**

Comments
Representations received from 59 local residents, summarised as follows:  Area occupied by families and elderly – not suitable environment for homeless hostel. Previous issues with drug use, vandalism, litter. Should be used for elderly meeting place. Site would become a place for congregation.

Previous breach of planning control resulted in eviction.

Concerns for safety.

Anti-social activities.

No 24hour care/supervision.

No proper consultation.

Should be for mother & baby only.

Building could be put to other uses.

Conflict with GPDO part 12A.

Not designated in plan.

What happens if the use is not run by CHESS?

Will lead to a breakdown of community feel.

Increased litter.

DM1 says to protect existing housing.

Change of use does not resolve rough sleeping issue.

Representations were also made by Collins and Coward on behalf of a group of residents and by Williams Gallagher (instructed by Canada Life; a company who provide retirement, investment and protection solutions). Copies of these letters (and supporting documents) are provided below as a good representation of all representations made by the local community.

1. We are instructed by a group of residents local to the application site to object to this planning application, being determined pursuant to 21/00121/FUL for development described as

**"Change of use to a hostel for single homeless persons and internal alterations to facilitate the proposed use".**

2. We act on behalf of the following residents, variously of Tudor Avenue [REDACTED] Coval Lane, Rainsford Lane, Hardy Close, Alma Drive, Elgin Avenue and Prykes Drive.
3. In formulating this objection we have had regard to the planning statement and the submitted plans which show the property will provide communal facilities at ground floor level plus one bedroom also at ground floor level and seven further bedrooms at first floor level such that the property will provide accommodation for eight homeless persons.
4. There is relevant planning history in respect of this site with planning permission having been granted pursuant to **95/CHL/0020** on 13<sup>th</sup> February, 1995 for development described as follows:

**"New two-storey building for six-bed mother and baby unit with associated parking".**

5. Most pertinently this approval was subject to condition 12 which read as follows:

**"The premises shall be used as a mother and baby unit only and for no other purpose whether or not that other purpose is falling within Part C of the schedule to the Town and Country Planning (Use Classes) Order 1997 (or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that order)".**

6. In view of this conditionality, which is very clear in the manner in which it restricts the use of the building, we struggle a little with the statement at paragraph 2.10 of the submitted planning statement in relation to the current

application which refers to Part 12A (Development by Health Authorities and Health Service Bodies) to Class A of the GPDO and paragraph 3.2 of the supporting statement which states as follows:

**“In the short term, it is proposed to use the emergency permitted development rights conferred by Part 12A Class A of the General Permitted Development Order 2015 to bring the building into use as soon as possible for the winter period to help rough sleepers/former rough sleepers whom were identified as being extremely vulnerable at the start of the Covid-19 pandemic”.**

7. Either way Part 12 expired as of 31<sup>st</sup> December 2020 (conditionality A.2 (B)) and this application is for a permanent planning permission which would supersede any previous planning history once implemented.
8. We acknowledge the need and also the significant sensitivities which arise from homelessness particularly at the time of Covid-19.
9. However, planning is about appropriately balancing land uses and this is a case which give rise to significant amenity concerns for the residents whom we represent.
10. It is noted that this application is for a permanent planning permission.
11. For this reason we turn to policy DM29 of the Local Plan, as the most relevant amenity related policy, which reads as follows together with its associated explanatory text, with our emphasis added:

**POLICY DM29 – PROTECTING LIVING AND WORKING ENVIRONMENTS**

**Planning permission will be granted for development proposals provided the development:**



- i. **safeguards the living environment of the occupiers of any nearby residential property by ensuring that the development is not overbearing and does not result in unacceptable overlooking or overshadowing. The development shall also not result in excessive noise, activity or vehicle movements; and**
- ii. **is compatible with neighbouring or existing uses in the vicinity of the development by ensuring that the development avoids unacceptable levels of polluting emissions by reason of noise, light, smell, fumes, vibrations or other issues, unless appropriate mitigation measures can be put in place and permanently maintained**

#### **Reasoned Justification**

**9.36 High-quality development by definition should not result in adverse impact on the amenities of occupiers of nearby residential properties. This includes the protection of existing living environments by ensuring there is not excessive noise or unacceptable overlooking created by new development. The physical built form of the development must not have an oppressive or overbearing effect or result in a harmful loss of light.**

**9.37 The planning system has an important role to play in protecting the environment, biodiversity, local residents, businesses and the public in general from all forms of development that could give rise to pollution. Pollution can be in many forms and includes all solid, liquid and gaseous emissions to air, land and water (including groundwater) from all types of development. Pollution includes noise, light, vibration, smell, smoke and fumes, soot, ash, dust or grit which has a damaging effect on the environment and the public's enjoyment, health or amenity.**

**9.38 When considering amenities of a development proposal, the impact on the continued operation of existing nearby uses should also be evaluated when looking at the acceptability of the proposal**

12. As explained in the numerous objections lodged on the site there has been a general hostel use of the site in recent years.

13. Therefore, the change from the mother and baby unit to a general hostel use has proven to be harmful to some significant degree.

14. We enclose and the summary information that we have been provided with is as follows:

- **Lewd behaviour from the windows to a neighbour's daughter walking past.**
- **Threats to several neighbours.**
- **Fireworks let off on a number of occasions and times.**
- **Various broken glass bottles around the perimeter.**
- **Several broken windows with glass left in the bushes that I eventually picked up.**
- **Litter from the hostels around the perimeter.**
- **Toilet rolls thrown out the windows.**
- **Drinks and food thrown out the windows.**
- **Litter in the road from cars visiting the hostel.**
- **Regular bonfires in the garden with aerosols being put on.**
- **Smashed fence panels of theirs and neighbours.**
- **Drug tag graffiti on the exterior wall facing Parkway.**

- **Regular drug dealing on the street outside their office and in front of their CCTV.**
- **We were promised 24hr security but they was never really there and had no control when they was there.**
- **Light bulbs thrown out of window.**
- **Regular smell of cannabis from the windows.**
- **Regular shouting and fighting within and outside.**
- **Regular visits from police and chasing people around the hostel.**
- **Visits from the fire brigade.**
- **Regular smoke alarms going off.**
- **Regular loud music and parties inside and out.**
- **Broken exterior shrouds for the ventilation and cables capped to the exterior wall getting loosened.**
- **Breaking garden furniture in the street on a summers day.**

15. There has also been previously correspondence with both the planning enforcement team of the local planning authority (2018) and Moat Housing as follows, with our emphasis added:

**From: "CHITTY, Joseph"** 

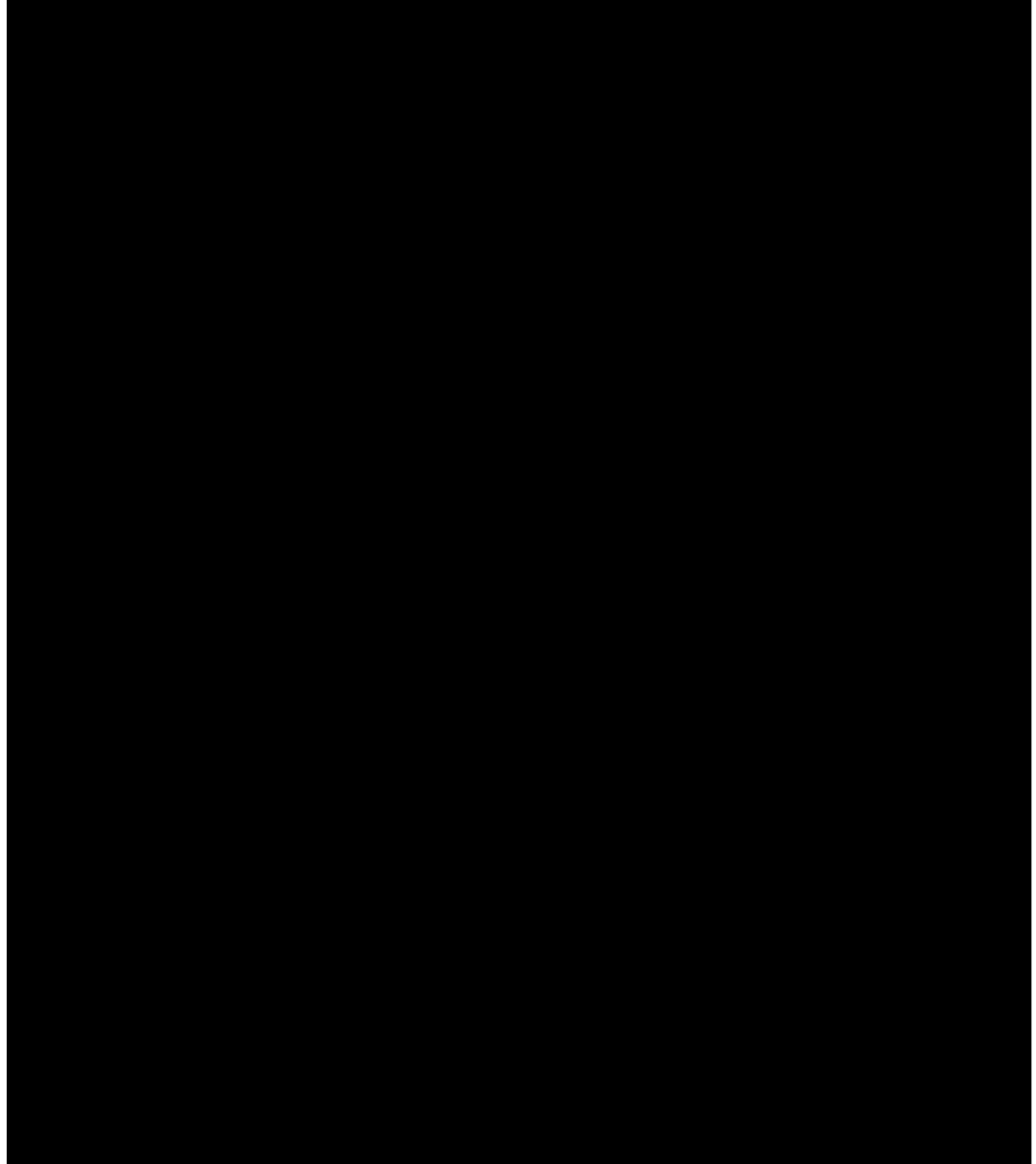
**Date: 3 December 2018 at 16:13:31 GMT**



**To:**

**Subject:** [REDACTED] - 2A Coval Avenue, CM1 1TF

**Dear Mr Gibbons**



**You will appreciate that these are personal opinions expressed at officer level and are given entirely without prejudice to any formal decision of the local planning authority.**

**Kind regards**

**Joe Chitty**

**Planning Investigator**

**Directorate for Sustainable Communities**

**Chelmsford City Council**

**Tel:** [REDACTED]

**Email:** [REDACTED]

16. And also Moat in 2019:

**Sarah Ballard** [REDACTED]

**Jan 9, 2019, 10:38 AM**

to me, cllr.dick. [REDACTED]  
jude.deakin [REDACTED] vicky.ford [REDACTED]  
c.conners [REDACTED] Hilary.logie [REDACTED]  
maggiedog1 [REDACTED] Clare.Burrell [REDACTED]

**Good morning Jason,**

**Thank you for your email.**

**As you will be aware, the resident's have all been moved from the building and we are now exploring what the most suitable options for the future use will be. Our preference would also be to return to the use for a mother and baby service, though there are some challenges to determine, such as whether there is a demand for**

**this client group and whether the set up of the building is still relevant and suitable.**

**We are in discussions with Nacro to end their contract to manage the building, since it is no longer in use.**

**Moving forward, we are keen to see any future service integrated within the local community and would expect the provider that is delivering the service to rebuild strong relationships with local residents. With that in mind, I would like to take the offer of hearing your suggestions for the future use of the building.**

**Our Head of Retirement and Supported Living and I are happy to meet with you should this be of interest. We can either meet at 2A Coval Avenue, where Nacro will provide access for us to use the lounge space, or alternatively, we can meet at our offices in Maldon.**

**Please do let me know your preference, so we can arrange a date.**

**If needed in the future, we may arrange a meeting for all local residents but at this stage, can I ask that you collate the suggestions for those that are willing to share?**

**Kind regards,**

**Sarah**

**Sarah Ballard | Supported Housing and Contracts Manager |**



17. The existing accounts that the local planning authority has (in terms of objections lodged in relation to the current application and as above and in the enclosed schedule) which arise from the unlawful hostel use represent the best

evidence of the problems that have arisen and which can be anticipated to arise from the current application proposal.

18. It is noted that the alternate hostel use did not have the benefit of planning permission as there is no other statutory planning history other than the original planning application and the current application.
19. Therefore the hostel use was in breach of condition 12 as attached to the original planning permission which limited the use of the property to the originally approved mother and baby unit.
20. Any period of lawful occupation which has given rise to amenity issues is not a firm basis for a positive consideration of this current application.
21. Our concerns arise from the transient nature of the accommodation and occupation.
22. We note that many local planning authorities (albeit we acknowledge not Chelmsford City Council) set their face against C4 HMO occupation via Article 4 directions due to concerns with amenity issues arising from up to six people sharing. We make this point to highlight the sensitivities which arise from the transient occupation of properties in close proximity to family homes.
23. Again aware of the sensitivities arising from the use, there can be drug and alcohol issues associated with rough sleeping and also mental health issues.
24. There is a need for these problems to be addressed and those in need should be supported, however, the current application site is simply not the right site and this is the key matter which lies at the heart of the determination of this planning application.
25. It is too small, too closely located to residential properties and there is a very small garden area which has the potential for intensive occupation possibly well into the night.



26. This is at the back of the bedrooms of the adjoining properties.
27. We anticipate that the applicant will provide their assurance that the property will be well managed and as such our fears will not be realised; it is our concern that certain issues are not capable of effective management in this context.
28. For this firm this is worryingly reminiscent of an appeal that we were instructed in relation to **4 Pembroke Road** within the remit of the London Borough of Waltham Forest. In this case we represented a group of long-suffering local residents and the history is set out in the enclosed appeal decision.
29. We attach an appeal decision reference APP/U5930/C/11/2151319 of 9<sup>th</sup> January 2012 following a planning inquiry which lasted for over a week in relation to the retention of a children's home at this site.
30. As can be seen from the appeal decision we had the status of Rule 6 parties referred to "**local residents in conjunction with Collins & Coward**".
31. This issue went on for many years and during the course of our involvement we advised the residents to keep a diary of all the issues that they were experiencing and also a number of residents gave direct evidence to the inquiry.
32. It is sad to see resident's schedules/diaries being prepared yet again.
33. The issues are best expressed from paragraphs 26 to 28 which read as follows, with our emphasis added:

**26. At the Inquiry, the Rule 6 Party gave a detailed account of incidents giving rise to noise and disturbance, to which the Council largely deferred. This centres on a diary kept by the occupiers of no. 6, which details incidents from late 2008 onwards and their effect on their well-being. In cross-examination, their sensitivity to the noise was questioned and it was put to them that they might have become frustrated by the apparent unwillingness of various regulatory bodies to resolve matters. The veracity of the diary entries was not**

seriously challenged or their account of how events affected them. That it had a palpable effect was all too apparent from the distress suffered by Mr Ahmed in giving oral evidence. In cross-examination, he made it plain that he held the appellants, not the Council or other bodies, solely responsible for causing it.

27. The diary entries refer to the repeated occurrence, spread over three years (to date), of sudden and unpredictable outbursts from the residents of the home. This typically involves shouting, screaming, banging doors and running up and down stairs, in addition to playing loud music. Fire alarms are set off. As reported, these outbursts are disturbing and sometimes violent, often occurring late at night or in the early mornings when neighbouring occupiers ought reasonably to expect peace and quiet in order to enable them to sleep. They are typically loud, uncontrolled and to a degree rebellious – the use of the phrase “kicking off” by staff in one of the reported incidents gives a flavour of their nature. The behaviour of some individuals appears to have been openly intimidating to fellow residents and to neighbouring occupiers.
28. Recorded incidents take place largely within, but are not confined to, the home. They extend to the front porch, the rear garden and the street. Reference is made to loud music and intrusively noisy activity in the garden and to young people frequently talking loudly and smoking in the front porch and the street until late at night. This includes smoking cannabis. There are examples of residents swearing loudly, both inside and outside the home, a feature which would plainly have an unsettling effect on any family with young children. Instances are reported of litter being casually left in the front and rear garden of no. 6 and eggs and other objects thrown at other neighbours’ cars. Evidence from another neighbouring occupier to the Inquiry, who was also distressed when recounting the intimidating behaviour of some



**residents, left me in little doubt as to the fear and apprehension felt.**

34. At paragraph 29 the issue of management was also considered and addressed in the following terms:

**29. The diary entries give expression to a view that, with regard to many incidents, the management of the home appears lax. It seems more likely that the staff face genuine difficulties trying to exercise any proper day-to-day control over the behaviour of some residents. The Council highlights extracts from the care home's Statement of Purpose which says that the home cares for residents who present problems which have contributed in the past to the disruption of family relationships and previous placements. That is not to say that they have extreme behavioural problems – rather, that their emotional and behavioural difficulties are manifested in examples of extreme behaviour, stemming from an "inner turmoil". It goes on to say that a balance is struck between understanding behaviour, establishing boundaries and promoting personal responsibility. Plainly, such a balance will be difficult to achieve in some cases.**

35. We would add that the need to house children is perhaps even more sensitive than the current application to house rough sleepers, which we assume will be predominately adult.
36. In conclusion the proposal will cause the harm that policy DM29 is in place to avoid.
37. This site is simply too close to residential properties and a group of unrelated individuals whom are only living in the property on a transient basis will give rise to material planning harm in respect of residential amenity.
38. That much is evident from the previous unlawful hostel use to which all the residents refer.

39. Acknowledging the need for such a facility the harm to the amenity of those who have made this local area their home is overriding such that the proposal simply does not accord with the Development Plan and cannot seen to be a sustainable form of development for the reasons outlined.



Planning Application comments have been made on 21/00121/FUL. A summary of the comments is provided below.

Comments were submitted at 8:36 PM on 02 Mar 2021 from Mr Matthew Williams.

### **Application Summary**

**Address:** 2A Coval Avenue Chelmsford Essex CM1 1TF  
**Proposal:** Change of use to a hostel for single homeless persons and internal alterations to facilitate the proposed use.  
**Case Officer:** Kirsty Dougal

### **Customer Details**

**Name:** Mr Matthew Williams  
**Email:** [REDACTED]  
**Address:** [REDACTED]

### **Comments Details**

**Commenter Type:** Other  
**Stance:** Customer objects to the Planning Application  
**Comments:** Dear Sirs

OBJECTION TO PLANNING APPLICATION REFERENCE: 21/00121/FUL  
CHANGE OF USE TO A HOSTEL FOR SINGLE HOMELESS PERSONS  
AND INTERNAL ALTERATIONS - 2A COVAL AVENUE, CHELMSFORD  
CM1 1TF

Williams Gallagher has been instructed by Canada Life to review the planning application by Moat Housing Group Ltd for the change of use of 2A Coval Avenue from a mother and baby unit with associated parking to a hostel for single homeless persons and internal alterations to facilitate the proposed use.

Our instruction is in the interests of assessing whether the planning application as submitted, alongside any stated conditions and management parameters will meet local and national planning policies for fostering sustainable communities and protecting the health and wellbeing of existing residents and new residents of the hostel.

We have now reviewed the submitted planning application material dated 27th January 2021 which is available on Chelmsford City Council's Public Access System. Unfortunately, this does not currently provide sufficient comfort that the hostel will be appropriately managed which is essential given the proximity of existing residents, the history of and approach to resolution of anti-social behaviour by the previous charity organisation responsible for the wellbeing of residents, and the need to ensure the welfare of

new residents while living at the property.

Should appropriate management measures by way of a clear and enforceable management plan, including on-site carer be secured, we would be in a position to remove our objection to the application because the principle of providing accommodation for homeless people is one which our Client fully supports. However, this should not be to the detriment of an existing community if the opportunity to secure appropriate safeguards is missed.

### History

The current lawful use of the site is that of a six-bed mother and baby unit with associated parking. The operative permission is 95/CHL/0020 which was granted planning permission on 13th February 1995.

The decision notice includes a number of conditions, the most important of which is condition 12 as follows:

"The premises shall be used as a mother and baby unit only and for no other purpose whether or not that other purpose is falling within Part C of the schedule to the Town and Country Planning (Use Classes) Order 1997 (or in any provision equivalent to that class in any statutory instrument revoking or re-enacting that order)"

The reason given for removing any potential change from the specified use of the property as a mother and baby unit by condition 12 is:

"To ensure no alternative use of the premises would be made which would result in parking or amenity problems".

We note from the Moat Housing Ltd Planning Statement that the property has been empty for approximately two years. We also note from the submissions of Collins and Coward Ltd that the property was unlawfully run as a general hostel for some time by Moat Housing [REDACTED] was opened. This resulted in the residents of the property at that time, who were not mothers with babies, being removed from the property and it eventually being closed entirely in 2018.

During the unlawful occupation of the property there were numerous complaints and issues raised by local residents. All of which are presented within the evidence of Collin and Coward and include:

- Lewd behaviour from the windows to a neighbours daughter walking past.
- Threats to several neighbours.
- Fireworks let off on a number of occasions and times.
- Various broken glass bottles around the perimeter.
- Several broken windows with glass left in the bushes that I

eventually picked up.

- Litter from the hostels around the perimeter.
- Toilet rolls thrown out the windows.
- Drinks and food thrown out the windows.
- Litter in the road from cars visiting the hostel.
- Regular bonfires in the garden with aerosols being put on.
- Smashed fence panels of theirs and neighbours.
- Drug tag graffiti on the exterior wall facing Parkway.
- Regular drug dealing on the street outside their office and in front of their CCTV.
- We were promised 24hr security but they was never really there and had no control when they was there.
- Light bulbs thrown out of window.
- Regular smell of cannabis from the windows.
- Regular shouting and fighting within and outside.
- Regular visits from police and chasing people around the hostel.
- Visits from the fire brigade.
- Regular smoke alarms going off.
- Regular loud music and parties inside and out.
- Broken exterior shrouds for the ventilation and cables capped to the exterior wall getting loosened.
- Breaking garden furniture in the street on a summers day.

A spreadsheet of how these issues were dealt with on behalf of and by Moat Housing Ltd is set out within an Appendix to that submission. This appears to suggest an ongoing level of anti-social and problematic events that impacted negatively on existing residents.

#### Relevant Considerations

The adopted Development Plan for Chelmsford is the Chelmsford Local Plan 2013 - 2036 (adopted May 2020).

The most relevant policy to the consideration of the planning application for change of use is Policy DM29 - Protecting Living and Working Environments, which states:

"Planning permission will be granted for development proposals provided the development:

- i) safeguards the living environment of the occupiers of any nearby residential property by ensuring that the development is not overbearing and does not result in unacceptable overlooking or overshadowing. The development shall also not result in excessive noise, activity or vehicle movements; and
- ii) is compatible with neighbouring or existing uses in the vicinity of the development by ensuring that the development avoids unacceptable levels of polluting emissions by reason of noise, light, smell, fumes, vibrations or other issues, unless appropriate mitigation measures can be put in place and permanently

maintained

#### Reasoned Justification

9.36 High-quality development by definition should not result in adverse impact on the amenities of occupiers of nearby residential properties. This includes the protection of existing living environments by ensuring there is not excessive noise or unacceptable overlooking created by new development. The physical built form of the development must not have an oppressive or overbearing effect or result in a harmful loss of light.

9.37 The planning system has an important role to play in protecting the environment, biodiversity, local residents, businesses and the public in general from all forms of development that could give rise to pollution. Pollution can be in many forms and includes all solid, liquid and gaseous emissions to air, land and water (including groundwater) from all types of development. Pollution includes noise, light, vibration, smell, smoke and fumes, soot, ash, dust or grit which has a damaging effect on the environment and the public's enjoyment, health or amenity.

9.38 When considering amenities of a development proposal, the impact on the continued operation of existing nearby uses should also be evaluated when looking at the acceptability of the proposal.

The National Planning Policy Framework (February 2019) includes a number of relevant paragraphs as follows:

53 The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities). Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

127 Planning policies and decisions should ensure that developments (inter alia);

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The Proposal

The change of use application seeks a permanent change of use of the building and car parking / amenity space to be used for single homeless households.

The submitted floorplans show a revised internal layout, including bedroom furniture, to show how 7 bedrooms could be created all having en-suite bathrooms. The ground floor would include a living room, common room, communal kitchen, laundry room, office and 1

no. bedroom and en-suite. The first floor would include 6 no. bedrooms all with en-suite.

The office is for "floating support" from specialist agencies, as and when needed . No permanent on site management or care is proposed.

We note the proposed operational link with CHESS and the assessment of proposed residents through their outreach service prior to new residents moving to the property.

Paragraph 3.21 of the Planning Statement identifies that CHESS will provide and offer the following:

- Written correspondence to those residential properties closest to the Site. Within this correspondence, it will explain the temporary and longer-term usage of the Site and offer a scheduled meeting (currently by phone or video-link) to those wishing to discuss the arrangements.
- As a part of their management approach, CHESS would introduce designated key worker and 'point of contact' should there be a need to contact them to report and concerns or manage any issues. This is the same way as they operate with their clients, building up trust and showing respect and they want to work with their neighbours in the same way.
- CHESS will operate an incident log, aware that sometimes a repletion of small incidents or issues can become aggravating if re-occurring, sometimes this is also necessary to demonstrate the need for support from others as well as tracking progress in resolving problems and building good relationships.
- Should there ever be a situation that local residents are unhappy with the way that CHESS has dealt with an issue, CHESS would welcome matters being referred to a local ward councillor, other elected members of the Council's housing Service so that they can offer to assist, ensuring CHESS is taking all reasonable steps. CHESS have always worked closely with the police and other partners, seeking their support when needed and we would also share this with the Council to ensure that risks are managed, and non inappropriate offers of temporary accommodation are made.
- The site would have a combination of on-site support, as originally intended when first constructed (including agreed work-plans for each resident that are shared with relevant partners) and a designated point of contact for local residents, as mentioned above. In cases of unacceptable behaviour, it is made very clear to their residents that this can and in some cases will result in immediate termination of the resident's licence to occupy.

Paragraph 3.22 goes on to state:

"Under the proposal; each resident at the Site would be on a license agreement with CHESS, which would include a code of conduct. CHESS would also be working with local partners and supported

housing providers, including the City Council housing team, to move people on from the Site, when properties become available."

#### Consideration of the Proposal

The need to provide accommodation for homeless persons is not in contention and is welcomed in principle. However, the use applied for must be considered within the context of relevant planning policies, whether the proposal accords with these policies and if it does not, whether any planning conditions / legal agreement could be imposed to make the proposal acceptable.

The site has a history of use as a mother and baby unit hostel and, at the time of drafting this representation, we are not aware of any anti-social or problematic behaviours associated with the property when operating as such a facility.

We are aware that when the property was unlawfully operated as a general hostel use there were numerous complaints to Moat Housing Ltd and ultimately an enforcement case was opened by the city council and in turn the unlawful use ceased. There is therefore a history of a general hostel use causing concern to the amenity of the local community and this hostel being operated in conjunction with the applicant.

Due to the unlawful use as a general hostel not having any associated planning conditions relating to the management of the property, it is not possible to say what standards were in place against which the behaviour of residents was assessed and in turn what mechanisms were employed to meaningfully address behaviour that was deemed detrimental to amenity by existing residents.

We note that Moat Housing Ltd were the owners of the property when it was unlawfully used and the website for the company includes a page on what Moat Housing Ltd classes as anti-social behaviours. This is defined as follows :

#### What may be considered anti-social behaviour (ASB)

- Extreme noise
- Vandalism and damage to property
- Fouling of public areas, graffiti, fly tipping and nuisance vehicles
- Behaviour related to drug or alcohol abuse

We would consider the following as normal everyday life and not ASB:

- Sounds and smells of everyday life
- Outdoor playing and one-off parties
- Looks, stares or comments on social media
- Laughing, talking and crying babies
- Inconsiderate behaviour

The second part of the list includes behaviours that have the potential to cause nuisance and detriment to the amenity of local residents but would not be actionable by Moat Housing and therefore we assume CHESS. This gives rise to the very real concern that adverse impacts could materialise because there is not a meaningful recognition by the owners of the property as to what issues will be of concern to existing residents.

The need for a meaningful management plan, with clear and enforceable protocols to address issues that cause amenity problems has the potential to mitigate these concerns. It is therefore appropriate and necessary that the applicant prepare the management plan now so that the city council and consultees can review the content and provide comment.

Matters within the management plan, in addition to defining anti-social and nuisance behaviours as discussed above, that could be subject to appropriate controls include:

- The timings when on-site management / care givers will be present;
- The timings of when the building will be secured in the evenings and how access control will operate;
- Protocols around use of the outdoor amenity space;
- Clear protocols around anti-social behaviour;
- Clear protocols around nuisance behaviour;
- Restrictions on occupancy to a maximum of 7 and one per room. Without this restriction the hostel could potentially operate at a significantly greater capacity which may not be appropriate for the size of rooms and communal space available;
- Clear steps and associated timing for addressing any matters that arise in relation to the above and quantifiable outcomes where these are not met / breached;
- Etc.

In addition, the city council should give consideration to the use of specific conditions to address:

- maximum occupancy numbers per room;
- Removal of permitted development rights;
- Defining the change of use application as a personal permission to Moat Housing Group with ultimate responsibility for implementation of the Management Plan falling on them as owner; and
- Making this a temporary change of use to give time for the city council to assess the impacts of the use over an initial period.

It is considered that restricting the current application to that of a temporary change of use is appropriate in this case given the history of the site and operation by the applicant and because the applicant has already confirmed that they would have operated the property under the emergency COVID provisions for the use proposed.



"In the short term, it is proposed to use the emergency permitted development rights conferred by Part 12A Class A of the General Permitted Development Order 2015 to bring the building into use as soon as possible for the winter period to help rough sleepers/former rough sleepers whom were identified as being extremely vulnerable at the start of the Covid-19 pandemic".

The emergency provisions are no longer in place and we are not aware that the applicant ever utilised the building using these measures. However, the statement confirms the applicant would not have had any concern with occupying the building even with the risk planning permission might not be granted for the longer term use. Accordingly, trialling the use with a formal management plan in place would be an entirely appropriate approach to assessing what, if any amenity concerns arise from the proposed use. It would also be consistent with Planning Practice Guidance concerning the use of temporary planning permissions:

"When can conditions be used to grant planning permission for a use for a temporary period only?

Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only.

Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.

A temporary planning permission may also be appropriate to enable the temporary use of vacant land or buildings prior to any longer-term proposals coming forward (a 'meanwhile use').

It will rarely be justifiable to grant a second temporary permission (except in cases where changing circumstances provide a clear rationale, such as temporary classrooms and other school facilities). Further permissions can normally be granted permanently or refused if there is clear justification for doing so. There is no presumption that a temporary grant of planning permission will then be granted permanently.

A condition requiring the demolition after a stated period of a building that is clearly intended to be permanent is unlikely to pass the test of reasonableness. Conditions requiring demolition of buildings which are imposed on planning permissions for change of use are unlikely to relate fairly and reasonably to the development permitted. "

We trust that the above representation will be taken into account by



the city council in the determination of the planning application and would welcome the opportunity to review the management plan / proposed conditions once available in the hope that we can remove this current objection.



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# Appeal Decisions

Inquiry opened on 18 October 2011

Site visit made on 7 December 2011

**by Chris Hoult BA BPhil MRTPI MIQ**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9 January 2012**

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## **Appeal Ref: APP/U5930/C/11/2151319**

### **Land at 4 Pembroke Road, Walthamstow, London E17 9PB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Kartikeya Solutions Limited against an enforcement notice issued by the Council of the London Borough of Waltham Forest.
- The Council's reference is 2010/0051/ENF.
- The notice was issued on 14 March 2011.
- The breach of planning control alleged in the notice is failure to comply with condition no. 3 of a planning permission Ref 2006/1801 granted on 13 March 2007 (*sic*).
- The development to which the permission relates is the removal of condition 1 of Planning Permission 2004/0240 to continue use as a residential children's home as shown on drawing no. 1473-01A received on 8 December 2006. The condition in question is no. 3 which states that: "The use hereby permitted shall be for a limited period only expiring on or before 20 June 2009 at which time the use shall cease". The notice alleges that the condition has not been complied with in that the use of the Land as a residential children's home has not ceased and continues to the present day.
- The requirements of the notice are to permanently cease the use of the Land as a residential children's home.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended ("the 1990 Act").

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with correction and variation.**

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## **Appeal Ref: APP/U5930/A/11/2146559**

### **4 Pembroke Road, Walthamstow, London E17 9PB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Kartikeya Solutions Limited trading as "Unique Children's Home" against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref 2009/0543, dated 24 April 2009, was refused by notice dated 6 August 2010.
- The application sought planning permission for the removal of condition 1 of planning permission 2004/0240 to continue use as a residential children's home without complying with a condition attached to planning permission Ref 2006/1801, dated 15 March 2007.
- The condition in dispute is No. 3 which states that: "The use hereby permitted shall be for a limited period only expiring on or before 20 June 2009 at which time the use shall cease".
- The reason given for the condition is: "To enable the Local Planning Authority to consider the effect of the use on the amenities of the neighbouring properties and to

comply with policies BHE1 and BHE4 of the adopted Waltham Forest Unitary Development Plan (2006)".

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**Summary of Decision: The appeal is dismissed.**

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**Application for costs**

1. At the Inquiry, an application for costs was made by the appellant against the Council. This application is the subject of a separate decision.

**Preliminary matters**

2. The development subject of the s78 appeal is described on the application form as "the renewal of the existing permission for continued use as a residential children's home". However, it is best understood as for the continuation of the children's home use on a permanent basis, without complying with condition 3 attached to permission ref. 2006/1801 limiting it to a temporary period. At the Inquiry, the parties were agreed that I deal with the appeal on that basis. For the avoidance of doubt, the date of the 2007 permission is 15 March 2007.
3. The application plan is numbered 1473-02A but has a reference to a Revision B. The Council confirmed that that was the application plan and the parties agreed that, correctly, it should be referred to as ref. 1473-02B.
4. Pursuant to Rule 6(6) of the Inquiries Procedures Rules<sup>1</sup>, a group of local objectors, who were represented by a planning consultant,<sup>2</sup> were given main party status. I refer to them as the "Rule 6 Party". The oral evidence of Mr Ahmed and Ms Clarke for the Rule 6 Party was given by them together, with the agreement of all the main parties. I accepted it on that basis.
5. The Inquiry sat on 18-20 October and resumed on 5-6 December 2011.

**Matters concerning the notice**

6. The notice requires that the use "permanently" cease. S181 of the 1990 Act requires that any cessation of a use shall be on a permanent basis. In any event the notice seeks to remedy the breach by requiring compliance with the condition, which requires the use simply to cease. A reference to "permanently" is superfluous and I shall correct the notice by deleting it.

**Ground (c) appeal**

7. The appellants' case is that the use falls within Use Class C3(b) of the Use Classes Order<sup>3</sup>, under which use by not more than 6 residents living together as a single household (including where care is provided for residents) is classed as a dwellinghouse use. Since, prior to becoming a care home, the property was in use as a family dwelling, it will have remained in C3 use and no material change of use will have taken place. Alternatively, if I were to find that the use falls within Class C2,<sup>4</sup> they argue that, as a change from a Class C3 use, it does not, on account of the character of the use, amount to a material change of use. If no material change of use has occurred, no development (as defined in s55 of the 1990 Act) requiring planning permission has taken place.

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<sup>1</sup> The Town and Country Planning Appeals (Determination by Inspectors)(Inquiries Procedure)(England) Rules (SI 2000/1625).

<sup>2</sup> Known as "Local Residents in Conjunction with Collins and Coward".

<sup>3</sup> The Town and Country Planning (Use Classes) Order 1987 as amended.

<sup>4</sup> Defined as "use for the provision of residential accommodation and care to those in need of care".

8. In order to address this argument, it is necessary to carry out a two-stage assessment, to determine (1) whether the use is in Class C3 or C2, and (2) if in C2, whether a material change of use has occurred.

#### *Whether C3 or C2*

9. The Council points out that the personal care of children is only classed as "care" in the context of Class C2. It is common ground that care is provided by non-resident carers. The High Court judgment in *North Devon*<sup>5</sup> provides authority for the view that children cannot, as a matter of law, form a household. Even where carers provide 24-hour care, they cannot, if they do not live at the property, be regarded as living together as part of a household.
10. The appellants argue that some of the young people cared for at the home could be in need of care by reason of disablement, past or present dependence on drugs or alcohol or past or present mental disorder. They could therefore be receiving "care" as defined under Class C3(b). However, I consider that the operation of the home is, on its facts, largely the same as in *North Devon*. There, the children in care were described as "children who, for whatever reason, have been put into the care of the local authority, and the local authority is required to find somewhere for them to live and to be cared for during their minority".<sup>6</sup> The appellant described the operation of the home in similar terms.<sup>7</sup> On that basis, the use falls squarely within Class C2.
11. The appellants refer to the High Court judgment in *Sinclair*<sup>8</sup>, which is referred to in *North Devon*. There, a view was taken that the residents formed a household irrespective of whether the staff were resident. However, in so far as, in *North Devon*, the household was composed of children, it was held that they need to be looked after and cannot run a house and so cannot form a household. Collins J rejected the proposition that, in the circumstances of *Sinclair*, the household could comprise the residents (in that case, three mentally handicapped persons) with staff coming in from time to time. He held that the concept of living together must mean that a proper functioning household must exist, in which children and carers reside together.
12. The appellants say that the care home is to be viewed as a facility which enables the young people to live as a household with a view ultimately to them being able to live independently. While I have no reason to doubt the intention, the evidence indicates that they require care and supervision, in circumstances similar to those in *North Devon*. Accordingly, I consider that *North Devon* provides the authority which should be relied upon in this case.
13. The Court of Appeal judgment in *Hossack*<sup>9</sup> held that people coming to a house with merely a common need for accommodation, support and resettlement should not necessarily fail to enjoy a relationship which enables them to be regarded as living together as a single household. The facts of that case related to the particular living arrangements of the residents, who were people with various difficulties relating to mental health, learning disabilities, drug and alcohol dependency etc. The lesson from it is that, regardless of the origins of a given group of people, a fact and degree assessment is required as to

<sup>5</sup> *North Devon District Council v First Secretary of State* [2003] EWHC 157.

<sup>6</sup> See paragraph 8 of the judgment.

<sup>7</sup> See Section 3 of Mr Patel's Proof of Evidence.

<sup>8</sup> *R v Bromley London Borough Council ex parte Sinclair* [1991] 3 PLR 60.

<sup>9</sup> *R (oao Hossack) v Kettering BC* [2002] EWCA Civ 886

whether, in the circumstances, they live together as a single household. While that might discourage the decision-maker from being too prescriptive about assigning care home uses to Class C2 or C3, it does not overcome the application of *North Devon* to cases where the residents are children in care.

14. In the light of the foregoing, I conclude that the use falls within Class C2 rather than Class C3(b). Having concluded thus, I need to go on to consider whether the change of use from Class C3 to Class C2 is nevertheless material.

*Whether change of use material*

15. It was agreed by the parties that this is largely to be determined on its facts. The change of use is that initially granted temporary planning permission in 2004, which was renewed in 2007, again on a temporary basis. Prior to 2004, it was, although a foster home, a normal family dwelling. It reached full capacity under the appellants' ownership from 2008 onwards. The Council and Rule 6 Party point out that it is odd for them to argue this point, given that they applied in any event to renew the previous temporary permission in 2009. However, I see no reason why that should necessarily prevent them from contending, in the light of the relevant case law, that permission should not in any event have been required.
16. In a number of respects, as explained by Mr Patel, the home operates as a normal family home. The residents eat together and get ready on a daily basis to attend various educational institutions. The home seeks to foster lifestyles which would be the same as if the residents were normal teenage children living in a family home. When reporting the initial application to Members, in 2004, Council officers took the view that any impact from the use on neighbouring occupiers would be akin to that from a family dwelling.
17. However, that was prior to its more intensive use, at or close to full capacity, in the appellants' ownership. The accumulated evidence from neighbouring occupiers from 2008 onwards indicates that its use as a care home for children with emotional and behavioural difficulties displays a number of characteristics which set it apart from a normal family dwelling.
18. Foremost among these is the propensity for noise and disturbance, arising from instances of extreme behaviour on the part of residents (shouting, screaming etc.). This in turn results in visits to the property from various regulatory agencies, including the police. Such characteristics might be displayed by a family home full of troublesome teenagers or, occasionally, perhaps, by a house shared by rowdy students, but they would not be typical of a normal family dwelling or house-share. Within the home, the presence of fire alarms (which, according to neighbouring occupiers, go off on a regular basis), reinforced fire doors and locks to the room doors also set the character of the use apart. Prior to 2004, there is no evidence that the property's use as a foster home displayed characteristics of this sort.
19. Staff (who provide supervision on a shift basis) come and go over a 24-hour period, the property houses an office and is used for meetings and family and friends are encouraged to visit the residents. Taken together, this gives rise to a cumulative level of activity, traffic movements and a requirement for parking above and beyond that associated with a typical family dwelling, even one which might, exceptionally, include up to three teenage children with their own cars. Although I set aside the question of whether the parking can be

satisfactorily accommodated, it is clear from the evidence that it spills over from the property into nearby private parking areas and streets.

20. I note the appeal decisions referred to by Mr Rainier but each case falls to be determined on its particular circumstances. Taking all of the above into account, I consider, as a matter of fact and degree, that the character of the use is materially different from the use of the property as a family dwelling, including when accommodating foster children. By way of support for such a view, I note that Mr Patel in cross-examination conceded that, while the overall approach is to operate the home as a normal family home, that does not mean that it is like any other family home. Accordingly, I conclude that a material change of use from Class C3 to C2 has taken place, for which planning permission is required. The ground (c) appeal must therefore fail.

### **Ground (a) appeal/s78 appeal**

#### *Background and main issue*

21. The care home is the end property in a terrace of three houses in a quiet suburban street within the Orford Road Conservation Area (CA) within 10-15 min. walking distance of Walthamstow town centre. From the outside, it looks like a typical early 20thC family dwelling. On one side, it shares a party wall with no. 6 and its internal layout mirrors that dwelling save that it has been extended to the rear. Its small front garden is used for parking and can accommodate two cars with some manoeuvring. It has a long, narrow rear garden, alongside similar gardens to nos. 6, 8 and 10. On the other side, no. 2 is detached but has garden and other land which flanks the rear garden.
22. Communal facilities are on the ground floor and include an office, meeting and recreational rooms and a large kitchen with a communal dining area. A patio leads to the rear garden. There are six bedrooms on the first floor, three at the front, one along the side and two at the rear. A corridor runs alongside the party wall from the head of the stairs, giving access to the three bedrooms to the side/rear, and male and female bathrooms. The bedrooms to the front are at the top of a short flight of stairs up from this corridor. At the rear, stairs down lead to the kitchen. The hallway, front stairs, recreation room, corridor and one of the bedrooms share the party wall with no. 6.
23. I consider the single main issue to be the effect of the use on the living conditions of neighbouring occupiers, with regard to the potential for noise and disturbance. However, in framing it in this way, I have particular regard to the relationship between the care home and no. 6, given how closely linked they are to each other both internally and externally. Though traffic and parking issues are raised in the representations and evidence of the Rule 6 Party, I deal with them under the heading of "other issues".

#### *Reasons*

24. There are three facets to the main issue. I deal firstly with whether material harm arises. In doing so, I address the appellants' argument that (to paraphrase) evidence of complaints from occupiers amounts to little more than an orchestrated campaign to get the home closed down.
25. If I find that harm genuinely arises, it is necessary to go on to deal with possible mitigation. I deal with this under two headings. Firstly, I deal with the transfer of airborne and impact noise through the party wall to no. 6 and

whether any harm arising could be satisfactorily addressed by soundproofing and related measures. I then go on to deal with whether harm could be otherwise addressed through other regulatory regimes, those associated with Ofsted, noise control<sup>10</sup> and anti-social behaviour (ASB).

### *Noise and disturbance*

26. At the Inquiry, the Rule 6 Party gave a detailed account of incidents giving rise to noise and disturbance, to which the Council largely deferred. This centres on a diary kept by the occupiers of no. 6, which details incidents from late 2008 onwards and their effect on their well-being. In cross-examination, their sensitivity to the noise was questioned and it was put to them that they might have become frustrated by the apparent unwillingness of various regulatory bodies to resolve matters. The veracity of the diary entries was not seriously challenged or their account of how events affected them. That it had a palpable effect was all too apparent from the distress suffered by Mr Ahmed in giving oral evidence. In cross-examination, he made it plain that he held the appellants, not the Council or other bodies, solely responsible for causing it.
27. The diary entries refer to the repeated occurrence, spread over three years (to date), of sudden and unpredictable outbursts from the residents of the home. This typically involves shouting, screaming, banging doors and running up and down stairs, in addition to playing loud music. Fire alarms are set off. As reported, these outbursts are disturbing and sometimes violent, often occurring late at night or in the early mornings when neighbouring occupiers ought reasonably to expect peace and quiet in order to enable them to sleep. They are typically loud, uncontrolled and to a degree rebellious – the use of the phrase “kicking off” by staff in one of the reported incidents gives a flavour of their nature. The behaviour of some individuals appears to have been openly intimidating to fellow residents and to neighbouring occupiers.
28. Recorded incidents take place largely within, but are not confined to, the home. They extend to the front porch, the rear garden and the street. Reference is made to loud music and intrusively noisy activity in the garden and to young people frequently talking loudly and smoking in the front porch and the street until late at night. This includes smoking cannabis. There are examples of residents swearing loudly, both inside and outside the home, a feature which would plainly have an unsettling effect on any family with young children. Instances are reported of litter being casually left in the front and rear garden of no. 6 and eggs and other objects thrown at other neighbours’ cars. Evidence from another neighbouring occupier to the Inquiry, who was also distressed when recounting the intimidating behaviour of some residents, left me in little doubt as to the fear and apprehension felt.
29. The diary entries give expression to a view that, with regard to many incidents, the management of the home appears lax. It seems more likely that the staff face genuine difficulties trying to exercise any proper day-to-day control over the behaviour of some residents. The Council highlights extracts from the care home’s Statement of Purpose which says that the home cares for residents who present problems which have contributed in the past to the disruption of family relationships and previous placements. That is not to say that they have extreme behavioural problems – rather, that their emotional and behavioural difficulties are manifested in examples of extreme behaviour, stemming from

<sup>10</sup> Statutory noise nuisance powers under the Control of Pollution Act 1990.

- an “inner turmoil”. It goes on to say that a balance is struck between understanding behaviour, establishing boundaries and promoting personal responsibility. Plainly, such a balance will be difficult to achieve in some cases.
30. The Council’s case at the Inquiry was not that the home was badly managed. It did not challenge the judgment of Ofsted inspectors who determined it to be, on the whole, a “good” or “satisfactory” facility. From the perspective of the development and well-being of the young people cared for, the home is considered to be well run, as witnesses for the appellant testified.
  31. Occupiers in the immediate vicinity of the home (including no. 6) had, for the most part, objected to the initial application in 2004 and maintained their opposition to the subsequent renewals of permission applied for in 2006 and 2009. Some of the e-mails and representations submitted in evidence for the Rule 6 Party made what I considered to be superfluous references to the residents’ ethnicity. This reflects the appellants’ view that there might have been a degree of racial stereotyping in some of the descriptions of their behaviour. Much was made by the appellants at the Inquiry of the manner in which the outcome of the 2009 application was conveyed to objectors. The clear suggestion was that a campaign group, formed of local Members and residents, sought to achieve the closure of the home by actions which amounted to little short of a subversion of the planning process.
  32. I attach little weight to the way in which the 2009 decision was conveyed, for all that it was unfortunate. At the Inquiry, the Council explained, with supporting documentary evidence, how it was in error. I deal with its wider handling of the application in dealing with the costs application. I attach only limited weight to some of the evidence of the Rule 6 Party relating to the behaviour of the residents either because of its subjective content or because it appears to refer to largely trivial incidents. The extent to which the operation is profitable is not relevant but there is no evidence in any event to support an assertion that the home puts profitability above the proper management of the young people in its care. However, setting that aside, there remains the weight of unchallenged evidence from the occupiers of no. 6.
  33. In their oral evidence, they explained that they started to make notes of when they were disturbed by noise from the home from 2004 onwards but chose to formalise them as diary entries in November 2008, as the disturbance increased. This is some way prior to the submission of the renewal application in April 2009. For some time, they tried to work in a neighbourly way with the home. For example, Mr Ahmed did odd jobs and repaired doors in the home which had been damaged. That the home recognised this involvement and the difficulties they faced is evident from the diary entry for Christmas Eve 2009, some time into the application process. Their involvement with the Council’s ASB Unit and ultimately with a planning consultant appears to have been borne out of frustration that, in spite of this, matters did not improve.
  34. I do not therefore accept the appellants’ view that their objections were driven by ulterior motives. Their day-to-day quality of life and that of other occupiers who gave evidence appeared to be materially affected by the repeated incidents which had occurred. Moreover, their perceptions are based on their experience of a fully-operating care home, over a three-year period.
  35. The planning policy context for community facilities of this kind is that they are acceptable in principle subject to having no adverse effects, including in



relation to residential amenity. The acceptability of the use in planning policy terms in this case largely turns on this issue.

36. On the balance of probabilities, I conclude that the use materially harms the living conditions of neighbouring occupiers, with regard to the potential for noise and disturbance. I attach considerable weight to the evidence from the occupiers of no. 6, including that given orally at the Inquiry, in reaching this view. Conflict arises principally with saved Policy SP14 of the UDP<sup>11</sup> with regard to effects on the amenity of the surrounding area and, similarly, with regard to its noise impact on neighbouring uses, with saved Policy GCS1. Likewise, conflict arises with Policy BHE3 which seeks to safeguard the amenity of neighbouring occupiers in relation to (among other things) noise.

### *Soundproofing*

37. Soundproofing has already been carried out to both sides of the party wall but there is a deep crack in it on the landing to no. 6. Within the care home, it was installed in 2007 and 2009. Walls to the recreation room, front bedroom and corridor are now reinforced with insulation boards whose thickness could be appreciated on my site visit. In no. 6, soundproofing has been installed to the floor and ceiling of the main bedroom at the rear and, in the same room, a series of storage cupboards and wardrobes have been built out on batons from the party wall, to aid noise attenuation.
38. The appellants' noise evidence demonstrates that the soundproofing meets the guidance set out in the relevant part of the Building Regulations (referred to at the Inquiry as "ADE")<sup>12</sup>, as required under an informative attached to the 2004 permission. A noise test was carried out within no. 6 in April 2011. It assessed the capability of the party wall to attenuate noise from a standard, consistent noise source. ADE is not applicable to corridors owing to their confined nature which makes noise measurement unreliable but the results included in the noise report are considered to be broadly representative. It is accepted that that does not mean that no. 6 should be fully soundproofed, though ordinary speech from the other side of the party wall should not be audible and loud speech should be muffled.
39. The Council does not dispute the findings from the report. It is common ground that the specification for the works in 2009 would have complied with the Building Regulations. That the party wall appeared to under-perform in attenuating noise was the outcome of a subjective "listening" test carried out by Council officers in July 2009. An attempted re-run of this test in my presence during the course of the Inquiry was inconclusive. It was suggested that this might be owing to its means of construction. In the noise report, the presence of the crack on the first floor, extending into the loft, was considered to significantly undermine the noise insulation properties of the wall. It recommends a remedying of the crack and improvements to the soundproofing and flooring to provide better insulation against impact noise (vibration from banging doors, jumping up and down stairs etc.), which is not covered by ADE.
40. Prior to the Inquiry, I indicated that I would seek the parties' views as to how much weight I should attach to a finding that the soundproofing complied with ADE. Given the type and intensity of the noise associated with the care home

<sup>11</sup> The Waltham Forest Unitary Development Plan First Review (March 2006)

<sup>12</sup> Approved Document E of the Building Regulations 2000 (2003 edition incorporating 2004 amendments).

use, I consider that it should be accorded only limited weight. No attempt has been made to engage with actual noise generated by the use. Whether a standard test of this sort is applicable to the extreme noise-generating behaviour which nevertheless appears to be part and parcel of the residential use at the appeal property is open to question. The appellants' noise witness accepted at the Inquiry that, if the diary entries as to the severity of the noise were to be believed (and he had no reason not to believe them), resort may need to be had to noise nuisance control measures.

41. In the particular circumstances of the appeal property, that the proposed improvements would result in a level of noise insulation significantly above the requirements of ADE is, of itself, of only limited help in determining whether it would satisfactorily address the effects on no. 6. In the light of the apparent failure of previous noise insulation to properly address the problem, confidence in the measures now put forward by the appellant must be diminished. The remedying of the crack to the party wall would plainly benefit matters but no more so than if the source of the more extreme noise events were removed altogether. Even if the ability of the improvements to address all airborne and impact noise were taken on trust, that would not address the problems of noise from the front of the property or the garden.

#### *Other regulatory regimes*

42. The appellants contend that the Council has unreasonably refused planning permission for a use which could be effectively regulated under other regimes. I consider it appropriate to bear in mind the provisions of Circular 11/95<sup>13</sup> when addressing this argument. Although it relates to the imposition of conditions on planning permissions, it gives guidance on the interface between planning and other forms of regulatory control. While it advises against the duplication of controls, it goes on to say that where other controls are also available, a condition may be needed when the considerations material to the exercise of the two systems of control are substantially different. It says that it might be unwise to rely on the alternative control being exercised in the manner or to the degree required to secure planning objectives.
43. I consider that this logic can be applied to the wider-ranging question of whether it is appropriate to determine in the planning arena matters which are capable of being dealt with under other regimes. I acknowledge in this context the advice in PPG24<sup>14</sup> that Building Regulations are considered the most appropriate means of control for sound insulation. Put another way, if such regimes and alternative controls can address the effects of the home on the living conditions of neighbouring occupiers, refusal of planning permission would be unreasonable. That is the point which it is necessary to address. I deal firstly with Ofsted before dealing with noise control and ASB powers.

#### *Ofsted*

44. Prior to the Inquiry, I indicated that I would seek the parties' views on the effectiveness of the regulation exercised by Ofsted. I acknowledge that, in their further report following the initial grant of a one-year temporary permission, in 2004, officers had relied on the powers of its predecessor to address Members' concerns in recommending a permanent permission. In a

<sup>13</sup> Circular 11/95: "The Use of Conditions in Planning Permissions" – see in particular paragraphs 22-23.

<sup>14</sup> Planning Policy Guidance Note 24: *Planning and Noise*.

recent appeal decision to which the appellants refer me, the Inspector accords weight to the regulatory control exercised by Ofsted.<sup>15</sup>

45. However, both relate to circumstances where there was no hard evidence of the effectiveness of its regulation of matters which would be for the planning process primarily to engage with. Its inspection process rightly puts the young people in care at the centre of its concerns and relates to their development and well-being, including in respect of engagement with the local community. It does not appear to be concerned with effects on the amenity of the community itself. Ofsted did not wish to be consulted on the application and took no active part in the Inquiry. A letter from it, submitted to the Inquiry, did little more than reiterate that its involvement in complaints from neighbours is in line with its wider purpose of securing positive outcomes for children and young people, in line with the Care Standards Act 2000.<sup>16</sup>
46. At the Inquiry, the Council referred me to the National Minimum Standards which Ofsted seeks to impose. References to the location, design and size of homes relate primarily to whether they meet children's needs and the required complaints procedure primarily relates to complaints from children. Any compliance with planning requirements is viewed separately from the imposition of these standards.<sup>17</sup> That the home could give rise to the degree of noise and disturbance experienced by neighbouring occupiers but nevertheless receive favourable Ofsted reports is indicative of the extent to which Ofsted distances itself from matters which it considers are within the planning arena. I therefore attach little weight to any reliance on the regulatory controls exercised by it in seeking to resolve wider planning issues.

#### *Noise control*

47. The involvement of the Council's noise team in the planning process is a further matter on which I indicated that I would be seeking the parties' views and on which I questioned the Council's witnesses at the Inquiry. I was surprised that it was not more actively involved, given that noise from the home was a major cause for complaint. I deal with whether the Council should have cited its second reason for refusal in the way that it did in the absence of comment from the noise team in dealing with the costs application. I set aside also its apparent unwillingness to become proactively involved in noise issues surrounding the home when contacted by the occupiers of no. 6 and the ASB caseworker. What I need to address is whether any involvement on its part, had it taken place, would have provided effective day-to-day control.
48. On the evidence, it appears that the noise team would initially have sought to rely on a log of noise incidents, which the occupiers of no. 6 were, in April 2008, advised by it to maintain. This they did in any event. It would also, at the outset, evidently have carried out a "listening" exercise which, to some degree, was the point of the Council's initial subjective test. A technical noise test, such as was ultimately recommended by the Council's building regulations officer, would have covered the ground which was, in the event, the subject of the appellants' evidence on noise. A view might have been reached as to whether, in the light of the type of noise being experienced, it was appropriate to deal with it through planning control or noise nuisance powers.

<sup>15</sup> Appeal Ref. APP/K2230/A/10/2140874 – St Andrews, 2 The Avenue, Gravesend, Kent, DA11 0NA.

<sup>16</sup> See letter from Ofsted dated 25 November 2011.

<sup>17</sup> Children's Homes – National Minimum Standards (Children's Homes Regulations) (Department of Health, 2002) – see in particular Section 5 "Environment" paragraph 23.6.

49. The parties agree that noise nuisance controls operate reactively. They are typically applied where the source of the noise is consistent and can be reliably measured, as, for example, in the case of a music venue or a house in which regular parties are held. A common feature of both is that they involve the playing of loud music, which is the type of noise which can be more readily addressed under such controls. In the case of the care home, the noise is less capable of being reliably measured and follows no consistent pattern. Its capacity to disturb arises from the suddenness and lack of predictability with which events can occur and the inability of staff to exercise immediate control.
50. The appellants' noise witness accepted in cross-examination that noise from the home should not have to reach the levels associated with statutory nuisance for it to be seen as detrimental to residential amenity. That is consistent with my understanding of noise nuisance legislation. There is a clear divide between noise which may unacceptably harm neighbouring occupiers' living conditions and be unacceptable in planning terms and noise which reaches a level which invokes noise nuisance legislation. The latter is by no means a necessary pre-condition of the former. In the light of this, I have difficulty in envisaging how noise nuisance legislation on its own could provide an effective means of controlling noise from the home on a day-to-day basis and, to that extent, substitute for the exercise of planning control.

#### *Anti-social behaviour*

51. The application of the Council's adopted ASB Policy to the home relates to such matters as noise, verbal abuse, intimidating gatherings of young people in public places and individual cases of intimidation. All of these figure in the evidence from the Rule 6 Party. The Crime and Disorder Act 1998 provides the Council with powers to deal with ASB. However, the evidence given to the Inquiry by the Council's ASB caseworker was that she was looking to other means – the planning process, action by the Council's noise team – to resolve the difficulties experienced by neighbouring occupiers, in particular no. 6. This was portrayed in cross-examination as a failure to use appropriate powers in favour of the inappropriate use of the planning process.
52. I attach little weight to these criticisms. The evidence from the various e-mail trails indicates that she was drawn into the issues surrounding the home in a coordinating role. She had at one point looked to a process of mediation to bring the parties together but I see nothing unreasonable in her subsequent decision to put this initiative on hold pending the outcome of the planning application and appeal process. Whether or not she might have used ASB powers at an earlier stage does not alter the fact that, when she first became substantially involved (from early 2009 onwards), the application process was under way. The future of the home was focused on it. Accordingly, what I need to address is, had those powers been used at that time or following a grant of permission, how effective they would have been.
53. It was a matter which I consider was effectively dealt with by Ms Clarke under cross-examination, when she was asked whether the use of ASB powers had been explained to her by the Council. It was pointed out to her, she said, that she would need to compile evidence of ASB. It would have to be focused on individuals. She considered that keeping a diary and engaging with the various agencies was already time-consuming and involvement with the use of ASB powers would be even more so, to the point where it would be (as she put it) a "life's work". She did not consider that it represented a workable solution to

the difficulties. Young people are resident at the home for varying periods and move on, so it is clear that there are limitations on the practicalities.

54. Under the policy, the Council's ASB powers are exercised through a series of interventions which are on an escalating scale, depending on whether complaints are satisfactorily addressed. Warning letters may be followed by professional mediation. Action may be then escalated to the drawing up of Acceptable Behaviour Contracts before more interventionist measures are considered, such as injunctions and orders (ASBOs).
55. It is unclear to me how such a process would operate on a day-to-day basis when the perpetrators of actions that might attract the use of ASB powers may be any one of six young people resident at the home at any one time. I can appreciate why the use of such powers might be considered cumbersome and impractical if they were applied to individuals who might move on from the home at any point. The use of powers might be justified in cases of persistent ASB over time from certain individuals. However, it is difficult to envisage them as an effective means of controlling the kind of low-key (in the context of ASB) but nevertheless disturbing and unsettling behaviour to which many of the diary entries and complaints refer. Accordingly, the effectiveness of the use of such powers appears questionable.

#### *Other issues*

##### *Traffic and parking*

56. Although no highway objection was raised by the Council, the Rule 6 Party invited me to dismiss the appeal on grounds related to parking and traffic. There was a photograph of a vehicle obstructing the footway and evidence of the use of private parking space in the locality, including one space belonging to a neighbouring occupier. However, the photograph appears to show the vehicle being loaded and there is no clear indication that this is a regular occurrence. The use of the single parking space further along the street by the home appeared to have been in disregard of a request to use it on a short term basis which has plainly caused some rancour but it is to some extent a one-off incident. As to the use of private parking at Chalmers House, there are signs warning that unauthorised vehicles will be towed away, though the appellants say that these provisions have never been enforced.
57. The locality is a tight-knit London suburb close to a major town-centre transport hub in which parking space is inevitably at a premium. The blanket use of controlled parking zones in streets radiating out from the station is an indication of the parking pressures. However, the locality is highly accessible by public transport. Were there evidence of regular indiscriminate parking by staff and visitors such as to give rise to a discernible risk to the safety of other road users, a requirement could be imposed that it be subject of a travel plan aimed at reducing reliance by staff and visitors on travel by car. As it is, there is no substantive evidence of that. Streets further away from the station operate no on-street parking restrictions, and I was able to establish on my visit that the nearest of these is no more than a 10 min. walk from the home.
58. I acknowledge that problems experienced with parking at the home might have given rise to concerns on the part of neighbouring occupiers but I conclude that the care home use does not give rise to material harm to the safety of road

users on account of traffic and parking associated with it. No additional weight arises from this quarter to add to that identified in relation to the main issue.

### *Need for the facility*

59. The appellants contend that dismissing the appeal would rob London of a much-needed care facility. The Rule 6 party argue that I should accord weight to the lack of a local need as evidenced by the Council's intention not to refer young people to the home. The Council draws my attention to Policy DM10 of its Development Management Policies Preferred Options document in which the development of care homes is supported subject to (among other things) meeting a local need. Taking the last point first, this document is still some way from adoption so, aside from whether a "local need" limitation would survive scrutiny and examination, I attach little weight to it for that reason alone. Policy 3.16 of The London Plan supports new social infrastructure in the light of local and strategic needs assessments but there is no evidence of that kind before me at this appeal.
60. From evidence of the geographical distribution of authorities who refer young people to the home, it meets a London-wide need. There is no justification for dismissing the appeal simply because it is not the type of home to which, under its social care policies, young people in the Council's care are referred. However, if I were to dismiss the appeal for other reasons, there is equally no evidence that any need met by the home would be incapable of being met elsewhere in Greater London. I accept that, if it were to close, the residents would need to be accommodated elsewhere with the disruption and possible upset that that might cause. As matters stand, there are neither need arguments for nor against the continuation of the use. Any effect on the residents is a matter which I deal with in dealing with the ground (g) appeal.

### *Effect on CA*

61. No material changes to the external fabric of the property have taken place as a result of the change of use and, in response to my request for clarification at the Inquiry, none of the main parties raise an issue with regard to any effect from the use on the character or appearance of the CA. To that extent, both are preserved. I have no reason to disagree with this view.

## **Conclusions**

62. The key question in drawing matters to a conclusion can be put as follows. Having regard to its relationship with no. 6, with which it shares a party wall, and its location in a quiet suburban neighbourhood, is the appeal property suitable for a Class C2 care home use or could it be made so by conditions attached to a grant of permission and reliance on other regulatory regimes?
63. In spite of its narrow street frontage, the property is undoubtedly sizeable, on account of its extended depth. Both the kitchen/diner and the main recreation room appear to offer ample communal space for residents. Even the smaller bedrooms are good-sized. The way in which they are furnished indicates that they are not intended for use as bed-sitting rooms, in accordance with the overall approach of the home to replicate as far as possible the living arrangements of a family dwelling. Overall, internal space standards appear acceptable. I do not therefore share the concerns of the occupiers of no. 6 regarding the size of the rooms or consider that the accommodation is cramped, requiring young people to socialise in the garden or out in the street.

64. However, a feature of the internal layout is that the first floor corridor, which connects several sets of stairs giving access to all parts of the home, including bedrooms, bathrooms and the kitchen, acts as a hub with regard to activity within and movement around the home. This corridor runs for most of its length alongside the party wall and the location of the crack in the wall is at a sensitive point along it where steps up from the ground floor and down from the front bedrooms meet. Given that the property has been extended, in comparison with no. 6, it also runs alongside its main rear bedroom. From the diary entries, the stairs and corridor are a focus for much of the noise. The juxtaposition of bedrooms at the front of each dwelling, either side of the party wall, is another focus for the transfer of intrusive noise.
65. The emotional and behavioural difficulties encountered by the young people for whom the home caters means that unpredictable outbursts on their part of the sort which I have described earlier are likely to be a consistent feature of the care home use. These are focused for much of the time on the parts of the property close to the party wall. The appellants' noise evidence did not demonstrate that this could be satisfactorily mitigated. Even if I were to accept a likelihood of it doing so, that does not overcome the harm from noise and disturbance in the rear garden and at the front of the property. The front porch is alongside that of no. 6 and there is an intimate relationship between the two deep rear gardens, which are side-by-side. I can well understand how noise from the use of the garden by the residents would deter the occupiers of no. 6 from making use of their garden, as they claim.
66. There is also incontrovertible evidence that such behavioural characteristics spread out into the street. While the residents' behaviour in the home may be heavily regulated, as far as it is practically possible to do so, fewer controls can be exercised in the wider locality. I accept that some of what happens may be no more disturbing than one should expect from any group of teenagers hanging around in doorways and on walls and steps and that allowances need to be made in that regard. However, it appears often to go beyond such expectations and appears intimidating, a point repeatedly made in the diary entries and evidence given at the Inquiry.
67. The acceptability of the care home use is a matter which is firmly in the planning arena and any harm arising to the living conditions of the occupiers of no. 6 is a matter which is in the public interest. The suggested conditions tabled at the Inquiry (were I minded to grant permission), focused on noise insulation to no. 6. It was not suggested that a curfew could be applied to residents' activities outside the home and to do so would in any event run counter to the need to foster social inclusion. For reasons which I have explored, I attach little weight to the ability of other regulatory regimes to exercise effective day-to-day control over the home and any alleged failure by the Council to formally engage them. Their limited ability to mitigate the harm which I have identified does not justify granting planning permission on the basis that they can and should be relied on to do so.
68. It therefore appears, with regard to the internal layout of the home and its intimate residential setting, that there is an irreconcilable tension between the behaviour of the young people in its care and the living conditions of neighbouring occupiers. This must outweigh the benefits to them from having the care and support of a socially inclusive facility and lead to the conclusion that this property in this location is unsuitable for this type of care home use.

69. At the Inquiry, I was asked to consider whether the use might be acceptable subject to limiting the number of residents to fewer than six. However, the issue revolves around the type of young people which the home cares for, in so far as much of the noise and disturbance appears to stem from their emotional and behavioural instability. A reduction in numbers on its own would not therefore be decisive. In the light of this, and having had regard to all other matters raised, I conclude that the ground (a) appeal and s78 appeal should not succeed. I shall uphold the enforcement notice with correction and variation and refuse to grant planning permission on the deemed application.

### **Ground (f) appeal**

70. The notice requires that the breach be remedied by ceasing the use. Given that it has already been the subject of two previous such permissions, a further temporary permission would run counter to the guidance in Circular 11/95 and is not in any event a feasible option. I have dealt with possible mitigation to which the continued use as a care home might be subject but I consider that none, either individually or in combination, would be sufficiently effective. I therefore consider that there are no lesser steps, short of requiring the use to cease, which could remedy any injury to amenity caused by the continued use. In the light of this, the ground (f) appeal must fail.

### **Ground (g) appeal**

71. In cross-examination regarding contractual commitments for the placement of young people at the home, Mr Patel said that three of those presently resident are likely to go into foster care long-term but that other short term placements should not be disrupted, if at all possible. I agree that any disruption to the residents, given that the notice requires them to move out of the home, should be minimised. In the light of Mr Patel's subsequent response as to a suitable time frame, having regard to these matters, I consider a 9 month period for compliance with the requirements reasonable. Accordingly, I vary the notice and, to that extent, the ground (g) appeal succeeds.

## **Decisions**

### **Appeal Ref: APP/U5930/C/11/2151319**

72. The enforcement notice is corrected by, in Section 5, the deletion of the word "permanently" and varied by, in Section 6, the substitution of "nine months" for "four months" as the time for compliance. Subject to this correction and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

### **Appeal Ref: APP/U5930/A/11/2146559**

73. The appeal is dismissed.

*C M Hoult*

INSPECTOR



## APPEARANCES

### FOR THE APPELLANT:

Mr I Colville	Of Counsel
He called	
Mr H Patel	Director, Kartikeya Solutions Limited
Mr P Attwood MSc MCIOB MIOA MIDiagE	Principal, Acoustic Associates Sussex Limited
Mr P Rainier MRTPI	Director of Planning, DMH Stallard LLP
Mr M McElroy	Independent Social Worker
Ms F Wallace	Children and Family Court Advisory and Support Service
Ms L Ephraim	Former resident of care home

### FOR THE LOCAL PLANNING AUTHORITY:

Mr A Deakin	Of Counsel
He called	
Ms V Hannan	Anti Social Behaviour Caseworker, London Borough of Waltham Forest
Mr J Price DipTP MRTPI	Principal Planning Officer, London Borough of Waltham Forest

### FOR THE RULE 6 PARTY:

Ms K Helmore	Of Counsel
She called	
Mr N Coward MRTPI	Director, Collins and Coward, Planning and Development Consultants
Mr M Mitchell	Neighbouring Occupier
Mrs A O'Loughlin	Neighbouring Occupier
Mr A Ahmed	Neighbouring Occupier
Ms F Clarke	Neighbouring Occupier

## INTERESTED PERSONS:

Cllr A Khan	Local Ward Member for London Borough of Waltham Forest
Mr C Almeida	Neighbouring Occupier

## DOCUMENTS PUT IN AT THE INQUIRY

- 1 Ofsted Inspection of Children's Homes – Evaluation Schedule and Grade Descriptors, put in by Appellants
- 2 Summarised log of incidents at care home recorded and notified to regulatory bodies by neighbouring occupiers – put in by Rule 6 Party
- 3 Children's Homes – National Minimum Standards (Department of Health, 2002), put in by Council
- 4 Note by Mr Attwood of site visit and "subjective" noise test, 18 October 2011, put in by Appellants
- 5 Map showing whereabouts of respondents to appellants' questionnaire survey of views on care home, put in by Appellants
- 6 Log of noise incidents associated with care home, 1-2 October 2011, put in by Rule 6 Party
- 7 Agreed and signed Statement of Common Ground
- 8 Agreed suggested schedule of planning conditions
- 9 Council's Adopted Anti Social Behaviour Policy (March 2008)
- 10 Updated Sanitised Police Information relating to care home, Sept 2010-Oct 2011 broken down to show source of calls to Police – put in by Council
- 11 Copy of risk assessment referred in Council's Environmental Services log entry for 10 December 2010, put in by Council
- 12 Log of noise incidents associated with care home, 18 October-22 November 2011, put in by Rule 6 Party
- 13 Ofsted inspection report for care home, 5 October 2011, put in by Appellants
- 14 Letter from Ofsted, 25 November 2011, put in by Appellants
- 15 E-mail exchange, Mr Price/Cllr Mahmud, 6 August 2010, and attachment – put in by Council



# KEY:

— Site Boundary

## DISCLAIMER :

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D01	22.02.21	LC	Extent of Site Boundary Corrected
D00	13.01.21	LC	Graphic updated. Purpose of issue amended.
C00	07.12.20	LC	First Issue
Rev	Date	By	Description



**MARTIN ARNOLD**  
CHARTERED SURVEYORS & CONSTRUCTION CONSULTANTS

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## CLIENT :

Moat Homes Limited  
Mariner House, Galleon Blvd, Dartford, Kent  
DA2 6QE

## PROJECT :

2A Coval Avenue  
Chelmsford, Essex  
CM1 1TF

## TITLE :

Location Plan

Purpose of Issue :

**PLANNING**

Drawn : LC Checked By : CL

Date : NOV 2020

Scale : 1:1250@A4

Dwg No : 3632-MA-E-LP-DR-0100-D01



- KEY:
- Site Boundary
  - Building Entrance
  - Site Entrance

1.8M high panelled fence (to be made good/ Panels repaired/ replaced with new where necessary)

1.8m High brick wall

Soft Landscaping

Hard Landscaping

Private amenity space (Soft landscaping/ grass)

Space for 3 no. cars (Hard landscaping/ tarmac)

Bin Store

Entrance to Property (to be replaced with new gate with suited lock)

Metal Rails on both sides of path

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D01	22.02.21	LC	Extent of Site Boundary Corrected
T00	12.01.21	LC	Notes added. Purpose of issue amended.
D00	13.01.21	LC	First Issue

Rev	Date	By	Description
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Martin Arnold Limited  
4 Gunnery Terrace  
The Royal Arsenal  
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SE18 6SW

CLIENT :  
Moat Homes Limited  
Mariner House, Galleon Blvd, Crossways  
Dartford, Kent  
DA2 6QE

PROJECT :  
2A Coval Avenue  
Chelmsford  
Essex  
CM1 1TF

TITLE :  
Existing Block Plan

Purpose of Issue :  
**TENDER**

Drawn : LC Checked By : CL

Date : JAN 2021

Scale : 1:200@A3

Dwg No : 3632-MA-E-BP-DR-101-D01



**Planning Committee**  
**13<sup>th</sup> April 2021**

<b>Application No</b>	:	21/00185/FUL Full Application
<b>Location</b>	:	37 Goodwin Close Great Baddow Chelmsford Essex CM2 9GX
<b>Proposal</b>	:	<b>Part garage conversion, first floor extension to side and rear with dormer windows added. Loft conversion with flat roof rear dormer and addition of roof windows to front.</b>
<b>Applicant</b>	:	Mr Richard Whiting
<b>Agent</b>	:	Mrs Nicola Allingham
<b>Date Valid</b>	:	27th January 2021

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## Appendices:

Appendix 1	Consultations
Appendix 2	Drawings



## **1. Executive summary**

- 1.1. The application has been referred to the Planning Committee because the applicant is a Council employee and a representation has been received on the application.
- 1.2. The proposal is for extensions to an end of terraced house.
- 1.3. The current proposal is a re-submission of a previously approved scheme. It is for a minor amendment to the form of the rear facing dormer window. In all other respects the extensions remain the same as recently approved.
- 1.4. The dormer window would be set in on both sides and would have a flat roof which would not exceed the height of the existing ridge of the house.
- 1.5. The extensions have an acceptable design in relation to the host dwelling. Adequate parking would be retained to the enlarged property. The rear facing window within the rear first floor extension has been recommended to be fitted with obscure glass and be non-openable below 1.7m from the finished floor level in order to overcome concerns about overlooking of the neighbouring house to the rear.
- 1.6. The application is recommended for approval, subject to the conditions set out at the end of this report.

## **2. Description of site**

- 2.1. No 37 Goodwin Close is an end of terrace property located within a courtyard type development. It has previously been extended with a rear extension.
- 2.2. The property lies within the Chelmsford Urban Area, where the principle of development is acceptable.
- 2.3. The street-scene comprises two storey terraced houses, semi-detached and detached properties with various outbuildings.

## **3. Details of the proposal**

- 3.1. This application seeks an amendment to the approved scheme 20/01050/FUL for a loft conversion with a rear dormer window with a flat roof and front rooflights; a first floor side addition above the existing garage with a rear facing dormer window and a front roof light; a first floor rear extension above the existing single storey projection with a side dormer window and a rear facing window. The attached garage would be converted to a small store and utility/W.C space.

## **4. Other relevant applications**

20/01050/FUL - Approved 6th October 2020

Part garage conversion, first floor side extension with dormer window to rear. First floor rear extension with side facing dormer window. Loft conversion with sloping roof dormer and rooflights to front elevation.

15/00022/FUL - Approved 3rd March 2015

Single storey rear extension and installation of a log burning stove to the existing building

06/01512/FUL - Approved 12th September 2006

Conservatory.

## 5. Summary of consultations

- ◆ *Great Baddow Parish Council* - The Parish Council objects to this planning application as it is considered to be an overdevelopment of the site. Additionally, the proposed parking arrangements are inadequate, given that the proposed development would result in a residence which easily lends itself to be used as a four bedroomed property.
- ◆ *Public Health & Protection Services* - The proposed development is situated above a former infilled gravel pit, where the nature of the fill material is unknown. As the potential for ground gas generation within these areas of made ground is unknown, the developer should employ a proprietary gas-impermeable membrane (methane & CO<sub>2</sub>) beneath any ground-bearing slabs. The membrane should be installed as per manufacturer's instructions, lapped to the damp-proof course and fully sealed around any service entries. Alternatively, the developer could employ a beam and block flooring system with a fully ventilated sub-floor void.
- ◆ *Local residents* - following representations received:
  - the proposed first floor rear extension will result in a loss of sunlight and daylight to the rear garden of No 39;
  - concerns were also raised with regards to the construction of the loft conversion and an impact this might have on the Party Wall with No 39.

## 6. Planning considerations

### **Main Issues**

- 6.1. Overdevelopment of the site.
- 6.2. Impact of the development on neighbouring properties.
- 6.3. Parking arrangements.

### **Planning consideration**

- 6.4. As was previously agreed, the proposed side and rear extensions would appear subservient to the main dwelling and would reflect the style and form of the existing house. Whilst dormer windows are not characteristic to the immediate surroundings, these roof additions would be modest in scale and would not be seen from the street scene. It is acknowledged that the amended rear facing dormer window within the main roof would now have a flat roof and would appear slightly more prominent on the building than the dormer window previously



granted planning permission. Nonetheless, the proposed development is considered to satisfactorily complement the form and style of the host dwelling and would result in no justifiably harmful impact to the appearance of the property or the visual amenities of the area.

- 6.5. The house would retain an enclosed private garden area of 100sqm which exceeds the minimum standard of 80sqm for houses of 3 or more bedrooms, as set out in the adopted local plan.
- 6.6. The proposed loft conversion and the side addition above the garage would maintain an acceptable relationship with the neighbouring properties to the rear. It was previously accepted that the proposed rear facing dormer would not offer materially different views of neighbouring properties than existing first floor rear facing windows and this remains the case with the current proposal.
- 6.7. The rear facing dormer window proposed within the first floor addition over the garage would face across the parking area of the host property then across the driveway of neighbouring properties. The new dormer here would not offer materially different views of neighbours than existing first floor rear facing bedroom windows.
- 6.8. The first-floor rear extension would bring the rear facing first floor window closer by 4m to the rear neighbours. The rear addition would feature two windows to the new upper room, one facing to the rear and a dormer within the side elevation. The rear facing window is recommended to be fitted with obscure glass and be non- openable above 1.7m from the finished ground level in order to safeguard the amenities of the neighbouring properties to the rear. It is considered that the side dormer window would provide sufficient outlook for this room and would not overlook any neighbouring property to an unacceptable degree.
- 6.9. A representation has been received from a neighbouring property to the north-east, No 39. The impact of the development on the amenities of the occupiers of No 39 was assessed and established as being acceptable previously. The amended scheme would not alter the relationship with No 39 compared to the previously approved scheme.
- 6.10. No 39 adjoins no. 37 sits at an angle to the application site with the garden area facing north. No. 39 has a 3.2m deep single storey rear extension close to the boundary with the application site. The proposed first floor rear addition would sit above the existing 3.9m deep ground floor addition. It would not breach a combined 45 degree line drawn from the centre point of the closest neighbouring first floor window. It would result in no adverse impact on the amenities of this neighbour.
- 6.11. The other concern raised by the neighbour at No 39 with regards to the party wall is not a planning consideration. It is a private matter.
- 6.12. The enlarged property would retain three off-road parking spaces in the driveway space in front of the garage and at its side. Overall, the property would retain 3 off-road parking spaces. It is considered that sufficient off-street parking would remain to the enlarged property.

## 7. Community Infrastructure Levy (CIL)

- 7.1. The proposed works are not CIL liable.

## 8. Conclusions

- 8.1. The principle of development is acceptable as the property lies within the Urban Area.
- 8.2. The proposed works would have an acceptable visual relationship with the host dwelling and the wider street-scene.
- 8.3. Subject to conditions, the proposal would not harm the residential amenities of the neighbouring properties.
- 8.4. Sufficient off-street parking would remain to the extended property.

## 9. Recommendation and conditions

The Application be **APPROVED** subject to the following conditions:-

### Condition 1

The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason:

In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### Condition 2

The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice.

Reason:

In order to achieve satisfactory development of the site

### Condition 3

The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building. Where the new materials differ from those of the existing building, details of the materials to be used shall be submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with those details.

Reason:

To ensure that the development is visually acceptable in accordance with Policy DM23 of the Chelmsford Local Plan.

**Condition 4**

The first floor window in the north-west elevation of the first floor rear extension and shown on approved Drawing No '2 of 3' shall be:

- a) obscured (minimum Level 3 obscurity level) and
- b) of a design not capable of being opened below a height of 1.7m above finished floor level and shall remain so obscured and non-openable.

Reason:

To safeguard the privacy of the occupiers of the adjacent property or properties in accordance with Policy DM29 of the Chelmsford Local Plan.

**Condition 5**

The development hereby permitted shall be constructed using a proprietary gas-impermeable membrane under any ground-bearing floor slabs. The membrane shall be installed as per manufacturer's instructions, lapped to the damp-proof course and fully sealed around any service entries. Alternatively, a beam and block suspended floor with a ventilated under-floor void shall be used.

Reason:

To ensure the development does not give rise to problems of pollution or contamination in accordance with Policy DM30 of the Chelmsford Local Plan.

**Notes to Applicant**

- 1 In order to cause minimum nuisance to neighbours, the applicant is strongly advised to follow guidelines for acceptable working hours set out by the Council's Public Health and Protection team.

Noisy work

- Can be carried out between 0800 and 1800 Monday to Friday
- Limited to 0800-1300 on Saturdays
- At all other times including Sundays and Bank Holidays, no work should be carried out that is audible beyond the boundary of the site

Light work

- Acceptable outside the hours shown above
- Can be carried out between 0700 and 0800; and 1800-1900 Monday to Friday

In some circumstance further restrictions may be necessary.

For more information, please contact Chelmsford City Council Public Health and Protection Services, or view the Council's website at [www.chelmsford.gov.uk/construction-site-noise](http://www.chelmsford.gov.uk/construction-site-noise)

- 2 The Party Wall Act 1996 relates to work on existing walls shared with another property or excavation near another building.

An explanatory booklet is available on the Department for Communities and Local Government website at

<http://www.planningportal.gov.uk/buildingregulations/buildingpolicyandlegislation/currentlegislation/partywallact>

### **Positive and Proactive Statement**

The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework to promote the delivery of sustainable development and to approach decision taking in a positive way.

## Public Health &amp; Protection Services

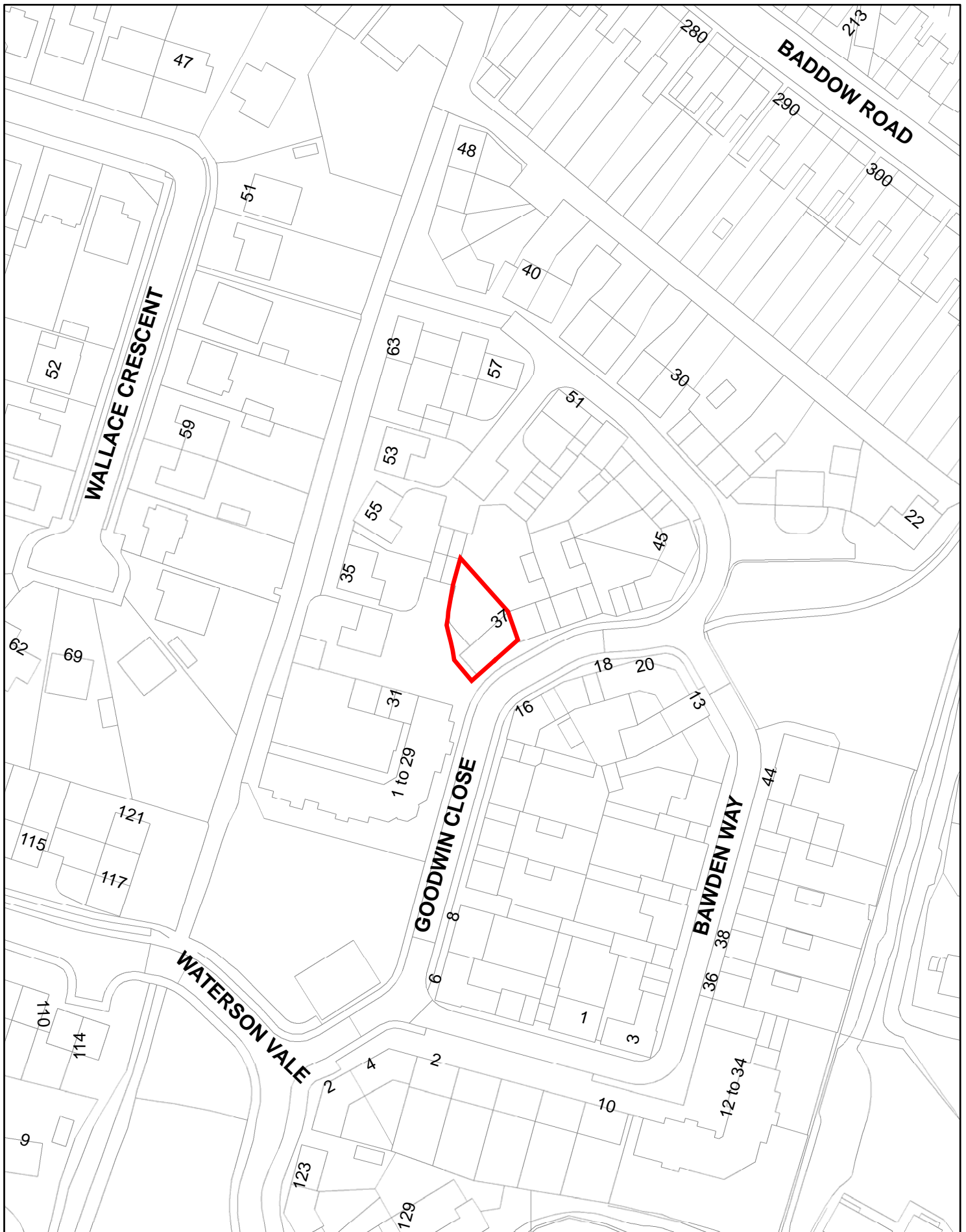
Comments
09.02.2021 - The proposed development is situated above a former infilled gravel pit, where the nature of the fill material is unknown. As the potential for ground gas generation within these areas of made ground is unknown, the developer should employ a proprietary gas-impermeable membrane (methane & CO2) beneath any ground-bearing slabs. The membrane should be installed as per manufacturer's instructions, lapped to the damp-proof course and fully sealed around any service entries. Alternatively, the developer could employ a beam and block flooring system with a fully ventilated sub-floor void.

## Great Baddow Parish Council

Comments
16.02.2021 - The Parish Council objects to this planning application as it is considered to be an overdevelopment of the site. Additionally, the proposed parking arrangements are inadequate, given that the proposed development would result in a residence which easily lends itself to be used as a four bedroomed property.

## Local Residents

Comments
<p>Representations received –</p> <ol style="list-style-type: none"> <li>1. The sun light shines on the No 39 garden from the side of where the proposed first floor extension is to be built. Concerns raised about h a loss sunlight and daylight due to the first floor extension. A "Daylight and Sunlight assessment" has been requested.</li> <li>2. In regard to the loft conversion, concerns raised whether any support joists/beams be connected to the party wall between the properties. This might affect the or damage the structure of No 39. Also, questions asked - <i>Do I need to speak to my home insurers? Should the applicant provide me with a "Party wall agreement"?</i></li> </ol>



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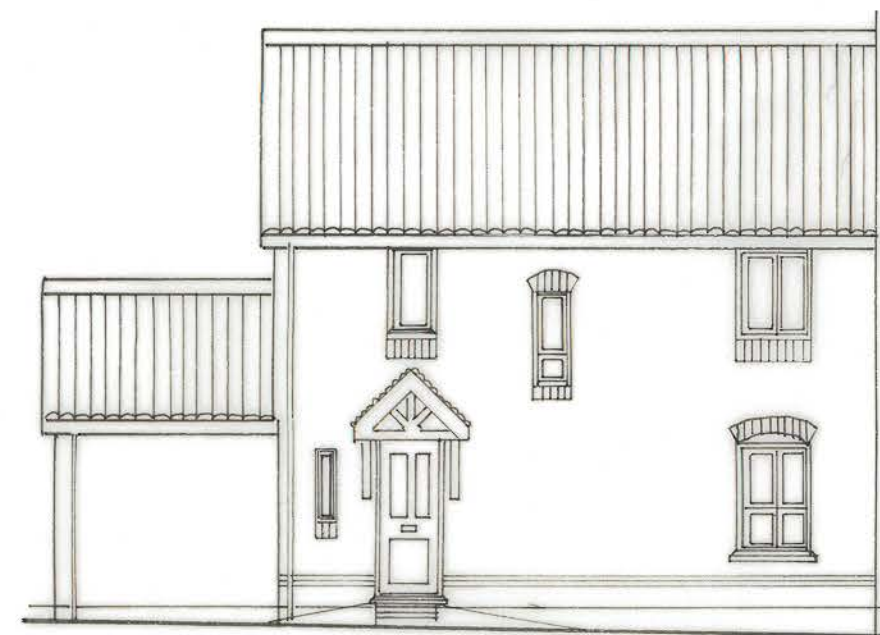
**Planning Committee**  
**21/00185/FUL**

**Planning & Development Management**  
**Directorate for Sustainable Communities**

PO Box 7544 Civic Centre  
Duke Street, Chelmsford, CM1 1XP

Telephone: 01245 606826

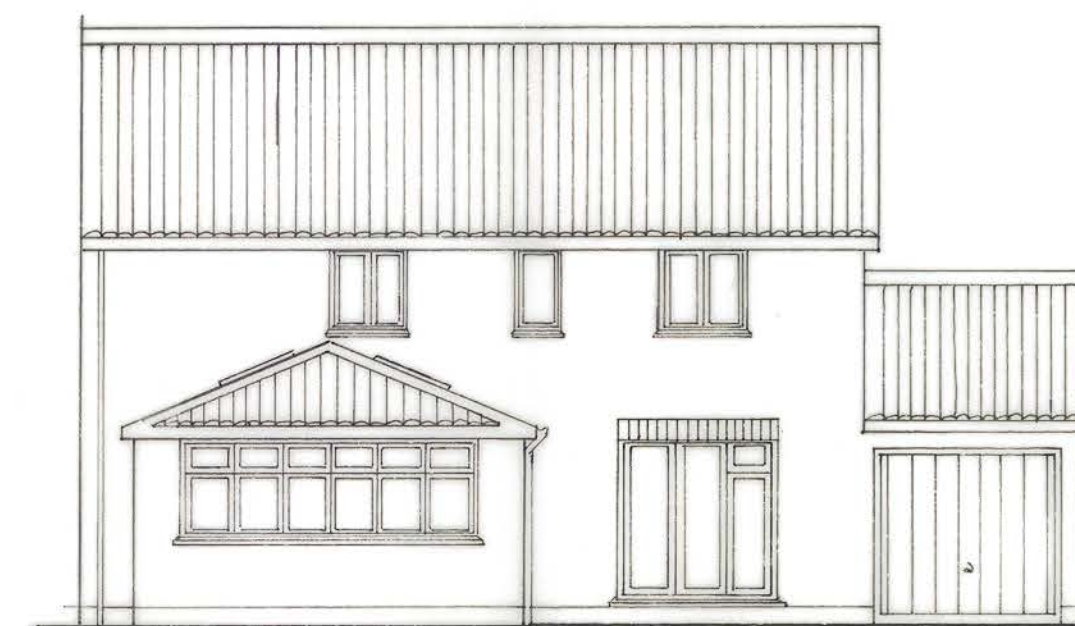




Existing Front Elevation



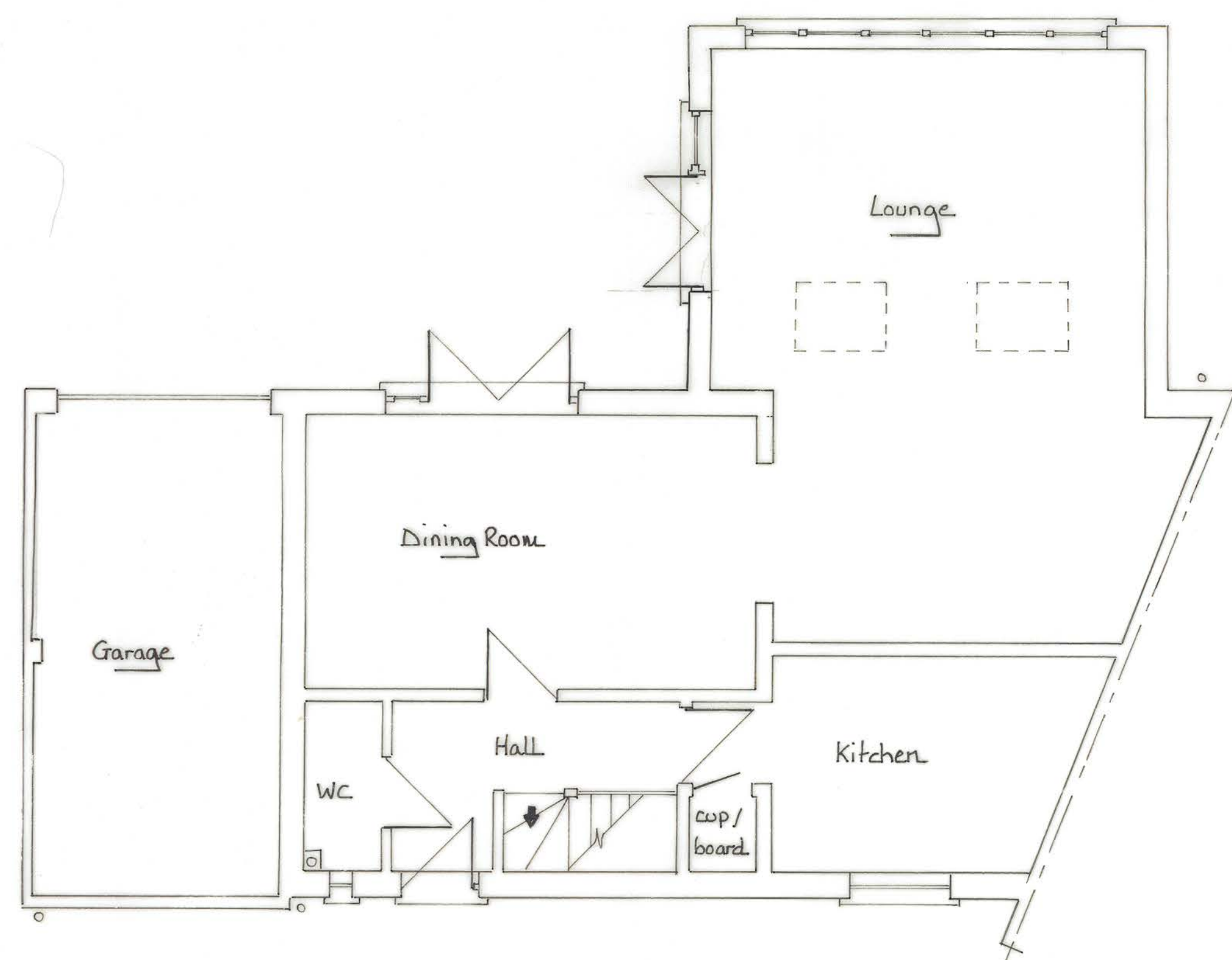
Existing Side Elevation



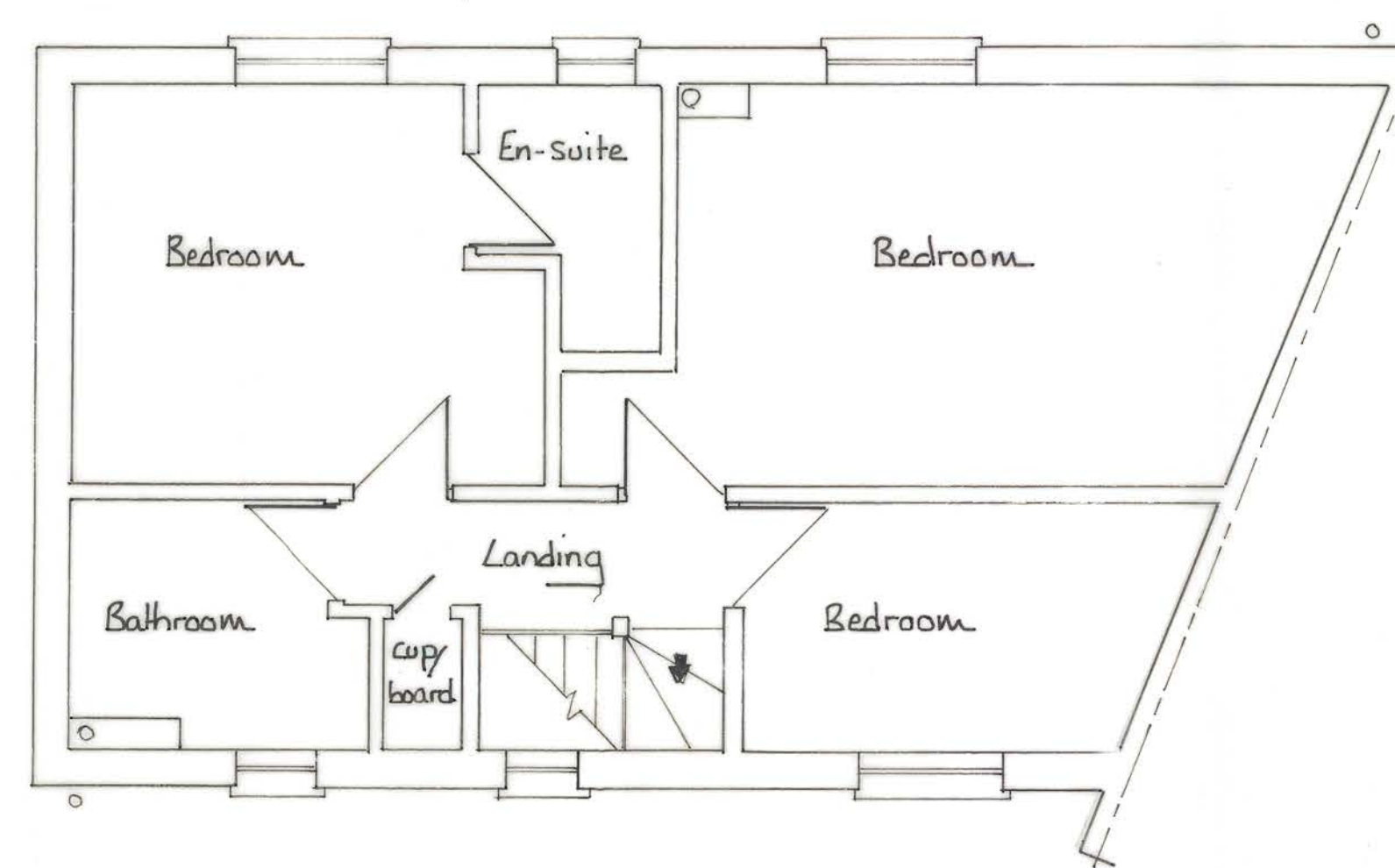
Existing Rear Elevation



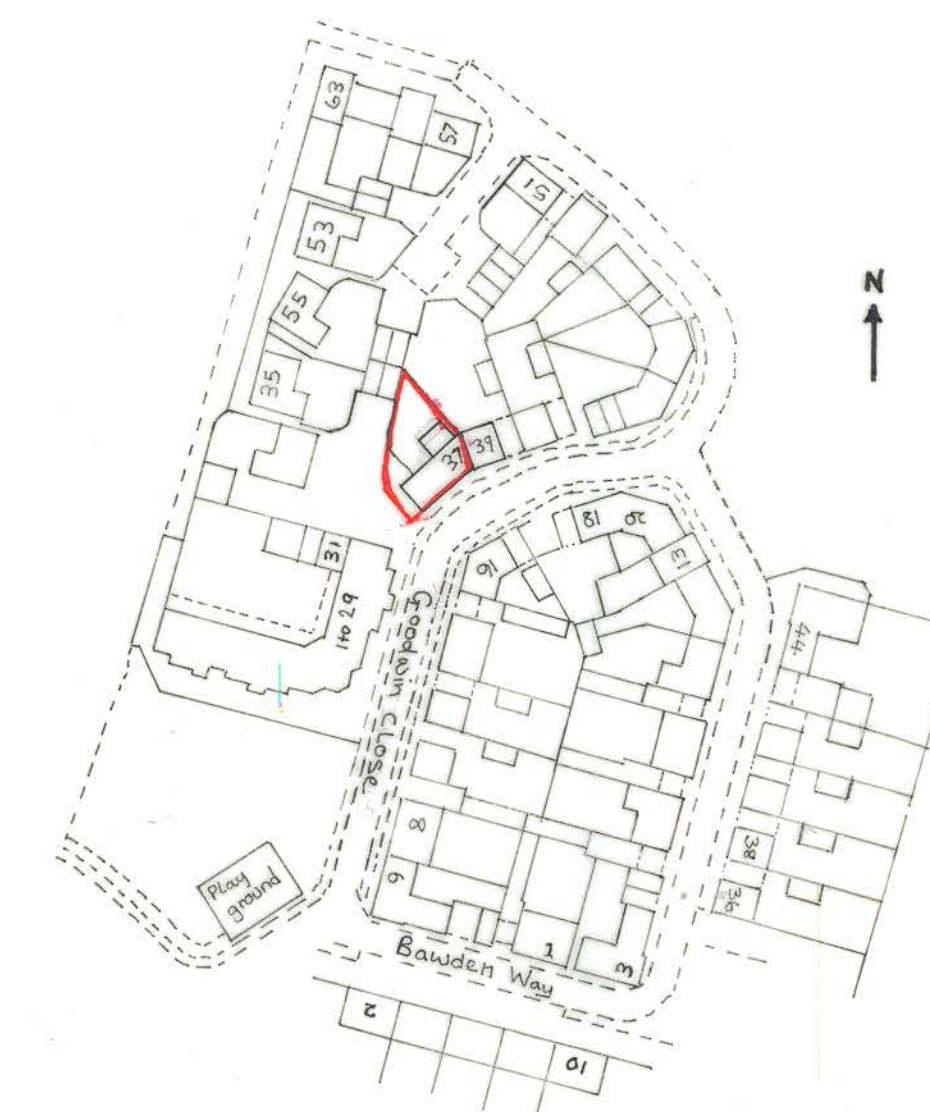
Existing Side Elevation



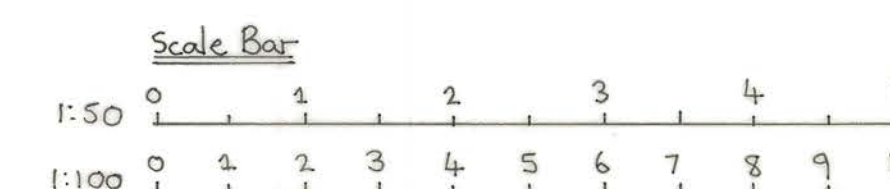
Existing Ground Floor Plan



Existing First Floor Plan



Location Plan



Proposed: Part Garage conversion.  
First Floor extension to side and  
Rear elevations. Loft conversion  
with flat roof dormer to  
rear elevation and velux roof  
lights to front elevation.

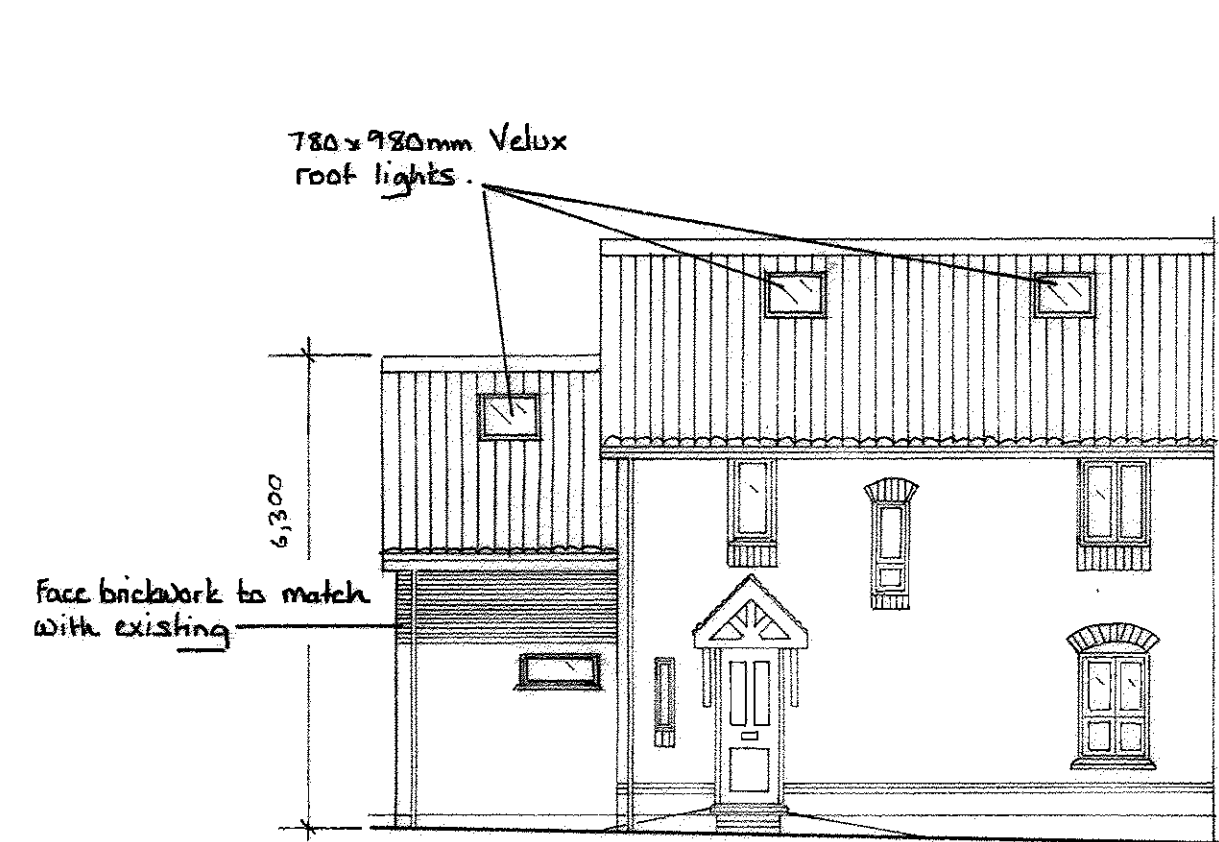
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37 Goodwin Close,  
Chelmsford,  
Essex.  
CM2 9GX

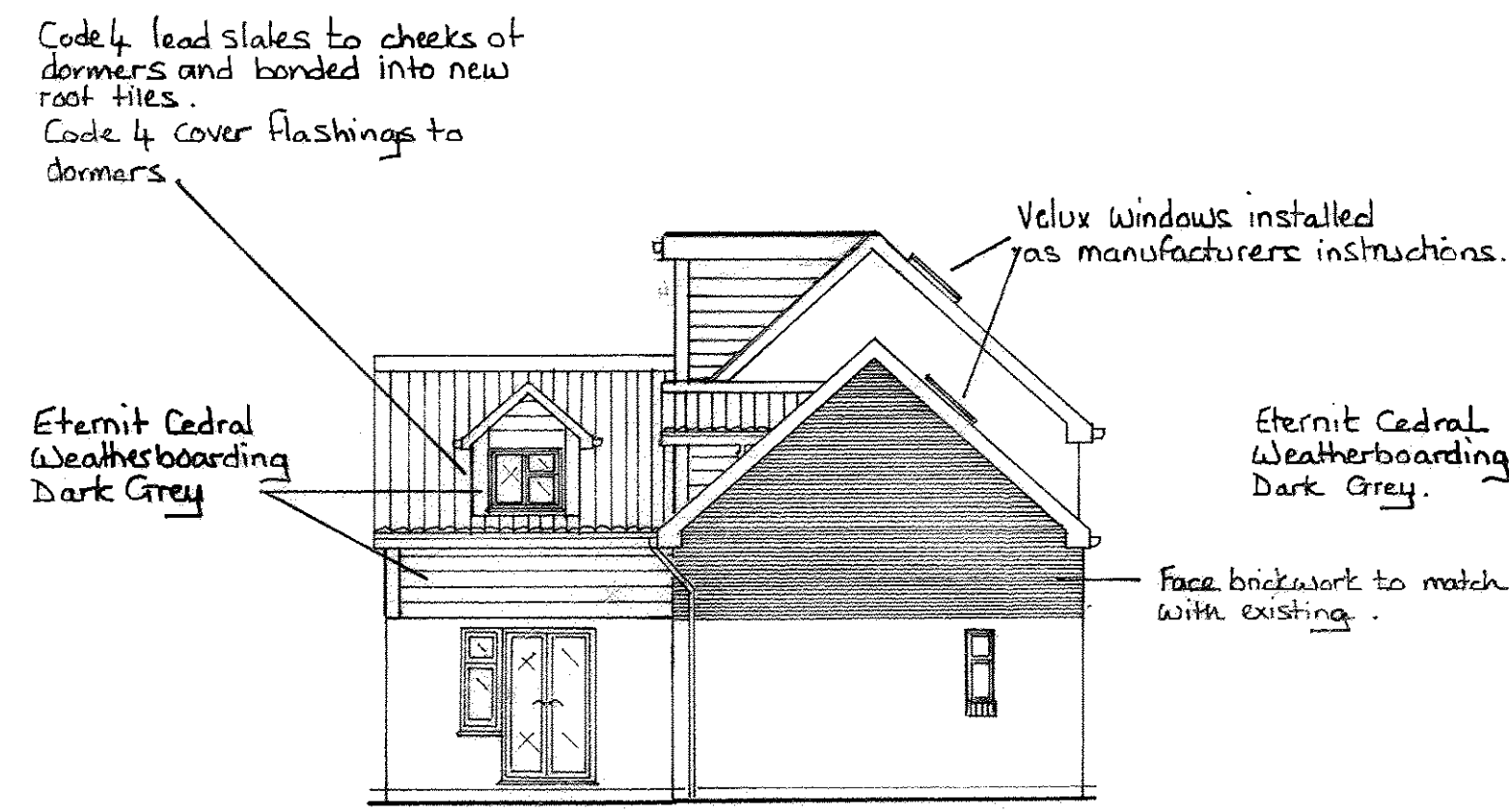
Mr & Mrs. R. Whiting

Scales 1:100, 1:50 & 1:1250 DWG 1 of 3





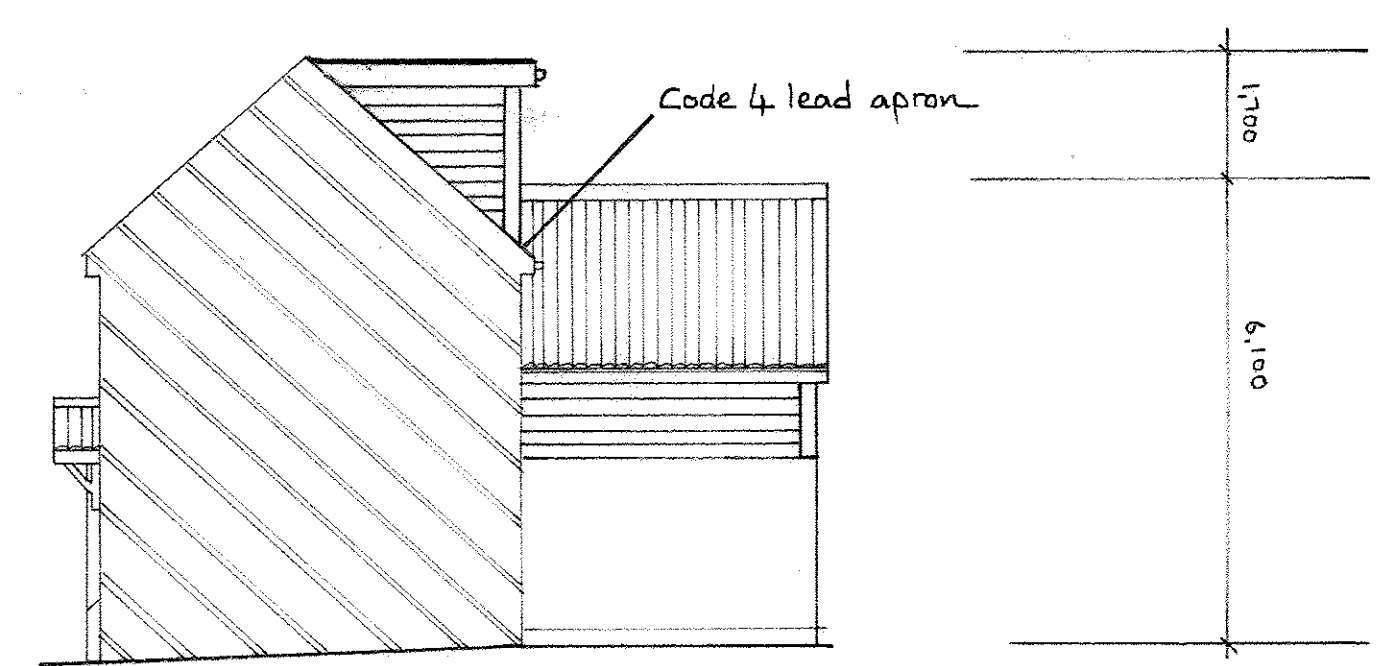
Proposed Front Elevation



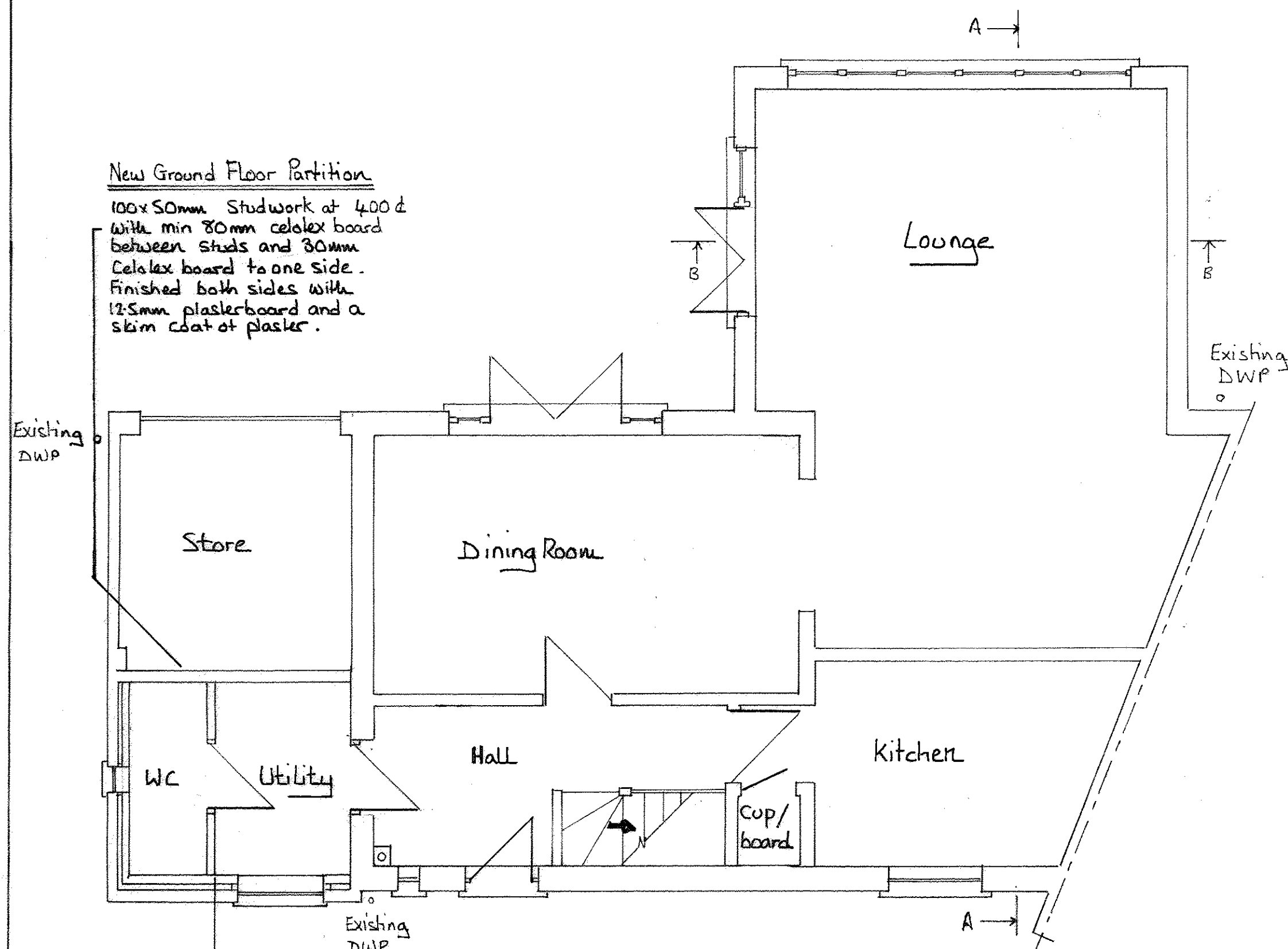
Proposed Side Elevation



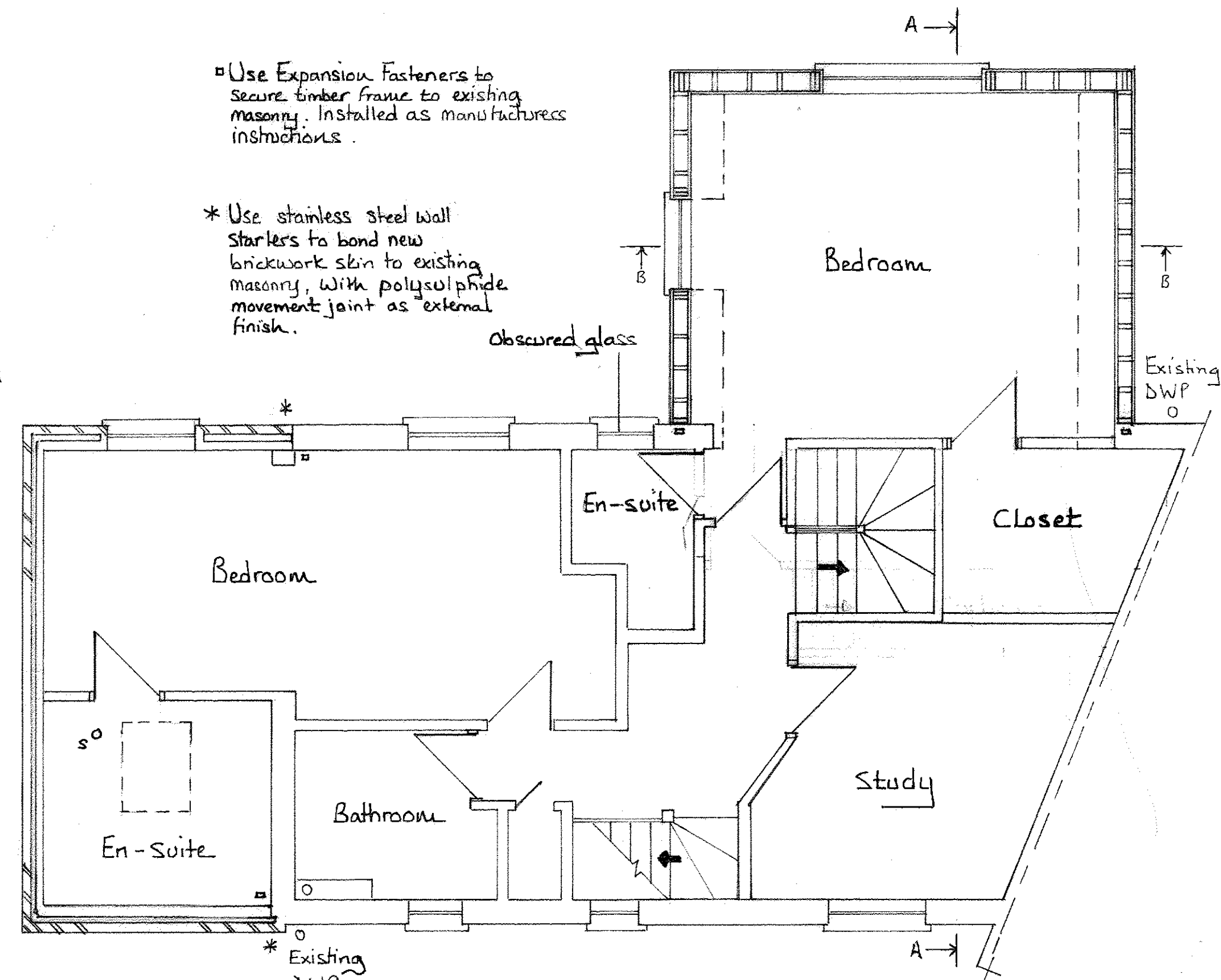
Proposed Rear Elevation



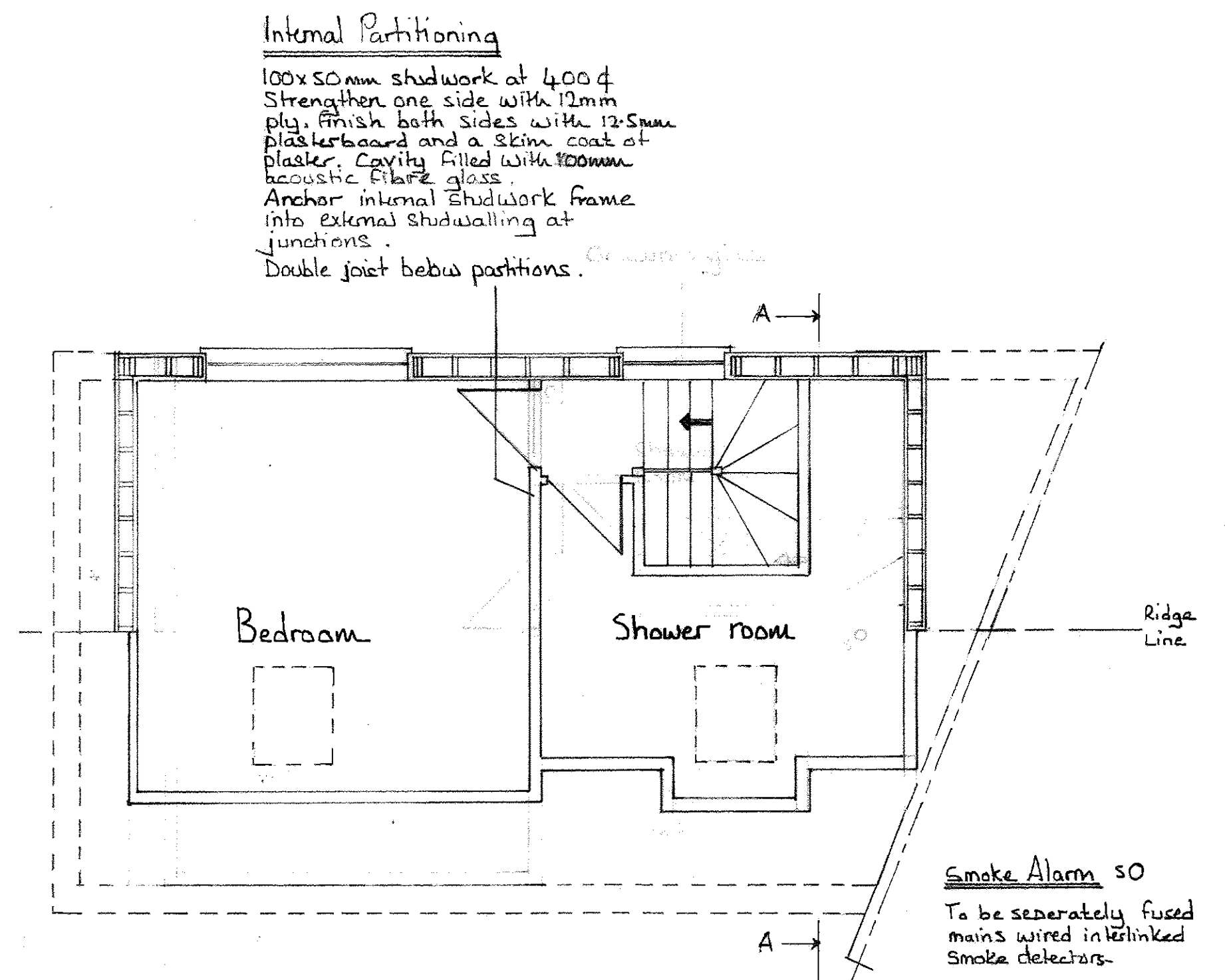
Proposed Side Elevation



Proposed Ground Floor Plan



Proposed First Floor Plan



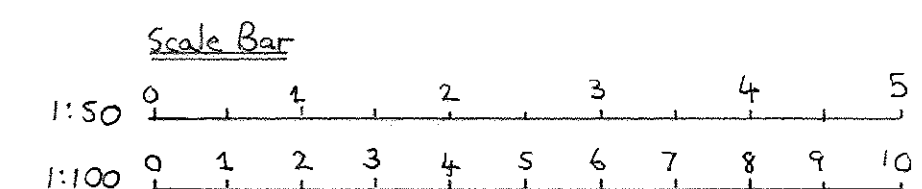
Proposed Second Floor Plan

#### New timber frame to form internal skin

Allow a 50mm cavity between existing masonry external skin and newly constructed internal skin of timber frame. 100x50mm studwork at 400 & finished on the cavity side with a vapour barrier and 12mm OSB. Fill studwork with 100mm celotex insulation close internal side of studwork frame with 50mm celotex board to receive 12.5mm plasterboard with vapour barrier polythene on the internal frame at studwall. Finish internally with a skim coat of plaster.

#### New Internal doors

All new internal doors to be fire resistant to a minimum of 20 minutes. Install intumescent seal strips.



**Proposed Part Garage Conversion**  
First floor extension to side and rear elevations. Loft conversion with flat roof dormer to rear elevation and Velux roof lights to front elevation.

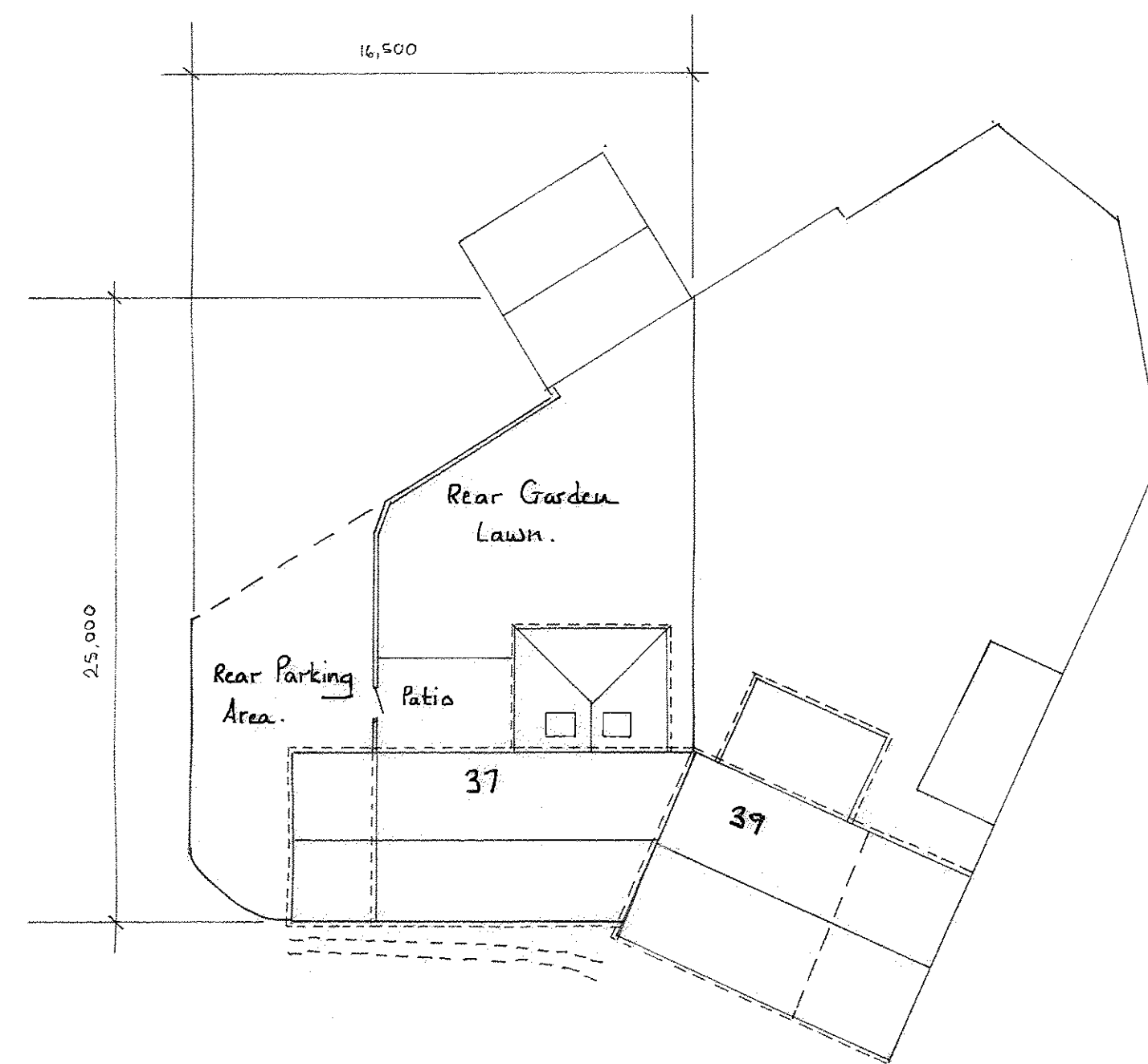
**Address:**  
37 Goodwin Close,  
Chelmsford,  
Essex  
CM2 9GX

Mr & Mrs. R. Whiting

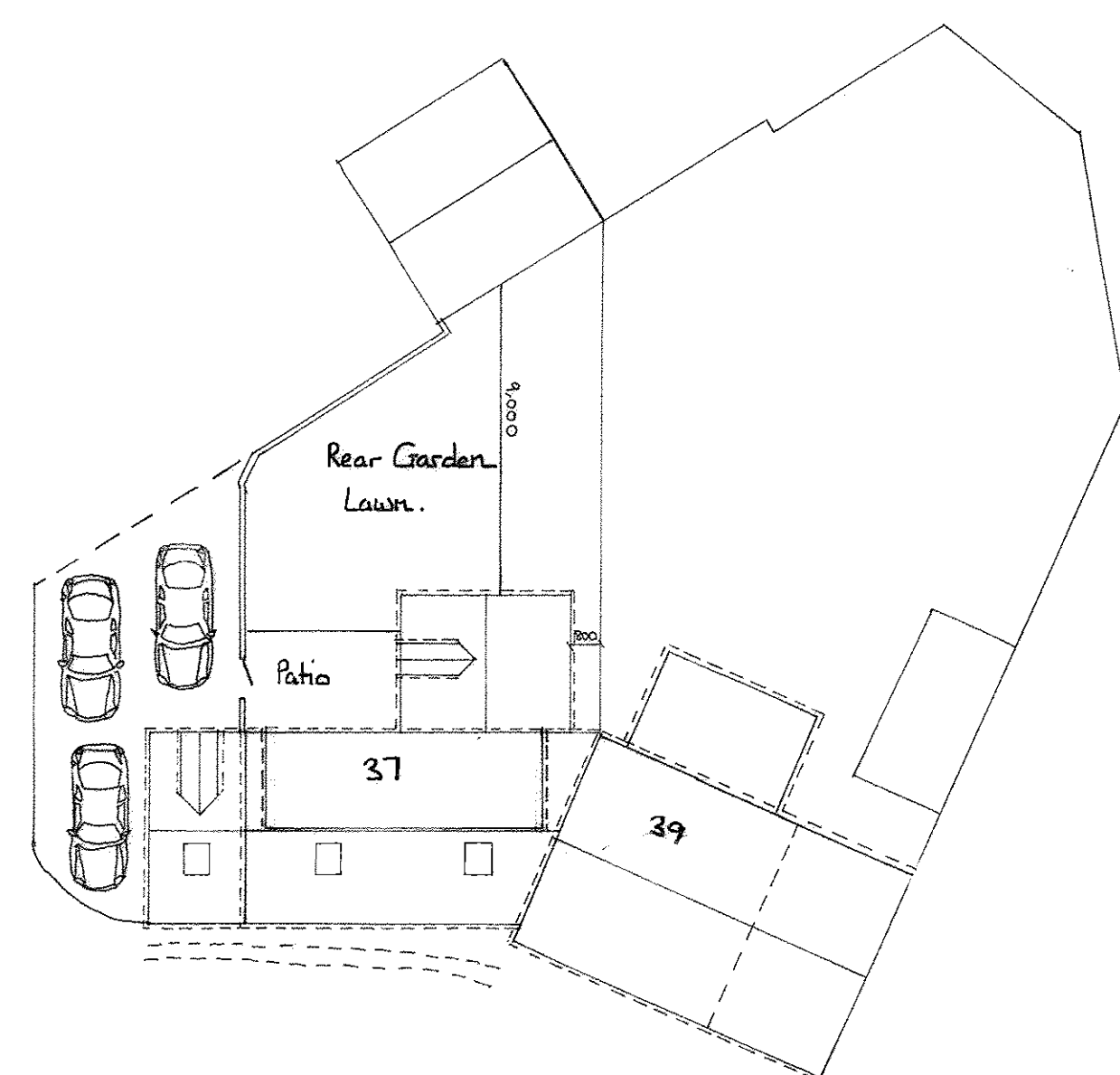
Scales: 1:100 & 1:50

dwg 2 of 3





Existing Block Plan



Proposed Block Plan

### Steels & Structural timbers

Steels & Structural timbers to be supplied and installed to structural engineers design and details.

### Cladded Finish First Floor Timber Frame

Finish externally with Eternit Gedral Weatherboard Dark Grey C15 on 19x38mm treated timber battens at 600c. DPC lining as manufacturers instructions at all junctions and openings on 12mm OS board on 150x50mm studwork with min 100mm celotex insulation laid between studs, close internal side of studwork frame with min 30mm celotex board to receive 12mm moisture resistant plasterboard with vapour barrier polythene on internal frame of stud wall. Finish internally with a skim coat of plaster. DPC laid around new floor and junctions with existing masonry.

### Building Control

The builder is responsible for ensuring all works are carried out in accordance with any conditions imposed by building control.

### Existing Foundation

The existing foundation is to be assessed by a structural engineer for its suitability to support the additional loading before work commences.

### New Flat roof

Superflex pour & roll Warm roof system. Consisting of cap sheet on underlay on. Venting layer on 120mm earth thermal insulation. On vapour control layer all bonded to manufacturers instructions. or similar warm roof system on firing fillets on 47x225mm C24 joists at 400c. Finished internally with 12.5mm plasterboard and a skim coat. fall 1:40.

### New Second Floor

200x50mm C24 s.w. joists at 400c. Floor finished with 18mm T&G chipboard. Herronbone. Struts at mid span, min 75mm acoustic fibre glass laid between joists. Ceiling finished with 12mm plasterboard and skim coat.

### New Stairs

To have 13 no equal risers approx 200mm, goings to be 220mm. Handrail to be 900mm above nosings. Soffit lined with 100mm mineral wool for sound insulation and 50mm celotex then 2 no layers of 12.5mm plasterboard and skim coat.

### Electrical Works

Energy saving light fittings to all new areas. All electrical works to be designed, installed and certified by a qualified electrician complying with Part P of the building Regulations.

Cross Section AA to show suggested method of Construction

### New Main Roof Construction

Roof Tiles to match existing on treated 38x25mm s.w. timber battens on 'Tyvek' underlay laid on to 225x50mm s.w. rafters at 400c. lay 150mm glass fibre insulation between new 200x50mm s.w. joists at 400c and 150mm glass fibre insulation laid across joists and well compacted into eaves void, new gable wall and joists. Internal restraint ties at min 2m c at gable of new roof.

### New First Floor

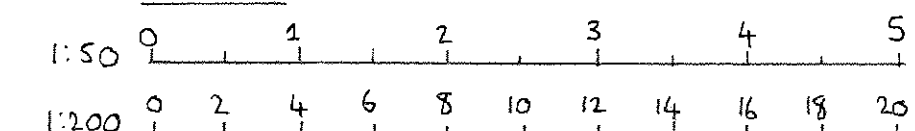
200x50mm C24 s.w. joists at 400c. Floor finished with 18mm T&G chipboard. Herronbone. Struts at mid span. min 75mm acoustic fibre glass laid between joists. Ceiling finished with 12mm plasterboard and skim coat.

### New Windows

To match with existing style. To be double glazed safety glass. Windows fitted with 8000mm trickle vents. Perimeter edges to be sealed with flexible sealant externally and internally including under sill. All bedroom windows to have a min clear opening of 450x750mm and max 1m from finished floor level to opening as a means of escape.

Cross Section BB to show suggested method of Construction

### Scale Bar



**Proposed:** Part Garage Conversion  
First floor extension to side and rear elevations. loft conversion with flat roof dormer to rear elevation and Velux roof lights to front elevation.

**Address:**  
37 Goodwin Close,  
Chelmsford,  
Essex.  
CM2 9GX

Mr & Mrs. R. Whiting

Scales: 1:20 & 1:50

DWG 3013



**Planning Committee**  
**13<sup>th</sup> April 2021**

<b>Application No</b>	:	21/00149/FUL Full Application
<b>Location</b>	:	214 Beeches Road Chelmsford CM1 2SA
<b>Proposal</b>	:	<b>Construction of a single storey granny annexe for ancillary use to the main dwelling.</b>
<b>Applicant</b>	:	Mr & Mrs Simpson
<b>Agent</b>	:	Mr Oliver Wright
<b>Date Valid</b>	:	22nd January 2021

**Contents**

<a href="#">1. Executive summary</a>	2
<a href="#">2. Description of site</a>	2
<a href="#">3. Details of the proposal</a>	2
<a href="#">4. Other relevant applications</a>	2
<a href="#">5. Summary of consultations</a>	2
<a href="#">6. Planning considerations</a>	3
<a href="#">7. Community Infrastructure Levy (CIL)</a>	4

**Appendices:**

Appendix 1	Consultations
Appendix 2	Drawings

## **1. Executive summary**

- 1.1 The application has been referred to the Planning Committee, because the applicant is a Council employee and representations have been received on the application.
- 1.2 The proposal is for the construction of a single storey annexe located within the rear garden of the application property, which is located within the Urban Area of Chelmsford.
- 1.3 The proposed development has an acceptable design in relation to the host dwelling and would not result in any harm to the visual amenities of the area. By virtue of its size, siting and use the proposed development would not adversely affect the amenity of any neighbouring residential properties. Adequate parking and garden space would be retained to serve the property also.
- 1.4 The application is recommended for approval, subject to the conditions set out at the end of this report.

## **2. Description of site**

- 2.1 The property lies within the Chelmsford Urban Area, where the principle of development is acceptable.
- 2.2 No.214 Beeches road is a modest two storey semi-detached property set-back significantly from the western side of the highway, with a large hardened frontage.
- 2.3 The street scene comprises largely of pairs of two storey semi-detached properties and many have been extended. The properties benefit from open frontages and there is a variety of outbuildings within the rear gardens.

## **3. Details of the proposal**

The application is seeking permission for the construction of a single storey annexe measuring 3.32m in height, 10m in width and 6m in depth, sited at the very end of the rear garden of the application property.

## **4. Other relevant applications**

- 4.1. Planning permission was previously granted for a first floor side extension (70/0395/FUL/1).
- 4.2. 21/00150/CLOPUD - Refused 12th March 2021 Use of the land for siting a mobile home for use ancillary to the main dwelling.

## **5. Summary of consultations**

- *Public Health & Protection Services* - No comments raised
- *Local residents* - following representations received:

- Loss of light
- Loss of privacy
- Visually harmful
- Felling of a tree
- Development is disproportionate to property
- No information regarding drainage

## 6. Planning considerations

### *Main Issues*

- 6.1. The design of the building;
- 6.2. Impact of the development on the neighbouring properties amenity;
- 6.3. Impact on tree in close proximity.

### *Planning consideration*

- 6.4. The proposed outbuilding would be single storey in nature with a flat roof, located within the rear garden. Public views of the development would be very limited. The outbuilding would appear subservient in size and scale to the main dwelling and buildings of this nature are a common feature within the Urban Area. As a result the proposed development is considered to satisfactorily complement the form and style of the host dwelling and would result in no harm to the appearance of the property or the visual amenities of the area.
- 6.5. Opening within the annex consists of windows and doors located on all the elevations apart from the north elevation which faces the neighbouring property No. 212. All the windows and doors are at ground floor level, and would offer similar views of neighbouring property as would be available when simply using the garden space of the property. As result the development would not result in any loss of privacy.
- 6.6. The neighbouring property's allotment patch is located to the north of the development. At 3.32m in height and with a minimum distance of 1m retained between the front of the outbuilding and the neighbouring boundary, which rapidly increases to over 3.5m to the rear of the building, it is not considered that the proposed building would result in any harmful loss of light of neighbouring gardens to warrant a refusal of planning permission.
- 6.7. A Cherry Tree within the application site could be impacted by the development, however the tree is not subject of a preservation order, therefore could be removed by the applicant at their leisure. Furthermore given siting of the tree and the restricted views, the tree has no prominence or presence within the public realm and provides little if any contribution to the character of the local area or the public visual amenity. Its removal is acceptable should it be required.
- 6.8. The house would retain an enclosed private garden area of over 350sqm, which significantly exceeds the minimum standard of 80sqm for houses of 3 or more bedrooms, as set out in the

adopted local plan. As such the proposal would fit comfortably within the plot and would not be considered disproportionate or constitute overdevelopment of the site.

- 6.9. The property has parking provision for a minimum of five vehicles located on the large front driveway. It is considered that sufficient off-street parking would remain to the property.
- 6.10. Issues raised regarding drainage, soakaways and water connections would not be material consideration when determining the application and would instead be a matter for Building Control.

## **7. Planning obligations**

- 7.1 The proposed works are not CIL liable.

## **8. Conclusion**

- 8.1. The principle of development is acceptable as the property lies within the Urban Area. The proposal would comply with policies DM23 and DM29 of the Local Plan and is acceptable.

The Application be **APPROVED** subject to the following conditions:-

### **Condition 1**

The development hereby permitted shall begin no later than 3 years from the date of this decision.

Reason:

In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **Condition 2**

The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice.

Reason:

In order to achieve satisfactory development of the site

## **Notes to Applicant**

- 1 In order to cause minimum nuisance to neighbours, the applicant is strongly advised to follow guidelines for acceptable working hours set out by the Council's Public Health and Protection team.

Noisy work

- Can be carried out between 0800 and 1800 Monday to Friday
- Limited to 0800-1300 on Saturdays
- At all other times including Sundays and Bank Holidays, no work should be carried out that is audible beyond the boundary of the site

Light work

- Acceptable outside the hours shown above
- Can be carried out between 0700 and 0800; and 1800-1900 Monday to Friday

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For more information, please contact Chelmsford City Council Public Health and Protection Services, or view the Council's website at [www.chelmsford.gov.uk/construction-site-noise](http://www.chelmsford.gov.uk/construction-site-noise)

- 2 The Party Wall Act 1996 relates to work on existing walls shared with another property or excavation near another building.

An explanatory booklet is available on the Department for Communities and Local Government website at

<http://www.planningportal.gov.uk/buildingregulations/buildingpolicyandlegislation/currentlegislation/partywallact>

### **Positive and Proactive Statement**

The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework to promote the delivery of sustainable development and to approach decision taking in a positive way.

### **Background Papers**

Case File

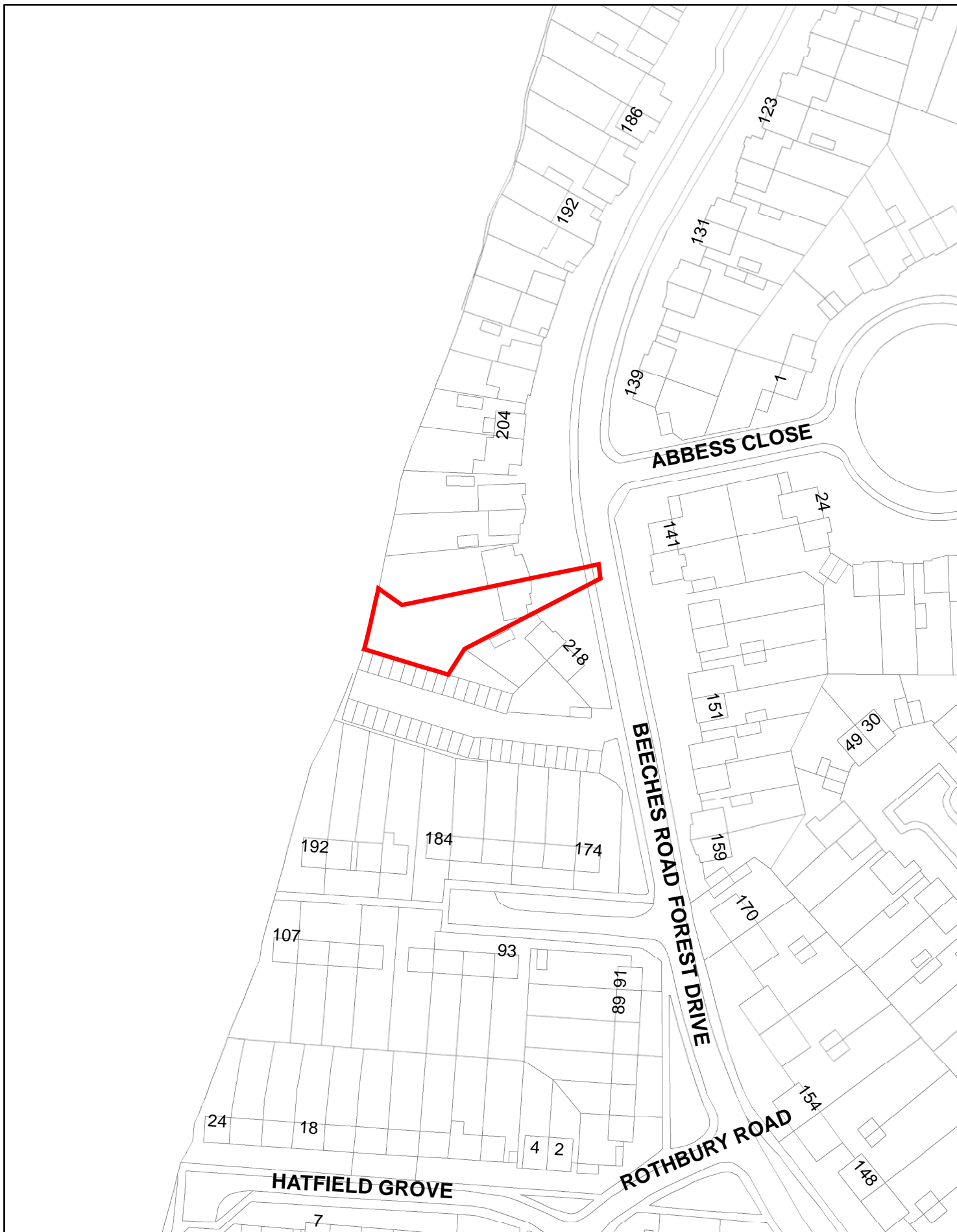
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**Public Health & Protection Services**

Comments
28.01.2021 - No PH&PS comments with regard to this application.

**Local Residents**

Comments
One representation neither objecting to or supporting the Planning Application and one objection received raising the following; loss of light to allotment patch, harmful impact to the cherry tree in close proximity, poor siting of the building, harmful visual impact, loss of privacy due to the windows on the building, disproportionate in size and no information regarding drainage.



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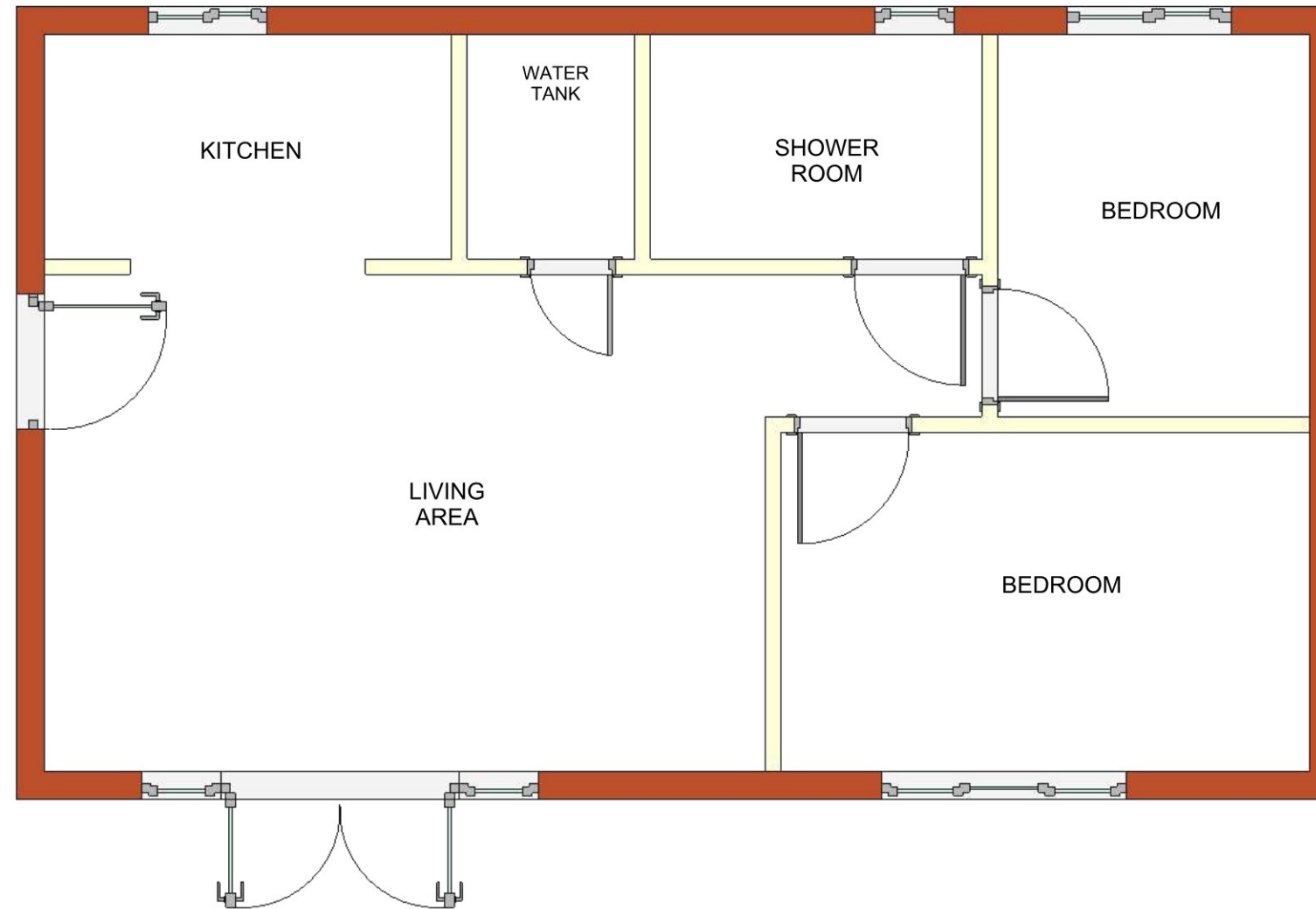
**Planning Committee**  
**21/00149/FUL**

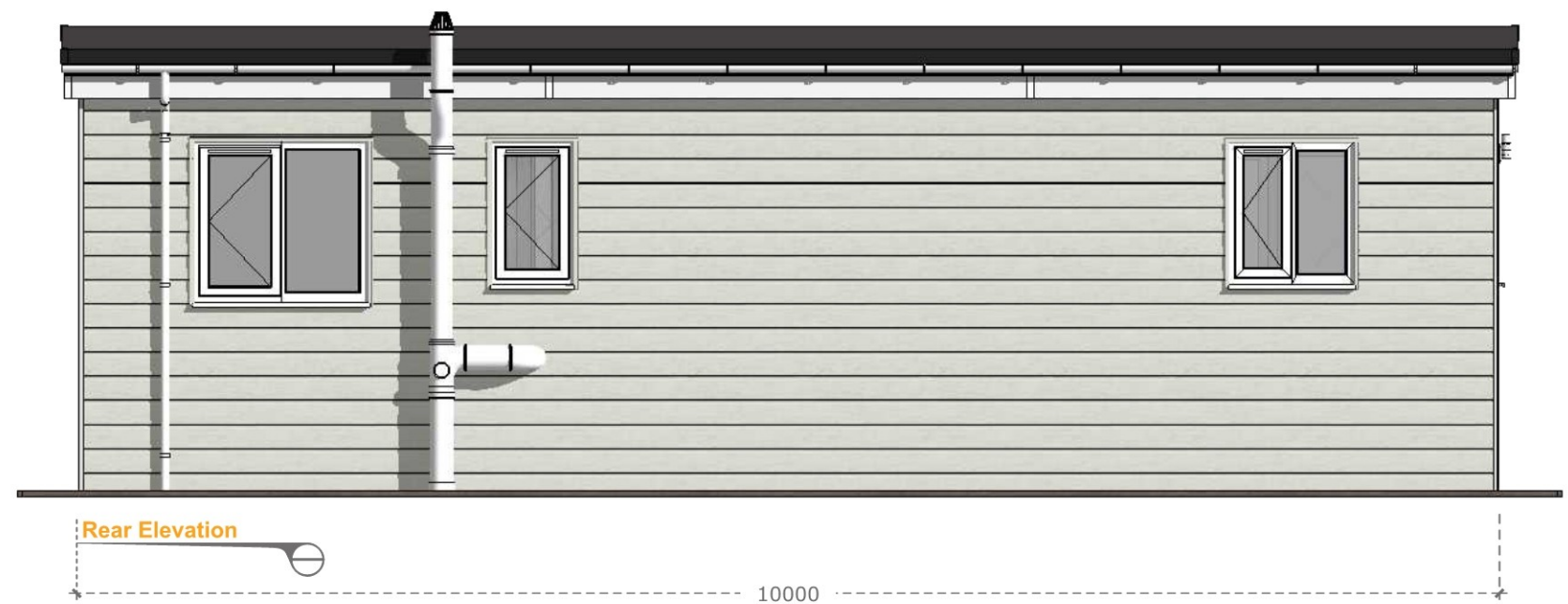
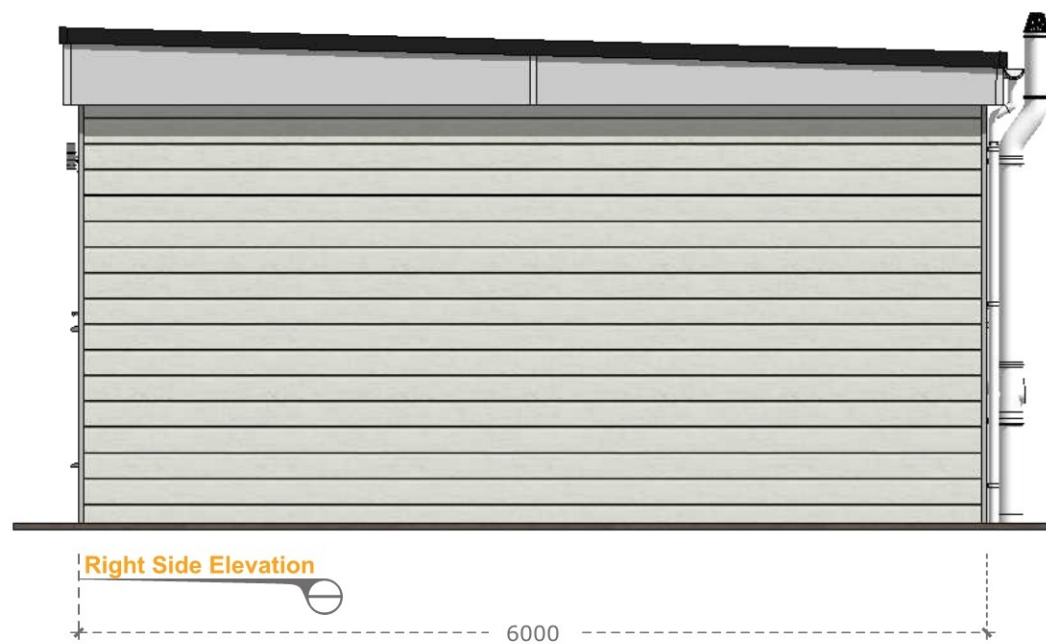
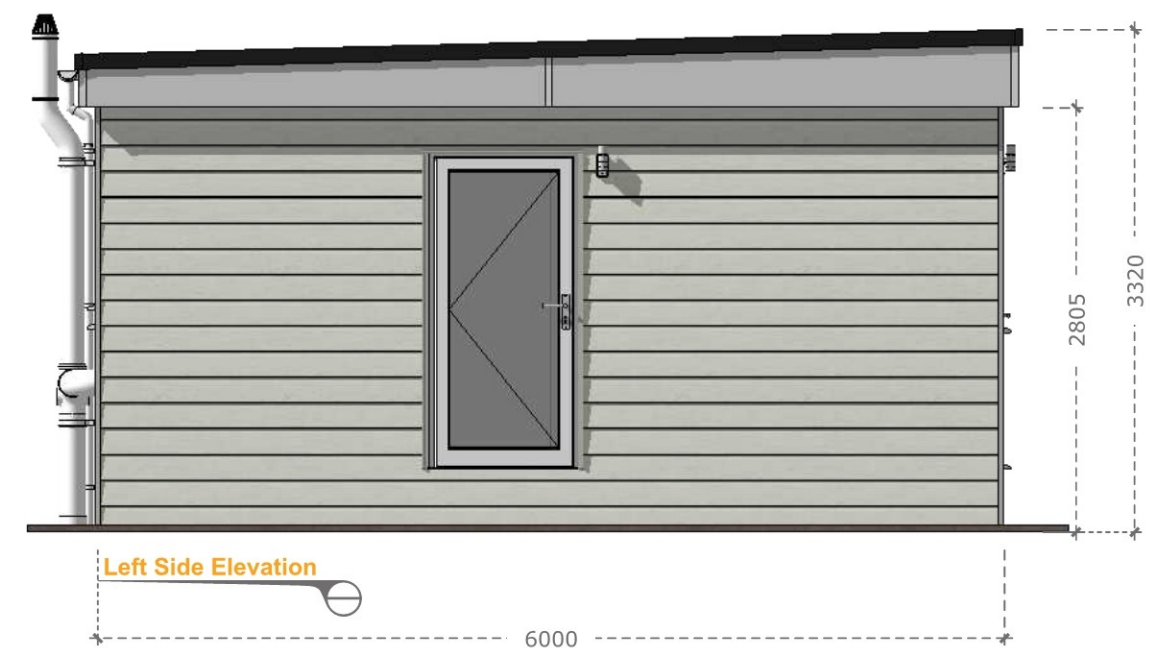
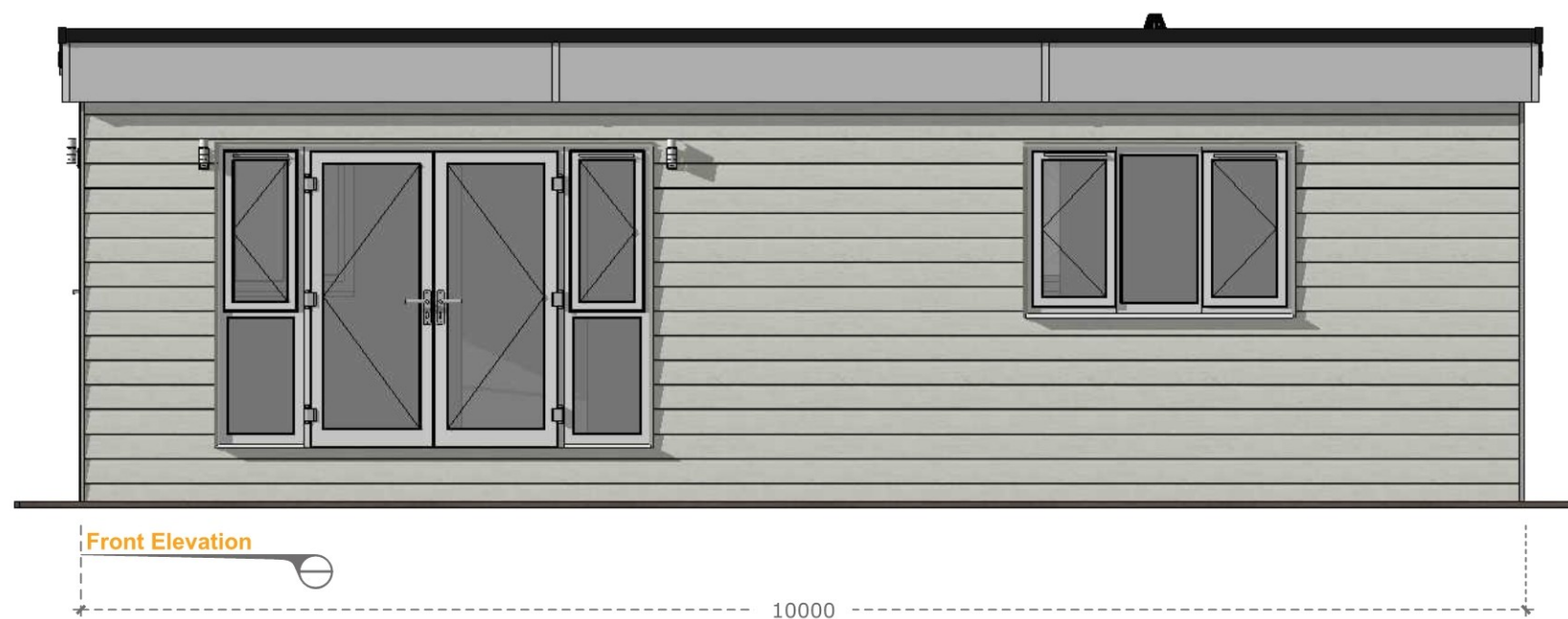
**Planning & Development Management**  
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PO Box 7544 Civic Centre  
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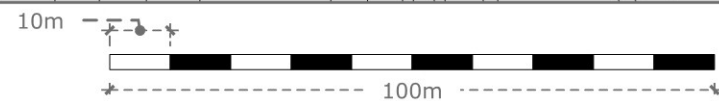








Existing Location Plan (1:1250)



Existing Block Plan (1:500)



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**Planning Committee**  
**13<sup>th</sup> April 2021**

<b>Application No</b>	:	20/01507/FUL Full Application
<b>Location</b>	:	Land South Of The Brewers Arms Main Road Bicknacre Chelmsford Essex
<b>Proposal</b>	:	<b>Development of 42 residential dwellings with associated access, parking, landscaping and amenity space.</b>
<b>Applicant</b>	:	Propiteer MountStreet Bicknacre Ltd
<b>Agent</b>	:	Strutt & Parker
<b>Date Valid</b>	:	22nd October 2020

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## **1. Executive summary**

- 1.1. This application is referred to the Planning Committee because part of the site is owned by Chelmsford City Council and representations have been received that are contrary to the recommendation.
- 1.2. The proposal is for the construction of 42 houses on an allocated site in the Chelmsford Local Plan. Growth site policy 11 – South of Bicknacre allocated the site for around 35 new homes of mixed size and type including affordable housing. The application encompasses a slightly larger site than the allocation, which allows for an increase in the number of units. The extra area of land is to be used as a slow worm mitigation area.
- 1.3. The development would provide 35% affordable housing, which is compliant with Policy DM2. Nine of the fifteen affordable housing units would be available for local housing needs on initial lets.
- 1.4. The layout and design of the proposal is acceptable and would result in no harm to the character of the area, the amenities of the neighbouring properties or the setting of Star House Grade II listed building. The buildings are positioned to take account of the preserved trees on the site and with appropriate conditions would result in no harm to their health.
- 1.5. The site is currently a habitat for slow worms, which are a protected species. The slow worms will need to be translocated under licence and a receptor site adjacent to the development site has been secured. Conditions are attached in this respect.
- 1.6. Planning contributions have been secured for local and strategic open space, biodiversity offsetting, recreational disturbance mitigation to Thrift Wood, Site of Special Scientific Interest and Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).
- 1.7. The application is recommended for approval subject to the completion of the Section 106 Agreement.

## **2. Description of site**

- 2.1. The application site is an area of land located to the west of Main Road, Bicknacre. It is an allocated growth site in the Chelmsford Local Plan. Growth Site Policy 11 – South of Bicknacre refers.
- 2.2. The site comprises two small grassland fields, which are separated by an access track running east-west through the middle. The track is bordered either side by a mature hedge and provides a maintenance access to the Hooe playing field, which is located to the west. The site also includes a triangular piece of grassland, which is adjacent to the Hooe playing field but does not form part of the playing field.
- 2.3. The application site borders the car park to a public house to the east and a recently constructed dwelling, which is located to the rear of the public house. To the north there is a car park, which serves the Hooe playing fields and neighbouring residential properties in Brockenhurst Way. Opposite the site there is a Grade II listed property, Star House.
- 2.4. The southern part of the site is bordered by a group of preserved trees, which form the roadside boundary to Leighams Road. There are also four preserved trees located to the western boundary; three within the green triangular parcel of land and one directly on the western

boundary adjacent to the central access. The Leighams road trees and the western boundary tree are all preserved under TPO/2018/006. The three trees within the triangular parcel are preserved under TPO/2003/057. There is also a further preserved oak tree adjacent to the entrance to the site, TPO/2021/004 refers.

- 2.5. Thrift Wood, Site of Special Scientific Interest is located to the east of the site.

### **3. Details of the proposal**

- 3.1. The application proposal is to develop the site for 42 houses. The site would be accessed from Main Road via the existing maintenance entrance, which would be upgraded and hard surfaced. The majority of the existing track hedgerow would be retained. The northern parcel mainly comprises semi and linked detached properties, arranged in a courtyard style layout to the north western corner. An apartment block wraps around the northern side of the access, set back by approximately 19 metres from Main Road.
- 3.2. The southern parcel includes semi detached, linked detached and detached properties. The southern most houses would back onto Leighams Road and the properties to the south west of the site would face west towards the open land.
- 3.3. The triangular piece of land to the north west of the site would not be developed for housing. This area would be used as a translocation receptor site for slow worms, which are known to be present on the site.
- 3.4. The development would provide 35% affordable housing, which amounts to 15 units. It has been agreed with the applicant that 9 of these properties would be for local needs housing, on initial lets.
- 3.5. All of the units on the site would be two storeys.

### **4. Other relevant applications**

- 4.1. Application 16/02021/OUT granted outline planning consent on 20<sup>th</sup> August 2018 for 35 dwellings with all matters reserved. The red line boundary for this application site was not as large as the area for the current application as the triangular parcel of land to the north west of the site was not included. At the time this application was determined, the site was within the rural area. The Chelmsford Local Plan had not yet been adopted but was at the third stage of consultation. The pre-submission regulation 19 document showed the site as an allocated strategic growth site.

### **5. Summary of consultations**

- Public Health & Protection Services – The development should provide EV charging point infrastructure
- Essex County Council Highways –Acceptable to the Highway Authority subject to conditions. The conditions relate to the satisfactory construction of the junction, the provision of a dropped kerb pedestrian crossing to be provided along Main Road and extension to the footway along the site frontage. They also cover the satisfactory construction of the turning head, discharge of surface water, cycle parking and provision of residential travel information packs.

- Natural England – With regard to European sites, Natural England does not object to the granting of this permission subject to the mitigation provided by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Natural England also advise that the city council should consider any impacts on ancient woodlands and ancient and veteran trees in line with paragraph 175 of the NPPF. An advice note was also provided relating to development within or close to woodland designated sites. This states that the proposed development has the potential to adversely affect a Site of Special Scientific Interest designated for its woodland interest. Where public access into the woodland already exists, new housing development is likely to increase visitor pressure to woodland SSSIs and may result in an increase in impacts. Natural England advise consulting with the woodland owner / manager with a view to identifying whether any proportionate developer contribution to specific visitor management measures may be appropriate (such as improved signage, dog bins, path surface treatment etc.).
- Anglian Water Services Ltd – There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary – Informative is required. The foul drainage from this development is in the catchment of Chelmsford Water Recycling Centre that will have available capacity for these flows. The sewerage system at present also has available capacity for these flows. Informatives are suggested.
- Essex County Council (SUDS) – No objections, subject to conditions
- Essex and Suffolk Water – No reply
- Police - Designing Out Crime – Recommend that the developer seeks to achieve the relevant Secured By Design accreditation which is Secured by Design Homes 2019 Version 2, March 2019. Essex Police would welcome further engagement with the applicant
- Essex County Fire & Rescue Service – Initial response received on the 11<sup>th</sup> November 2020 stating that access for fire appliances was not acceptable as shown. Additional information was then provided to show tracking diagrams for a fire tender and the Fire & Rescue Service were reconsulted. A further consultation response from the fire authority was then received stating that the plans supplied provide insufficient detail to comment on access for Fire Service Appliances, and it is therefore not possible to fully confirm compliance at this time. However, more detailed observations on access and facilities for the Fire Service will be considered on submission of suitable plans at Building Regulation consultation stage. This will require that access is in accordance with Approved Document B
- Recycling & Waste Collection Services – No reply
- ECC Community Infrastructure Planning (Education) – No reply
- Property Services – Property Services have been and continue to be in discussion with the developer to agree access over the land owned by the Council
- ECC Historic Environment Branch – The Historic Environment Record shows that the proposed development lies within an area which has been assessed as having the potential for archaeological features and deposits of prehistoric, Roman or medieval periods. It is possible that such features will survive in the proposed development area. An archaeology condition is required.
- Essex Wildlife Trust Ltd – Objects to this application for the following reasons:

- The number of dwellings exceeds the policy for the site allocation
  - Lack of provision of suitable on site mitigation to reduce visitor impacts on Thrift Wood SSSI
  - Lack of suitable landscape buffers to protect boundary hedgerows
  - Lack of commitment to achieve a net biodiversity gain.
- Woodham Ferrers & Bicknacre Parish Council – Supports this application
  - Local residents – Five residents have commented on this application. Their comments are summarised within appendix 1 of this report. The main points raised relate to residential amenity, parking, house types and impact on wildlife.

## 6. Relevant Planning History

- 6.1. This application follows a previous outline planning application 16/02021/OUT that was approved on 20<sup>th</sup> August 2018. The previous outline application was for 35 dwellings with all matters reserved. Whilst all matters were reserved, an indicative site layout was provided to show how the site could be developed for 35 houses.
- 6.2. During the life of application 16/02021/OUT, ecological surveys revealed that the site was a habitat for slow worms. A slow worm mitigation area was therefore identified within the red line of the application site.
- 6.3. This previous outline planning application was approved before the site formed part of a growth site in the local plan. At the time the application was determined, the site was located within the rural area. The Chelmsford Local Plan was, however, at pre-submission stage and the land was proposed to be allocated for housing. The Section 106 agreement that accompanied the approved application secured 35% of the proposed development for affordable housing and 8 of these units were secured on initial lets for affordable housing for people with a local connection. The mix of houses was not known, however, because the application was in outline only.

## 7. Planning Considerations

### *Main Issues*

- 7.1. The main issues for this proposal are the impact of the development on the character of the area, the neighbouring properties, the ecology of the site and the nearby Site of Special Scientific Interest.

### *Principle of the Development*

- 7.2. Paragraph 15 of the NPPF states that the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.
- 7.3. The application site is allocated in the Chelmsford Local Plan as a growth site. Growth Site Policy 11 – South of Bicknacre states that the land is allocated for “around 35 new homes of mixed size and type including affordable housing”. The site development principles state that the main vehicular access to the site will be from Main Road and that the development must provide pedestrian connections. The policy requires the preservation of the setting of Grade II Star House and the protection and enhancement of Thrift Wood Site of Special Scientific Interest.



- 7.4. The reasoned justification for the growth site policy states that the two field parcels should be integrated to make best use of development opportunities and the hedgerows should be maintained. The existing vehicular access through the site the playing fields to the west are also be retained.
- 7.5. The development proposal satisfactorily complies with the adopted growth site policy. The number of houses has increased by 7 units over the proposed allocation, but the area of the site that is available for housing has increased from the previous application16/02021/OUT because the proposal now is to use some of the land from the Hooe playing field as a receptor site for slow worms.
- 7.6. The development retains as much as the hedgerow along the central access track as possible and has a vehicular access from Main Road, in accordance with the site policy.
- 7.7. Overall, the development is acceptable in principle.

### ***Design and Layout of the Development***

- 7.8. The NPPF states at paragraph 124 that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 7.9. Policy DM24 of the Chelmsford Local Plan sets out design and place shaping principles in major developments. The Council will require all new major development to be of high quality built form and urban design.
- 7.10. The design and layout of the development has been amended during the life of the application. To the north west of the site, in particular, the development has been amended to create a more traditional approach to a square with enclosure by buildings. This has been achieved by removing plot parking from the square, re-aligning the buildings, pulling the buildings together to form a terrace and the introduction of first floor accommodation above the car ports to increase the enclosure. This space is now much more attractive and gives priority to the pedestrian. Spaces like this, that are not dominated by the motor vehicle, are not only more aesthetically pleasing, but are also more likely to result in better community engagement.
- 7.11. The form and design of some of the individual house types were also altered during the life of the application to increase the roof pitches to 50 degrees, break down long building depths with articulated rear wings, addition of chimneys and added detailing to the elevations, such as bay windows. Care has also been taken to ensure that vistas end in focal points rather than unattractive spaces, such as car parking. For example when entering the scheme and travelling south, the plans were amended by swapping over the house types on plots 3 and 7 to create a more positive vista at this point.
- 7.12. Treatment of the car parking on the site has also been improved during the life of the application. Parking is now generally all on plot and car ports have been added to serve both the apartment block and the pair of semi-detached houses to the north western corner. To the north west, the car port lessens the visual impact of the parking spaces and for the apartment blocks the additional building creates a more robust and visually pleasing boundary with the car park to the adjacent public house. This part of the site would be particularly visible from Main Road and is within the setting of a listed building.

- 7.13. The site is constrained due to its awkward irregular shape and the presence of an access track with mature hedgerow running across the centre from east to west. The development has managed to satisfactorily accommodate these constraints and has retained as much of the central hedge as possible.
- 7.14. The reasoned justification for growth site policy 11 states that the Main Road frontage includes dispersed houses and cottages where the spacing and set back position of buildings, together with mature trees and woodlands, field boundaries and tracks, give a rural character. The development has been designed to respect this character by similarly providing a set-back building line. The apartment block and plot 1 are both at least 19 metres set back from the roadside frontage, which allows for a landscaped entrance to the site.
- 7.15. The development respects the southern mature tree boundary by backing onto this side of the site. To the south western boundary, the houses would front onto the open space, providing public facing active elevations, which is good place making. Metal estate fencing is proposed to this boundary to delineate between the site and the neighbouring field. This is an acceptable traditional boundary treatment for this edge of village location.
- 7.16. The new houses would all have acceptable relationships with each other and sufficient private amenity space.
- 7.17. Overall, the design and layout of the development is acceptable.

#### ***Access and Parking***

- 7.18. Policy DM27 states that the Council will have regard to the vehicle parking standards as set out in the Essex Parking Standards – Design and Good Practice (2009). The development complies with these standards.
- 7.19. The vehicular access to the site would utilise the existing entrance from Main Road. As with the previous planning application, The highways authority are content that this would be safe and would provide suitable visibility. ECC Highways have requested that a condition is attached requiring the developer to extend the existing footway along the front of the site to meet up with the existing footway and to provide a dropped kerb crossing. This would facilitate pedestrian access to the village to the west and also to the bus stops on either side of the road. A condition is attached in this respect.
- 7.20. Tracking drawings have been provided to show that a fire engine would be able to access all of the properties. The highways authority are content with the access for large vehicles, including fire engines. Building regulations will ensure that access for fire vehicles is satisfactory; this can include the use of sprinklers in buildings to ensure compliance.

#### ***Residential Amenity***

- 7.21. Policy DM28 seeks to protect living and working environments and states that planning permission will be granted for development proposals provided the development safeguards the living environment of the occupiers of any nearby residential property.
- 7.22. The nearest direct neighbours to this site are in Brockenhurst Way. Development plots 29 and 34 are positioned offset from these neighbours, so that there would not be any parallel facing rear windows. The development would not therefore result in any direct overlooking of these

properties. The buildings are also far enough away not to result in any significant overshadowing or overbearing impacts.

- 7.23. Tile Pitt Lodge backs onto the north eastern corner of the development. The neighbouring units on plots 34 and 35 have no first floor windows in the flank walls facing the garden area of this property. The privacy of this neighbour would therefore be maintained. The resident of this property is concerned that the new houses would block late afternoon and evening sun. Plot 35 is to the south of Tile pit cottage and therefore may result in some overshadowing on the lower part of the garden of the neighbouring property. Plot 34 may also result in some loss of evening sun. There is, however, a gap of approximately 12.5 metres between plots 34 and 35 where the rear of Tile Pit Lodge and its garden would be unobscured by buildings and would receive south-southwesterly sun to the rear garden area. The loss of part of the sun to the garden during the day is not considered to be detrimental to the living environment of this property. The windows of Tile Pitt Lodge would be far enough away that they would not be overshadowed by the proposed new buildings.
- 7.24. The development is considered to have an acceptable relationship with the existing neighbouring properties.

### ***Affordable Housing***

- 7.25. Policy DM2 states that the Council will require the provision of 35% of the total number of residential units to be provided and maintained as affordable housing within all new development sites which comprise of 11 or more residential units.
- 7.26. The application proposes 15 units to be provided as affordable housing. In accordance with the City Councils Planning Obligations Supplementary Planning Document 10 of the units (22%) would be provided as affordable rent and 5 units (13%) as shared ownership. The provision of 3 and 4 bedroom affordable housing for rent will address priority housing needs identified on the Housing Register. The provision of new larger affordable housing for rent will help improve the comparatively low levels of turnover in the existing social housing stock in the administrative area of Chelmsford, which is welcomed.
- 7.27. The previous planning application 16/02021/OUT secured 8 units for people with a local housing need and a local connection on initial lets. Whilst there is no policy requirement for the affordable housing to prioritise those with a local connection, given the history of the site, the applicant was willing to provide this. The Section 106 for this application therefore achieves a similar housing provision as 16/02021/OUT and secures the following:
- 3 x 1 bed flat for affordable rent, a local connection priority for the initial lets.
  - 1 x 2 bed flat for affordable rent, a local connection priority for the initial let.
  - 5 x 3 bed house for shared ownership, a local priority for the initial sales.
- 7.28. The affordable housing units are fully integrated into the development site and are located on both the northern and southern parcels. The parking and garage arrangements are consistent between the affordable and market units.
- 7.29. Overall the development complies with Policy DM2.

## ***Trees and Ecology***

### *Trees*

- 7.30. The site has a line of preserved trees along the southern boundary (TPO/2018/006), a preserved tree adjacent to the access (TPO/2021/004) and a preserved tree to the centre of the site on the western boundary (TPO/2018/006).
- 7.31. The application is accompanied by an Arboricultural Impact Assessment which shows that the preserved trees would be retained and protected. There is sufficient clearance between the rear elevations of plots 31, 35-41 and the crown spread of the trees. In addition, the trees are unlikely to result in liveability issues as the shade arc depicted on block plan 904-PL-001 (Q) shows how the proposals have taken orientation, proximity and growth into account.
- 7.32. A SuDS basin is proposed adjacent to the individual Oak on the western boundary. Whilst the basin is shown to be outside the root protection area, it is contiguous with its eastern edge. The tree is an early mature specimen and will likely adapt to the soil profiling as it establishes. Conditions are required to ensure arboricultural supervision and method statements are provided.
- 7.33. Overall, the development would have an acceptable relationship with the preserved trees.

### *Protected Species*

- 7.34. Policy DM16 states that all development proposals should conserve and enhance the network of habitats, species and sites (both statutory and non-statutory, including priority habitats and species) of international, national and local importance commensurate with their status and give appropriate weight to their importance. The reasoned justification for Policy DM16 states that the presence of protected species is a material consideration when the Council is considering a development proposal. When considering planning applications it is essential that the presence or otherwise of protected species and the extent that they may be affected by the development is established before planning permission is granted.
- 7.35. An ecological assessment of the site has been carried out. This confirms no evidence of badgers, no bat roosts within the trees and low probability of dormice or great crested newts using the site. A condition is attached to ensure that clearing of the site is carried under ecological supervision in relation to these species.
- 7.36. The site is known to provide a habitat for slow worms and an updated reptile survey was completed in 2020 in suitable conditions and survey season. This recorded the site as supporting a "low" population of slow worm. The 2017 results recorded a "good" population. The results found slow worms generally with the northern field however their absence in the southern field is a likely result from the grazing pressures and it is expected slow worm behaviour mimics the land management i.e. avoiding areas of grazing, which is on rotation.
- 7.37. Whilst less boundary habitat is shown as retained, specifically the scrub in the southern most field, compared with the 2016 application, the size of the receptor area remains proportionate and acceptable. The development site presents sub-optimal habitat for reptiles and is heavily grazed. The receptor area will be managed and maintained as optimal habitat and will likely support a greater carrying capacity of slow worm. A condition is attached requiring adherence

to the submitted reptile report, which details how the slow worms would be translocated under the supervision of ecologists.

#### *Designated Sites*

- 7.38. The consultation response received from Natural England provided advice and guidance on how to consider a development that was within or close to a woodland designated site and sets out a suite of SSSI impacts that may need to be addressed, including an increase in access. The City Council has therefore consulted the Essex Wildlife Trust (EWT), who manage Thrift Wood and they have provided information on what type of mitigation would be needed to address an increase in recreational use of the woodland for walkers. As landowners, the EWT are familiar with the extant pressure and have identified the issues they face with managing the site. They have assessed the specific visitor management measures that would be appropriate to mitigate the increase in visitor pressure and have identified that a way marked loop, improved kissing gate access, improved public footpath and improved signage would help to alleviate some of the pressure to the SSSI. The EWT have costed these improvement works at £10,000 and the applicant has agreed to a S106 agreement securing these mitigation contributions for the EWT.
- 7.39. With the provision of appropriate planning contributions, the impact of the development on the nearby protected site is considered to be satisfactorily mitigated.

#### *Habitat*

- 7.40. The site currently consists of semi-improved MG1 grassland of medium distinctiveness and moderate condition. The proposal would result in the entire loss of this habitat. The NPPF sets out the mitigation hierarchy at paragraph 175a, which is a sequential process. The loss of the grassland habitat cannot be avoided and only partly mitigated for by the reptile receptor site. This means the next step would be compensation for the residual harm that remains after avoidance and mitigation measures have been taken into account. As new, suitable habitat cannot be delivered on-site it means off-site compensation is required, as a last resort. Policy DM16 of the Chelmsford Local Plan similarly sets out the mitigation hierarchy and states that all development proposals should avoid negative impacts on biodiversity and geodiversity, mitigate unavoidable impacts and as a last resort compensate for residential impacts.
- 7.41. A biodiversity net gain calculation was carried out in January 2021 using the Biodiversity Metric 2.0 published by Natural England. The report shows that the development would result in a net loss of 8.93 habitat units and 0.54 hedgerow units. The hedgerow units are able to be replaced on site with the addition of 220 metres of new species rich native hedge as well as 35 metres of ornamental hedge. The habitat units, however, will need to be provided offsite. Land for biodiversity offsetting has been identified at Hylands Park and John Shennan playing fields. A planning contribution for shrub planting has been secured through the Section 106 Agreement.

#### *Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)*

- 7.42. In accordance with the Conservation of Habitat and Species Regulations 2017, Chelmsford City Council formally adopted the Essex Coastal Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) on 8 September 2020. In accordance with this document, the City Council requires all applications for residential developments that fall within the “zone of influence” of Essex based European protected sites to contribute towards covering the overall cost for the Essex RAMS mitigation package. The S106 agreement secures £125.58 per dwelling, which is the RAMS tariff per net new dwelling in 2020/21.

### **Surface water**

- 7.43. Concerns have been raised by local residents about existing flooding issues in the area and the potential for the development to exacerbate these issues.
- 7.44. The site is located within Flood Zone 1 and is therefore at limited risk from fluvial flooding. The Lead Local Flooding Authority (LLFA) has no objections to the proposal and consider that surface water management is achievable in principle without causing flooding on site or elsewhere. A condition is attached requiring a full sustainable urban drainage scheme for the development.

### **Heritage**

- 7.45. Policy DM13 states that the Council will preserve listed buildings and will permit proposals where development within the setting of a listed building would not adversely affect the significance of the listed building, including views to and from the building.
- 7.46. Grade II listed Star House lies immediately to the east of the site. The context is made up of linear development along Main Road, with detached houses set within a well wooded landscape. There are a number of characterful villas along Main Road, which date from around the late C19. The immediate context is still rural in character and the application site forms part of how the setting of the listed building is experienced. The mature trees and hedged boundaries contribute to the rural character.
- 7.47. The retention of most of the linear hedgerows flanking the central track, the retention of mature trees and new landscaping together with the set back building line are welcomed and help to retain the sense of rural context along Main Road. The plans have also been amended during the life of the application to push the apartment buildings further back into the site and to improve the design of their street facing elevation. With the amendments that have now been made to the scheme it is considered that the development would result in no harm to the setting of the listed building.
- 7.48. Conditions are attached relating to the detailing of the buildings within closest proximity to Star House; plot 1 and the apartment block.

## **8. Planning Obligations**

- 8.1. Heads of terms have been agreed to secure the following through a Section 106 Agreement:

#### *Affordable housing*

35% provision – 22% of the total number of dwellings within the development to be either social or affordable rented accommodation. The balance, 13% to be provided as affordable home ownership housing (e.g shared ownership). 9 units to be provided for local needs on initial lets.

#### *Open space contributions*

Strategic and local open space contributions required in lieu of on site provision  
The calculations set out below are based on the City Council's adopted Planning Obligations SPD which sets out the requirements for commuted sum payments:

Local open space = £1063 x 42 (dwellings) = £44,646 to be used to upgrade the play equipment on the Hooe playing field, Brockenhurst Way

Strategic open space = £1863 x 42 (dwellings) = £78,246 for improvements to the strategic sports facilities at Saltcoats Park and Compass Gardens, South Woodham Ferrers

*RAMS*

£125.58 x 42 (dwellings) = £5,274.36

*Biodiversity offsetting contribution*

Scrub planting at Hylands Park and the John Shannan playing field = £60,000

*Recreational disturbance mitigation contribution*

Mitigation of the impact of the development on 'Thriftwood' Site of Special Scientific Interest, by provision of installation of 'way markers', improved kissing gate, improving the public footpath in the North West corner of the reserve and improved entrance signage = £10,000

## 9. Conclusion

- 9.1. The proposal is for 42 houses on a site that is allocated for houses in the Chelmsford Local Plan. The development is acceptable in principle and would provide an appropriate mix of market and affordable homes. This includes 9 units for local needs housing on initial lets.
- 9.2. The design and layout of the development has been amended during the life of the application to ensure good place making and to provide an acceptable relationship with the setting of the Grade II listed building Star House.
- 9.3. The development would provide sufficient off street parking and amenity space and would have an acceptable relationship with the neighbouring residential properties.
- 9.4. Planning contributions have been secured for strategic and local open space, biodiversity offsetting, recreational disturbance mitigation for Thrift Wood SSSI and Essex RAMS.
- 9.5. Overall, the development is considered to be acceptable

## 10. Community Infrastructure Levy (CIL)

- 10.1. The application is CIL liable.

### **RECOMMENDATION**

**Subject to an agreement, as indicated in the report presented to the Committee, being entered into by 14 October 2021 pursuant to the Town and Country Planning Act 1990, the Director of Sustainable Communities be authorised to grant the application subject to the following conditions:-**

#### **Condition 1**

The development hereby permitted shall begin no later than 3 years from the date of this decision.

#### **Reason:**

In order to comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.



**Condition 2**

The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice.

Reason:

In order to achieve satisfactory development of the site

**Condition 3**

Prior to any construction works, detailed drawings and sections showing the finished levels of all parts of the development in relation to the levels of the surrounding area and neighbouring buildings shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development is constructed at suitable levels in relation to its surroundings in accordance with Policy DM23 of the Chelmsford Local Plan.

**Condition 4**

Prior to their use, details of the materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.

Reason:

To ensure that the development is visually acceptable in accordance with Policy DM23 of the Chelmsford Local Plan.

**Condition 5**

a) Details of the proposed treatment of all boundaries, including drawings of any gates, fences, walls, railings or piers, shall be submitted to and approved in writing by the local planning authority.

b) The development shall not be occupied until the boundary treatments have been provided in accordance with the approved details.

Reason:

To ensure the proposed development is visually satisfactory and does not prejudice the appearance of the locality in accordance with Policy DM23 of the Chelmsford Local Plan.

**Condition 6**

Within six months of the commencement of the development, a public art statement shall be submitted to and approved in writing by the local planning authority. The statement shall include the following:

- a) Details of the artist (including an explanation of why they have been selected for this scheme),
- b) Details of the proposed public art (including an explanation of the chosen theme and medium) and its intended siting,
- c) Details for the installation including timing,
- d) Future maintenance regime.

The approved public art scheme shall be implemented in accordance with the approved statement.

Reason:

To ensure that Public Art is provided in accordance with Policy DM24 Chelmsford Local Plan.

**Condition 7**

The development hereby permitted shall only be carried out in accordance with the details contained in the approved Reptile Survey from green shoots ecology dated November 2020 subject to such minor variations as may be agreed in writing by the local planning authority.

Reason:

To ensure that no harm is caused to slow worms, which are a protected species in accordance with Policy DM16 of the Chelmsford Local Plan.

**Condition 8**

No external lighting shall be installed at the site until such time as a lighting strategy for biodiversity has been submitted to and approved in writing by the local planning authority. The strategy shall;

- a) identify areas/features on the site that are sensitive to bats and that are likely to cause disturbance in or around their important territory routes used to access key areas of their territory, for example, foraging; and
- b) show how and where the external lighting will be installed so that it can be clearly demonstrated that areas lit will not disturb or prevent the above species using their territory or having access to their resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. No additional external lighting shall be installed without prior written consent from the local planning authority.

Reason:

To ensure there is no disturbance or harm caused to protected species in accordance with Policy DM16 of the Chelmsford Local Plan.

**Condition 9**

During the construction period all trenches or culverts shall include measures to protect badgers from being trapped in open excavations and open pipework shall be blanked off at the end of each working day. Trenches or culverts should be inspected each morning to ensure badgers have not become trapped overnight and should badgers be found ecological advice must be sought.

Reason:

To ensure there is no harm caused to badgers in accordance with Policy DM16 of the Chelmsford Local Plan.

**Condition 10**

In relation to mitigation measures for slow worms and dormice no development shall commence until the role and responsibilities and operations to be overseen by a qualified ecologist or accredited person have been submitted to and approved in writing by the local planning authority. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details subject to such minor variations as may be agreed in writing by the local planning authority

Reason:

This information is needed prior to commencement of the development to ensure there is no harm caused to protected species and their habitats in accordance with Policy DM16 of the Chelmsford Local Plan.

**Condition 11**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and certified as technically acceptable in writing by the SUDs approval body or other suitably qualified person(s). The certificate shall thereafter be submitted by the developer to the local planning authority as part of the developer's application to discharge the condition. No development shall commence until the detailed scheme has been approved in writing by the local planning authority. The approved scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.
- Limiting discharge rates to matched greenfield rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated.
- Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event.
- Final modelling and calculations for all areas of the drainage system.
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

**Reason:**

To ensure that the development is constructed sustainably in accordance with Policies S2 and Policy DM18 of the Chelmsford Local Plan.

**Condition 12**

No development shall take place, including any works of ground clearance or site preparation, until a scheme to minimise offsite flooding caused by surface water run-off and groundwater during construction works and measures to prevent pollution has been submitted to and approved in writing by the local planning authority.

The approved scheme shall be adhered to throughout the construction period for the development.

**Reason:**

The National Planning Policy Framework paragraph 163 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be

satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

**Condition 13**

Prior to the first occupation of the dwelling/s hereby permitted, charging infrastructure for electric vehicles shall be installed and retained at a rate of 1 charging point per dwelling

Reason:

To ensure that the development is constructed sustainably in accordance with Policy DM25 of the Chelmsford Local Plan.

**Condition 14**

a) No demolition, development or preliminary ground works shall take place within the site until a written scheme of investigation for the programme of archaeological work has been submitted to and approved in writing by the local planning authority.

b) No demolition, development or preliminary ground works shall take place until such time that the programme of archaeological work has been carried out in accordance with the approved Written Scheme of Investigation.

Reason:

This information is required prior to the commencement of the development because this is the only opportunity for archaeological investigation work to be undertaken. These works are required to ensure that adequate archaeological records can be made in respect of the site in accordance with Policy DM15 of the Chelmsford Local Plan.

**Condition 15**

A minimum of 50% of the dwelling units as approved shall be constructed to comply with Building Regulations Approved Document Part M4(2) Category 2 (2010 - as amended).

Reason:

To ensure the development provides sufficiently adaptable homes to meet current and future needs of residents in accordance with Policy DM1 of the Chelmsford Local Plan

**Condition 16**

A minimum of 5% of the affordable dwellings as hereby approved shall be constructed to comply with Building Regulations Approved Document Part M4(3)(2)(b) (2010 - as amended).

Reason:

To ensure the development provides sufficiently adaptable homes to meet current and future needs of residents in accordance with Policy DM1 of the Chelmsford Local Plan.

**Condition 17**

All new dwelling units as hereby approved shall be constructed to achieve increased water efficiency to a standard of no more than 110 litres of water per person per day in accordance with Building Regulations Approved Document Part G (2015 - as amended).

Reason:

To ensure the development reduces water dependency in accordance with Policy DM25 of the Chelmsford Local Plan.

**Condition 18**

Prior to their installation large scale drawings shall be submitted to and approved by the local planning authority showing details of the following for plots 1 and 36-40 only :-

- (a) Fenestration, including elevations, the setback from face brickwork, sections through the head, jamb and cill, and details of stiles, mullions, meeting rails and glazing bars;
- (b) Eaves, verges, hips and ridges;
- (c) Doors, door casings and surrounds;
- (d) Brick detailing;
- (e) Rainwater goods and soil or vent pipes;
- (f) Chimneys
- (g) Vents and extractor fans;
- (h) Meter boxes
- (i) Soffit, gutter brackets and verges
- (j) Satellite dishes

The development shall then be carried out in accordance with the approved details.

Reason:

To ensure the proposed development does not detract from the historical value or character and appearance of the listed building in accordance with Policy DM13 of the Chelmsford Local Plan.

**Condition 19**

Prior to occupation of the proposed development, the Developer shall provide to each household a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

Reason:

In the interests of reducing the need to travel by car and promoting sustainable development and transport.

**Condition 20**

There shall be no discharge of surface water from the development site onto the Highway.

Reason:

To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

**Condition 21**

The garages hereby permitted shall be kept available at all times for the parking of motor vehicles by the occupants of the dwelling[s] and their visitors and for no other purpose.

Reason:

To ensure that sufficient parking is available to serve the development in accordance with Policy DM27 of the Chelmsford Local Plan.

**Condition 22**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), the dwellings hereby permitted shall not be enlarged or extended without the grant of an additional planning permission by the local planning authority.

Reason:

In the interests of protecting the living environment of the dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.

**Condition 23**

Details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. Subsequently these works shall be carried out as approved prior to the first occupation of any part of the development or in the first available planting season following such occupation. The landscaping details to be submitted shall include:

- a) hard surfacing including pathways and driveways, other hard landscape features and materials;
- b) existing trees, hedges or other soft features to be retained;
- c) planting plans including specifications of species, sizes, planting centres, number and percentage mix;
- d) Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;

Reason:

In order to add character to the development, to integrate the development into the area and to promote biodiversity in accordance with Policies DM16 and Policy DM23 of the Chelmsford Local Plan.

**Condition 24**

A landscape management plan, including long term design objectives, management responsibilities and schedule of landscape maintenance for a minimum period of five years for all landscape areas, other than small, privately owned, domestic gardens, shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

Reason:

To ensure that the landscaping and planting is appropriately maintained in the interests of the character and appearance of the area in accordance with Policy DM23 of the Chelmsford Local Plan.

**Condition 25**

The trees preserved under TPO/2018/006, TPO/2003/057 and TPO/2021/004 shall be protected by a barrier erected in accordance with BS 5837: 2012 - Trees in relation to design, demolition and construction - Recommendations Figure 2. The fence shall be erected before the commencement of any clearing, demolition and building operations. No materials shall be stored, no rubbish dumped, no fires lit and no buildings erected inside the fence, nor shall any change in ground level be made within the fenced area subject to such minor variations as may be agreed in writing by the local planning authority.

Reason:

To safeguard the existing protected trees in accordance with Policy DM17 of the Chelmsford Local Plan.

**Condition 26**

Drainage and service runs shall not be laid beneath the root protection area of any tree preserved under TPO/2018/006, TPO/2003/057 and TPO/2021/004.

Reason:

To safeguard the existing trees in accordance with Policy DM17 of the Chelmsford Local Plan.

**Condition 27**

No development shall take place within the root protection area of any tree preserved under TPO/2018/006, TPO/2003/057 and TPO/2021/004 until an arboricultural method statement setting out arrangements for the building operations and excavations within the root protection area of the trees has been submitted to and approved in writing by the local planning authority. This includes boundary fencing and excavation of the SUDs attenuation pond. The development shall then be carried out in accordance with the approved details.

**Reason:**

The use of the correct excavation methods will ensure that the tree roots are not damaged in order to safeguard the existing trees in accordance with Policy DM17 of the Chelmsford Local Plan.

**Condition 28**

Prior to first occupation of the development, the new priority road junction serving the development to Main Road shall be provided with clear to ground visibility splays at its of 2.4 metres by 43 metres in both directions along Main Road as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided and retained free of any obstruction at all times.

**Reason:**

To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety

**Condition 29**

Prior to first occupation the developer shall construct a footway along the site frontage to the north of the junction to tie in to the existing adopted footway on Main Road and into the development site. This shall also include a dropped kerb pedestrian crossing. The details of the footway and dropped kerbs shall first have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with those details.

**Reason:**

To make adequate provision within the highway for pedestrians to safely access the existing settlement and the bus stops to the west to minimise the number of trips by private vehicle through the provision alternative travel modes.

**Condition 30**

Prior to first occupation of the development hereby permitted, the two existing and redundant vehicle accesses to the development site on Main Road shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge/footway kerbing. Details of the method for closure shall first have been submitted to and approved in writing by the local planning authority and the accesses shall be closed in accordance with those details.

**Reason:**

To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety

**Condition 31**

Prior to their installation, details of the location, appearance and specifications of all artificial lighting, lighting furniture and signage to all public and private roads, buildings, walkways, amenity areas and shared spaces shall be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with those details.



Reason:

To ensure that the scheme is suitably lit at night and in the interests of protecting the living environment of occupiers of neighbouring dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.

**Condition 32**

Prior to the commencement of any work on the site a joint inspection of the B1418 Main Road, should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority.

Reason:

In the interests of highway safety

**Condition 33**

Prior to the first occupation of the development hereby permitted, details of the number and location of bat boxes to be installed on the trees to the site boundaries shall have been submitted to and approved in writing by the local planning authority. The boxes shall then be installed in accordance with those details prior to first occupation.

Reason:

Hedgerows on site may be used by foraging or commuting bats. In accordance with the recommendations of the submitted ecology report, the installation of bat boxes will enhance the site for bats. This is in line with Policy DM16.

**Notes to Applicant**

- 1 In order to cause minimum nuisance to neighbours, the applicant is strongly advised to follow guidelines for acceptable working hours set out by the Council's Public Health and Protection team.

Noisy work

- Can be carried out between 0800 and 1800 Monday to Friday
- Limited to 0800-1300 on Saturdays
- At all other times including Sundays and Bank Holidays, no work should be carried out that is audible beyond the boundary of the site

Light work

- Acceptable outside the hours shown above
- Can be carried out between 0700 and 0800; and 1800-1900 Monday to Friday

In some circumstance further restrictions may be necessary.

For more information, please contact Chelmsford City Council Public Health and Protection Services, or view the Council's website at [www.chelmsford.gov.uk/construction-site-noise](http://www.chelmsford.gov.uk/construction-site-noise)

- i. Prior to any works taking place in public highway or areas to become public highway the developer shall enter into an appropriate agreement with the Highway Authority to regulate construction works. This will include the submission of detailed engineering drawings for approval and a safety audit.
  - ii. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.
  - iii. Alternatively, the Council is prepared to enter into an agreement under Section 38 of the Highways Act 1980, which must be signed before works commence. It is therefore advisable that an early approach is made to the Development Management Team.
- 3 You are reminded that this permission is also subject to a legal agreement, and that the terms of this agreement must be complied with.
- 4 The proposed development may be liable for a charge under the Community Infrastructure Levy Regulations 2010 (as Amended). If applicable, a Liability Notice will be sent as soon as possible to the applicant and any other person who has an interest in the land. This will contain details of the chargeable amount and how to claim exemption or relief if appropriate. There are further details on this process on the Council's website at [www.chelmsford.gov.uk/cil](http://www.chelmsford.gov.uk/cil), and further information can be requested by emailing [cilenquiries@chelmsford.gov.uk](mailto:cilenquiries@chelmsford.gov.uk). If the scheme involves demolition, for the purposes of the Regulations the development will be considered to have begun on commencement of the demolition works.
- 5 Please note that the Council will contact you at least annually to gain information on projected build out rates for this development. Your co-operation with this request for information is vital in ensuring that the Council maintains an up to date record in relation to Housing Land Supply.
- 6 This development will result in the need for a new postal address. Applicants should apply in writing, email or by completing the online application form which can be found at [www.chelmsford.gov.uk/streetnaming](http://www.chelmsford.gov.uk/streetnaming). Enquires can also be made to the Address Management Officer by emailing [Address.Management@chelmsford.gov.uk](mailto:Address.Management@chelmsford.gov.uk)
- 7 Before commencing any development, the person undertaking the work must ensure that trees, hedges and shrubs do not contain any nesting birds. The applicant is reminded that, under the Wildlife and Countryside Act 1981 (as amended), it is an offence to remove, damage, or destroy the nest of any wild bird while that nest is in use or being built. Trees, hedges and shrubs are likely to contain nesting birds between 1st March to 31st August inclusive.
- 8 The applicant is reminded that measures should be used to protect badgers from becoming trapped in open excavations and disturbed by development works. These should include;
  - i. Creation of sloping escape ramps for badgers, which may be achieved by edge profiling of trenches/excavation or by using planks placed at an acute 45 degree angle into them at the end of each working day and the ;

- ii. Open pipework greater than 150mm outside diameter being blanked off at the end of each working day;
- iii. The storage of topsoil of other soft building material on site is subjected to daily inspections to ensure badgers have not used the structure for a sett; and
- iv. The storage of chemicals should be securely contained so they cannot be accessed by badgers.

### **Positive and Proactive Statement**

The Local Planning Authority provided advice to the applicant before the application was submitted and also suggested amendments to the proposal during the life of the application. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework to promote the delivery of sustainable development and to approach decision taking in a positive way.

### **Background Papers**

Case File

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## Public Health &amp; Protection Services

Comments
This residential development should provide EV charging point infrastructure to encourage the use of ultra-low emission vehicles at the rate of 1 charging point per unit (for a dwelling with dedicated off-road parking) and/or 1 charging point per 10 spaces (where off-road parking is unallocated).

## Essex County Council Highways

Comments
<p>This application follows outline approval 16/02021/OUT for 37no. dwellings.</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:</p> <ol style="list-style-type: none"> <li>1. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: <ol style="list-style-type: none"> <li>i. the parking of vehicles of site operatives and visitors</li> <li>ii. loading and unloading of plant and materials</li> <li>iii. storage of plant and materials used in constructing the development</li> <li>iv. wheel and underbody washing facilities</li> </ol> </li> </ol> <p>Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1.</p> <p>Note - MUD / DEBRIS ON HIGHWAY</p> <p>Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway.</p> <ol style="list-style-type: none"> <li>2. Prior to the commencement of any work on the site a joint inspection of the B1418 Main Road, should be carried out by the applicant and the Highway Authority, to include photographic evidence. The route should then be inspected again, after completion of the development, and any damage to the highway resulting from traffic movements generated by the application site should be repaired to an acceptable standard and at no cost to the Highway Authority. The Highway Authority may also wish to secure a commuted sum for special maintenance to cover the damage caused to the existing roads used as access by vehicles servicing the application site.</li> </ol> <p>Reason: In the interests of highway safety in accordance with policy DM1.</p>

3. Prior to first occupation of the development, the new priority road junction serving the development to Main Road shall be provided with clear to ground visibility splays at its of 2.4 metres by 43 metres in both directions along Main Road as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided and retained free of any obstruction at all times. Note that in the Transport Statement, it is stated that 2.4 metres by 90 metres can be provided in both directions.

Reason: To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1.

4. The new priority junction serving the development site shall be constructed and ready for use as shown in principle in the Site Layout Plan, drawing no. 904-PL-001 Issue Q incorporating a footway transitioning into the site of width 2 metres from main road and carriageway width of 5.5 metres.

Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interests of highway safety in accordance with policy DM1 and policy DM7.

5. A dropped kerb pedestrian crossing shall be provided along Main Road to enable occupiers of the new development to cross to the opposite footway

Reason: To make adequate provision within the highway for pedestrians to safely access the existing settlement and the bus stops to the west to minimise the number of trips by private vehicle through the provision alternative travel modes in accordance with Policy DM1 and DM9.

6. Prior to first occupation the developer to construct a footway along the site frontage to the north of the junction to tie in to the existing adopted footway on Main Road and into the development site as in 4 above at no cost to the Highway Authority.

Reason: To make adequate provision within the highway for pedestrians to safely access the existing settlement and the bus stops to the west to minimise the number of trips by private vehicle through the provision alternative travel modes in accordance with Policy DM1 and DM9.

7. The two existing and redundant vehicle accesses to the development site on Main Road shall be suitably and permanently closed incorporating the reinstatement to full height of the highway verge/footway kerbing immediately prior to first occupation of the development.

Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with policy DM1.

8. Prior to first occupation of the development vehicular turning facilities of a design to be approved in writing by the Local Planning Authority and shown in principle in the Site Layout Plan, drawing no. 904-PL-001 Issue Q, shall be constructed and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

9. Provision of all signing lighting and lining in association with the highway works at no cost to the Highway Authority.

Reason: In the interests of highway safety in accordance with policy DM1.

10. There shall be no discharge of surface water onto the Highway or land to be dedicated public highway.

Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with policy DM1.

11. The proposed development shall not be occupied until such time as the vehicle parking areas for each of the dwellings as stated in the Housing & Parking Schedule R 17.09.20, is provided and laid out in accordance with current parking standards on the approved plans has been hard constructed ready for use. This shall include the un-allocated visitor parking provision as shown in the proposal.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety in accordance with Policy DM8.

12. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

13. Prior to first occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack per dwelling, for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.

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.

#### General

i. Prior to any works taking place in public highway or areas to become public highway the developer shall enter into an appropriate agreement with the Highway Authority to regulate construction works. This will include the submission of detailed engineering drawings for approval and a safety audit.

ii. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

iii. Alternatively, the Council is prepared to enter into an agreement under Section 38 of the Highways Act 1980, which must be signed before works commence. It is therefore advisable that an early approach is made to the Development Management Team.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

#### Informatives:

All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.

The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to:

SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford CM2 5PU.

The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes design check safety audits, site supervision, commuted sums for maintenance and any potential claims under Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required.

The development may be served by a system of operational street lighting of design approved from the Highway Authority. If street lighting is provided, the estate layout design must allow adequate space to accommodate the street lighting scheme.

The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with the Highway Authority.

## Natural England

### Comments

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

#### DESIGNATED SITES [EUROPEAN] - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

With regard to European Sites, Natural England does not object to the granting of this permission subject to the advice given below.

Natural England advises that the specific measures previously identified and analysed by the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy ('RAMS') to prevent harmful effects on European Sites from increased recreational pressure should be applied to this proposed development at appropriate assessment.

Natural England is of the view that if these measures, including contributions to them, are implemented, they will be effective and reliable in preventing harmful effects on the European Site(s) for the duration of the proposed development.

Providing that the appropriate assessment concludes that these measures must be secured as planning conditions or obligations by your authority to ensure their strict implementation for the full duration of the development, and providing that there are no other adverse impacts identified by your authority's appropriate assessment, Natural England is satisfied that this appropriate assessment can ascertain that there will be no adverse effect on the integrity of the European Sites in view of their conservation objectives.

If your authority's appropriate assessment has identified any other adverse impacts from the proposed development in addition to those that may be caused by increased recreational pressure and which have not been addressed by the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy



('RAMS'), you must consult Natural England for further advice on this appropriate assessment. Permission should not be granted until such time as Natural England has been able to consider these additional impacts and respond.

Ancient woodland, ancient and veteran trees You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

## Anglian Water Services Ltd

Comments
<p>Section 1 - Assets Affected</p> <p>There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water would ask that the following text be included within your Notice should permission be granted.</p> <p>Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement.</p> <p>Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.</p> <p>WASTEWATER SERVICES</p> <p>Section 2 - Wastewater Treatment</p> <p>The foul drainage from this development is in the catchment of Chelmsford Water Recycling Centre that will have available capacity for these flows</p> <p>Section 3 - Used Water Network</p> <p>This response has been based on the following submitted documents: Flood Risk Assessment. The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection. (1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water,</p>

under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087. (3) INFORMATIVE

- Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water. (4) INFORMATIVE – Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087. (5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### Section 4 - Surface Water Disposal

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. Anglian Water has reviewed the submitted documents (Flood Risk Assessment) and can confirm that these are acceptable to us. We require these documents to be listed as approved plans/documents if permission is granted. Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 app stage.

#### Section 5 - Suggested Planning Conditions

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

##### Surface Water Disposal (Section 4)

No condition required. We require these documents to be listed as approved plans/documents if permission is granted. Note to applicant - Surface Water Hierarchy evidence will need to be submitted at 106 app stage.

### Essex County Council (SUDS)

#### Comments

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

##### Condition 1

No works except demolition shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological

context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

Verification of the suitability of infiltration of surface water for the development. This should be based on infiltration tests that have been undertaken in accordance with BRE 365 testing procedure and the infiltration testing methods found in chapter 25.3 of The CIRIA SuDS Manual C753.

Limiting discharge rates to matched greenfield rates for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change subject to agreement with the relevant third party. All relevant permissions to discharge from the site into any outfall should be demonstrated. Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% climate change critical storm event. Final modelling and calculations for all areas of the drainage system. Detailed engineering drawings of each component of the drainage scheme. A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.

A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

#### Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure the effective operation of SuDS features over the lifetime of the development. To provide mitigation of any environmental harm which may be caused to the local water environment. Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

#### Condition 2

No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

#### Reason

The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development. Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.'

#### Condition 3

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a 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.

## Essex and Suffolk Water

Comments
No response received

## Police - Designing Out Crime

Comments
<p>Essex Police would welcome further consultation around the application of crime prevention through environmental design principles throughout the development. The foundation supporting this early consultation is in accordance with:</p> <ul style="list-style-type: none"><li>' Chelmsford City draft local plan,</li><li>' National Planning policy Framework (NPPF 2019)</li><li>' National Planning policy Guidance (NPPG 2019)</li><li>' The National Design Guide (2019) and</li><li>' The Neighbourhood plans.</li></ul> <p>Upon review of the documentation, to date Essex Police have had no Pre application consultation which we would very much welcome.</p> <p>Essex Police considers that it is important that, if approved, this specific development is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design (CPTED) for which Secured by Design (SBD) is the preferred enabler. This reflects sections 91 and 127 of the NPPF which support the need for safe and secure developments. Good design should aim to achieve healthy, inclusive and safe places, which are accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.</p> <p>As such, it is strongly recommended that the developer seeks to achieve the relevant Secured By Design accreditation which in this case will be Secured by Design Homes 2019 Version 2, March 2019.</p> <p>An SBD award is only achieved by compliance with the requirements of the relevant Design Guide ensuring the security built into each property and a development as a whole is risk commensurate to that location.</p>

Essex Police provide a free, impartial advice service to applicants who require advice on Crime Prevention Through Environmental Design and Secured by Design and prior to a formal planning application we would welcome and encourage the opportunity to meet with the applicant to discuss any potential issues.

Contact with Essex Police Designing Out Crime team is via email: [designingoutcrime@essex.pnn.police.uk](mailto:designingoutcrime@essex.pnn.police.uk)

## Essex County Fire & Rescue Service

### Comments

#### Access

The plans supplied provide insufficient detail to comment on access for Fire Service Appliances, and it is therefore not possible to fully confirm compliance at this time. However, more detailed observations on access and facilities for the Fire Service will be considered on submission of suitable plans at Building Regulation consultation stage. This will require that access is in accordance with Approved Document B.

#### Building Regulations

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector.

Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance".

Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

#### Water Supplies

The architect or applicant is reminded that additional water supplies for fire fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

#### Sprinkler Systems

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met."

## Housing Standards Team

Comments
No response received

## Recycling & Waste Collection Services

Comments
No response received

## ECC Community Infrastructure Planning (Education)

Comments
No response received

## Property Services

Comments
With regard to this development Property Services have been and continue to be in discussion with the developer to agree access over the land owned by the Council.

## ECC Historic Environment Branch

Comments
<p>The Historic Environment Record shows that the proposed development lies within an area which has been assessed as having the potential for archaeological features and deposits of prehistoric, Roman or medieval periods. It is possible that such features will survive in the proposed development area.</p> <p>In view of this, the following recommendation is made in line with the National Planning Policy Framework:</p> <p><b>RECOMMENDATION:</b> Full condition</p> <p>(i) No demolition, development or preliminary ground works shall take place within the site until a written scheme of investigation for the programme of archaeological work has been submitted to and approved in writing by the local planning authority.</p> <p>(ii) No demolition, development or preliminary ground works shall take place until such time that the programme of archaeological work has been carried out in accordance with the approved Written Scheme of Investigation.</p> <p>The archaeological work will comprise evaluation by documentary research, trial trenching, and potentially be followed by excavation or monitoring if features are found. The City Council should inform the applicant of the archaeological recommendation and its financial implications. An archaeological brief will be produced from this office detailing the work required on request.</p>

## Essex Wildlife Trust Ltd

Comments
<p>We object to this proposal on the following grounds:</p> <p>Number of dwellings exceeds Chelmsford Local Plan policy for the site allocation</p> <p>Lack of provision of suitable on-site mitigation to reduce visitor impacts on Thrift Wood SSSI</p> <p>Lack of suitable landscape buffers to protect boundary hedgerows</p> <p>Lack of commitment to achieve a net biodiversity gain</p>
<p>1. Introduction</p> <p>Essex Wildlife Trust is the county's leading conservation charity, committed to protecting wildlife and inspiring a lifelong love of nature. We manage nature reserves and discovery parks across the county, providing outstanding outdoor learning and preserving places of wonder. Founded in 1959 by volunteers, we protect over 8,400 acres of land across 87 sites and are supported by 39,000 members. We are in a climate and nature emergency, which is already having profound impacts on the environment. We are also beginning to see the growing impacts of society's disconnect and progressive decline in its interactions with nature. Restoring a healthy and resilient natural environment is vital for society's health, well-being and economic prosperity. A positive planning system has a key role to play in this and the natural environment should be at its heart, aligning it with the Government's ambitions for Nature's Recovery.</p> <p>The Government's 25 Year Environment Plan<sup>1</sup> - A Green Future 'sets out government action to help the natural world regain and retain good health', including a commitment to 'put the environment at the heart of planning and development, to create better places for people to live and work'.</p>
<p>2. The application</p> <p>The proposal is for 42 houses, which we contend is unacceptable and which significantly exceeds the allocation in Growth Site Policy 11. The higher number of dwellings proposed prevents the provision of adequate green landscape buffers and on-site community open space. This will contribute towards increased recreational impacts on Thrift Wood Site of Special Scientific Interest (SSSI) and a resulting net loss in biodiversity.</p> <p>GROWTH SITE POLICY 11- SOUTH OF BICKNACRE of the Chelmsford Adopted Local Plan states the following: Amount and type of development: Around 35 new homes of mixed size and type including affordable housing. Protect and enhance Thrift Wood Site of Special Scientific Interest (SSSI) to the south east of the site ensuring any new development provides any required mitigation measures. Maintain and strengthen landscaped boundaries to the south and west, and a landscaped edge to fields beyond. Paragraph 7.347 continues:</p> <p>The Main Road frontage includes dispersed houses and cottages where the spacing and set back position of buildings, together with mature trees and woodlands, field boundaries and tracks give a rural character.</p>



Development should respect this rural character, which also forms part of the setting of the Grade II listed Star House. The development will also be required to provide appropriate mitigation to avoid adverse impacts to the Thrift Wood Site of Special Scientific Interest (SSSI) to the south east of the site.

The proposal fails to adhere to the requirements of the above policy; it fails to strengthen landscape boundaries and there is an absence of mitigation provision to protect the SSSI.

### 3. Thrift Wood

There are particular challenges for Essex Wildlife Trust in managing Thrift Wood SSSI for its notified features, and particularly those caused by visitor pressures. The application site lies within 7am of the woodland and there is insufficient green space proposed within the development footprint to reduce increased visitor impacts to the SSSI. The proposal will potentially result in a net loss in biodiversity within Thrift Wood itself.

Any increase in visitor usage (particularly visits for the purpose of dog-walking) will require adequate management in order to ensure that favourable condition of the SSSI can be achieved. Thrift Wood is already vulnerable to visitor pressures and an increase in visitor numbers will likely result in increased

damage (poaching) to the site caused by trampling of associated ground flora, disturbance to fauna and increased nutrient enrichment of ride edges through increased dog waste.

### 4. Biodiversity Net Gain

The application fails to demonstrate a commitment to seeking a net gain in biodiversity. From examination of the master plan, it is clear that there is a lack of provision within the site for sufficient natural planting and community open space. It is of particular concern that there is a lack of any green buffers between the boundaries of rear gardens and the hedgerows which border the site. In the absence of any landscape buffers, this hedgerow habitat will be at risk of becoming degraded due to damage, inappropriate pruning, disturbance of the wildlife it supports (including increased predation by domestic cats) and dumping of garden rubbish (fly-tipping). This will result in a net loss to biodiversity. It is our contention that the development should be redesigned to include a robust, protective landscape buffer to conserve the wildlife value of the hedgerow habitats on the site, facilitate dog-walking and other forms of recreation, and mitigate the impacts of the development. The overall aim should be towards achieving a net gain in biodiversity, including protecting the biodiversity of Thrift Wood SSSI.

### 5. Legislation and Policy

There is a statutory basis for planning to seek to minimise impacts on biodiversity and provide net gains in biodiversity wherever possible. Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector, which should be seeking to make a significant contribution to the achievement of the commitments made by Government in its Biodiversity 2020 strategy.

The National Planning Policy Framework (NPPF) is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.

The NPPF includes the following statements on achieving net gains in biodiversity:

Paragraph 170 of the National Planning Policy Framework (NPPF) states that planning policies and decisions should contribute to and enhance the natural and local environment by: 'minimising impacts on and

providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures' Paragraph 174 states that to protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping-stones that connect them; and areas identified by national and local partnerships for habitat management. enhancement. Restoration or creation: and
- b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity. Paragraph 175 of the NPPF states: 'When determining planning applications, local planning authorities should apply the following principles:
  - a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused
  - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments). should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
  - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists

The NPPF sets out clearly that Local Plans must result in a net gain in biodiversity, thereby securing a contribution to the aims of the Natural Environment White Paper which states: "We will move from net biodiversity loss to net gain" and specifically references the planning system. Local Plans can only achieve a net gain in biodiversity if the vast majority of applications approved individually achieve a net gain in biodiversity. It is therefore reasonable to make a net gain in biodiversity an expectation of each and every application.

## 6. Summary

We wish to reiterate our objection to this application based on the reasons outlined above. We respectfully request that the application is refused and recommend the developer be required to redesign the proposal with fewer dwellings and including adequate provision of on-site open space and protective landscape buffers towards mitigation for impacts on Thrift Wood SSSI. The developer should in addition be required to provide a suitable financial contribution towards the future management of Thrift Wood in respect of the increase in visitor impacts resulting from development at this site.

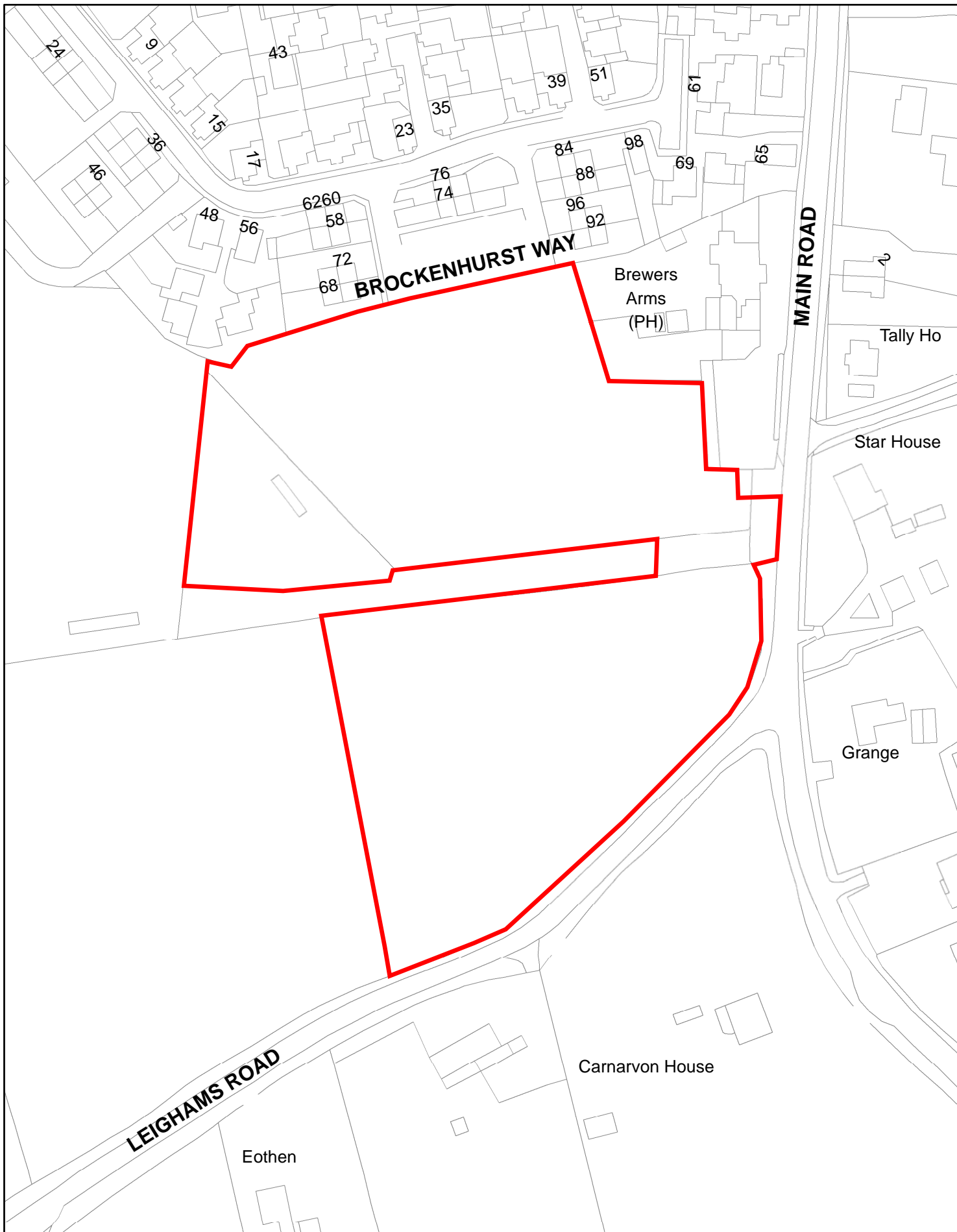
## Woodham Ferrers & Bicknacre Parish Council

### Comments

The Parish Council supports this application.

## Local Residents

Comments
<p>Five representations received, comments summarised as follows</p> <ul style="list-style-type: none"><li>o Concerns about loss of light to the garden area of Tile Pit Lodge</li><li>o The affordable housing should be better spread out through the development</li><li>o There is a drainage ditch that runs underneath the public highway towards the proposed development site – how will the drainage be impacted by this proposed development?</li><li>o Object to the height of the proposed houses as they are higher than the surrounding properties</li><li>o Object to the housing mix as there are too many large (4-5 bed) houses</li><li>o Concerned about the safety of the access</li><li>o Concerns that there would be an insufficient level of off street parking provided</li><li>o Request a reduction in construction hours due to concerns of noise disturbance</li><li>o Concerns about destruction to wildlife</li><li>o Building too many houses in Bicknacre will destroy the village culture</li><li>o More people in the village will mean a shortfall of school places, doctor's surgery capacity, shops etc</li><li>o The owners and licensees for The Drunken Dragon support this development as it will bring more customers to their business, especially during the construction period</li><li>o Concerns raised that plots 29 to 34 will overlook the neighbouring properties in Brockenhurst Way</li></ul>



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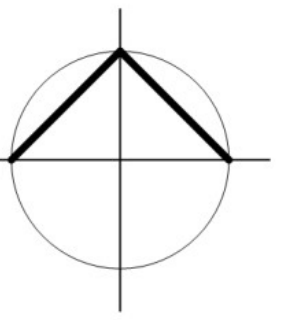
**Planning Committee**  
**20/01507/FUL**

**Planning & Development Management**  
**Directorate for Sustainable Communities**

PO Box 7544 Civic Centre  
Duke Street, Chelmsford, CM1 1XP

Telephone: 01245 606826









**Planning Committee**  
**13<sup>th</sup> April 2021**

<b>Application No</b>	:	20/01900/FUL Full Application
<b>Location</b>	:	Pipers Farm Mill Road Good Easter Chelmsford Essex CM1 4RL
<b>Proposal</b>	:	<b>Retrospective application for the change of use from agricultural to storage and distribution (use class B8). Addition and extension to existing walls to form a covered structure with a roof incorporating a portacabin.</b>
<b>Applicant</b>	:	Mr Pitt
<b>Agent</b>	:	Miss Jessica Archer
<b>Date Valid</b>	:	17th December 2020

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**Appendices:**

Appendix 1	Consultations
Appendix 2	Drawings

## **1. Executive summary**

- 1.1. The application is referred to planning committee at the request of the local ward member because of concerns that the development has had a detrimental impact to the safety of highway users.
- 1.2. The application site is located within the Rural Area, outside of any defined settlement.
- 1.3. Pipers Farm has been previously associated with pig farming, however this operation ceased in 2019. The agricultural buildings on the site are now redundant and disused. The application retrospectively seeks planning permission for the change of use of one building from agricultural to storage and distribution (use class B8), to regularise the existing use of the site as a scaffolding business. The change of use as well as alterations to the building are an appropriate form of development in the countryside and make use of redundant agricultural land, supported by both local and national planning policies. The traffic movements associated with the use are similar to the previous agricultural use. The use of the land as well as the vehicle movements also do not harm the residential amenities of neighbouring residents in terms of noise intrusion.
- 1.4. Approval is recommended.

## **2. Description of site**

- 2.1. The application site is located within the Rural Area, outside of any defined settlement.
- 2.2. The site lies adjacent to Pipers Farmhouse, a fifteenth/sixteenth century grade II listed building.
- 2.3. Pipers Farm is located roughly 0.5 miles north of the defined settlement of Good Easter and is accessed via Mill Road. The farm holding is set within relative rural isolation, with surrounding areas developed very sporadically. Mill Road itself is a largely single-track road which links Good Easter to other villages and hamlets to the north.
- 2.4. Pipers Farm has historically been used for intensive pig farming, however, this use ceased in 2019. The buildings and farmyard have since been redundant and disused. The building subject of this application was previously used as a muck heap to serve the pig farming business. The building has since been converted to support the operations of the scaffolding business who have erected a scaffold structure and stationed a porta-cabin to be used as an office.

## **3. Details of the proposal**

- 3.1. This application has been submitted retrospectively and seeks to regularise the change of use of the building and land from agriculture to storage and distribution, which falls under use class B8.
- 3.2. The application also seeks to regularise additions to the building which include an increase to the height of the walls as well as the construction of a roof, both of which are clad with corrugated tin.
- 3.3. The proposal also includes the provision of seven parking spaces for members of staff.



#### **4. Summary of consultations**

4.1. The following were consulted as part of this application.

- Good Easter Parish Council
- Public Health & Protection Services
- Essex County Council Highways
- Local residents

4.2. Good Easter Parish Council do not support this application due to the increase in the volume of traffic and the subsequent noise intrusion to residents.

4.3. The Council's Public Health and Protection Services raise no objection to the proposal. Also, that there are no specific noise concerns relating to traffic movements. Requested that a condition be attached stipulating hours of use.

4.4. Essex County Council have raised no objection to the proposal, subject to a number of conditions relating to parking and Highway Safety.

4.5. Seven letters of representation have been received from residents, all objecting to the application. The letters raised the following matters: impacts to the highway, safety of highway users, increased traffic movements and noise intrusion at unsociable hours.

#### **5. Planning considerations**

##### ***Main Issues***

5.1. The main issues for consideration are:

- The impact of the proposal on the intrinsic character and beauty of the countryside.
- The impact of the development on the highway from traffic movements.
- The relationship with residents in terms of noise intrusion.

##### ***Rural Area***

5.2. As above, the site is located within the Rural Area. Local Planning Policy DM10 (C) allows for the change of use of land or buildings in the Rural Area where: the building is of permanent and substantial construction, and works to convert the building would not result in substantial reconstruction; and the building is in keeping with its surroundings, and any alterations or extensions do not harm its original character; and it does not adversely impact on the identified intrinsic character, appearance and beauty of the Rural Area; and the building was constructed less than ten years ago for the purposes of agriculture, but it can be demonstrated that it is no longer required for agriculture.

5.3. As denoted in the applicants Planning Statement, the original building was a concrete yard area with concrete panel walls to three sides, used as a muck heap. To facilitate the operation of the building and land as a scaffolding business, the applicant has erected a scaffolding structure atop the original pre-cast concrete plank walls. Whilst a new roof has been added, the footprint of the building has not increased, and the original walls remain. As such, the Council has

satisfied that the building is of permanent and substantial construction and works to convert the building have not resulted in substantial reconstruction.

- 5.4. The building is located within a cluster of utilitarian agricultural buildings. The other buildings within the farmyard are clad in either timber or corrugated sheeting. The external appearance of the converted building has been altered with additional walling and a roof, both clad with corrugated tin. The alterations are in keeping with the character of the other buildings in the farmyard. The roof sits comfortably below other buildings in the site, meaning that the development has little impact on the surrounding environment. The building is in keeping with its surroundings and it does not adversely impact on the intrinsic character and beauty of the countryside.
- 5.5. Council records show that the building and land use has been in situ for a period more than 10 years. It is also considered that since the pig rearing business has ceased, the building has not longer been required for agricultural purposes.
- 5.6. The Local Planning Authority is also guided by the National Planning Policy Framework (NPPF). Paragraph 83 relates to supporting a prosperous rural economy and states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses. The Council recognises that the re-use and adaptation of existing buildings in the countryside can provide opportunities for commercial and industrial development. The change of use of the site, as well as the adaption of the former disused and redundant agricultural building is supported by both national and local planning policies.
- 5.7. Regarding the policy assessment above, the change of use as well as the alterations to the building are an appropriate form of development in the Rural Area and comply with the criteria as set out in Policy DM10 (C) of the Chelmsford Local Plan.

#### ***Highway, Parking and Access***

- 5.8. The comments raised in objection to the planning application were concerned that the operation of the site as a scaffolding business has increased the amount of large vehicle traffic movements in the surrounding area, harming the safety of highway users.
- 5.9. The site is served by a suitable and satisfactory established vehicular access. The site was used intensively for the rearing of pigs and would have been accessed previously by large and or low speed agricultural vehicles. The applicants Planning Statement sets out the vehicle movements previously required to facilitate the operational demands of the pig rearing business. These included truck and livestock trailers, 7.5 tonne HGV for pig delivery, rigid HGV to collect pigs and artic HGV for feed.
- 5.10. The vehicles used by the scaffolders are smaller than much of the farm machinery which previously frequented the site. The staff members arrive by car at the site from 6am to load their scaffold vehicles and leave the site at 7am. They then return to the site at 4pm and finish at roughly 5pm. This working regime limits the amount of traffic accessing the site and using surrounding roads.
- 5.11. Rural roads accommodate simultaneous two vehicle passing with existing passing places and those that have been generated over time, usually along the verge margin. The proposal is retrospective and therefore associate heavy goods vehicle movements have been taking place

for some time. Unfortunately, obvious verge damage on the rural roads is a seasonal occurrence and is usually associated with winter weather.

- 5.12. It is noted that there are currently additional and temporary heavy goods vehicle movements associated with the permitted construction of three bungalows being constructed at the site to the west of Round Roblets on Bedfords Farm Road. The applicant does not own this site and has no connection to it. Much of the traffic travelling to the construction site uses Mill Road.
- 5.13. There are no recorded accidents associated with the current scaffolding business or in the vicinity of the existing vehicular access in the vicinity of Pipers Farm within the last 5 years.
- 5.14. Paragraph 109 of the NPPF states that “development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”
- 5.15. Having regard to the previous planning uses at the proposal site and that there are other similar sites across the County with similar access characteristics in the rural areas, the Highway Authority do not object to the change of use.
- 5.16. The proposal also includes seven parking spaces for staff members; compliance to retain these parking spaces in accordance with the EPOA Parking Standards shall be conditioned.
- 5.17. From a highway and transportation perspective the impact of the proposal is acceptable.

#### ***Residential Amenity***

- 5.18. One of the objections related to an increase in noise intrusion at unsociable hours due to increased traffic movements.
- 5.19. Firstly, the site is in relative rural isolation with the nearest residential dwelling (not in the applicant ownership) located roughly 0.2 km from the site. The use of the site as a scaffolding business would not be detrimental to residential amenity in terms of noise intrusion.
- 5.20. The vehicle movements associated with the use of the site would occur at specific times for short periods during weekdays (between 6am to 7am and 4pm to 5pm). Whilst early morning vehicle movements could be unsociable, these would be infrequent and only related to two large HGVs so would not be so harmful to residential amenity to justify refusal of planning permission. Vehicle activity associated with the former pig business would have been unrestricted and it is relevant to consider the current proposal against the former farm uses on the site.
- 5.21. Note that the Councils Public Health and Protection Services have assessed the application in terms of noise impacts and have raised no objection to the change of use.

#### ***Other Matters***

- 5.22. The site lies adjacent to Pipers Farmhouse, a fifteenth/sixteenth century grade II listed building. The development is within the modern farmyard and is sufficiently set away from and screened from the listed building that there is no adverse impact on its setting.

## **6. Community Infrastructure Levy (CIL)**

6.1. This application is not CIL liable.

### **RECOMMENDATION**

**The Application be APPROVED subject to the following conditions:-**

#### **Condition 1**

The development hereby permitted shall be carried out in accordance with the approved plans and conditions listed on this decision notice.

Reason:

In order to achieve satisfactory development of the site

#### **Condition 2**

The loading and unloading of scaffold poles shall only take place between the following hours:  
6000 - 1730 Mondays – Fridays.

Reason:

In the interests of protecting the living environment of occupiers of neighbouring dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.

#### **Condition 3**

The 7no. parking spaces shown in the supporting plans shall remain available at all times for the parking of vehicles associated with the scaffolding business hereby approved and shall not be used for any other purpose.

Reason:

To ensure that sufficient parking is available to serve the development in accordance with Policy DM27 of the Chelmsford Local Plan.

#### **Condition 4**

The premises shall be used for a scaffolding business and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason:

In the interests of protecting the living environment of occupiers of neighbouring dwellings in accordance with Policy DM29 of the Chelmsford Local Plan.

### **Positive and Proactive Statement**

The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework to promote the delivery of sustainable development and to approach decision taking in a positive way.

### **Background Papers**

Case File

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**Good Easter Parish Council**

Comments
30.01.2021 - Not supported by Good Easter Parish Council due to the increase in the volume of traffic and the noise thereby generated.

**Public Health & Protection Services**

Comments
No specific noise concerns about this proposal, my comments would be to request that the hours of use proposed by the applicant are imposed as a condition.

**Essex County Council Highways**

Comments
<p>08.02.2021 - Your Ref: 20/01900/FUL</p> <p>Our Ref: CO/EGD/SD/RM/CHL/20/1900/38175</p> <p>Date:- 8th February 2021</p> <p>The site is served by a suitable and satisfactory established vehicular access.</p> <p>Having regard for the previous uses on the site it would have been accessed by large and or low speed agricultural vehicles.</p> <p>From the site history, the site was previously used for the rearing of pigs and it therefore likely been accessed previously by heavy goods vehicles.</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:</p> <p>1. The 7no. parking spaces shown in the supporting plans shall be and marked out in parking bays in accordance with the EPOA Parking Standards. The vehicle parking area shall be retained in this form at all times.</p> <p>Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DM8.</p>

2. Suitable a vehicular turning space facility, of a design to be approved in writing by the Local Planning Authority be provided and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1.

3. Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and provided prior to occupation and retained at all times.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity in accordance with Policy DM8.

The above conditions are to ensure that the proposal conforms to the relevant policies contained within the County Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

## Local Residents

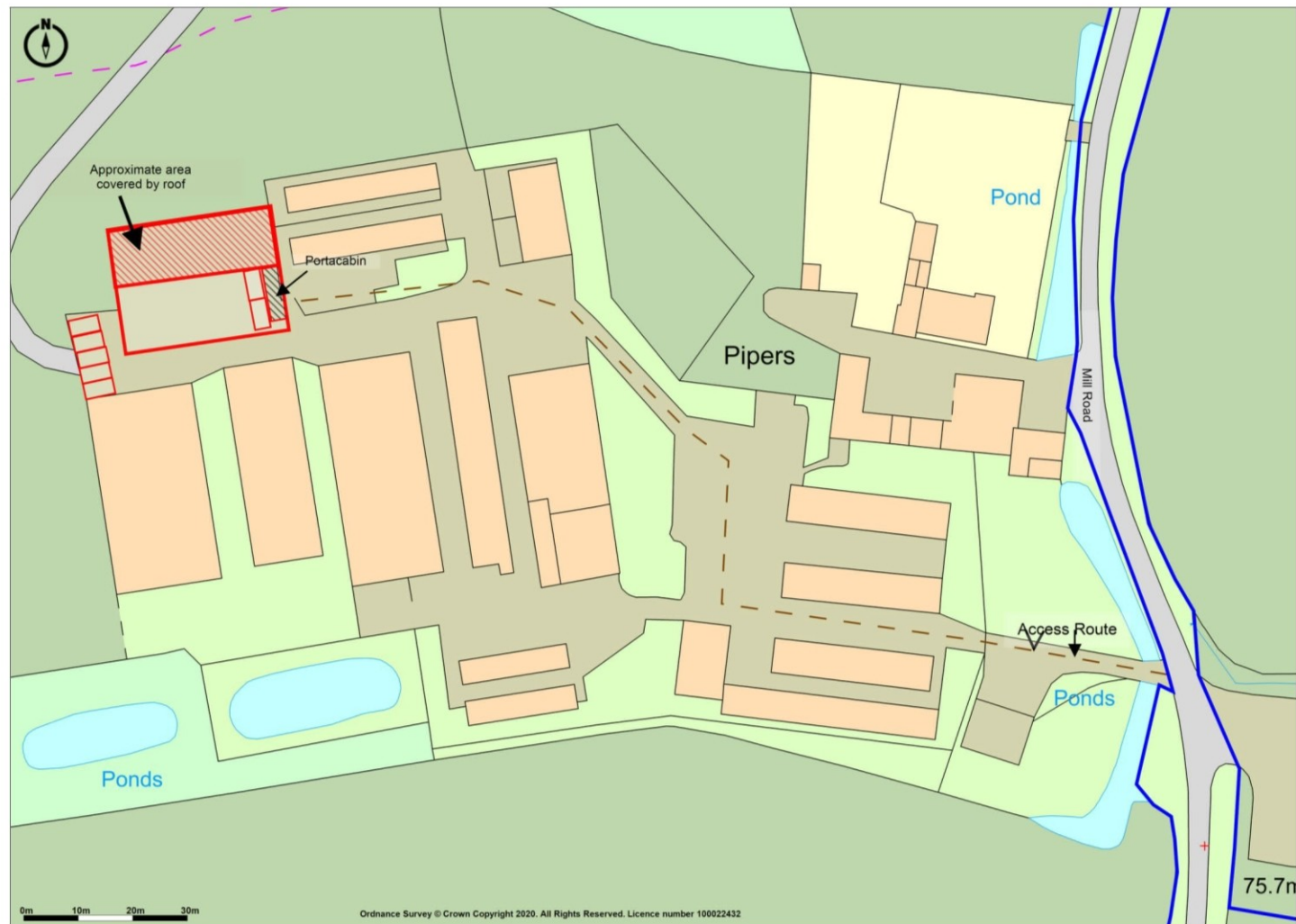
### Comments

Throughout the lifetime of the planning application, seven letters of representation were made in objection to the planning application. The comments raised the following matters:

- Impacts to the highway,
- Safety of highway users,
- Increased traffic movements
- Noise intrusion at unsociable hours.
- Impact to highway verges.



Location Plan - Pipers Farm, Good Easter, Chelmsford, Essex, CM1 4RL



**Promapv2**  
LANDMARK INFORMATION

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& NOTT**  
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## Annual Appeals Report

Appeal Decisions received between 01/04/2020 and 31/03/2021

### All Appeals

<b>Total Appeal Decisions Received</b>	<b>80</b>	
<b>Dismissed</b>	57	71% (*rises to 77% if split decisions included)
<b>Allowed</b>	18	23%
<b>Split</b>	5	6%

### Planning Appeals

<b>Appeal Decisions Received</b>	<b>67</b>	
<b>Dismissed</b>	45	67% (*rises to 74% if split decisions included)
<b>Allowed</b>	17	26%
<b>Split</b>	5*	7%

\*The Planning Inspectorate has the power to issue 'split' decisions. Using this power an Inspector can grant planning permission for some aspects of the proposed development whilst refusing planning permission for other aspects. The Local Planning Authority does not have this power. In the 5 appeals where a split decision was issued, Chelmsford City Council (CCC) had no objection to the aspects of the proposals that were granted planning permission. The elements that CCC did object to were all refused planning permission and the appeals against those elements were dismissed.

#### Breakdown of Allowed Planning Appeals

##### *Green Belt*

Of the 17 allowed appeals seven were primarily refused in relation to Green Belt policy. In all instances there has been no criticism of the adopted Local Plan policy.

Of the seven allowed appeals, five decisions were issued by the same two Planning Inspectors. The justification for allowing these five appeals does not seem consistent with other decisions CCC have received in relation to Green Belt cases. Furthermore, the justification seems flawed when read against the National Planning Policy Framework (NPPF). Letters have been sent to the Planning Inspectorate raising our concerns about the Inspectors reasoning for allowing these five appeals. A further letter of complaint has also been sent to the Planning Inspectorate in relation to a sixth allowed appeal as the justification for allowing the development is also similarly inconsistent and flawed.

##### *Supporting Statutory Consultee Objections*

Two appeals were based solely on objections received from Statutory Consultees (The Highway Authority and Anglian Water). Having reviewed the appeal decisions we have learnt that Officer's should scrutinise consultation responses more carefully and, where appropriate, challenge any objections where there seems to be an absence of unavoidable harm.

#### *Lessons Learnt*

As set out above, we have learnt that we will need to scrutinise consultation responses more carefully and assess whether any refusal reason could be defended. Secondly, in some Green Belt and Green Wedge cases where domestic extensions are proposed we may need to more carefully consider whether we feel any harm would be sufficient to defend an appeal.

One allowed appeal related to a planning condition on a 2014 planning permission which restricted the use on an approved annexe building to only ancillary purposes. If the description of development is clearly for ancillary purposes a condition is not needed as planning permission would be required if the building were to be used as a separate dwelling. As such the condition is usually no necessary. We no longer use this type of condition where the description of development is clear.

#### **Enforcement Appeals**

<b>Appeal Decisions Received</b>	<b>8</b>	
<b>Dismissed</b>	7	88%
<b>Allowed</b>	1**	13%
<b>Split</b>	0	0%

\*\*the allowed appeal was 'allowed' insofar as the time limit for compliance with the Enforcement Notice was extended by 3 months. The Enforcement Notice was upheld.

#### **Tree Appeals**

<b>Appeal Decisions Received</b>	<b>5</b>	
<b>Dismissed</b>	5	100%
<b>Allowed</b>	0	0%
<b>Split</b>	0	0%

# Appeals Report

Appeal Decisions received between 26/02/2021 and 31/03/2021

## PLANNING APPEALS

Total Appeal Decisions Received	6	
Dismissed	5	83%
Allowed	1	17%
Split	0	0%

### Written Reps

#### Nineoaks South Hanningfield Way Runwell Wickford SS11 7DT

Reference	20/00681/FUL
Proposal	Demolition of existing dwelling. Construction of replacement dwelling.
Appeal Decision	Appeal Dismissed - 01/03/2021
Key Themes	Whether replacement building would be materially larger.
Agreed with CCC on	Would be materially larger; harmful to openness; inappropriate development.
Disagreed with CCC on	
Costs Decision	None

#### Agricultural Building Imphy Hall Back Lane Stock Ingatestone

Reference	20/00935/OUT
Proposal	Outline planning application for the erection of 2no. dwellings (all matters reserved)
Appeal Decision	Appeal Dismissed - 08/03/2021
Key Themes	Green Belt; New dwellings; fall-back position; heritage.
Agreed with CCC on	Inappropriate development in the Green Belt. Unsustainable location. Harm to the setting of the Listed Building which is not outweighed by public benefits. Fall back position does not amount to the very special circumstances necessary to justify the development.
Disagreed with CCC on	n/a.
Costs Decision	None

### Householder

#### 1 Greens Cottages Ivy Barn Lane Margareting Ingatestone Essex CM4 0EW

Reference	20/00769/FUL
Proposal	Detached double garage with timber look cladding and pitched roof
Appeal Decision	Appeal Dismissed - 04/03/2021
Key Themes	- whether the proposal would be inappropriate development in the Green Belt- the effect the proposal would have on Green Belt openness
Agreed with CCC on	- agreed that the garage would not meet any exceptions in policy and would amount to inappropriate development in the Green Belt- that the proposal would be harmful to the openness of the Green Belt.
Disagreed with CCC on	
Costs Decision	None

**Foxearth Brock Hill South Hanningfield Wickford SS11 7PD**

<b>Reference</b>	20/01262/FUL
<b>Proposal</b>	Construction of part one and a half storey/part single storey side/rear extension with rooflights and alterations to fenestration
<b>Appeal Decision</b>	Appeal Dismissed - 01/03/2021
<b>Key Themes</b>	Inappropriate development the Green Belt, effect on openness, effect upon the character and the appearance of the area.
<b>Agreed with CCC on</b>	Proposal amounted to inappropriate development because the extension would result in disproportionate additions to the property. Proposal would lead to a small loss of openness, contrary to the policy. Proposal would not contribute to and enhance the natural and local environment.
<b>Disagreed with CCC on</b>	Nothing
<b>Costs Decision</b>	None

**13 Seventh Avenue Chelmsford Essex CM1 4EE**

<b>Reference</b>	20/01308/FUL
<b>Proposal</b>	Proposed first floor side extension.
<b>Appeal Decision</b>	Appeal Allowed - 03/03/2021
<b>Key Themes</b>	Neighbour amenity- overshadowing and impacts on light to neighbouring property
<b>Agreed with CCC on</b>	n/a
<b>Disagreed with CCC on</b>	Impact on neighbour not harmful enough
<b>Costs Decision</b>	None

**1 Allens Close Boreham Chelmsford CM3 3DR**

<b>Reference</b>	20/01584/FUL
<b>Proposal</b>	Part single part two storey side extension, first floor front and rear extensions, front porch and internal alterations.
<b>Appeal Decision</b>	Appeal Dismissed - 09/03/2021
<b>Key Themes</b>	Harmful to character of property and streetscene
<b>Agreed with CCC on</b>	Harm to character of property and streetscene
<b>Disagreed with CCC on</b>	N/A
<b>Costs Decision</b>	None

## TREES APPEALS

Total Appeal Decisions Received	1	
Dismissed	1	100%
Allowed	0	0%
Split	0	0%

### Householder

#### 7 Rous Chase Galleywood Chelmsford Essex CM2 8QF

<b>Reference</b>	19/05064/TPO
<b>Proposal</b>	T4 - Oak - Trim back branches by 3m- Reason: Tree is top heavy, within falling distance of three houses and a road.
<b>Appeal Decision</b>	Appeal Dismissed - 03/03/2021
<b>Key Themes</b>	The effect of the proposed tree works on the character and appearance of the area; and whether sufficient justification has been demonstrated for the proposed works.
<b>Agreed with CCC on</b>	The proposed works would have a detrimental effect on the health and visual amenity of the tree. The reasons for the work do not appear to have been materially expanded upon re distance between dwelling and tree and light obstruction.
<b>Disagreed with CCC on</b>	None
<b>Costs Decision</b>	None