

Planning Committee Agenda

1 September 2020 at 6pm

Remote Meeting

Membership

Councillor J A Sosin (Chair)

and Councillors

L Ashley, H Ayres, A Davidson, S Dobson, P Hughes, R J Hyland,
R Lee, G H J Pooley, R J Poulter, T E Roper, E Sampson, C Shaw,
R J Shepherd 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

PLANNING COMMITTEE

1 September 2020

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 14 July 2020

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 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. LAND SOUTH WEST OF BROADACRES, LODGE ROAD, BICKNACRE, CHELMSFORD – 19/01800/FUL
7. SITE AT FORMER KIDS AND KOFFEE, HALL STREET, CHELMSFORD – 20/00349/FUL
8. 38 BODMIN ROAD, CHELMSFORD – 20/00748/FUL
9. 22 SOUTH HANNINGFIELD WAY, RUNWELL, CHELMSFORD – 20/00758/FUL
10. BEAULIEU OUTLINE PLANNING PERMISSION 09/01314/EIA SECTION 106 AGREEMENT – FIRST VIABILITY REVIEW
11. PLANNING APPEALS

MINUTES
of the
PLANNING COMMITTEE
held on 14 July 2020 at 6:00 pm

Present:

Councillor J A Sosin (Chair)

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

Also present: Councillors P Clark and L Millane

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. Apologies for absence had been received from Councillor E J Sampson.

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. Any declarations are recorded in the relevant minute below.

4. Minutes

The minutes of the meeting on 9 June 2020 were confirmed as a correct record.

5. Public Question Time

Members of the public made statements on items 11 and 12 on the agenda. Details are recorded under the relevant minute numbers below.

6. Nos 10-12 and 14 Hanbury Road, Chelmsford – 19/01917/FUL

7. Nos 10-12 and 14 Hanbury Road, Chelmsford – 19/01916/FUL

8. No 14 Hanbury Road, Chelmsford – 19/01692/FUL

Councillor Hughes did not participate in consideration of these items as she had not attended the site visit on 13 July 2020. Councillor Pooley did not participate as he had missed part of the Committee's consideration of the applications at its last meeting.

(M6, 7 and 8, PL2, 2020) At its last meeting the Committee had deferred for a site visit:

- an application (19/01917/FUL) for the change of premises at 10-12 and 14 Hanbury Road, Chelmsford from B2 (printing press) and B8 (storage) to sui generis (a builders merchants);
- an application 19/01916/FUL) for a rear and side extension of premises at 10-12 and 14 Hanbury Road, Chelmsford, the construction of three metre high acoustic fencing, and retrospective permission for exterior works to the building; and
- an application (19/01692) for permission to demolish the western part of Unit 4 and the offices to the south frontage of the site at 14 Hanbury Road, Chelmsford; the replacement and repair of the remaining roof and wall cladding; the installation of signage; and the construction of a 2.1 metre perimeter fence.

Since the last meeting, further representations had been received from local residents which had been circulated to members of the Committee. They raised concerns about the accuracy of the information presented to the Committee at the last meeting and since and included a further report from the noise consultant engaged by the residents. They also commented on the height of the proposed buildings and the materials to be used for the roofs. Officers' responses to the points raised by the residents were contained in a Green Sheet of additions and alterations that had been distributed before the meeting.

In discussing the applications, members expressed concerns about:

- the materials to be used for the roofs of the rear building and rear extension. Officers confirmed that a condition could be added to require that non-reflective materials be used for the roofs;

- the discrepancies between the opinions of the various acoustic consultants who had reported on the levels of noise from the operations in the buildings. Officers explained that the discrepancies could be explained by the different methodologies used by the consultants. It was the view of officers that the noise mitigation measures proposed met required standards but that should unacceptable disturbance or nuisance be caused to residents the Council could take enforcement action; and
- the disturbance to local residents from external lighting around the application site and internal lighting visible through the translucent panels on the building. Officers confirmed that a condition could be added requiring the submission of details of the external lighting. The possibility could also be explored of adding a condition requiring that there be no internal lighting outside of the hours of operation that could cause a disturbance to neighbouring residents.

In response to other questions from members, officers said that the hours of operation of the business would be less than those associated with the previous use of the site. Questions of health and safety and whether there was sufficient space at the rear boundary of the application site and distance between the rear of the proposed buildings and the neighbours' properties were a matter for building regulations and were not a planning consideration.

RESOLVED that applications 19/01817/FUL, 19/01916/FUL and 19/01692/FUL in respect of 10-12 and 14 Hanbury Road, Chelmsford be approved, subject to

- the conditions set out in the reports to the meeting,
- the addition of conditions requiring that the roof of Nos 10-12 Hanbury Road to be treated with a non-reflective finish and one requiring the submission of details of external lighting, and
- the possibility being explored of adding a condition requiring that there be no internal lighting outside of the hours of operation that could cause a disturbance to neighbouring residents.

(6.06pm to 6.35pm)

9. Land South of 69 Torquay Road, Chelmsford – 20/00094/FUL

Councillor Lee did not participate in the consideration of this item.

(M11, PL5, 2020) On 9 June 2020 the Committee had been minded to refuse this application which was for the erection of a two-storey detached dwelling on land to the south of 69 Torquay Road and a part one-storey, part two-storey rear extension to the host dwelling. It had deferred a decision to enable reasons for refusal to be drawn up based on the Committee's concern about the adverse effect the development would have on the street scene of Torquay Road and the character and openness of current development in that road.

Since the last meeting the agent for the applicant had submitted further comments on the application and the accuracy of information presented at the last meeting. These had been circulated to members of the Committee, and the Green Sheet distributed before the meeting

set out the officers' comments on the points made by the agent. The Committee was of the view that nothing had changed its opinion that the development was not acceptable for the reasons given at the last meeting.

RESOLVED that application 20/00094/FUL in respect of 69 Torquay Road, Chelmsford, be refused for the reason set out in the report to the meeting.

(6.35pm to 6.42pm)

10. No 90 Brook Lane, Galleywood, Chelmsford – 20/00251/FUL

Councillor Hughes did not participate in consideration of this item as she had not attended the site visit on 13 July 2020. Councillor Hyland declared a non-prejudicial interest and withdrew from the meeting during its consideration.

(M9, PL3, 2020) The Committee considered at its meeting on 9 June 2020 an application for a first floor rear and side extension to 90 Brook Lane, Galleywood. It had deferred a decision to enable a site visit to be carried out.

A Green Sheet of additions and alterations distributed before the meeting included clarification about the position of the kitchen and bathroom windows of 88 Brook Lane.

Members who spoke on the application were primarily concerned about the loss of light to the neighbouring property the development would cause and the majority believed that it should be refused for that reason.

RESOLVED that application 20/00251/FUL in respect of 90 Brook Lane, Galleywood be refused for the following reason:

Policy DM29 of the Chelmsford Local Plan relates to protecting living and working environments and states that planning permission will be granted providing the development, amongst other matters, 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 proposed extension would increase the amount of built form close to the boundary with Number 88. The side facing kitchen window to Number 88 would suffer from a loss of light as a result of the first floor side and rear extension. This would be harmful to the amenity of the neighbouring occupiers and would be contrary to Policy DM29.

(6.42pm to 6.57pm)

11. The Lodge Country Inn, Hayes Chase, Battlesbridge, Wickford – 20/00386/FUL

The Committee considered an application for the construction of 22 single-storey two-bed chalets to supplement the existing accommodation at The Lodge Country Inn, Hayes Chase, Battlesbridge.

A statement on behalf of the applicant was read out at the meeting and a ward councillor attended to speak in support of the application. Both argued that the development would provide economic benefits to that part of Chelmsford and that such benefits would constitute the very special circumstances necessary to justify development in the Green Belt. Other similar establishments had been extended in recent years and in the present circumstances caused by the coronaries pandemic the Council should be supporting businesses rather than preventing their development. The development would have minimum impact on the openness of the surrounding countryside, and issues about lack of public transport were not uncommon in such a rural location.

The Committee was not convinced by the argument that the economic benefits associated with the development represented very special circumstances. It was also concerned about the loss of the current beer garden and family play area, both of which were popular features, and the potential for exacerbating the already problematic parking situation in the area.

RESOLVED that application 20/00386/FUL in respect of The Lodge Country Inn, Hayes Chase, Battlesbridge be refused for the reasons set out in the report to the meeting.

(6.57pm to 7.34pm)

12. Site at The Mount, Meadow Lane, Wickford – 20/00425/FUL

An application had been received for the demolition of existing outbuildings at The Mount, Meadow Lane, Wickford and the construction of a new dwelling and cart lodge.

A statement on behalf of the applicant was made at the meeting. It argued that the planning merits of the application outweighed arguments against the mass, scale and height of the development. A ward councillor also spoke in support of the application.

The Committee was of the opinion that there were no special circumstances for granting the application. Although it would be on previously developed land, the development would have a greater impact on the countryside than the current buildings.

RESOLVED that application 20/00425/FUL in respect of the site at The Mount, Meadow Lane, Wickford be refused for the reasons set out in the report to the meeting.

(7.34pm to 7.52pm)

13. Planning Appeals

RESOLVED that the information on appeal decisions between 1 June and 1 July 2020 be noted.

The meeting closed at 7.52pm

Chair

PLANNING POLICY BACKGROUND INFORMATION

The Chelmsford Local Plan 2013 – 2016 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 2013-3036 carries full weight in the consideration of planning applications.

SUMMARY OF POLICIES REFERRED TO IN THIS AGENDA

- DC2** Development Control Policy DC2 Controlling Development in the Countryside beyond the Metropolitan Green Belt - The countryside within the rural area beyond the Metropolitan Green Belt will be protected for its intrinsic character and beauty. Planning permission will be granted for development within the rural area provided that the intrinsic character and beauty is not adversely impacted upon and provided it is for a new building that supports sustainable growth of an authorised viable rural business and there is a justified need and no adverse impact upon character, appearance and visual amenity of the countryside; or promotes development and diversification of agriculture and other appropriate land based rural businesses or is accommodation in connection with such uses; or is for affordable housing for local needs; or is for the replacement of a building; or is for local transport infrastructure; or is for residential infilling in villages. These are subject to compliance with policies DC33, DC32, DC11 and DC12. The extension or reuse of an existing building is acceptable subject to compliance with Policy DC47 or DC57. Engineering or other operations or changes of use of land are acceptable provided they would have no material effect on the appearance and character of the countryside.
- DC4** Development Control Policy DC4 Protecting Existing Amenity - All development proposals should safeguard the amenities of the occupiers of any nearby properties by ensuring that development would not result in excessive noise, activity or vehicle movements, overlooking or visual intrusion and that the built form would not adversely prejudice outlook, privacy, or light enjoyed by the occupiers of nearby properties.
- DC7** Development Control Policy DC7 Vehicle Parking Standards at Developments - All development will be required to comply with the vehicle standards as set out at Appendix C of the Core Strategy and Development Control Policies Development Plan Document.
- DC32** Development Control Policy DC32 Rural Housing Need - Sets the criteria for the provision of affordable housing on small sites within or adjoining small rural Defined Settlements, which would not otherwise be released for housing, in order to meet identified local rural housing need. A proportion of market housing may be appropriate only where it can be demonstrated that market housing is essential to cross subsidise the delivery of the affordable housing.
- DC44** Development Control Policy DC44 Private Amenity Space - All new dwellings will be required to have a high degree of privacy and the use of private amenity space appropriate for the type of dwelling and its location.
- DC45** Development Control Policy DC45 Achieving High Quality Development - Planning permission will only be granted for new buildings and extensions to existing buildings provided that they are well designed in themselves and amongst other matters, the siting, scale form and detail of the proposed buildings has an appropriate visual relationship with the character and appearance of the surrounding area.

- 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.
- DM15** Policy DM15 - Archeology - Planning permission will be granted for development affecting archaeological sites providing it protects, enhances or preserves sites of archaeological interest and their settings.
- 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.
- DM21** Policy DM21 - Protecting Community Facilities - The change of use of premises or redevelopment of sites that provide valued community facilities will only be permitted where the site cannot be used for an alternative community facility or where there is already an adequate supply of that type of facility in the locality or settlement concerned. Existing open spaces, sports and recreational buildings and land will also be protected.
- 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.
- DM25** Policy DM25 - Sustainable Buildings - All new dwellings and non-residential buildings shall incorporate sustainable design features to reduce carbon dioxide and nitrogen dioxide emissions and the use of natural resources. New dwellings and non-residential buildings shall provide convenient access to electric vehicle charging point infrastructure.
- 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.
- LPCO4** Local Policy CO4 New Buildings and Structures in the Rural Area - Planning permission will be granted for new buildings in the Rural Area where the development would not adversely impact on the identified intrinsic character and beauty of the countryside and is for one of a number of prescribed developments. Planning permission will be granted for the redevelopment of previously developed land, replacement buildings and residential outbuildings subject to meeting prescribed criteria.

- LPHO2** Local Policy H02 Affordable Housing and 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 or comprise a maximum floorspace of 1,000sq. Permission will be granted for affordable housing within Designated Rural Areas for local rural housing need subject to compliance with prescribed criteria.
- LPMP1** Local Policy MP1 High Quality Design - Development must be compatible with its surroundings having regard to scale, siting, form, architecture, materials, boundary treatments and landscape.
- LPMP3** Local Policy MP3 Sustainable Buildings - All new dwellings and non-residential buildings shall incorporate sustainable design features to reduce carbon dioxide and nitrogen dioxide emissions and the use of natural resources. New dwellings and non-residential buildings shall provide convenient access to electric vehicle charging point infrastructure.
- LPMP5** Local Policy MP5 Parking Standards - All development will be required to comply with the vehicle parking standards set out in the Essex Parking Standards - Design and Good Practice (2009) or as subsequently amended.
- LPPA1** Local Policy PA1 Protecting Amenity - 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
- 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.
- SPS5** Strategic Policy S5 Protecting & Enhancing Community Assets - The Council recognises the important role that community facilities have in existing communities and that they are also an integral part of any proposals for new residential and employment development. Existing community assets will be protected from inappropriate changes of use or redevelopment.

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
1st September 2020

Application No	:	19/01800/FUL Full Application
Location	:	Land South West Of Broadacres Lodge Road Bicknacre Chelmsford Essex
Proposal	:	Construction of 6 bungalows and 3 formations of access. Additional associated landscaping.
Applicant	:	Mr Keith McMullon
Agent	:	Holmes And Hills LLP
Date Valid	:	8th November 2019

1. INTRODUCTION

This application was considered at the Planning Committee meeting on 11 February 2020. The Planning Committee resolved to defer the application to a subsequent meeting to give the applicant or others the opportunity to produce evidence that there is a demand for accommodation in the area that would be restricted in perpetuity to those of 55 years of age or over with a connection to the Woodham Ferrers and Bicknacre area.

2. UPDATE SINCE FEBRUARY COMMITTEE MEETING

Following the meeting in February, in light of the concerns raised by Members, the Applicant submitted a draft Unilateral Undertaking (UU)¹ which would restrict the occupation of the proposed dwellings to persons aged 55 or over and who have the requisite local connection with Bicknacre/Woodham Ferrers. The wording of the UU would restrict the occupation to a "Qualified Occupier" which would be defined as:

"the owner/lessee/tenant of a Dwelling who:

i) is aged fifty five (55) years of age or older; and

ii) ho can evidence by their inclusion on the electoral roll that they have lived in the parishes of Woodham Ferrers and/or Bicknacre for last five (5) years"

The UU states that the owner covenants:

"4.1.1 not to cause or permit any Dwelling to be Occupied other than by a Qualified Occupier; and

4.1.2 to incorporate into each of the transfer deeds of the Dwellings upon the sale of the Dwellings between the Owner and the occupiers an age restriction whereby the Dwellings shall only be occupied by a Qualifying Occupier and that such a restriction will be registered at HM Land Registry as a restriction against the title to

¹ A copy of the draft Unilateral Undertaking is attached as Appendix 1A

each of the Dwellings and expressly included in any lease, tenancy agreement or licence (or any other form of occupancy agreement) relating to the Dwellings and not to release that restriction without prior written consent of the Council.”

Clause 4.1.1 would run with the land and bind successive owners, including purchasers of individual bungalows and their successors in title. Unilateral Undertakings are registered as a local land charge and so any purchasers of the bungalows will be deemed to have notice of the occupancy restriction.

The restrictive covenant included in Clause 4.1.2 would constitute a private law matter. It would be contained in the property transfer deed relating to each bungalow and registered at HM Land registry which would doubly focus the minds of prospective purchasers on the age/local connection restrictions.

In respect of the submission of other additional information in support of the proposal, the applicant has provided a statement and 6 letters in support from local residents². These letters evidence a current need / demand by people who meet the age / local connection criterion for bungalows in this location. For age and health related reasons, these people all wish to downsize and yet want to continue residing in the locality.

It is not unreasonable to take an optimistic stance and assume that a similar level of demand will continue to exist in future years – that is to say that if and when one of the bungalow comes up for resale there will be a demand for the property from other people who meet the age/local connection criterion.

Officers are satisfied that the applicant has provided local evidence of need for the accommodation proposed, and the legal agreement would secure the occupancy restrictions in an appropriate manner.

A copy of the draft Unilateral Undertaking is attached as Appendix 1A

¹ Copies of applicant’s statement and letters of support attached as Appendix 1B – (personal details redacted)

Recommendation

Should the planning committee be satisfied that the legal agreement and the local evidence submitted satisfies their previous concerns that the Director of Sustainable Communities be authorised to grant planning permission subject to the planning conditions set out within the main body of the report, once the legal agreement has been duly signed.

Appendix 1A – Draft Unilateral Undertaking

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THIS DEED is made the day of Two Thousand and Twenty

BY:

(1) **KEITH DOUGLAS McMULLON and LINDA McMULLON** both of Broad Acres, Main Road, Bicknacre, Chelmsford, Essex CM3 4HN (the “**Owners**”);
(2) **HSBC UK BANK PLC** (Co. Regn. No. 9928412) of Mortgage Service Centre, P.O. Box 6308, Coventry CV3 9LB (the “**Mortgagee**”);
and creates planning obligations which are enforceable by
(3) **CHELMSFORD CITY COUNCIL** of Civic Centre Duke Street Chelmsford Essex CM1 (the “**Council**”)

WHEREAS:

A. The Council is both the local planning authority for the purposes of the Act for the area within which the Site is located and the relevant planning authority by

² Copies of applicant’s statement and letters of support attached as Appendix 1B – (personal details redacted)

whom the planning obligations contained in this Deed are enforceable.

B. The Owners are the registered proprietors of the freehold interest in the Site under Title Number EX336541 which is subject to a legal charge dated 15 January 2009 of which the Mortgagee is the beneficiary.

C. The Planning Application has been submitted on behalf of the Owners to the Council and the Council has resolved to grant Planning Permission subject to conditions and the obligations contained in this Deed.

D. The Owners consider that the obligations contained in this Deed should be given to the Council in order to regulate the use of the Site and to bind the Site and all estates and interests in the Site under Section 106 of the Act.

E. The Owners and Mortgagee have entered into this Deed with the intention that the obligations contained in this Deed may be enforced by the Council against the Owners and their successors in title.

NOW THIS DEED WITNESSETH as follows:-

1. DEFINITIONS

1.1 In this Deed where the context so admits the following words and expressions shall have the following meanings:

“**Act**” means the Town and Country Planning Act 1990 as amended

“**Commencement of**” means the implementation of the Planning **Development**” Permission by the carrying out of a material operation described in Section 56 of the Act and

“Commence the Development” shall mutatis mutandis be construed accordingly PROVIDED THAT (for the purposes of this Deed and for no other purpose) operations consisting of site clearance or demolition work, site survey,

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investigation, preparation or remediation or the laying out of services

“**Development**” means the development permitted by the Planning Permission

“Dwelling” means a self-contained bungalow constructed as part of the Development and **“Dwellings”** shall be construed accordingly

“Occupation” means occupation of a building constructed from the Development for the purposes permitted by the Planning Permission and shall not include day time occupation by workmen involved in the construction and **“Occupy”** and **“Occupied”** shall mutatis mutandis be construed accordingly

“Plan” means the location plan annexed hereto

“Planning Application” means the application for full planning permission carrying reference 19/01800/FUL for the construction of 6 bungalows and 3 formations of access and additional associated landscaping

“Planning Permission” means the planning permission that will be granted for the Development in pursuance of the Planning Application

“Qualified Occupier” the owner/lessee/tenant of a Dwelling who:

i) is aged fifty five (55) years of age or older; and

ii) ho can evidence by their inclusion on the electoral roll that they have lived in the parishes of Woodham Ferrers and/or Bicknacre for last five (5) years

“Site” means the land west of Broadacres, Lodge Road, Bicknacre, Chelmsford, Essex CM3 4HN shown for identification edged red on the Plan

1.2 Where the context so requires:

(a) A reference in this Deed to an Act of Parliament or any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same

(b) Words importing the masculine gender include the feminine gender and vice versa. Words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa

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(c) Any headings or side notes are for ease of reference only and shall not affect the construction of this Deed

(d) Where a party includes more than one person any obligations of that party shall be joint and several

2. INTERPRETATION AND LEGAL EFFECT

2.1 This Deed is made pursuant to Section 106 of the Act and the covenants contained herein are planning obligations for the purposes of Section 106 of the Act in respect of which:

(a) The Owners own the freehold title to the Site and the Site is free from any third party interests and encumbrances other than those otherwise disclosed to the Council prior to the date hereof

(b) The Council is the Local Planning Authority entitled to enforce the

provisions of this Deed and the covenants contained in this Deed shall be so enforceable

(c) The Mortgagee is the beneficiary of the legal charge over the Site dated 15 January 2009

(d) This Deed is entered into in respect of the Site with the intent that it shall bind the Owners' freehold interest in the Site

(e) This Deed shall be binding on all successors and assigns in title of the parties hereto and any persons claiming under or through them

(e) This Deed has been executed as a Deed and the Owners shall supply a copy of it to the Council so that it may be registered by the Council against the Site as a Local Land Charge and entered into the planning register maintained by the Council under the Act

2.2 Nothing in this Deed is or amounts to or shall be construed as a planning permission or approval

2.3 The covenants in this Deed shall take effect on the date of the grant of the Planning Permission

2.4 If the Planning Permission shall expire before the Commencement of the Development or shall at any time be revoked this Deed shall forthwith determine and cease to have effect but without prejudice to any covenants that arise to be performed before any revocation

Nothing in this Deed, whether express or implied, shall prejudice or affect the rights powers duties and obligations of the Council in the exercise of its

functions as a local authority and the rights powers duties and obligations of the Council under all public and private statutes byelaws orders and regulations may be fully and effectually exercised in relation to the Site or any part of it and any works executed on it as if this Deed had not been executed by the parties

2.5 Any approval given by the Council under this Deed or for the purposes of this Deed shall not be deemed to be an approval for any other purpose
Whatsoever

4

2.6 The Owners hereby covenant with the Council that the Site shall be bound by this Deed and more particularly covenant to observe and perform the restrictions and obligations contained in this Deed

2.7 No person shall be liable for any breach of this Deed unless they hold an interest in the Site at the date of the breach

2.8 Where any approval consent certificate or permission is required to be given by any of the parties of this Deed then such parties shall not unreasonably withhold delay or refuse such approval consent certificate or permission

3. NOTICES

3.1 All notices given or served or required to be given or served under this Deed shall be given or served as follows:

(a) by personal delivery by hand (in which case service is immediately effected)

(b) by first class post (in which case service is effected on the second day after posting)

3.2 The address for service of notices:

3.2.1 to the Council shall be at the Council's address at the head of this Deed and notices shall be marked using reference 19/01800/FUL

3.2.2 to the Owners as aforesaid

3.2.3 to the Mortgagee as aforesaid

Item 6

4. THE OWNER'S COVENANTS

4.1 The Owners HEREBY COVENANT with the Council:

4.1.1 not to cause or permit any Dwelling to be Occupied other than by a Qualified Occupier; and

4.1.2 to incorporate into each of the transfer deeds of the Dwellings upon the sale of

the Dwellings between the Owner and the occupiers an age restriction

whereby the Dwellings shall only be occupied by a Qualifying Occupier and

that such a restriction will be registered at HM Land Registry as a restriction

against the title to each of the Dwellings and expressly included in any lease,

tenancy agreement or licence (or any other form of occupancy agreement)

relating to the Dwellings *and not to release that restriction without the prior*

written consent of the Council.

5. MORTGAGEE'S CONSENT

5.1 The Mortgagee consents to the completion of this Deed and declares that its

interest in the Site shall be bound by the terms of this Deed as if it had been

executed and registered as a land charge prior to the creation of the

Mortgagee's interest in the Site, provided that the Mortgagee shall not be

personally liable for any breach of the obligations in this Deed unless

committed or continuing at a time when the Mortgagee is in possession of all

or any part of the Site.

6

IN WITNESS WHEREOF this Deed has been executed as a Deed the day and year

first before written

EXECUTED as a **DEED** by)

KEITH DOUGLAS McMULLON)

in the presence of:-)

Signature of Witness

Name of Witness

Address of Witness

Occupation of Witness

EXECUTED as a **DEED** by)

LINDA McMULLON)

in the presence of:-)

Signature of Witness

Name of Witness

Address of Witness

Occupation of Witness

Appendix 1B -

Statement of Keith McMullon
Planning Application 19/01800/FUL

As a family we have had a close relationship with the Council department dealing with “Private Sector Strategic Housing “since 2016, providing 5 properties through their Homes2Lease scheme and latterly through the Private Sector Lease scheme. I would now like to build six low impact freehold Lifetime bungalows for people over the age of 55 who can demonstrate that they have been on the Electoral register covering the Parish of Bicknacre & Woodham Ferrers for at least 5 years.

As the applicant in respect of the above application I am making this statement at the request of officers to explain the restrictions I propose to impose in respect of occupation and to further demonstrate the need for the proposed accommodation. I will deal firstly with need.

In this regard I would remind everyone that within my original application I produced a considerable amount of evidence, which demonstrated both that on a national and local level that there was need, for various reasons, to make provision for elderly persons accommodation of the type proposed. I believe it is generally accepted that we are all living longer and an appropriate mix of accommodation is necessary for older people.

However, by way of an update, I would like to make reference to part of a speech made by the Housing Minister, Christopher Pincher, to the Planning Inspectorates annual training event on the 9th March 2020. He said “And we need more housing for older people. We talk about building homes for first time buyers, but in fact, and I am getting this statistic checked out because I want to make sure it is accurate, that I have heard for 2 of every 3 elderly people that move into a properly constructed retirement home, then just a few rungs down the chain a home becomes available for a first time buyer – so it isn’t just important to build new homes. It is important to build new homes for first time buyers and its important to build homes for people who are older so that we can get the chain moving.” I have provided officers with a full copy of the speech. It would not be practical for me to quantify the total number of elderly people living in either Bicknacre or Woodham Ferrers who are elderly and at sometime may need single storey accommodation on the lines proposed by me. What I can say that both before, mainly through word of mouth, and also after making the application that I have been inundated by people making enquiries. I have also had enquiries from people in towns outside of the Parish which would also indicate a shortage of this type of accommodation generally in the area.

I submitted with my original application various letters from prospective buyers and I have asked them to update the letters and circulate them. I have checked verbally with them that they are happy for them to be circulated uncensored to demonstrate through definition that they are required because they are essential to or very important. They asked that notice was taken of how their situations had deteriorated in such a short space of time. Copies are attached to the statement for ease.

These original six prospective buyers who are still waiting clearly demonstrates that there is a significant interest in my proposal and hence a need. I am in no doubt that I could originally have obtained further letters, but I am also aware that with only six bungalows, raising the hopes of a potentially vulnerable group of people was not acceptable and certainly would not sit well with me as a person and what I am trying to achieve. Moreover, I stress that the Parish Council supported this application and hence it is implicit within their support that there was a genuine need.

I therefore simply remind you that what is proposed is a sustainable development, purposefully designed to meet the needs of elderly people who may need now or may need in the future wheelchairs.

In addition, I have submitted a draft Unilateral Undertaking to the Council in which I agree to limit occupation to those over 55 who have lived in the Parish of Bicknacre and Woodham Ferrers for at least 5 years, and to impose a restriction on any transfer deed to them.

I very much hope therefore that members will accept that there is a robust restriction in place and that my proposal can provide urgently needed accommodation for people within the Parish.

Letter 1

XXXXXXXXXX

XXXXXXXXThe Street

Woodham Ferrers

CM3 8RQ

Re: Planning Application 19/01800/FUL

To whom it may concern

As a recently widowed lady of 82 I now find my large garden somewhat overwhelming to care for. I have considered downsizing but I have no wish to leave this happy and helpful community where I have made many friends during the 55 years I have lived here. Up to now there has been no opportunity to purchase a bungalow locally that would be suitable for my current circumstances. I certainly wish that this small development of bungalows had been available at least 6 years ago when I was caring for my doubly disabled husband.

I have the usual ailments associated with age, stairs being a problem. But I am at a stage in my life where I must be concerned about any future health problems that normally appear out of nowhere and sometimes very quickly.

The bungalows are an opportunity that I cannot afford to miss. With a wide hallway, large open living areas and 2 good size bedrooms, one with adapted en suite, guest bathroom and a garden that is generous but manageable. The chance to be involved in helping design my own kitchen and decide the layout of the bathrooms is a wonderful Idea. Being all electric makes it much safer. The underfloor heating and hot water run by air source heat pumps is a real bonus. The proposed location is ideal as the bus connections are very close by enabling travel to Chelmsford or South Woodham Ferrers. Fortunately there are bus shelters for when the weather is not so good. I have and drive a car but I have to consider that this may change in the future.

I think this is an ingenious idea to balance housing requirements. Housing chains can be opened all the way back enabling first time buyers to enter the market. I sincerely hope this project will get the support it deserves as living amongst friends in suitable accommodation is something we all wish for but sadly very seldom get.

Letter 2

XXXXXXX

X Five Acres

Bicknacre, Chelmsford,CM3 4NB

Dear Sirs,

I refer to the deferred planning permission in respect of the proposed development of six bungalows in Lodge Road Bicknacre.

Having attended the council planning meeting in February where the planning proposal was heard, I was

obviously disappointed with the outcome, as I am hoping to occupy one of these properties in the foreseeable future. Even though the planning officers present fully supported the proposal, I was very surprised and frustrated that the decision to defer was taken, simply, it seemed to me, so that Mr.McMullon (The developer) could confirm within the proposal that the bungalows were to be built specifically for people who live in the parish of Woodham Ferrers & Bicknacre and are over the age of 55.

As I've stated in a previous letter on this matter, I am in my 70s and have XXXXXXXXXXXX left me weak and in much pain, climbing stairs became very difficult. As far as I'm concerned the need for living accommodation that provides facilities i.e no stairs, wheelchair friendly etc for those with mobility issues is vital as you get older.

My in laws were in their eighties when they finally decided to move from their large house to something more suitable. They had left it too late in my opinion, they never really settled and unfortunately my father in law passed away within the first 6 months in the new residence. My mother-in-law is now in a care home nearby, hence the need to stay local. Again, as far as I'm concerned my in law's experience demonstrates the need to move to 'senior friendly' accommodation sooner rather than later.

My wife, XXX and I really don't want to be in our current house in later life, we know it will be far from ideal. We use one of our four bedrooms. If we stay I am sure there will be a real need for costly alterations such as conversion of a downstairs room to a bed room and a bathroom/wet room added downstairs too, leaving 4 unused bedrooms. Once done, the house will not be so attractive to new buyers. We know that our house in its current state will be great for a young family growing up as we loved bringing our own children up here. Our desire to move has been with us now for a while, but when we have looked specifically for bungalows, in an area we have no wish to move from, the prices are higher than the value of our own house, obviously not a viable option. The importance of wanting to stay local cannot be stressed enough as our daughter lives in the village, that we ourselves have lived in for 40 years. Additionally we have made many friends in Bicknacre and the surrounding area, and we really do not move away from that part of our life. As everyone approaches their 60s and 70s people will naturally want a residence best suited to their needs. Bungalows like the ones Mr McMullon wants to build are what they will be looking for.

Surely there is no need to justify the construction of environmentally friendly bungalows , with modern insulation & double glazing, and fitted with air source heat pumps (already approved by planning). Anyone who can't see a need for such building must be living in a different world to me. We read or hear, almost daily, politicians expressing the need for new accommodation for our ageing population. We also hear that first time buyers can't get on the property ladder. Those of us nearer the top rung can move along if there is somewhere to go, and those first time buyers can get on.

Not only would I personally take a very dim view if the development is turned down, but such a decision would 'fly in the face' of the national opinion on the topic.

Letter 3

XXXXXXXXX
XXXXXXXX ,
Main Road
Bicknacre
CM3 4HE

To Whom It May Concern re Planning Application 19/01800/FUL

We have lived in Bicknacre for 45 years in this same house and, during this time, we have been very involved in village life. We really do not want to move away but, as the years move on, it is becoming more and more

difficult for us to cope and to enjoy our lives. We both have had the usual ailments that get worse with age but now we are at crisis point with XXXXXXX's health. Some years ago, he started showing signs of physical and mental confusion. Gradually, this has developed into full XXXXXXXXXXXX (a form of dementia which is much more severe than ordinary dementia and with a more severe ending. At the moment, he can move around (that sometimes can cause problems!) and I need the help of a carer five days a week. He is obviously incapable of doing anything much in the house or garden. Obviously, we need to move somewhere where life is easier. We need a bungalow with a smaller garden so that upkeep and movement are both easier. We need somewhere where there are no steps at all - obviating falls. We need wide doorways for when wheelchairs are needed We need purpose built bathrooms and toilets We need easily accessible parking space both in a garage and on a driveway which would help. There is easy access by public transport to South Woodham Ferris and via Danbury to Chelmsford (though to be honest I doubt if we would be able to use this). Overall, the sense of calm which moving just down the road to a neighbourhood which XXXXXXX knows and loves just cannot be quantified. I know this letter is not full of technicalities but it is full of hope. Please look favourable on the application

Letter 4

To whom it may concern 10th August 2020

Planning Application 19/01800/FUL I am sorry that it has taken me so long to contact you after the Planning Committee meeting in February this year, but I have been unwell and have been in hospital twice which has in addition to the enormous upheaval caused by the pandemic affected us profoundly. However, now seems the right time to express my thoughts about what happened at that Planning meeting. My first major concern is about the system of recusal (or withdrawal or whatever you want to call it.) When I was a magistrate, and someone came up before us who I knew (usually because he was a former pupil), I would recuse myself for the whole of that trial so that it was transparent that I could not show bias. I would also leave the courtroom to underline that I was not going to interfere in any way. The system used by the committee in this hearing was very different. It seems that, once Mr. Poulter had recused himself (if that is the term used), he then had the opportunity to make a fairly long, uninterrupted and unquestioned statement. Is this the system? Is it fair? Can it be seen to be fair? You can see how it would not have worked in court. I was also a lay member of The Eastern Region Residential Service which adjudicated mainly between landlord and tenants and in one case having travelled to Ipswich for a hearing I had to recuse myself for the whole day. Annoying but important. The running of the meeting confused me. I have been sitting on and chairing public committees for 40 years and I know how hard a job it is and I applaud those who give up their time but it has to be done properly and firmly but I don't think this was. A lot of decisions and statements were unclear. Things were said and statements made as if they were true and they weren't. One councillor near me repeatedly referred to the site as in "South Woodham Ferrers". Were they slips of the tongue or did he truly believe that we were discussing somewhere down in the town? I tried to ask him at the end but he turned his back on me., The councillor next to him really worried me by saying that he would never vote for a scheme which allows people (like us) with huge houses to sell them and make huge profits. How dare he make such a statement about our reasons. He must have influenced at least some of his fellow members with such an unsubstantiated statement. For your information, if we were to move, it would probably cost us more to buy a bungalow than we would get for our present house. How do members get truly accurate information or do they go away with their views based on what he said? In both these cases, should their miss comments have been pointed out to them? You will see that I am less than impressed. Now that I have got this off my chest, can I say a few words about need?

I believe there is a very real need in the villages where we have lived for 36 years. I have not gone round counting how many bungalows there are (not including those which have been extended upwards). There are very few. This unfortunately means that with the element of supply and demand it is almost impossible to buy one even if it does become available. One example in recent years, is a bungalow up for sale because of the death of the occupant. It was bought by a couple who both were on good salaries and who could

afford to pay the inflated price the estate agent thought they could ask. We certainly could not afford these prices (although we could just afford one of these new bungalows.) Are there enough people over the age of 55 to warrant the need for these houses? Well, I have no access to figures but, if you go near the village store, if you walk the streets, or go to the churches or drop into the seniors lunch clubs or if you look at a list of those people who run local societies or if you ask the parish council who are well aware of all this and of course who voted unanimously in favour of this plan. If you do these things, it will be palpably obvious that there is a need out there. In my case, I have for many years had xxxxxxxxxxxx which were mainly annoying but last year I had major surgery for xxxxxxxx and within the past few months xxxxxxxxxxxx has been added to the list. All these create their own problems which make living where we do more difficult. The proposed bungalows intrinsically offer more than the traditional ones. Around the village, there are many using mobility scooters, Zimmer frames, crutches etc or, like me lots of people who are walking very slowly these days. Unlike the existing bungalows, these new ones would be custom built and provide a small but locally unique opportunity. They would benefit from: All on one floor (obviously) No steps between rooms Underfloor heating Ultra wide, easy to open doors and a very wide hallway Custom built bathrooms and toilet Manageable gardens Easy parking Easy public transport to South Woodham Ferrers, Danbury and onwards to Chelmsford. These are exactly where we would like to live. We do hope that there is a chance for us to move in.

XXXXXXXXXX BA Brook Way Bicknacre
XX Five Acres
Bicknacre
Chelmsford
CM3 4NB

Dear Sirs,

I write concerning the deferment of Planning application 19/01800/FUL which was presented at last February's planning meeting.

I thought that Chelmsford Councils Planning Department had prepared an excellent report for consideration by the Planning Committee. It was clear, concise and having taken into account both positive and negative issues regarding the proposed development recommended that the application should be passed.

I was therefore somewhat frustrated and disappointed that the application was deferred on the basis that the developer was being asked to confirm that the properties were for people aged over 55 and lived in Bicknacre, confirmation of which could have been given at the meeting had the developers agent been allowed to speak, by the chair.

My wife and I are in our early and late seventies respectively and have for some time been looking to downsize from our existing house which is a four bedroom family property which although we like the space it provides is not ideally configured for senior living.

We have lived in the Village for forty plus years and these have been very happy years having brought up our family here and been part of the village community helping with the local scout troop and the badminton club plus a large circle of friends. We find the local amenities such as the shops, Garden Centre and the Village Hall very convenient. Both our children and their families are local and we wish remain in the village if possible.

I was diagnosed with XXXXXXXXXXXX some six years ago and as this is a progressive condition I expect my mobility which is already compromised to worsen over the next few years, walking frame and possibly a wheel chair. This together with other age related health issues will make living in our current property far from ideal and should we stay would involve expensive modifications including a stair lift, making the bathrooms and showers suitable for use with limited mobility and due the building's current configuration

difficult to widen the doorways for wheelchair access.

We have been looking for a suitable bungalow in the Bicknacre area for some time now but find the value of the property on the market exceeds the value of our house and in most cases these would need work to suit our needs. The bungalows which Mr McMullon is proposing would be ideal with a one level floor throughout and wide doorways to allow wheelchair access, low threshold access doors in and out of the building and eco friendly building materials and heating system.

We consider the proposed development a very positive step in providing much needed senior housing in the area where older people can live an independent and good quality life during their later years and feel the development falls within current Government guidelines for senior living

We would urge you to give this application your upmost support when it next comes before the Planning Committee so that we can move forward with positive plans for our future.

Yours Sincerely

XXXXXXX

XXXXXXX

Lodge Road

Bicknacre

CM3 4HL

To whom it may concern

We understand that the above planning application may be coming before the Planning Committee in the very near future.

It is now six months since the original application came before the Planning Committee and was deferred on a technicality. This surprised us as the Parish Council gave its unanimous backing, along with strong support from potential buyers. In fact the development was over subscribed with people delighted that at last something was proposed for the older population to move from houses to a bungalow.

The need is very great for bungalows that are purpose built for older people, whose needs will become greater as their years progress. These properties are in a suitable area, local for the buses and designed to meet the needs of people who may not be so mobile in later years. These properties would also allow the owners to help and support each other. My wife and I have struggled for many years to find a bungalow locally that suits our needs whilst still allowing us to remain within the local area. What appealed to us most when we saw the plans for the properties is that they had spacious rooms, a large hallway and doorways (suitable should someone need to move around with mobility problems) and accessible bathrooms. The gardens are of a manageable size. The whole bungalow is ECO friendly.

I, XXXXXXXX, have a Neurological condition which has become progressively worse over the last twelve months, to the point that moving to a bungalow is now essential. It is a struggle to cope with stairs, so a single storey property would totally suit my needs. It is not now a question of want, but need! The property would be Freehold, whereas McCarthy and Stone developments are Lease hold with expensive maintenance charges.

Older people purchasing these bungalows will then potentially free up properties for families and this in turn would allow first time buyers to get on the property ladder. We constantly read of properties being built for first time buyers but not for retirees.

My wife and I are fully committed to purchasing one of the bungalows, in fact we have offered Mr. McMullon(developer) a financial deposit in order to secure a property. Mr. McMullon has said this is not necessary at this stage. We would consider this to be our final purchase of a property.

Item 6

We would like you to consider all of the above when looking at the planning application. The need is there and it is very great. For a development of six bungalows to be over subscribed says it all!

Yours sincerely,
XXXXXXXXXX



Planning Committee
11th February 2020

Application No	:	19/01800/FUL Full Application
Location	:	Land South West Of Broadacres Lodge Road Bicknacre Chelmsford Essex
Proposal	:	Construction of 6 bungalows and 3 formations of access. Additional associated landscaping.
Applicant	:	Mr Keith McMullon
Agent	:	Holmes And Hills LLP
Date Valid	:	8th November 2019

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Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

1. Executive summary

- 1.1. This application is referred to planning committee at the request of a local ward member due to the level of local interest both in favour and against the proposals.
- 1.2. The site is located in the Rural Area outside the Defined Settlement Boundary where new development is restricted. The proposal relates to the construction of three pairs of bungalows within part of the existing residential garden to “Broadacres” and would face Lodge Road.
- 1.3. The site is located in a sustainable location with access to public transport and local services. The development would not harm the intrinsic character and beauty of the countryside and would amount to sustainable development.
- 1.4. The bungalows would have a modest scale and form and the design of the dwellings is acceptable. Appropriate private amenity areas for each dwelling would be provided.
- 1.5. Integral garages would be provided in addition to open parking and turning areas to the front which meets the Council's parking standards. Three new vehicular accesses would be provided on to Lodge Road without having a detrimental impact on vehicular or pedestrian safety.
- 1.6. The development would have an acceptable relationship with neighbouring properties.
- 1.7. Approval is recommended.

2. Description of site

- 2.1. The site lies within the Rural Area beyond the Metropolitan Green Belt where development is restricted. It is located 30m to the west of the junction of Main Road and Lodge Road, on the northern edge of Woodham Ferrers.
- 2.2. The site currently forms part of the residential garden to the dwelling to the north, “Broadacres”. There is an existing vehicular access from Lodge Road to the dwelling located to the east of the application site.
- 2.3. The site is rectangular and covers an area of 0.36ha with approximate dimensions of 90m x 40m. There is an established hedge running along the boundary with Lodge Road.

3. Details of the proposal

- 3.1. This application relates to the proposed construction of three pairs of two-bedroom, semi-detached bungalows on the site. Each dwelling would have a footprint of approximately 159sqm and a maximum ridge height of approximately 5.5m.
- 3.2. The pairs of bungalows would have a “U” plan form with gardens to the rear and parking and turning areas to the front. The buildings would also incorporate a single integral garage within the built form of each property.
- 3.3. To enable access to each dwelling, three new vehicular accesses would be created on Lodge Road each to serve a pair of dwellings.

4. Summary of consultations

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

- ✓ Woodham Ferrers & Bicknacre Parish Council
- ✓ Public Health & Protection Services
- ✓ Essex County Council Highways
- ✓ Recycling & Waste Collection Services
- ✓ Local residents

4.2. Full details of consultation responses are set out in appendix 1.

4.3. The Parish Council supports this planning application.

4.4. Public Health and Protection Services has responded that the development should provide Electric Vehicle charging point infrastructure for each dwelling.

4.5. Essex County Council Highways raised no objection to the proposal as each new access would be provided with appropriate visibility splays and the parking provision would be in accordance with the Essex Planning Officer Association standards and the Emerging Local Plan standards. The impact of the proposal is acceptable from a highway and transportation perspective subject to the imposition of appropriate conditions.

4.6. No response has been received from Recycling and Waste Collection Services.

4.7. 13 representations have been received comprising 2 letters of objection, 10 letters of support and 1 letter making comments. Main points:

Objections

- Proposed development would be detrimental to the character and appearance of this area of Lodge Road
- Would change the existing open character to that of a high-density housing area
- Lodge Road is a narrow country lane used by large agricultural vehicles and coaches
- Additional traffic along Lodge road would be harmful to highway safety
- If this proposal is permitted, then consideration should be given to reducing the speed limit and making Lodge Road a no-through road for commuter traffic
- The playing fields to the west of the proposed development are used regularly resulting in on-street parking on Lodge Road - three additional accesses would create conflict with pedestrians and vehicles
- Construction traffic and residents parking would obstruct emergency access to playing fields if necessary
- Visitors to the bungalows would reduce availability for on-street parking for users of the playing fields
- Mature trees have been cut down on the site - this conflicts with the Arboricultural report stating no trees would be cut down
Why can the access to the site not be located on Main Road?

Support

- Would welcome the opportunity to purchase a smaller property and be able to stay in the local area
- Bus stops are close by allowing access to local services

- Single storey accommodation would be beneficial for allowing occupants to be mobile for longer
- Would enable release of larger family homes elsewhere in the locality and allow the village to be a multi aged community
- The bungalows have been designed with a layout and structure in line with current RIBA and Age Concern recommendations
- The proposals would be a benefit to the village
- Have participated in village life for many years and would like to remain locally while downsizing
- There is a lack of bungalows and suitable properties locally to enable residents to downsize while remaining in the area where friends and family are also local.
- The local demographic is skewed with a high percentage of residents over 65 and downsizing to a bungalow is difficult if there are none available locally

Comment

- Proper thought must be given to flooding and sewerage issues as additional homes will mean existing issues worsen

5. Planning considerations

Main Issues

- 5.1. The main issues are whether:
 - The principle of development here is acceptable
 - There would be a harmful impact on the countryside as a result of the proposal
 - The proposal would be sustainable development
 - The proposal would have an acceptable design and layout
 - There would be adequate amenity space for the proposed occupants
 - Adequate access and parking arrangements would be provided

Principle of Development

- 5.2. The site is located outside of the Woodham Ferrers Defined Settlement Boundary (DSB) in both the Adopted and Emerging Local Plans. The closest part of the DSB runs along the southern side of Lodge Road and includes the two properties “Sunnymead” and “Crofters” opposite.
- 5.3. Policies DC2 and CO4 set out the types of development which will be permitted in the Rural Area provided that the intrinsic character and beauty of the countryside is not adversely impacted. Within the list of types of development, open market housing is not one of the exceptions however limited affordable housing for local needs in accordance with policies DC32 and HO2 respectively is one of the stated exceptions. The application documents indicate that the proposed development would provide accommodation restricted to occupants over 55 years and who have a local connection.
- 5.4. Both Policies DC32 and HO4 require the proposed development to be for affordable housing and they each set out four criteria which must be met for development to comply with the policies. It is acknowledged by the applicant in the Planning Statement that this proposal is not for affordable housing and therefore it cannot comply with either Policy DC32 or HO4. The proposal is for open market housing in the Rural Area and is contrary to the requirements of Policies DC2, DC32 and Emerging Policies CO4 and HO2.

- 5.5. In addition to consideration of the proposal in relation to the Adopted and Emerging Local Plan policies, it is necessary to consider the objectives of the National Planning Policy Framework (NPPF). The NPPF identifies that the purpose of the planning system is to contribute to the achievement of sustainable development and at the heart of the NPPF is a presumption in favour of sustainable development. There are three dimensions to sustainable development, economic, social and environmental. Taking each of these dimensions in turn, in relation to the current proposal:

Economic

- 5.6. Although a relatively generic benefit, the proposal would have an economic role in supporting/creating jobs during the construction stage of the scheme. The new dwellings would provide homes to people who would be likely to support the existing local services and businesses in the nearby villages. The delivery of housing also has an economic benefit in boosting housing supply. Although the growth needs of the Council's administrative area is being realised through the ability to demonstrate five years' worth of specific deliverable sites, this development would provide six new dwellings which would make a small contribution in addition to those deliverable sites.
- 5.7. Taking into consideration the economic benefits, weight can be attributed to the scheme in fulfilling its economic role of sustainable development; there would ultimately be a limited positive impact which weighs for the development.

Social

- 5.8. The proposed development would be in a location where local services, schools and shops can be reached without reliance on private vehicle movements. The site is located close to bus stops on Main Road which provide a half hourly bus service for much of the day between Chelmsford and South Woodham Ferrers. Within Woodham Ferrers itself there is a primary school, public house, restaurant, village hall and church within walking distance.
- 5.9. There are a number of local services and facilities which can be accessed without the need to rely upon a private vehicle and the site is accessible in this respect. Although the proposal is not for affordable housing, it is the applicant's intention that the bungalows would be provided for over 55s and there is local support from both residents and the Parish Council for the development. The social sustainability aspect of the site of the proposal carries significant weight in favour of the proposed development as it meets the social objectives aim in the NPPF of fostering well-designed and safe built environments with accessible services to meet needs and support communities' health, social and cultural well-being.

Environmental

- 5.10. In respect of the environmental role of sustainable development, the NPPF refers to protecting and enhancing the natural, built and historic environment. The proposal would introduce buildings on the site in the form of the six bungalows. The character of the site would be altered from an open area of domestic garden to that of a low-rise residential development. The site falls within the definition of previously developed land as it forms part of the garden to "Broadacres" and any development of it would not result in the loss of undeveloped land within countryside. It is an area of maintained land used for domestic purposes. While the existing garden use maintains an open aspect, the site does not contribute to the rural character of the wider area.
- 5.11. It would be necessary to remove the existing hedge to the front of the site to enable the construction of the accesses and required visibility splays. It would therefore be appropriate for

landscape and biodiversity enhancements, such as native planting including a replacement hedge and trees to the front of the site, to be secured by condition. This would offset any harm arising from the proposed built form and loss of the existing hedging.

- 5.12. In the context of the existing character of the site and surrounding area where there are existing dwellings to the south, within the DSB, and a row of two-storey properties to the west of the site which are within the revised DSB in the Emerging Plan, the construction of modest bungalows on this site would not erode the rural character of the area. Taking into account landscaping and biodiversity enhancements which would be sought be condition, the proposal would therefore not be harmful to the intrinsic character and beauty of the surrounding countryside. Overall the proposed development would have a neutral environmental benefit.
- 5.13. In summary, although the proposed development would have a neutral environmental impact, there would positive impacts in respect of the economic and social objectives and the proposal would amount to sustainable development.

Planning Balance

- 5.14. The proposed development is contrary to the requirements of Policies DC2 and CO4 as construction of open market housing is not one of the types of development permitted in the Rural Area. However, the harm arising from this policy conflict would be limited due to the context of the site and the modest single storey form of the bungalows proposed. The proposed development would meet the objectives of the NPPF in respect of the presumption in favour of sustainable development and is therefore acceptable.

Design and Layout

- 5.15. The dwellings would be positioned in a linear form reflecting the position of dwellings further along Lodge Road, to the west. The roof form is shown to be articulated with a central ridge and lower, subservient projections to the side and rear. The buildings would have true single storey proportions with the main ridge having a maximum height of 5.5m. The projections would have narrow spans and traditional external materials are indicated to be used. This would result in the development incorporating elements of the local vernacular into the design of the dwellings.
- 5.16. The existing buildings in the vicinity of the site comprise a mix of sizes, scale, design and appearance. The proposed dwellings would have an acceptable design and appearance in themselves and would not be out of keeping with the mixed character of the built form in the vicinity of the site. The proposal therefore complies with the requirements of Adopted Local Plan Policy DC45 and Emerging Local Plan Policy MP1.

Amenity space

- 5.17. Each dwelling would have in excess of 100sqm of private amenity space to the rear. This would exceed the minimum standards recommended for a two-bedroom property and complies with the requirements of Policies DC44 and MP4.

Neighbour Amenity

- 5.18. The single storey nature of the dwellings would prevent any loss of privacy or overlooking occurring between the proposed dwellings or between the existing and proposed dwellings.

- 5.19. Only one of the proposed dwellings, Plot 1, would be located near to an existing property, No.1 Ash Cottage which is adjacent to the western site boundary. There would be a distance of approximately 5.4m between the side elevation of the main section of the bungalow and the western site boundary and approximately 2.7m between the lower side projection to Plot 1 and the side boundary. These distances, when combined with the modest height and proportions of the proposed dwelling, would prevent the proposed dwelling appearing as overbearing when viewed from the property to the west, no. 1 Ash Cottages or from having an overshadowing impact to that property.
- 5.20. The proposed development would have an acceptable relationship both with neighbouring properties and between the proposed dwellings and complies with the requirements of Adopted Local Plan Policy DC4 and Emerging Local Plan Policy PA1.

Access and Parking provision

- 5.21. Each property would have a parking and turning area to the front of the dwelling, in addition to an integral garage. The integral garages would have internal dimensions of 5.5m x 3.9m. These internal dimensions would be smaller than required in accordance with the standards required by the Emerging Local Plan however, they exceed the internal dimensions required by the Adopted Local Plan. It is also noted that if the garages were excluded from the parking provision, the development would still provide two spaces per dwelling in accordance with the Emerging Local Plan requirements. The indicated parking provision therefore complies with Policies DC7 and MP5 of the Adopted and Emerging Local Plans.
- 5.22. The proposal includes the creation of three new vehicular access points from Lodge Road to provide an access for each pair of bungalows. Essex County Council, as the Local Highway Authority, has been consulted on the proposed development. They have indicated that subject to appropriate visibility splays being provided for the accesses in addition to the imposition of appropriate conditions, the proposal is acceptable to the Highway Authority. The construction of six dwellings with three new accesses would therefore not have a detrimental impact on highway or pedestrian safety. As detailed above, the existing hedge would need to be removed to facilitate the proposed development however a suitable replacement would be secured by a landscaping condition.
- 5.23. In common with other existing properties along Lodge Road, refuse and recycling collections would take place from the front of the site. A condition is recommended for details of the storage and collection areas to ensure that adequate facilities are provided within the site.

Other Matters

- 5.24. Concern has been raised regarding the impact of additional properties on existing flooding and sewerage issues. The site is not located in a Flood Zone where there are flooding issues and any new development would need to meet the requirements of Building Regulations regarding drainage. Anglian Water, as the statutory undertaker, has confirmed that the sewerage system has capacity to accommodate the proposed development.
- 5.25. The existing trees on the site are not protected by a Tree Preservation Order and no consent from the Local Planning Authority was required to remove the trees which were previously within the application site area.

6. Community Infrastructure Levy (CIL) and RAMS

- 6.1. This application may be CIL liable and there may be a CIL charge payable.
- 6.2. New residential development at this site has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The applicant has made a financial contribution towards mitigation through the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) project.

RECOMMENDATION

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

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 DC45 of the adopted Core Strategy and Development Control Policies Development Plan Document.

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 Policies DC45 and DC47 of the adopted Core Strategy and Development Control Policies Development Plan Document.

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:

In the interests of the visual amenities of the area and to safeguard the residential living environment of the occupiers of the proposed dwellings and the existing neighbouring dwellings in accordance with Policies DC4 and DC45 of the Adopted Core Strategy and Development Control Policies Development Plan.

Condition 6

Prior to their installation, details of the facilities for the storage of refuse and recyclable materials shall be submitted to and approved in writing by the local planning authority. The development shall not be occupied until the facilities for the storage of refuse and recyclable materials have been provided in accordance with the approved details.

Reason:

To ensure that suitable facilities for refuse disposal are provided and that such facilities are visually satisfactory.

Condition 7

Prior to the first occupation of the dwellings hereby permitted, charging infrastructure for electronic vehicles shall be installed at a rate of 1 charging point per dwelling.

Reason:

To ensure that the development is constructed sustainably in accordance with Policies CP11 and DC24 of the adopted Core Strategy and Development Control Policies Development Plan Document.

Condition 8

No unbound material shall be used in the surface treatment of the vehicular access hereby permitted within 6 metres of the highway boundary.

Reason:

To avoid displacement of loose material onto the highway in the interests of highway safety.

Condition 9

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 10

No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 03 rev Aa for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

Reason:

To ensure that sufficient parking is available to serve the development in accordance with Policy DC7 of the Core Strategy and Development Control Policies Development Plan Document.

Condition 11

There shall be no obstruction above ground level within a 2.4 metre wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such

vehicular visibility splays shall be provided prior to first occupation of the proposed development and retained free of any obstruction at all times.

Reason:

To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety.

Condition 12

Prior to first occupation of any pair of dwellings, the vehicular accesses to serve the relevant pair of dwellings shall have been constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres and shall be provided with a dropped kerb vehicular crossing of the footway to preserve pedestrian priority.

Reason:

To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety

Condition 13

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 occupiers of neighbouring dwellings in accordance with Policy DC4 of the adopted Core Strategy and Development Control Policies Development Plan Document.

Condition 14

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;
- e) Management details and a five-year maintenance plan

Reason:

In order to add character to the development, to integrate the development into the area and to promote biodiversity in accordance with Policies DC13 and DC45 of the adopted Core Strategy and Development Control Policies Development Plan Document.

Condition 15

In relation to tree protection, tree surgery and construction methods, the development shall only be carried out in accordance with the submitted arboricultural report dated 24 October 2019 subject to such minor variations as may be agreed in writing by the local planning authority.

Reason

To safeguard the existing trees which are of amenity value and add character to the development in accordance with Policy DC45 of the Core Strategy and Development Control Policies Development Plan Document.

Condition 16

The dwellings shall be constructed incorporating the Building Regulations optional requirement for water efficiency of 110 litres/person/day. Details demonstrating that the dwellings have been constructed in compliance with this requirement shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the dwellings.

Reason:

To ensure that the development is constructed sustainably in accordance with Policies CP11 and DC24 of the adopted Core Strategy and Development Control Policies Development Plan Document and Policy MP3 of the Chelmsford Draft 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

- 2 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, and further information can be requested by emailing 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.
- 3 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.

- 4 This permission is subject to conditions, which require details to be submitted and approved by the local planning authority. Please note that applications to discharge planning conditions can take up to eight weeks to determine.
- 5 This planning permission is subject to planning condition(s) that need to be formally discharged by the Council. Applications to discharge planning conditions need to be made in writing to the local planning authority. Forms and information about fees are available on the Council's website.
- 6 The Highway Authority (Essex County Council) must be contacted regarding construction details for the proposed vehicular crossover. Contact details are:
Development Management Team,
Essex Highways,
Springfield Highways Depot,
Colchester Road,
Chelmsford
CM2 5PU.
Telephone: 0845 603 7631 Email: development.management@essexhighways.org.
- 7 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. Enquires can also be made to the Address Management Officer by emailing streetnaming@chelmsford.gov.uk.
- 8 Any proposed landscaping scheme for the site should include standard trees to the front of the site as well as native species hedge.

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

Woodham Ferrers & Bicknacre Parish Council

Comments
04.12.2019 - The Parish Council supports this application.

Public Health & Protection Services

Comments
18.11.2019 - 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 not allocated).

Essex County Council Highways

Comments
<p>19.12.2019</p> <p>Three new shared vehicular accesses will serve the 6no. bungalows. Each new vehicular access would all be provided with appropriate visibility splays and this is conditioned below.</p> <p>The parking provision level for each dwelling is in accordance with the EPOA and emerging Chelmsford City Parking Standards.</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. No development shall take place, including any ground works or demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:</p> <ul style="list-style-type: none"> i. the parking of vehicles of site operatives and visitors ii. loading and unloading of plant and materials iii. storage of plant and materials used in constructing the development iv. wheel and underbody washing facilities <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>

2. There should be no obstruction above ground level within a 2.4 metre wide parallel band visibility splay as measured from and along the nearside edge of the carriageway across the entire site frontage. Such vehicular visibility splays shall be provided prior to first occupation of the proposed development and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between users of the access and the public highway in the interests of highway safety in accordance with policy DM1.

3. Prior to first occupation of the development each of the 3no. the vehicular accesses shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway to preserve pedestrian priority.

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

4. Prior to first occupation of the development the vehicular turning facility for each pair of bungalows shall be provided as shown in the Proposed Block Plan, drawing no. 03 Rev A, shall be constructed, surfaced 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.

5. There shall be no discharge of surface water from the development 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 to ensure accordance with policy DM1.

6. No unbound material shall be used in the surface treatment for each of the new vehicular accesses proposed within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1.

7. Prior to first occupation of the proposed development each bungalow shall be provided with two vehicle parking spaces. Each parking space shall be 2.9 metres x 5.5 metres long, as shown in principle in the Proposed Block Plan, drawing no. 03 Rev A, constructed ready for use.

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.

Proposed Garages - Parking Note

The proposed garages do not meet the minimum length recommended in the EPOA Parking Standards and therefore will not be counted toward the off-street parking provision. The minimum internal garage sizes recommended is 3 metres by 7 metres long.

However, the proposal includes 2no. off-street surface parking spaces which is in accordance with the provision level recommended in the EPOA and emerging Chelmsford City Parking Standards.

8. 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.

9. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for each bungalow, 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.

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 or by post to:

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

Recycling & Waste Collection Services

Comments
No response received

Local Residents

Comments
<p>6.3. 13 representations have been received comprising 2 letters of objection, 10 letters of support and 1 letter making comments.</p> <p><u>Objections</u></p> <ul style="list-style-type: none">- Proposed development would be detrimental to the character and appearance of this area of Lodge Road- Would change the existing open character to that of a high-density housing area- Lodge Road is a narrow country lane used by large agricultural vehicles and coaches- Additional traffic along Lodge road would be harmful to highway safety- If this proposal is permitted, then consideration should be given to reducing the speed limit and making Lodge Road a no-through road for commuter traffic- The playing fields to the west of the proposed development are used regularly resulting in on-street parking on Lodge Road - three additional accesses would create conflict with pedestrians and vehicles- Construction traffic and residents parking would obstruct emergency access to playing fields if necessary- Visitors to the bungalows would reduce availability for on-street parking for users of the playing fields
<ul style="list-style-type: none">- Mature trees have been cut down on the site - this conflicts with the Arboricultural report

stating no trees would be cut down

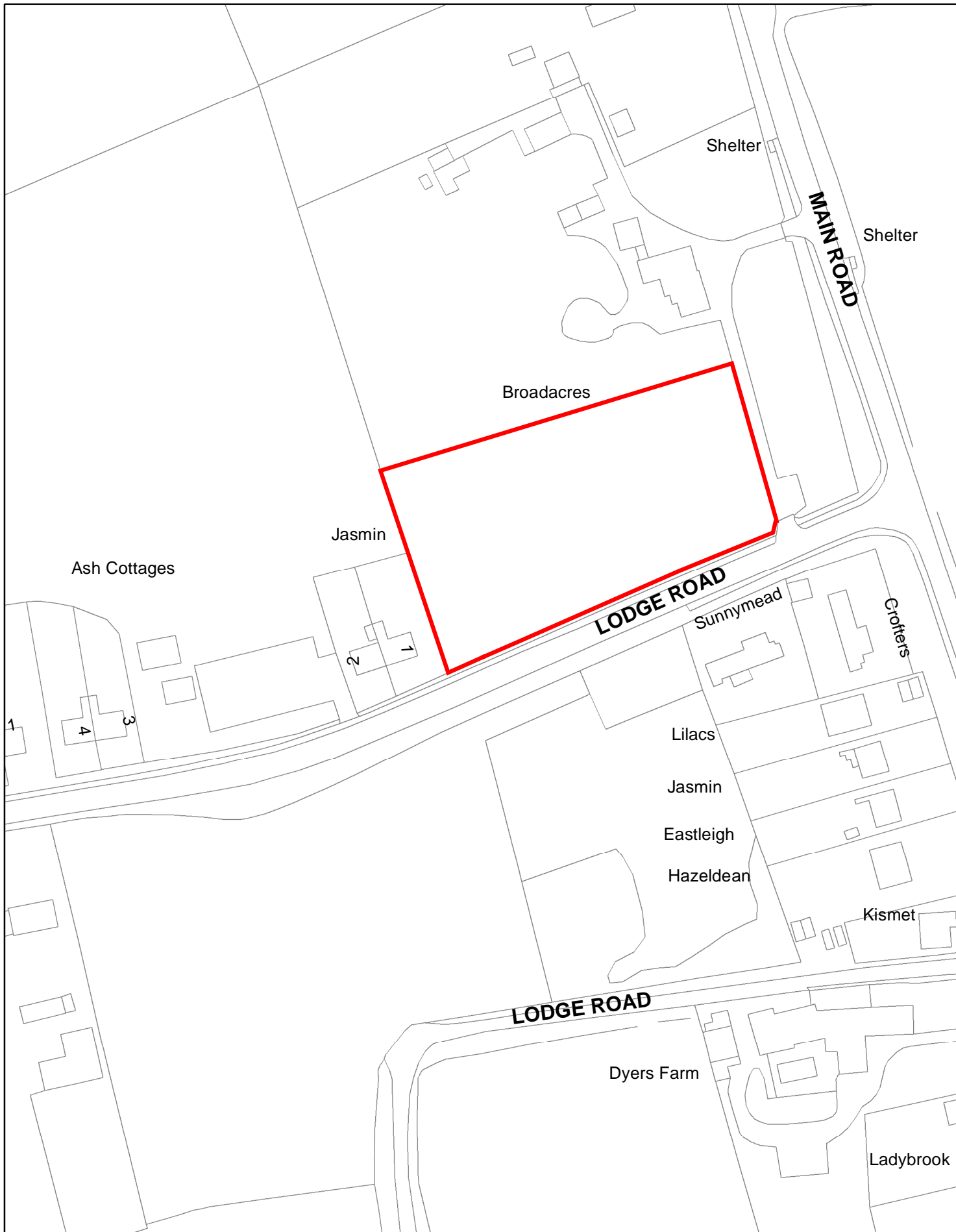
Why can the access to the site not be located on Main Road?

Support

- Would welcome the opportunity to purchase a smaller property and be able to stay in the local area
- Bus stops are close by allowing access to local services
- Single storey accommodation would be beneficial for allowing occupants to be mobile for longer
- Would enable release of larger family homes elsewhere in the locality and allow the village to be a multi aged community
- The bungalows have been designed with a layout and structure in line with current RIBA and Age Concern recommendations
- The proposals would be a benefit to the village
- Have participated in village life for many years and would like to remain locally while downsizing
- There is a lack of bungalows and suitable properties locally to enable residents to downsize while remaining in the area where friends and family are also local.
- The local demographic is skewed with a high percentage of residents over 65 and downsizing to a bungalow is difficult if there are none available locally

Comment

- Proper thought must be given to flooding and sewerage issues as additional homes will mean existing issues worsen



0 12.5 25 50 Metres

1:1,250



**Planning Committee
19/01800/FUL**

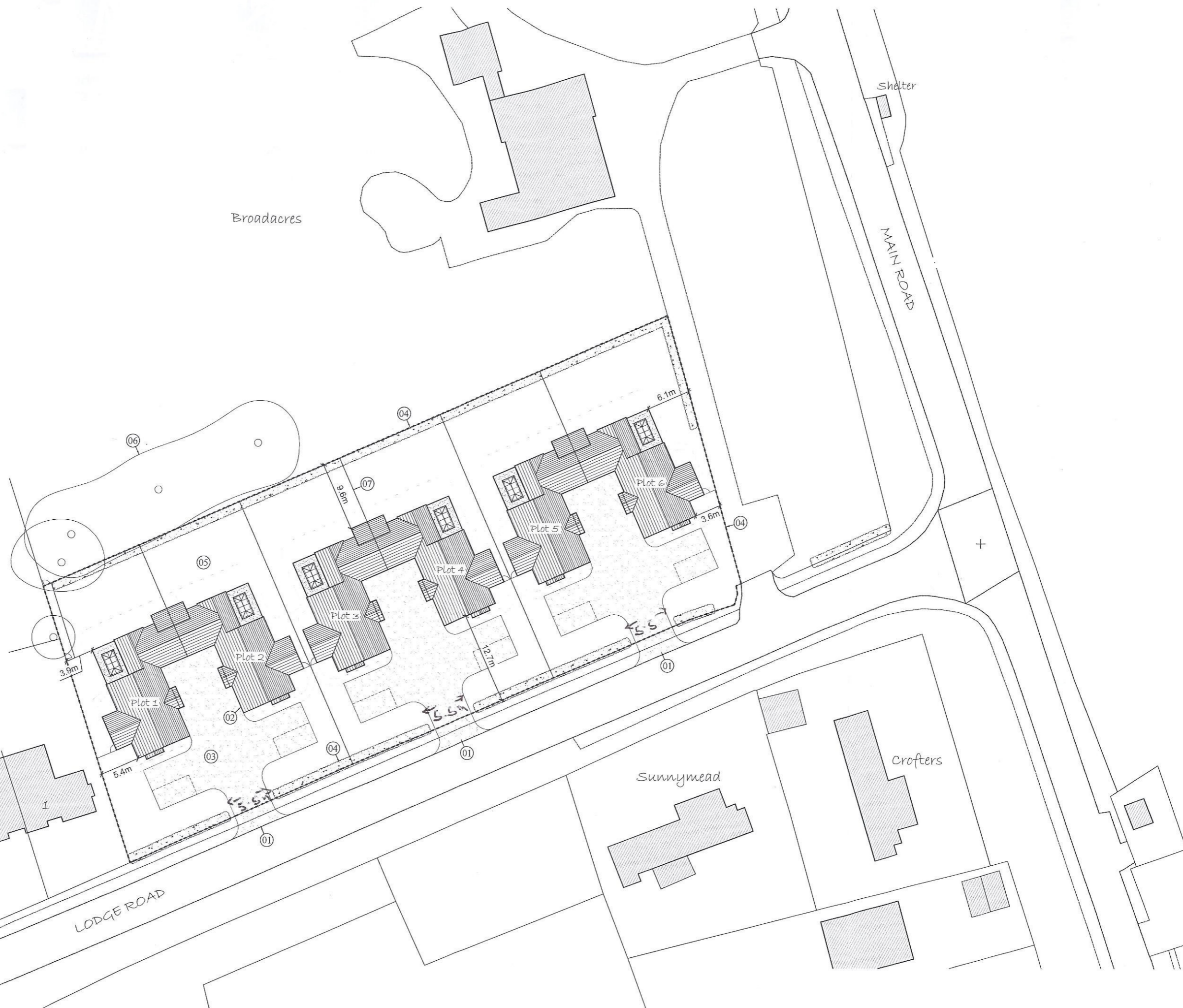
**Planning & Development Management
Directorate for Sustainable Communities**

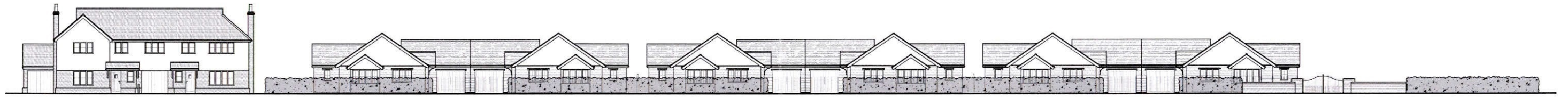
PO Box 7544 Civic Centre
Duke Street, Chelmsford, CM1 1XP

Telephone: 01245 606826

Circled Numbers:

1. Construct 3 new accesses as shown, in accordance with ECC highways specification and Journey Transport Planning Statement. Lead-in to be surfaced in bound surface such as block paving with aco drain at highway edge.
2. Proposed new dwellings.
3. Driveways incorporating parking and turning area, surfaced in bound self-draining finish.
4. New boundary enclosures finished in a mixture of metal estate fencing, close boarded fencing and indigenous hedgerows.
5. Private gardens for new dwellings, generally laid to lawn with patios to rear.
6. Existing trees retained in accordance with Arboriculturist Report and Tree Protection Plan.
7. New dividing boundary screen fences in 1.8m high close boarded fencing and/or willow/ hazel fencing.

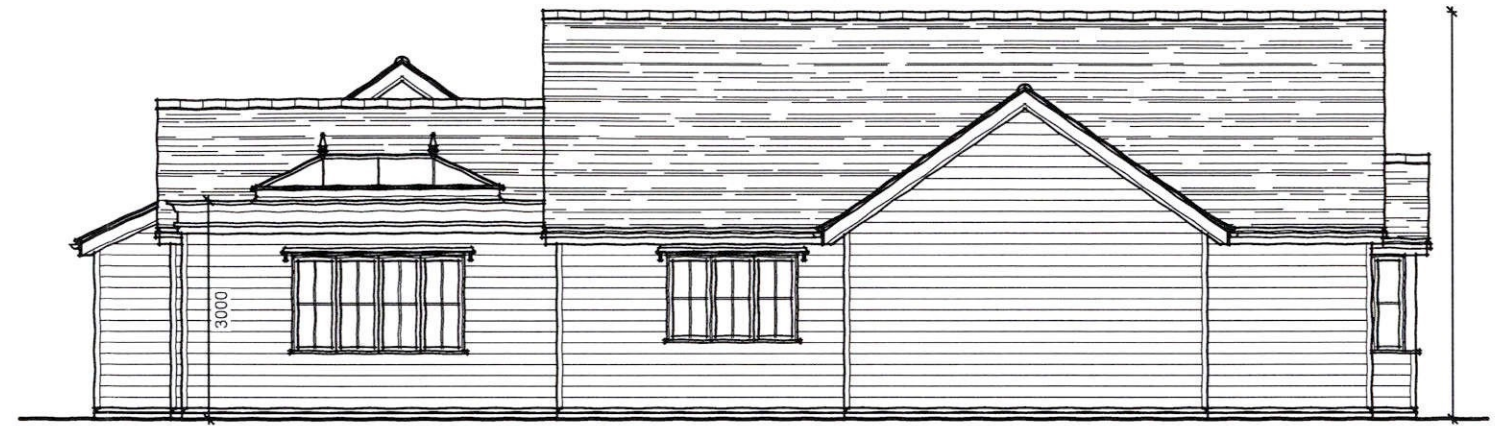




Proposed Street Scene (Lodge Road)



Proposed Front Elevation



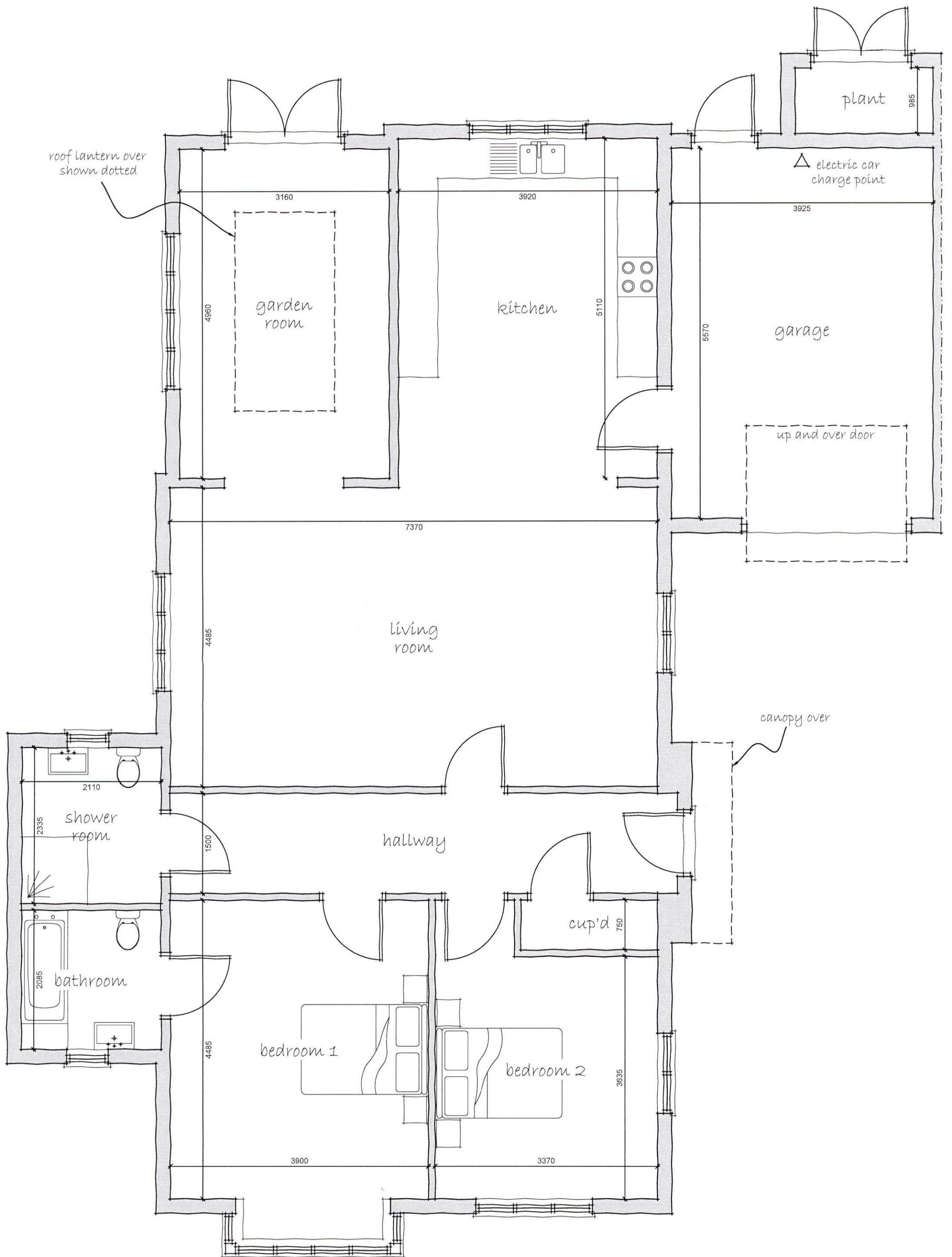
Proposed Side Elevation



Proposed Rear Elevation



Proposed Side Elevation



Proposed Ground Floor Plan



Planning Committee
1st September 2020

Application No	:	20/00349/FUL Full Application
Location	:	Site At Former Kids And Koffee Hall Street Chelmsford
Proposal	:	Demolition of existing building. Construction of 2No. dwellings with integral garages.
Applicant	:	Mr Nick Dawson Marlborough Street Construction Ltd
Agent	:	Arcady Architects
Date Valid	:	11th March 2020

Contents

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4.	Other relevant applications	3
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7.	Community Infrastructure Levy (CIL)	7

Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

1. Executive summary

- 1.1. This application is referred to the planning committee at the request of the local ward member as he considers that evidence that the premises cannot reasonably be returned to community use is compelling such that the loss of the community building can be accepted in this case, and that in all other respects the development would be welcomed.
- 1.2. The application site is located within Chelmsford City Centre where the principle of constructing new houses is acceptable.
- 1.3. The site is currently occupied by a detached single storey building. It is currently vacant but was most recently in use as a children's play area and coffee club known as Kids and Koffee. Prior to that the building was used as a church hall. Although it is currently vacant and in a somewhat unkempt state, the building is considered as a community facility. This proposal to demolish the building and build two houses would result in the permanent loss of a community facility. Policy DC21 relates to the protection of existing local community services and facilities. Amongst other things, this policy only permits the loss of facilities where the existing site or premises cannot be readily used for, or converted to, any other community facility. The policy also require evidence from the applicant that any commercial community facilities being lost were not economically viable.
- 1.4. There is limited evidence that the site was made available or marketed seriously with the aim of attracting any community use. There is limited information provided to demonstrate the former occupier was not economically viable. The applicant has not satisfied these policy requirements and the permanent and irretrievable loss of the community facility would be to the detriment of the local community's ability to meet its day to day needs.
- 1.5. No objections are raised to the design, layout or appearance of the proposed dwellings.
- 1.6. Due to the loss of a community facility refusal is recommended.

2. Description of site

- 2.1. The site lies within Chelmsford city centre where the principle of development is acceptable
- 2.2. It lies adjacent to the Moulsham Street Conservation Area and within Flood Zone 2. It is also close to the Grade II listed former Marconi Factory at the junction of Hall street and Mildmay Road.
- 2.3. Hall Street is a tightly built-up primarily residential street with a variety of designs and building forms including the converted former factory building at the eastern end, Victorian terraced houses, modern three storey town houses, flat roofed blocks of flats, two churches, and a public house.
- 2.4. The existing site is occupied by a single storey detached building with vehicle access from Hall Street. It is currently vacant but was most recently in use as a community facility. The former use vacated in March 2019.

3. Details of the proposal

- 3.1. This application seeks to demolish the existing single storey building and construct in its place a pair of semi detached dwellinghouses.
- 3.2. The houses would be three storeys in height and would each have three bedrooms. The ground floor level would contain a garage which would provide one off street parking space per dwelling.

4. Other relevant applications

13/00462/FUL - Approved 20th May 2013

Change of use from Church Hall to Leisure Play Group for children with cafe & work stations for parents

- 4.1. This was the governing application to convert the building from its original use as a church hall into a leisure play group building.

17/00971/FUL - Approved 25th July 2017

Change of use from play group with ancillary refreshment facilities to play group with ancillary refreshment facilities and breakfast club and after school club for school children. Proposed opening hours to 7am-7pm.

- 4.2. The 2017 application expanded the provision from the 2013 approval and added a breakfast and after school club into the previous permission.

5. Summary of consultations

5.1. The following were consulted as part of this application:

- ECC Historic Environment Branch
- Environment Agency
- One Chelmsford BID Ltd
- Public Health & Protection Services
- South Essex Parking Partnership
- Recycling & Waste Collection Services
- Essex County Council Highways
- Local residents

5.2. Public Health and Protection Services requested that in order to encourage low emission vehicles an electric charging point should be provided for the dwelling.

5.3. Essex County Council Highways raised no objection to the scheme subject to suitably worded planning conditions as the new dwellings would have adequate parking provision and a suitable access from the road.

5.4. The South Essex Parking Partnership noted that the new properties would not be eligible to join the existing resident permit scheme.

5.5. The Historic Environment Team stated that the proposed development is within an area of known, regionally-important archaeological remains. The Historic Environment Record shows that this area is just within the defences of the Roman town of Chelmsford. There is the possibility that archaeological features and deposits may survive in the proposed development area.

5.6. No comments were received from the Environment Agency or from the Recycling and Waste Collection Services. The One Chelmsford BID raised no objections to the proposal.

5.7. Five letters of support were received from local residents. The letters raised comments about the current state of the building and stated that the proposed dwellings would fit well within the street scene.

5.8. Full details of the consultation responses are set out in appendix 1.

6. Planning considerations

Main Issues

6.1. The main issues for consideration are:

- The effect of the proposal on the ability of the community to meet its day to day needs;
- Whether the proposed dwellings in themselves are an acceptable form of development.

Community Building

Policy Position

6.2. At a national policy level Paragraph 92 of the National Planning Policy Framework (NPPF) seeks to ensure that planning policies and decisions provide communities with the social, recreational and cultural facilities to meet their needs. At point (c) it states that planning decisions should *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.*

6.3. At a local level adopted Local policy DM21 states that the change of use or redevelopment of sites that provide valued community facilities will only be permitted where:

- i. The premises or site cannot readily be used for, or converted to, any other community facility; and*
- ii. The facility or service being lost will be adequately supplied or met by an existing or new facility in the locality or settlement concerned which shall be equivalent to or better than the facility being lost in terms of both quantity and quality.*

In relation to the loss of a locally valued community facility that is commercial in nature, such as public houses and private healthcare, evidence will need to be submitted to demonstrate that it is no longer required to meet the needs of the local community.

6.4. As part of this application the applicant has provided information which they consider satisfies the requirements of policy DM21 and shows that the redevelopment of the site would not lead to a detrimental loss to community facilities.

6.5. The information supplied by the applicants includes a building condition report and information from the auction house at which the property was sold in June 2019.

Assessment

6.6. When the building was last in use circa March 2019, it was fit for purpose as a children's play centre. The reason stated by the applicant for the former use vacating was that the premises were too small for the venture and there was not enough parking for customers. The planning application is accompanied by a building condition report dated May 2020. This shows that part of the roof has collapsed and that the metal sheeting that previously covered it is now missing. There are also holes in the internal walls of the building with much of the insulation and wall tiles removed. The report states that fixing these problems would require substantial works and would not merely be

cosmetic and that community operators would be unable to afford to undertake the repair works and make the building viable.

- 6.7. The auction house information states that no other interested groups representing community uses bid on the property during the auction in June 2019, so it was sold to the applicant with residential redevelopment in mind. The applicants have argued that this information shows that no other community groups were interested in occupying the building.
- 6.8. Within their supporting statement the applicant states that the building could not be readily used as or converted into another community use as the position of the building within flood zone 2 would limit the number of uses that could effectively utilise it such as more vulnerable flood risk groups including residential health services or a nursery. They have also stated that retrofitting the building to meet the flooding requirements of more vulnerable uses would be very expensive and would likely affect disability access into the building.
- 6.9. The evidence provided by the applicant is limited. There is no evidence about the condition of the building when it was vacated in March 2019 or when it was sold at auction 3 months afterwards. The submitted building condition report is dated some 12 months later and the building in the intervening period has suffered neglect and damage, in particular to the roof. The evidence provided by the applicant is based on assumptions about potential future users and does not show that the building, even in its current semi derelict state, could not be fixed so that it could be used or converted to suit the needs of a community use. There is no evidence to demonstrate that community groups or uses were not interested in the building when it was a fully usable structure in March 2019. No detailed evidence, such as a marketing report, to show that the building has been offered to community groups and that it is not practical or viable to meet their needs has been submitted with this application. There is no evidence of any active marketing for any prolonged period of time, the building was simply put to auction 3 months following it becoming vacant.
- 6.10. Given its location within the City Centre and position within a built-up residential area close to the town centre, the existing building would appear to be in a practical and sensible position to provide valuable and important community facilities to meet the needs of surrounding residents and the wider community. Without clear evidence to show that its reuse or conversion would not be possible, the Council cannot be satisfied this building in such a central location, although currently vacant and in disrepair, could not be repaired and used or converted into another community use.
- 6.11. Additionally whilst the applicants consider that a use more vulnerable to flooding could not use the building as it stands, they have failed to show why other groups that fit within a less vulnerable use class such as, amongst other uses, church or halls, a gallery or a place of worship, or other bespoke community could not use the building to provide valued community facilities without having to retrofit the building to overcome the flood risk.
- 6.12. The building is currently vacant. Information submitted with the application advises that the former use closed due to lack of business. This advises simply that the business failed due to the premises being too small for the venture, the lack of facilities it offered as well as the location not being suited for easy access for drop offs and pick up. Policy DC21 requires that for proposals involving the loss of commercial facilities, evidence will need to be submitted to demonstrate that the use is not economically viable. No evidence of this nature has been submitted with the application.
- 6.13. The applicants have provided information to show that there are other similar uses within a 3-mile radius of the site that provide services similar to Kids and Koffee. This includes play groups at local churches and large children's play centres such as Mayes Place and Wacky Warehouse. The latter two sites provide facilities that are much bigger than the application site and can offer a better

range of services to children and parents including larger play areas and hot food. Given that there are other, better uses within a relatively short distance of the application site the Council is satisfied that the community facility that has been lost from this site has been adequately met by other facilities within the locality.

- 6.14. Overall, there is little evidence to demonstrate that the property was actively marketed for any prolonged period of time and no evidence that the marketing that did take place (auction sale) was serious and realistic in terms of robustly searching for any alternative community users in Spring 2019. Officers are not satisfied that sufficient evidence has been provided by the applicant to show that the premises or site could not be readily used for or converted into another community use or that the former commercial occupier was not economically viable. The loss of the building and therefore its community use status would be a permanent and irretrievable loss and therefore would have a harmful impact on the ability of the community to meet its day to day needs. The development is therefore contrary to Policy DM21 and the requirements of the NPPF.

Character of the area

- 6.15. The two dwellings would be semi-detached with three storeys and an overall height of approximately 9.4m.
- 6.16. The design, form and positioning of the pair of houses suitably reflects the linear pattern of the neighbouring houses along Hall Street. They would fit well alongside the neighbouring semi-detached houses which are the prevalent house type in the street and would have a height that respects the stepped roof pattern of the surrounding buildings.
- 6.17. It is considered that the proposed dwellings would fit well within the character and appearance of Hall Street and would cause no adverse impacts to the setting of the Conservation Area or adjacent listed building.

7. Other Matters

Neighbour relationship

- 7.1. No. 10 Hall Street is located to the north west of the proposed dwellings. The positioning of the proposed dwellings would ensure that enough light can still reach the rear windows of the neighbouring property. Two first floor side windows are shown on the side elevation closest to this property. These windows would be secondary windows and would serve a living room and a kitchen. To ensure that the windows would not directly overlook the neighbour, had the application been recommended for approval then a condition would have been attached to this decision requiring that the two side windows were fitted with obscure glazing. The proposed dwellings would have an acceptable relationship with the neighbour at No.10 Hall Street.
- 7.2. The distance to the rear boundary is approximately 11.8m. Whilst this is below the usual required back to boundary distance of 15m it is noted that the boundary distance relates to distance between residential properties. To the rear of the site lies the Brethren Meeting Rooms which is a commercial premise. The reduced back to boundary distance is therefore considered acceptable in this case.

- 7.3. Overall, the proposed dwellings would have an acceptable relationship with the neighbouring properties.

Parking and highways

7.4. The proposal applies a reduced parking standard for off-street parking by provision of only one garage parking space for each three-bedroom dwelling. However, the site is located within the City Centre which is a main urban area with frequent and extensive public transport, cycling, walking links and access to public car park. As such a reduced parking standard can be applied to residential developments and one space per dwelling is acceptable.

7.5. The dwellings sit within an area of residential permit parking. The new dwellings would not be eligible to join the existing permit scheme.

7.6. Had the application been recommended for approval, suitably worded conditions relating to highway safety would have been imposed.

Flooding

7.7. The application site is located within Flood Zone 2 which is considered at a medium risk of flooding. As the proposed residential use is a more vulnerable classification the sequential test should be carried out and passed.

7.8. The sequential test has been carried out and passed by the proposal. The Council is therefore satisfied that the site is not at a significant risk of flooding.

Recreational avoidance mitigation strategy

7.9. New residential development at this site has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The applicant has provided a financial contribution which will go towards mitigation at a local wildlife site.

Historic environment

7.10. The proposed development is within an area of known, regionally important archaeological remains. The Historic Environment Record shows that this area is just within the defences of the Roman town of Chelmsford. There is the possibility that archaeological features and deposits may survive in the proposed development area

7.11. Had the application been recommended for approval a condition would have been attached to the decision relating to a scheme of works.

8. Community Infrastructure Levy (CIL)

8.1. This application may have been CIL liable. If the application had been recommended for approval, a CIL charge may have been payable.

RECOMMENDATION

The Application be REFUSED for the following reasons:-

Reason 1

At a national policy level Paragraph 92 of the National Planning Policy Framework (NPPF) seeks to ensure that planning policies and decisions provide communities with the social, recreational and cultural facilities to meet their needs. At point (c) it states that planning decisions should *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs*.

Local Policy DC21 allows for the redevelopment of site that provide valued community facilities or services only where i) the site cannot be readily used for or converted to another community use; and ii) that the facility or service being lost will be adequately supplied or met elsewhere by an equivalent or better facility.

The applicants have not provided detailed evidence or supporting information, such as a marketing report, to support their position that the premises and site could not be readily used or converted into another community use. No evidence has been provided to demonstrate that the former occupier of the building was not economically viable.

Overall, the Council is not satisfied that the existing building could not be readily used or converted into another community facility that could meet the needs of the community. The loss of the building and therefore its community use status would be a permanent and irretrievable loss and therefore would have a harmful impact on the ability of the community to meet its day to day needs. The proposal would be contrary to Policy DM21 and the National Planning Policy Framework.

Notes to Applicant

- 1 This application would be liable for a payment under the Community Infrastructure Levy Regulations (as Amended) 2010 if planning permission had been granted. If an appeal is lodged and subsequently allowed, the CIL liability will be applied.

Positive and Proactive Statement

The Local Planning Authority provided advice to the applicant before the application was submitted but the applicant did not take on board all or some of that advice. The local planning authority has identified matters of concern with the proposal and the report clearly sets out why the development fails to comply with the adopted development plan. The report also explains why the proposal is contrary to the objectives of the National Planning Policy Framework to deliver sustainable development.

Background Papers

Case File

ECC Historic Environment Branch

Comments
<p>22.04.2020 - Specialist Archaeological Advice</p> <p>The above application has been identified on the weekly list and checked on the web site by the Historic Environment Branch of Essex County Council.</p> <p>The proposed development is within an area of known, regionally-important archaeological remains. The Historic Environment Record shows that this area is just within the defences of the Roman town of Chelmsford. There is the possibility that archaeological features and deposits may 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>RECOMMENDATION: Full condition</p> <p>(i) No 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 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 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> <p>Yours sincerely</p> <p>Alison Bennett</p> <p>Historic Environment Advisor</p>

Telephone: 03330 136851

Email: alison.bennett@essexcc.gov.uk

Environment Agency

Comments

No response received

One Chelmsford BID Ltd

Comments

No response received

Public Health & Protection Services

Comments

11.05.2020 - 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

24.04.2020 - Your Ref: 20/00349/FUL

Our Ref: CO/EGD/SD/RM/CHL/20/349/25775

Date:- 24th April 2020

The proposal applies a reduced parking standard for off-street parking by provision of only one garage parking space for each three bedroom dwelling. The site is located within the City Centre which is a main urban area. In main urban areas with frequent and extensive public transport, cycling, walking links and access to public car parks, reduced parking standards may be applied to residential developments.

From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following conditions:

1. The site is located on Hall Street which is a well trafficked carrier route in the City Centre with existing traffic regulation orders (TRO) parking restrictions and a resident's permit parking scheme is strictly controlled, to prevent undesirable parking of vehicles.

Therefore, a Construction Management Plan shall be submitted prior to commencement of development details to be agreed with the Local Planning Authority and the Highway Authority Development Management Team. The Development Management Team may be contacted by email at development.management@essexhighways.org or by post to:

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

The Construction Management Plan shall include:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. highway safety considerations and hours of deliveries to avoid the traffic network morning and afternoon peak hours
- v. wheel and underbody washing facilities

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM1, HGV movement policy DM19 and construction Management policy DM20.

Note - MUD / DEBRIS ON HIGHWAY

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, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

2. Prior to first occupation the 3 metre by 7 metres long garage for each dwelling, shown in the Proposed Plans, drawing no. 1925/02 Rev C, shall be constructed ready for use. The garage parking shall be retained at all times.

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.

Note: The 3 metre by 7 metres garage size accommodates cycle parking in accordance with the EPOA Parking Standards.

3. Prior to first occupation of the development the two garages in 2 above shall be provided with a shared vehicular access and appropriate dropped kerb vehicular crossing of the footway not exceeding 6 metres wide.

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

4. The developer to pay the costs of amendment to the existing TRO and legal processes associated with the highway works associated with 3 above, including TRO for waiting and parking restrictions on the west side of Mildmay Road and all other statutory processes.

5. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for each 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.

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 or by post to:

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

South Essex Parking Partnership

Comments

03.04.2020 - Please note that any new property may not be eligible to join the existing resident permit scheme. The South Essex Parking Partnership.

Recycling & Waste Collection Services

Comments

No response received

Local Residents

Comments

Throughout the lifetime of the application five letters of support were received by local residents the comments raised the following matters:

Loss of community building

- Support the demolition of the building
- Site is not viable for other business due to lack of footfall
- The existing building is a complete eyesore and demolition has already begun. It does not contribute anything to the local area.
- Cannot see a new building using it in the current climate.
- Other community facilities close by.

New dwellings

- New dwellings are appropriate in scale and appearance to the other house in the street.
- Very much welcome family homes into the city centre.
- Positive that the buildings have integral garages.
- Houses would fit neatly within the street scene and provide a benefit to the local area.



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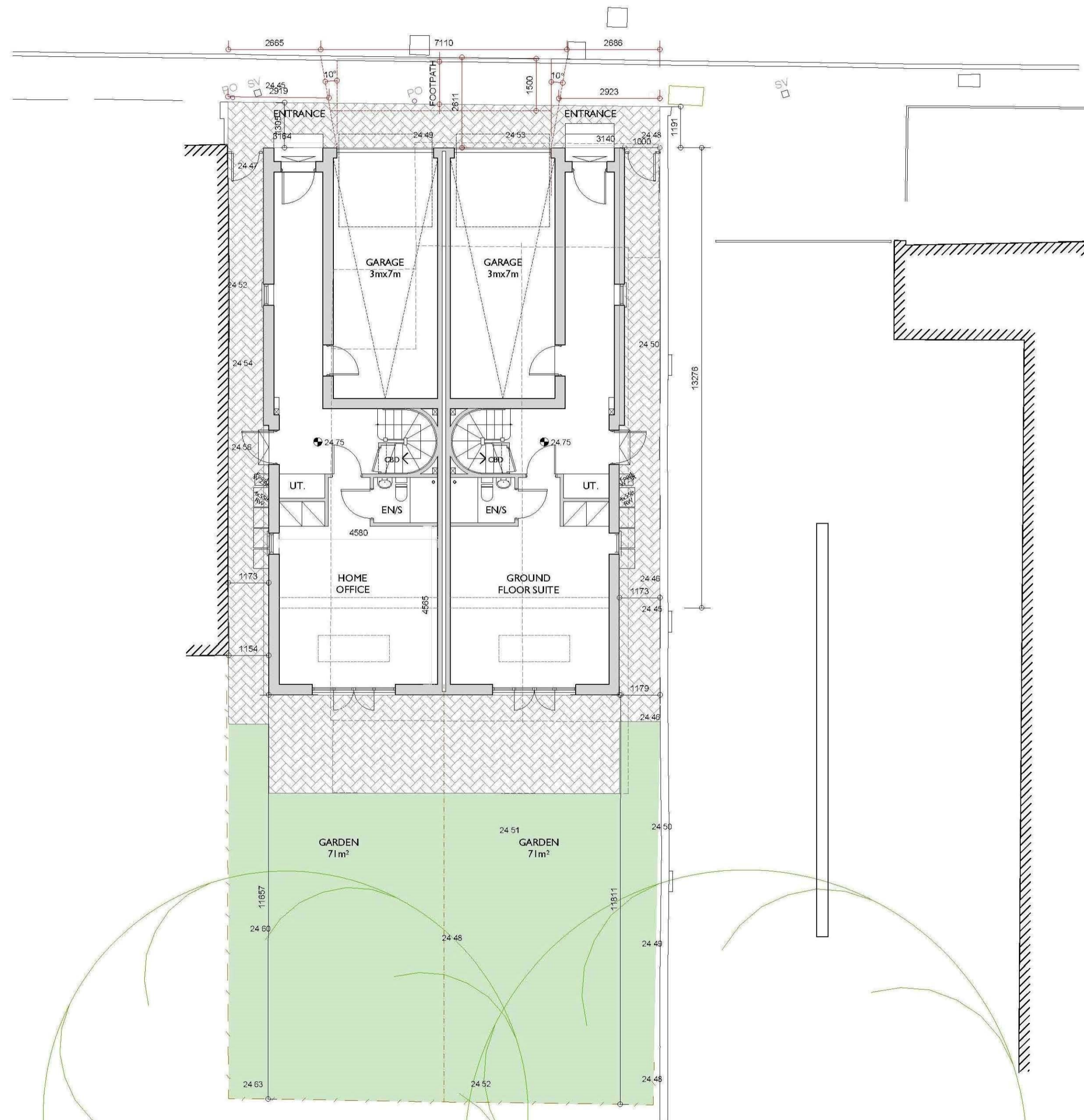


Planning Committee
20/00349/FUL

Planning & Development Management
Directorate for Sustainable Communities

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

Telephone: 01245 606826



HALL STREET

12

10

RC1

RC10

RC4

RC5

RC6

Mildmay Court

16

15

4

2

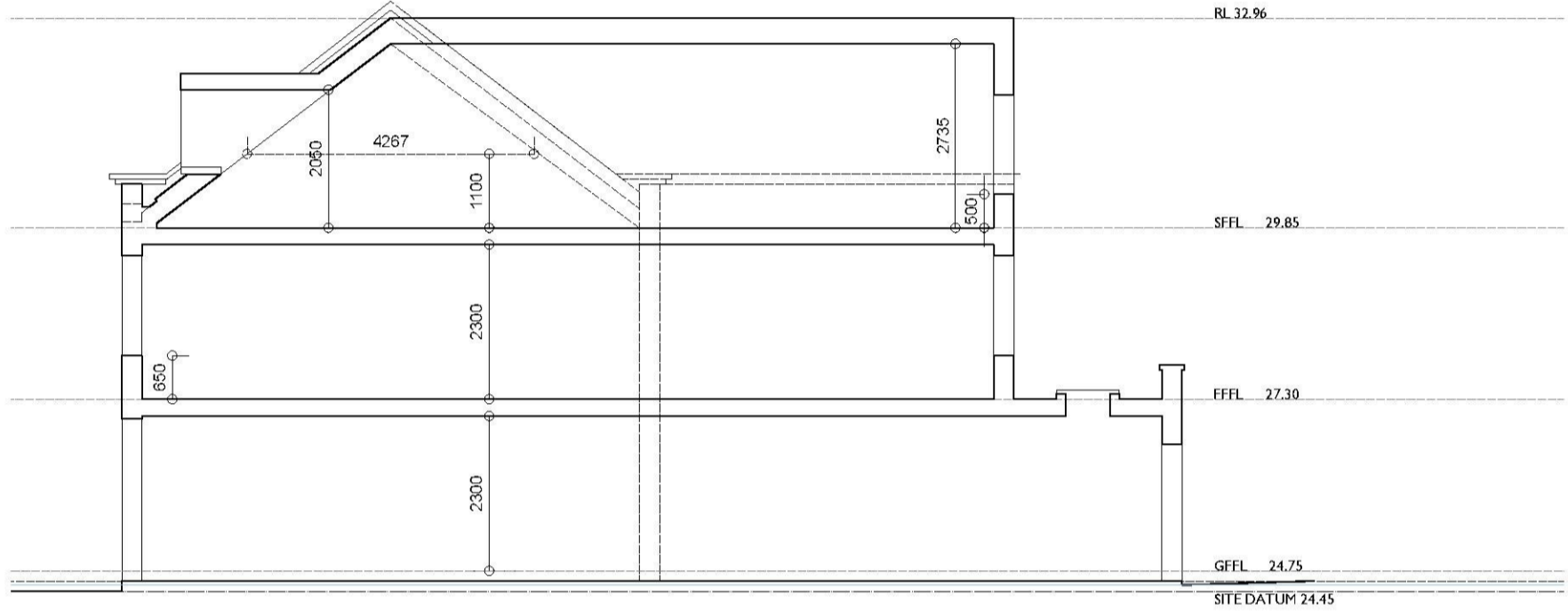
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PROPOSED DIAGRAM SECTION



PROPOSED FRONT ELEVATION (NORTH)



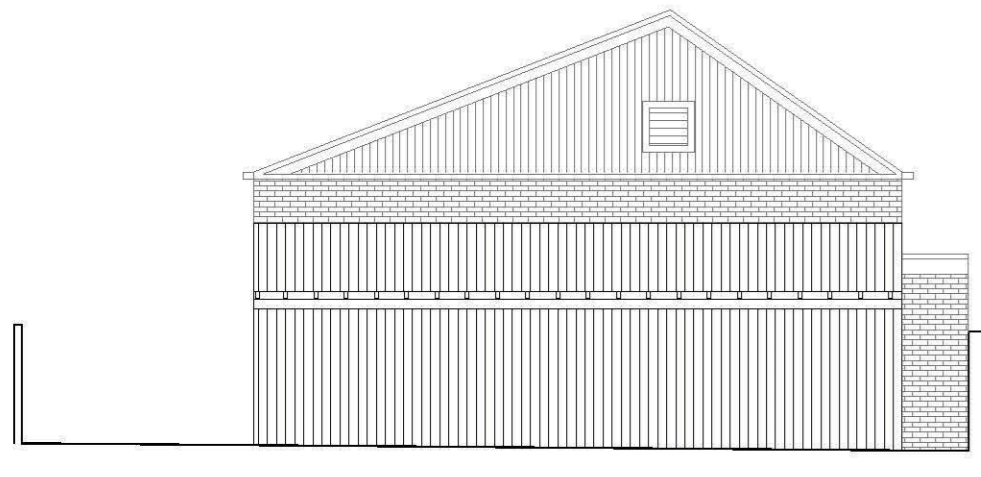
SIDE ELEVATION (EAST)

SIDE ELEVATION (WEST)

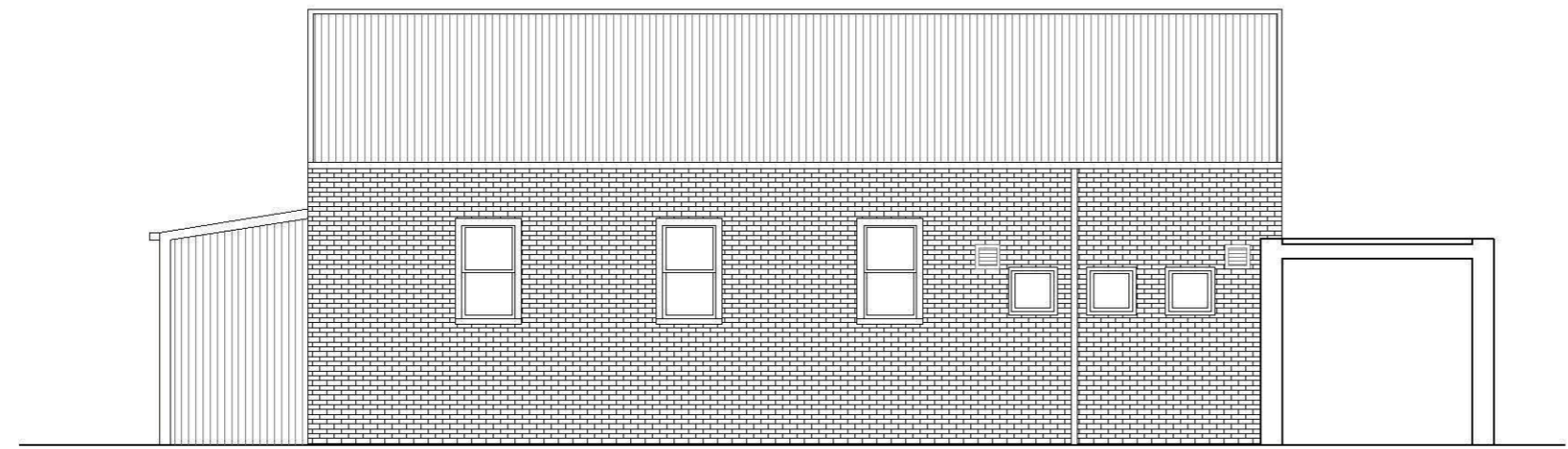
REAR ELEVATION (SOUTH)



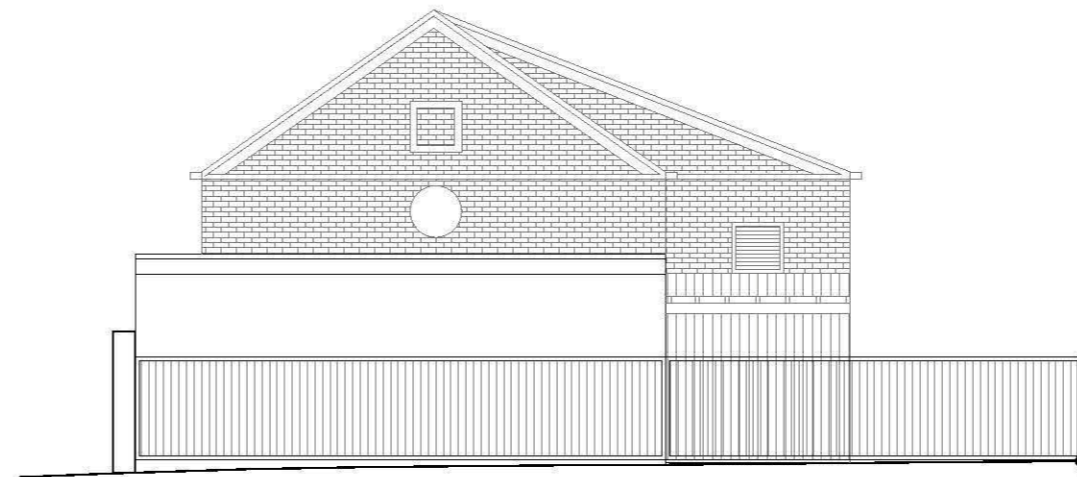
MATERIALS



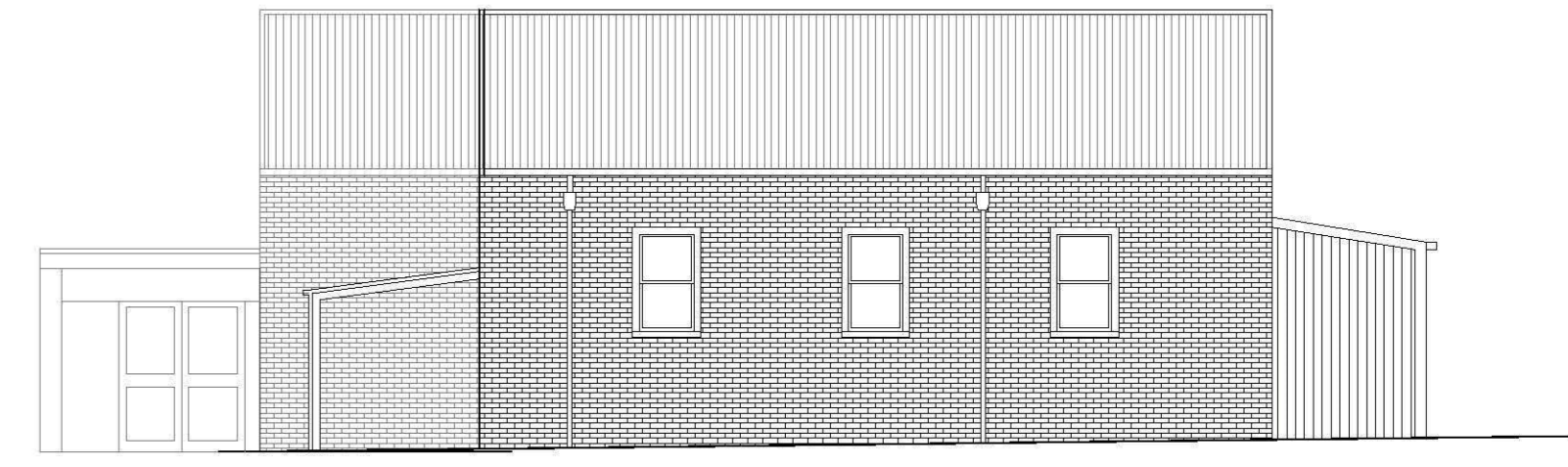
REAR ELEVATION



SIDE ELEVATION - EAST

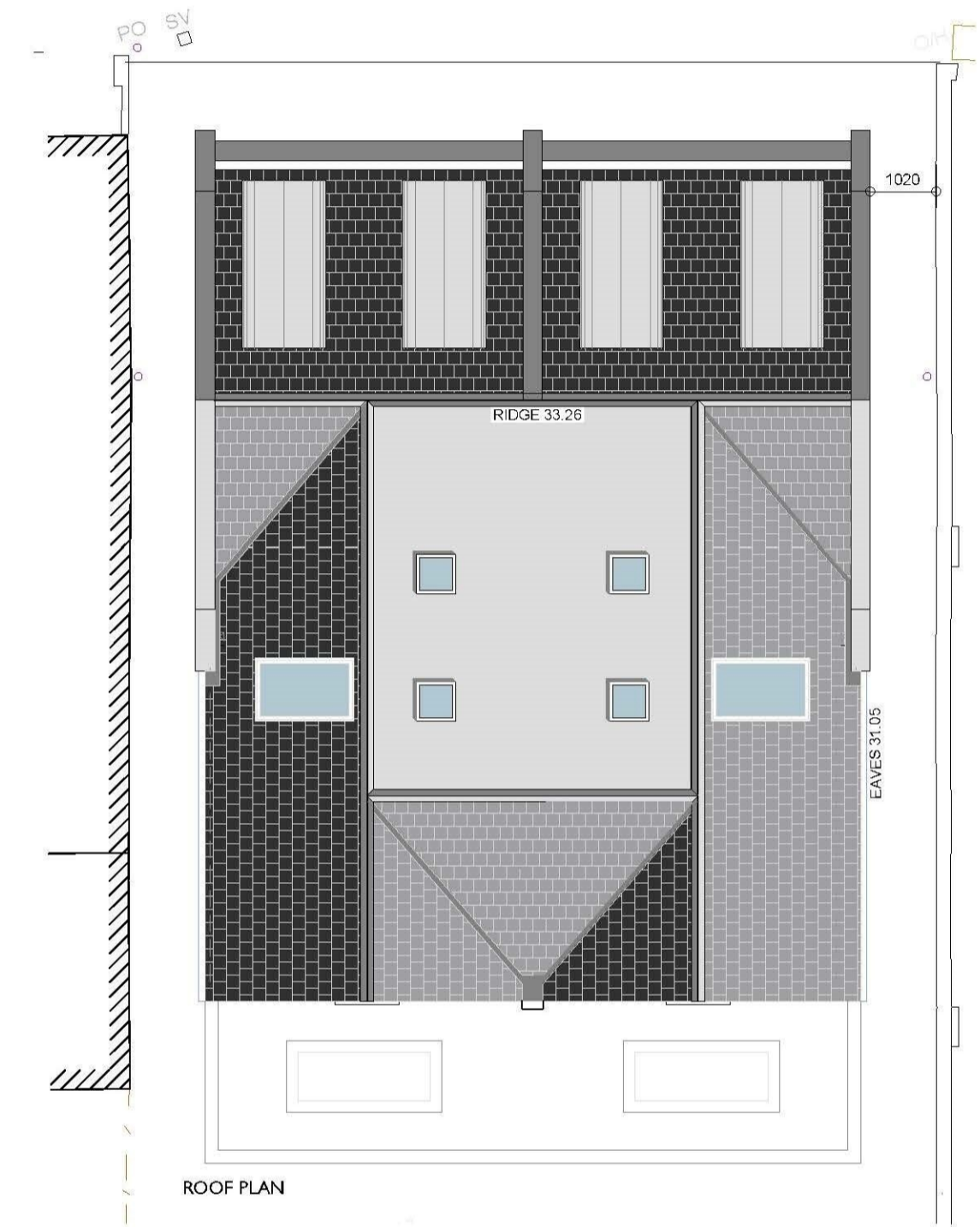
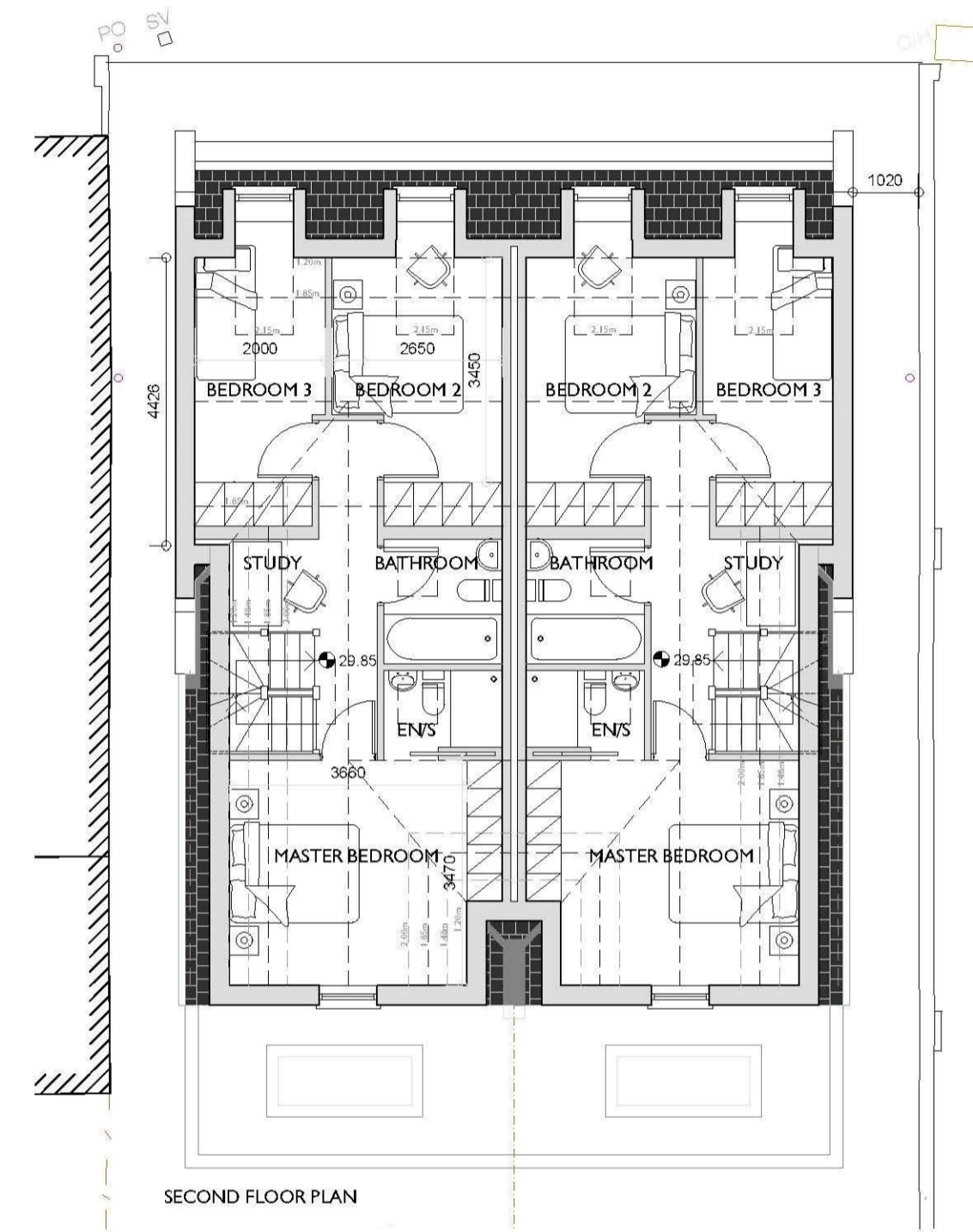
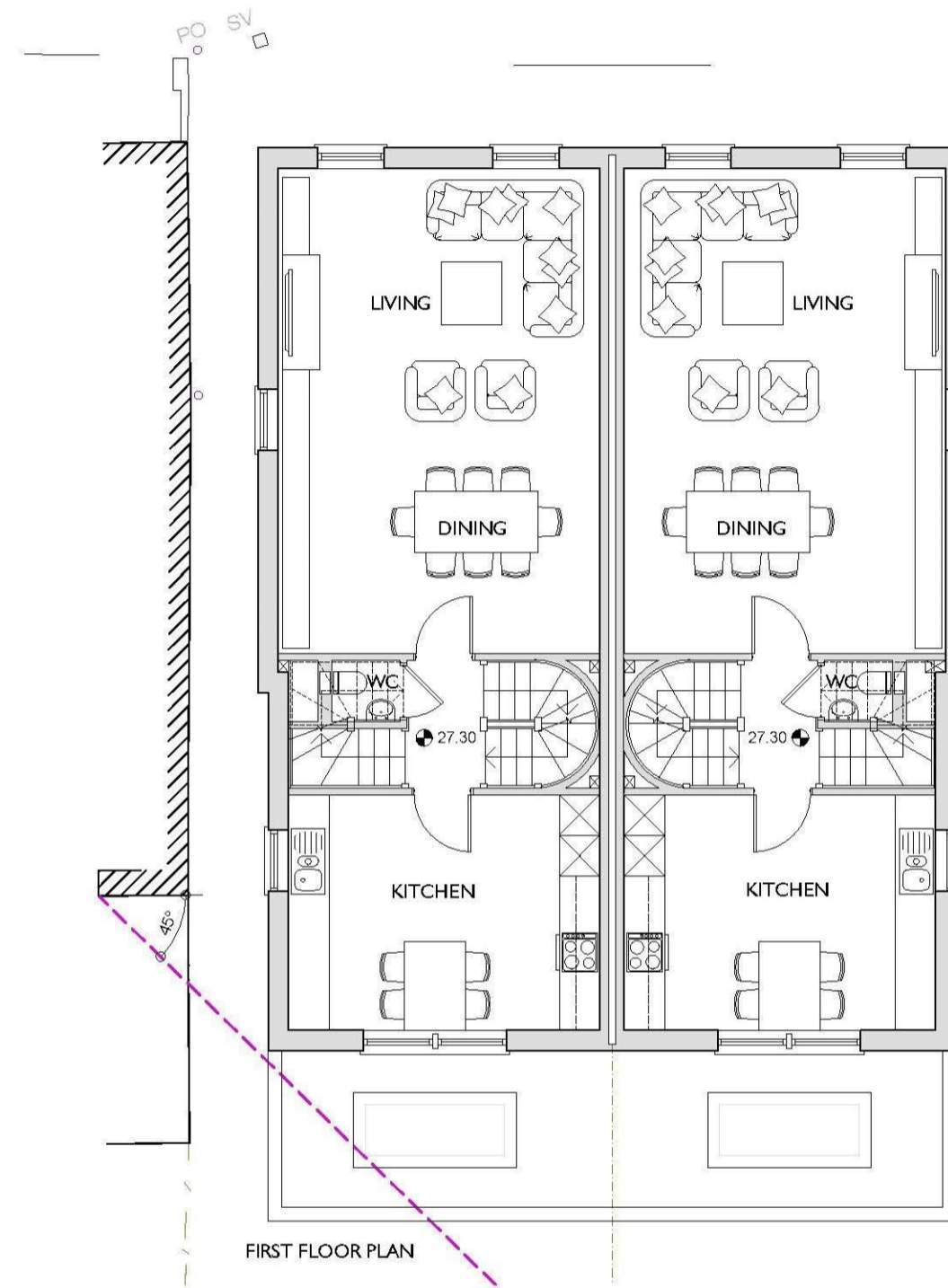
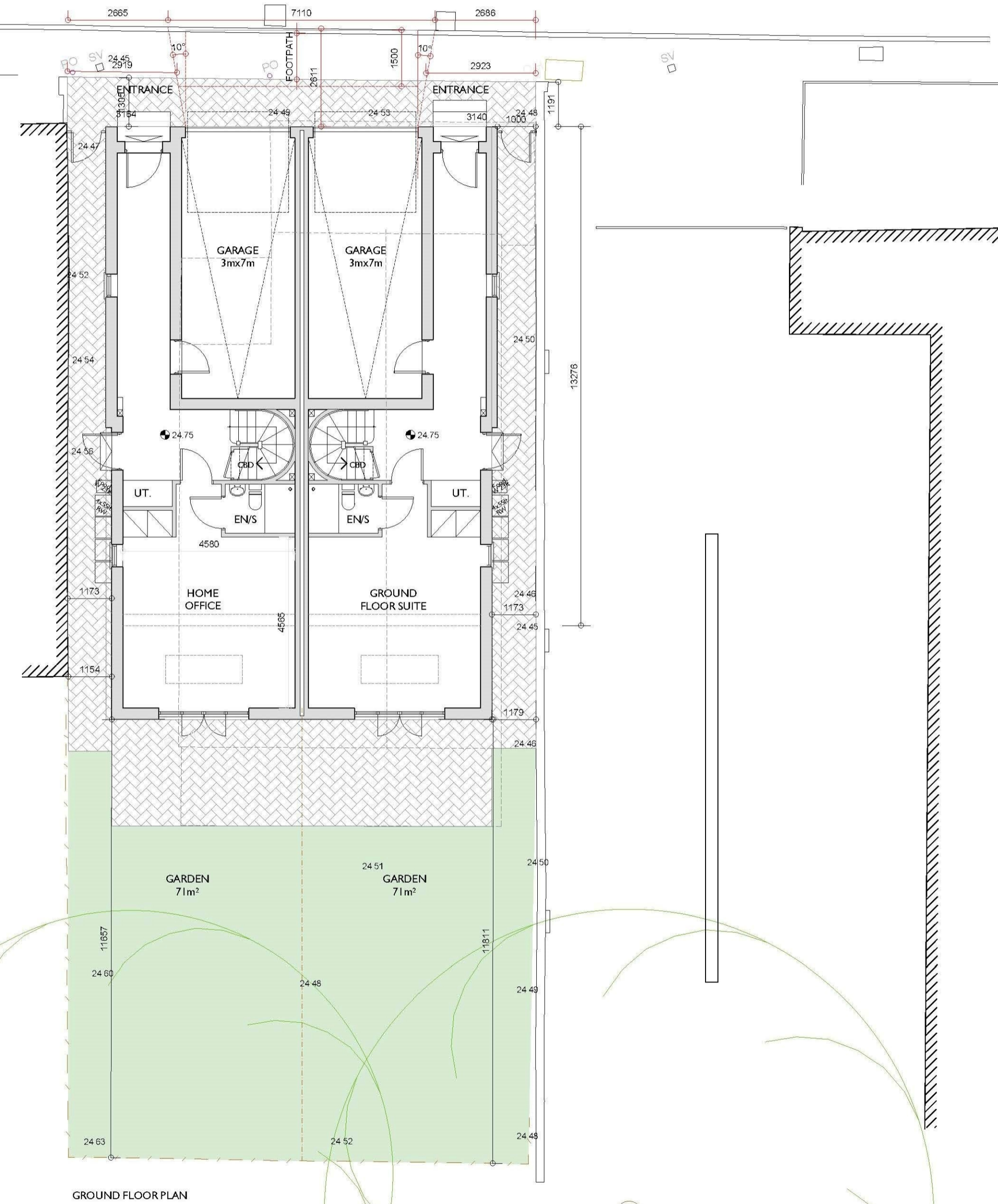


FRONT ELEVATION



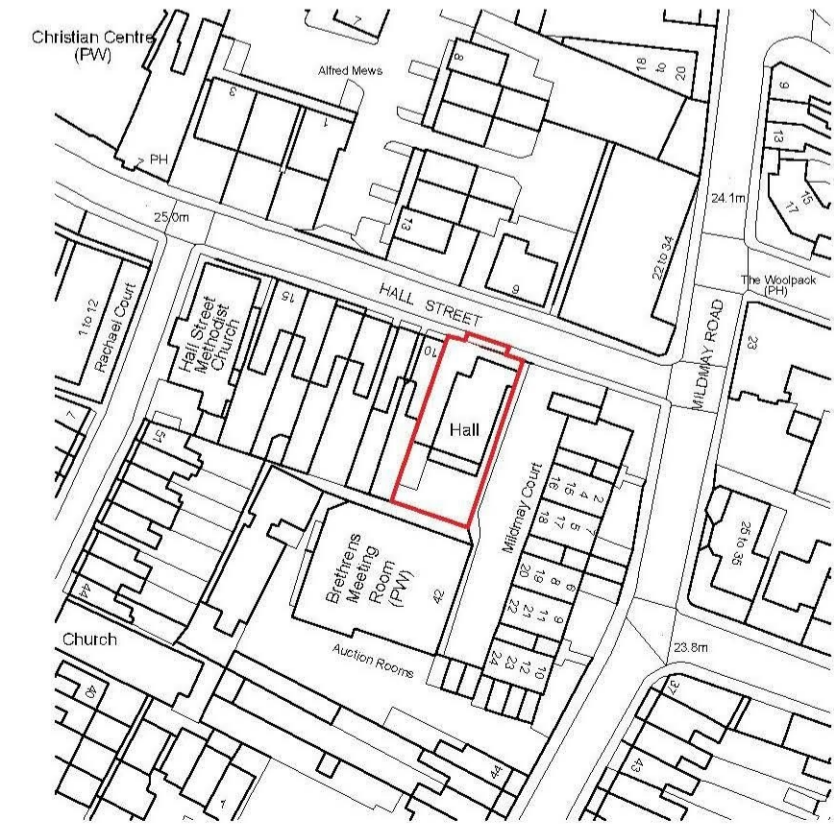
SIDE ELEVATION - WEST

EXISTING ELEVATIONS





EXISTING VIEWS



LOCATION PLAN



Planning Committee
1st September 2020

Application No	:	20/00748/FUL Full Application
Location	:	38 Bodmin Road Chelmsford CM1 6LJ
Proposal	:	Proposed single-storey side and two-storey rear extensions, with new garage to front. One side window.
Applicant	:	Mrs K Acorn
Agent	:	More Space Architecture
Date Valid	:	15th May 2020

Contents

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3. Details of the proposal	2
4. Other relevant applications	3
5. Summary of consultations	3
6. Planning considerations	3
7. Community Infrastructure Levy (CIL)	5

Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

1. Executive summary

- 1.1. The application is referred to the Planning Committee at the request of a local ward member so that the impact of the proposal on the amenity of the neighbouring property, Number 36 Bodmin Road can be considered by the Planning Committee.
- 1.2. The site is located within the Urban Area and is a two-storey detached dwelling on the south eastern side of Bodmin Road. The site has an existing vehicular access and dropped kerb off the highway.
- 1.3. The proposal would have an acceptable design and would have a visually acceptable relationship with the design and character and appearance of the host dwelling and the visual amenities of the area.
- 1.4. The proposed development by virtue of its design, size, scale, form and siting; in combination with the orientation between the site and the neighbouring property, No. 36; and that the window in the neighbouring property No. 36 which serves an intermediate landing, means that the proposed development would not adversely affect the amenity of this or any other neighbouring residential properties.
- 1.5. Approval is recommended.

2. Description of site

- 2.1. Bodmin Road is an estate road that runs from Lawn Lane to the south west through the estate to the north east. The dwellings are of varied styles and were constructed as part of the same development in the same historical period. Houses are both detached and semi-detached and are designed to front the highway. The development pattern of built form includes gaps between the houses and neighbouring plots. Within the street scene there are examples of extensions and alterations including similar single storey side extensions between properties with a side driveway.
- 2.2. Number 38 is a two-storey detached dwelling located on the south-eastern side of Bodmin Road. The site has an existing vehicular access and dropped kerb off the highway.
- 2.3. Immediately to the north of the site is the vehicular access to the rear garages to Nos. 40-62 Bodmin Road, the access runs adjacent to the northern boundary of the site.
- 2.4. There is a driveway on the south side of the house which extends up to the boundary with No. 36. The neighbouring house is set off the common boundary and separated from the driveway of No 38 by a pedestrian access.
- 2.5. There is one large window in the side elevation of No. 36. This window serves the internal stairwell and intermediate landing.

3. Details of the proposal

- 3.1. The proposal would construct a single storey side extension and a two-storey rear addition. The single storey side extension would extend the full width of the existing side driveway to No. 38, 2.8m in width. This side extension which is indicatively shown as a garage would have a combination roof, with a front pitched roof, with a flat roof section and lean to roof to the rear. This side extension would extend a depth of 6m along the common boundary with No. 36. The

height of the ridge of the pitched roof would be approximately 4m and the height of the flat roof section of the side extension would be 2.9m.

- 3.2. To the rear the proposal would extend the dwelling with two rear gables. The northern most gable would have a depth of 3.8m and the southernmost gable would have a depth of 3.2m, this part of the proposed development would have a maximum ridge height of 6.7m.
- 3.3. A single storey wrap around extension would link the rear extension and side extension. This part of the proposal would extend 3.8m in depth from the existing rear elevation of the host dwelling and would have a lean-to roof.
- 3.4. One new first floor window would be inserted in the southern (side) elevation. The drawings show that this would be a high-level window and would serve a first-floor bathroom.

4. Other relevant applications

- 4.1. 20/00213/FUL – Application Withdrawn 2nd April 2020
Part single and part two-storey side and rear extensions, with new garage and extended dormer to front with new pitched roof over. One additional first floor side window.

5. Summary of consultations

- 5.1. The following were consulted as part of the application:
 - Public Health & Protection Services
 - Local residents
- 5.2. Full details of consultation responses are set out in appendix 1.
- 5.3. Public Health and Protection Services have no comments to make with regard to this application.
- 5.4. Three neighbour representations have been received objecting to the proposal. The objections are broadly based on the following grounds: side extension pitched roofs (front and rear) would result in an overbearing impact and sense of enclosure; the bulk and proximity of the rear extension would be overpowering and intrusive; the height of the pitched roof (of the side extension) and proximity to No. 36 would create a dark, narrow pathway difficult to navigate; side extension would create a suffocating outlook; concerns over the footings, drainage and location of rainwater goods.

6. Planning considerations

Main Issues

- 6.1. The main issues are whether:
 - The proposal would have an acceptable design and layout in the context of the surrounding area
 - The proposal would have an acceptable relationship with No. 36

Design and Layout

- 6.2. Chapter 12 of the National Planning Policy Framework (NPPF) (2019) sets out the objectives towards achieving well-designed places. Paragraph 127 (a) of the NPPF states that planning decisions should ensure that developments will “function well and add to the overall quality of the area”. 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”. Paragraph 127 (d) of the NPPF states that planning decisions should ensure that developments “establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit”.

- 6.3. Chelmsford Local Plan Policy DM23 relates to high quality and inclusive design. This Policy 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. 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.
- 6.4. Number 38 is a detached dwelling set within a large rectangular plot. The proposed single storey side addition would extend towards No. 36. Whilst the front pitch roof of the side extension would be visible from the street and public vantage points the rear most part of this part of the proposal would not be readily visible. To the rear the extension would increase the depth of the host dwelling with a seamless addition.
- 6.5. Whilst the side extension would visually widen the host dwelling given the character and appearance of the street scene, and the single storey nature of this part of the proposal the development would respect the character and appearance of the host dwelling and the visual amenities of the area.

Neighbour amenity

- 6.6. Chelmsford Local Plan Policy DM29 relates to protecting living and working environments (neighbour amenity). This Policy states that planning permission will be granted for development proposals provided the development amongst other matters 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.
- 6.7. The large side window in the side elevation of No. 36 serves the internal stairwell. As the window serves the stairwell it is considered secondary in nature and therefore the amount of weight given to this window in terms of safeguarding amenity, overbearing and overshadowing is lower than that of a window serving a bedroom or lounge for example. The window is located in the north eastern elevation and in terms of sun light path has a very limited amount of sunlight. It is currently already in shadow for large parts of the day largely as a result of the orientation of the house. The window to No. 36 is however large, the bottom of the window is 2.2m from ground level and the window itself has a height of 2.2m and width of 1.2m.
- 6.8. The proposed side extension would extend along the common boundary with No. 36. The side extension has been designed such that it has a combination roof. The part of the roof immediately opposite the neighbour's landing window would be single storey and would not fully enclose the visual gap between the properties. The height of the flat roof section which would be directly opposite the neighbouring property's landing window would be approximately 2.9m, by comparison the cill height of the landing window from ground level is 2.2m.

- 6.9. Due to the height of the flat roofed section of the extension sitting 700mm higher than the bottom of the neighbour's window, the extension would be a clearly noticeable feature. It would have an impact upon the outlook from the window, but it could not be reasonably argued that the impact would be such that the amenity of the occupiers of No. 36 would be harmfully affected. Given the single storey nature, height (of the flat roof section) and siting of the two storey parts of the proposal, the proposal would not be so overbearing or result in any degree of overshadowing that would be harmful to the amenities of No 36.
- 6.10. One new high-level window would be inserted in the southern side elevation. The drawings show that this window would serve the first-floor bathroom. Whilst this window would be high level given the position of this window and to ensure that there is no harm to the amenity of No. 36, subject to a condition requiring this window to be obscure glazed and fixed shut 1.7m above the internal floor level, this proposed window would have an acceptable relationship with the neighbouring property.
- 6.11. The site has an existing hard surfaced front driveway which can accommodate two vehicles. The proposed development would have off-street parking provision in line with the Council's policies.
- 6.12. Sufficient rear private garden area would remain to serve the enlarged host dwelling.
- 6.13. The proposed garage would not meet the size standards contained within the Local Plan (Policy DM27) and therefore does not count towards the off-street parking provision. There would be space within the site frontage for two parking off-street parking spaces. This would require a small additional area of hard surfacing of the site frontage. The details of this would be secured through a planning condition attached to this planning permission and the layout would be required to be laid out on the site prior to first occupation of the extensions.

7. Other matters

- 7.1. Amended plans have been submitted during the lifetime of the application to include the written dimension of the side extension. A site visit has been undertaken to measure the neighbouring window to No. 36 to ensure that the window would be opposite the flat section of roof. The applicant has also confirmed that rainwater goods will not overhang the neighbouring property and have been designed to drain to the rear.
- 7.2. Details of footings and foundations are not a material planning consideration and would be assessed at the next stage under Building Regulations. Similarly, details of drainage would also be considered as part of Building Regulations.
- 7.3. For the reasons given above and having regard to all other matters raised it is concluded that the proposed development is acceptable in accordance with the adopted Local Plan Policies.

8. Community Infrastructure Levy (CIL)

- 8.1. The proposal would not be CIL liable.

RECOMMENDATION

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 south west (side) elevation and shown on approved Drawing Nos. 203 06 & 202 06 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

Prior to first occupation of the development hereby approved details shall be submitted to and approved in writing which show two parking spaces within the front part of the site. The spaces shall be laid out and available for use within the site prior to the first occupation of the development hereby approved. The space shall thereafter be kept available at all times for the parking of vehicles.

Reason:

To ensure that sufficient parking is available to serve the development in accordance with Policy DM27 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

- 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 provided advice to the applicant before the application was submitted. 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

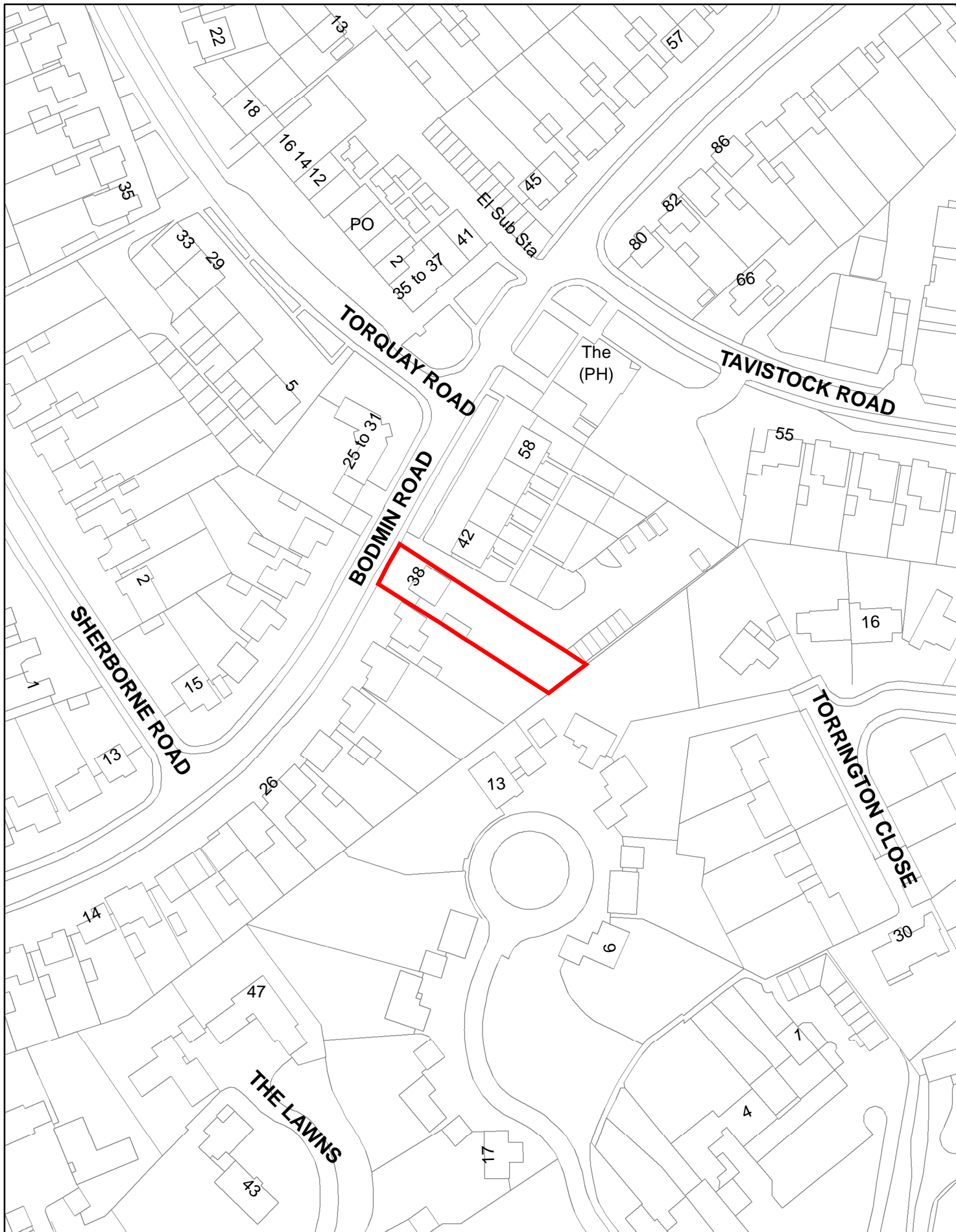
Case File

Public Health & Protection Services

Comments
27.05.2020 - No PH&PS comments with regard to this application.

Local Residents

Comments
<p>Three representations received – all objecting to the proposed development – on the following grounds:</p> <ul style="list-style-type: none">- side extension pitched roofs (front and rear) would result in an overbearing impact and sense of enclosure;- the bulk and proximity of the rear extension would be overpowering and intrusive;- the height of the pitched roof (of the side extension) and proximity to No. 36 would create a dark, narrow pathway difficult to navigate;- side extension would create a suffocating outlook;- concerns over the footings, drainage and location of rainwater goods.



0 12.5 25 50 Metres

1:1,250

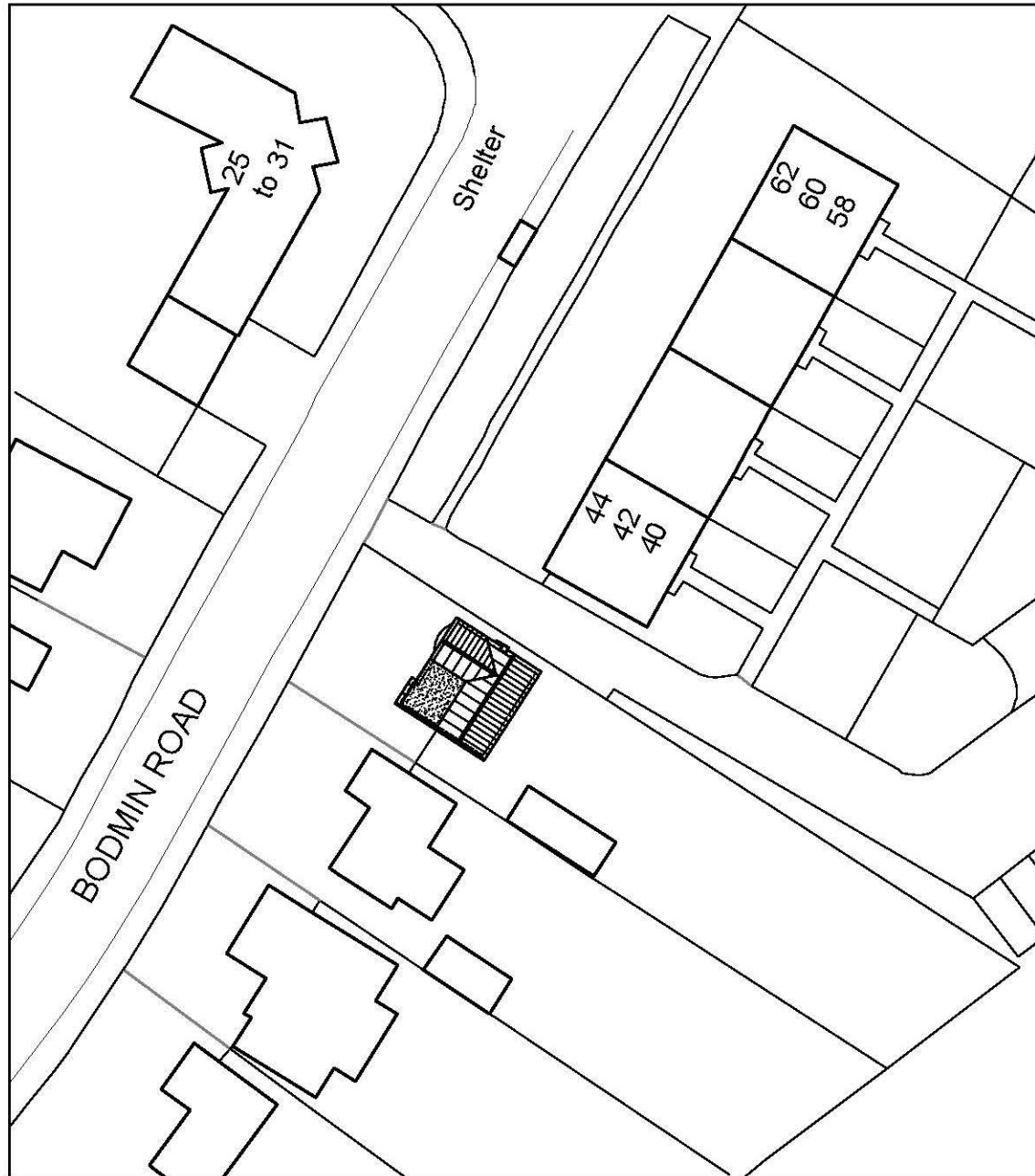


Planning Committee
20/00748/FUL

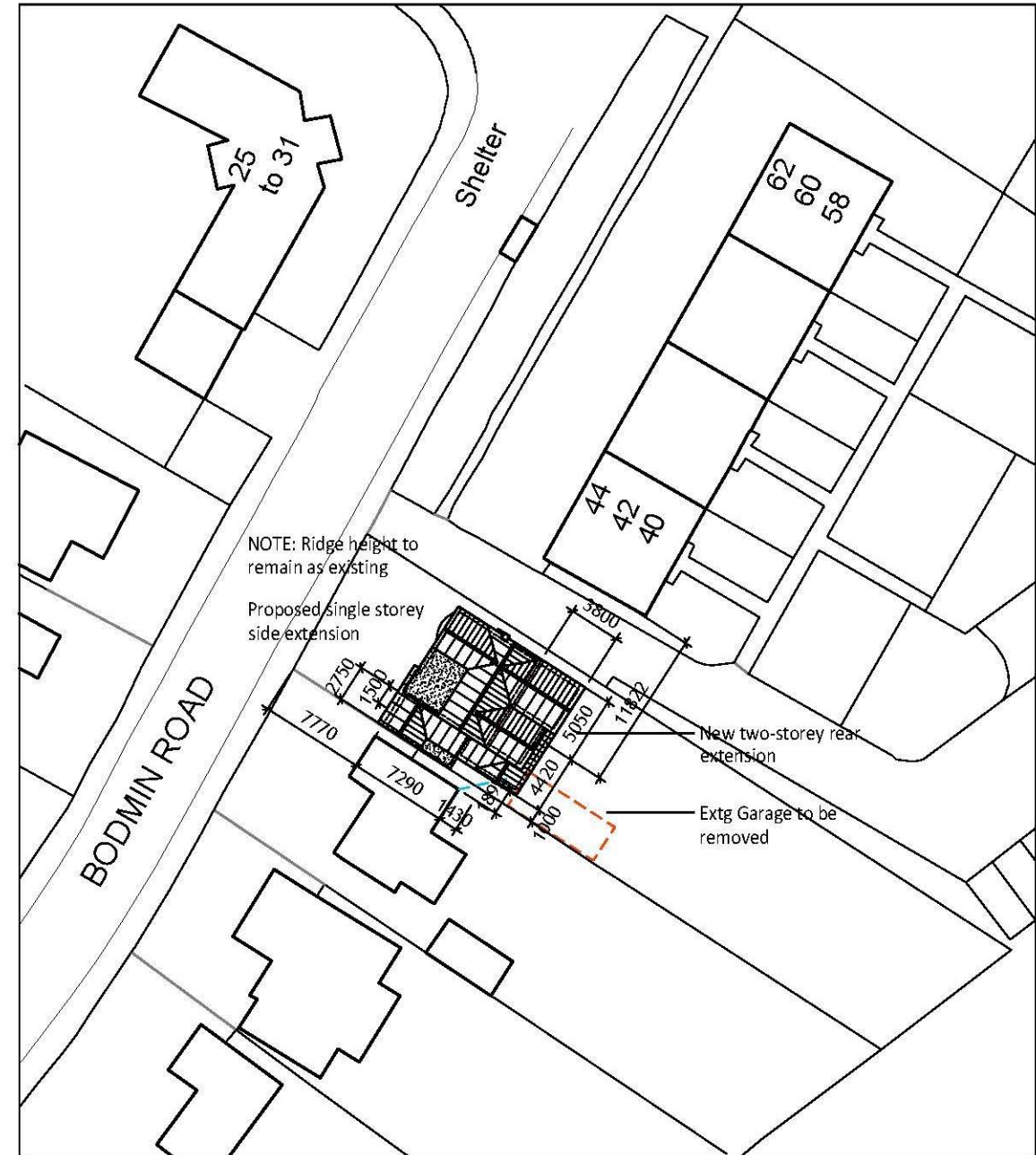
Planning & Development Management
Directorate for Sustainable Communities

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

Telephone: 01245 606826



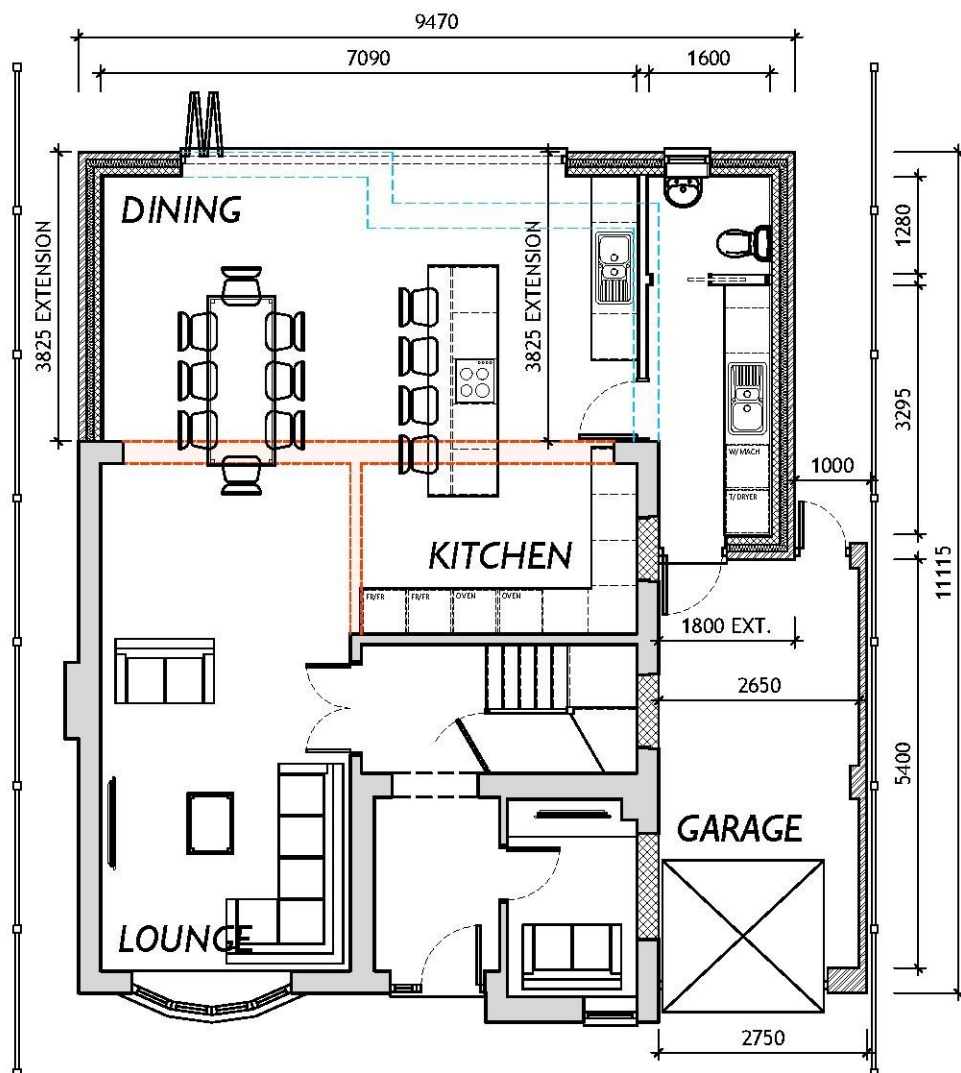
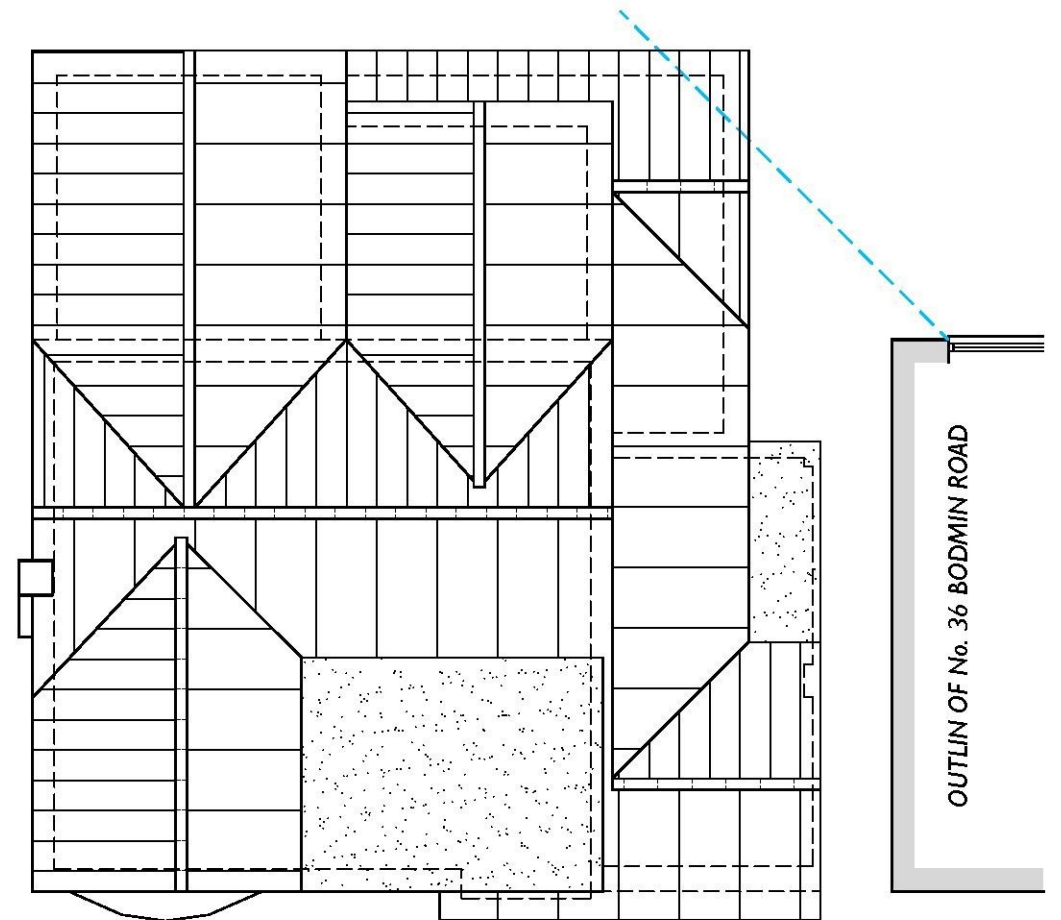
EXISTING BLOCK PLAN



PROPOSED BLOCK PLAN

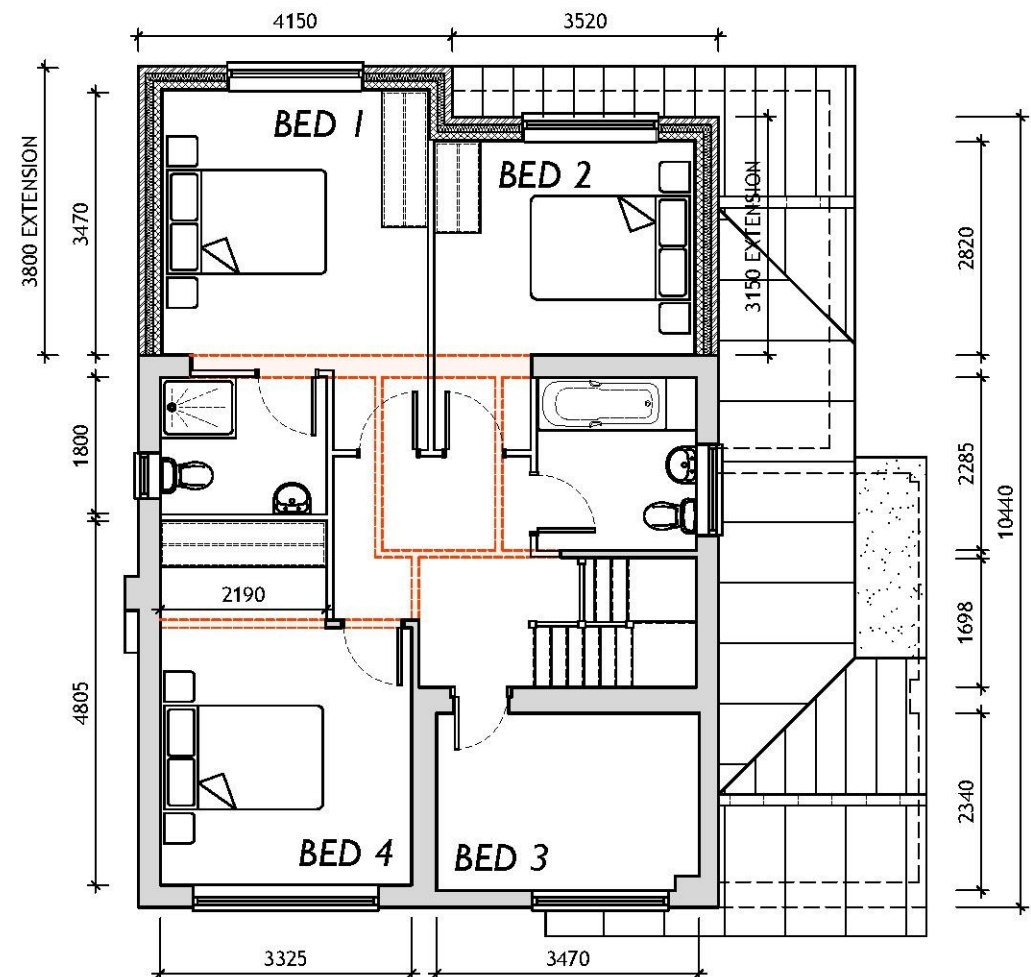
Two-storey rear extension comprising of extended Kitchen to Ground Floor, and increased bedroom sizes upstairs

PROPOSED ROOF PLAN

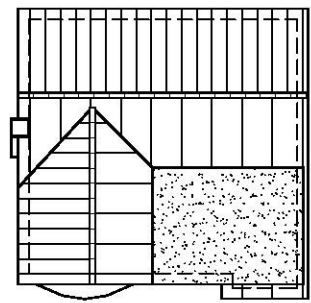


PROPOSED GROUND FLOOR

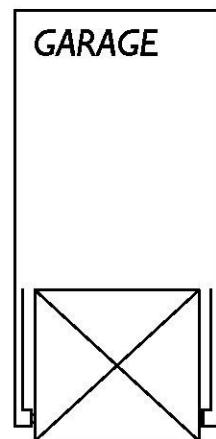
Proposed Side extension incorporating Garage and Utility



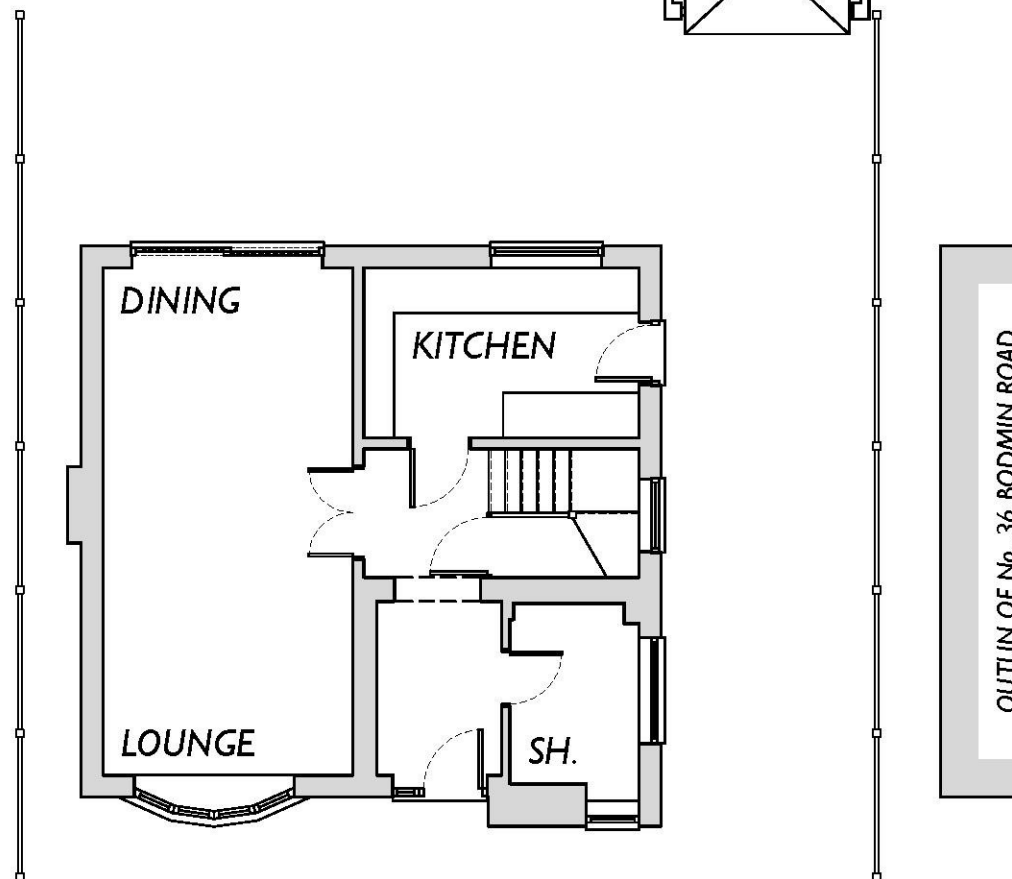
PROPOSED FIRST FLOOR



EXTG ROOF PLAN



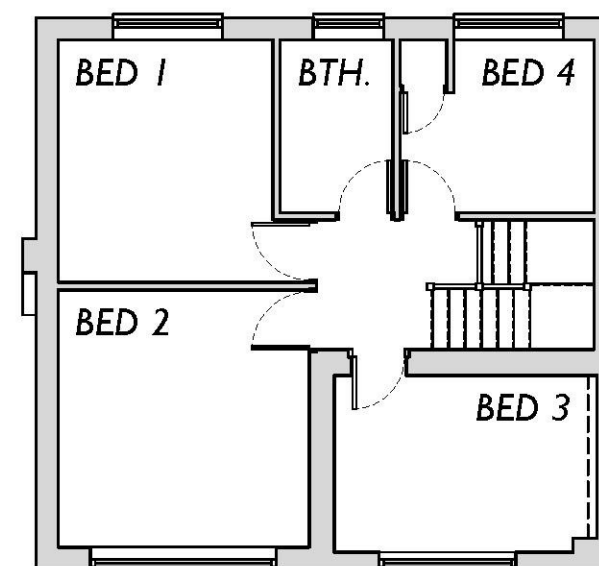
GARAGE



EXTG GROUND FLOOR



SITE LOCATION PLAN



EXTG FIRST FLOOR



PROPOSED FRONT ELEVATION

Proposed new Garage to side, pitched roof to front and rear, with infill mono-pitch to side elevation, minimising impact on neighbour



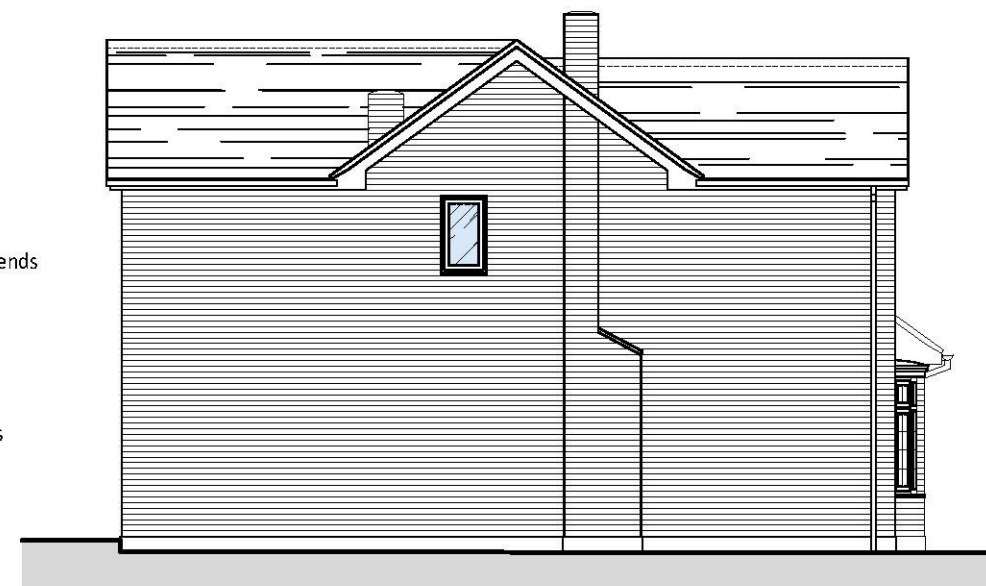
PROPOSED SIDE ELEVATION



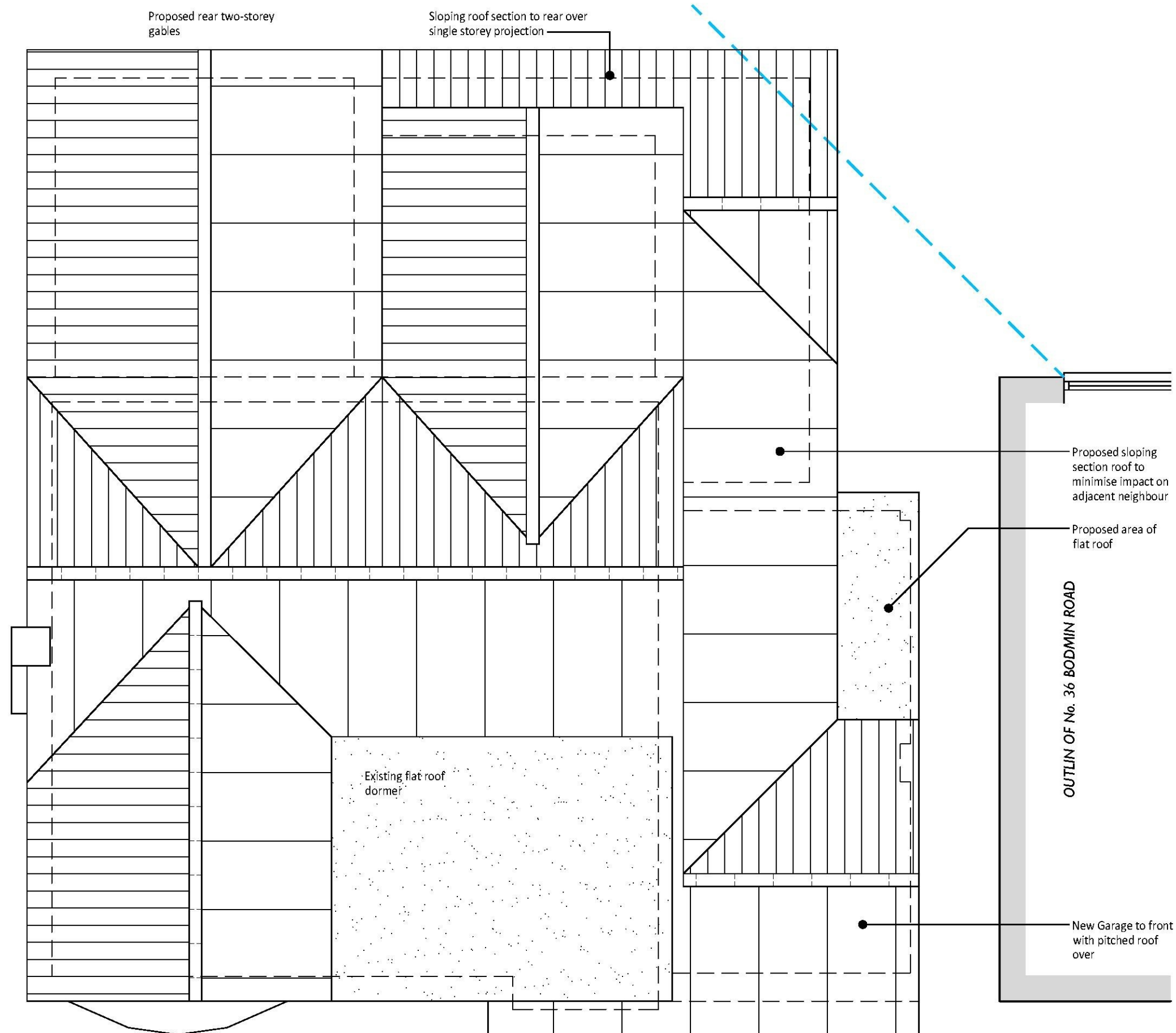
PROPOSED REAR ELEVATION

New two-storey rear extension, with gable ends

Proposed bi-fold doors to rear



PROPOSED SIDE ELEVATION





Planning Committee
1st September 2020

Application No	:	20/00758/FUL Full Application
Location	:	22 South Hanningfield Way Runwell Wickford SS11 7DR
Proposal	:	Proposed single storey front and rear extensions with raised patio to rear.
Applicant	:	Mr Quirke
Agent	:	Mr Mark Halliday
Date Valid	:	19th May 2020

Contents

1.	Executive summary.....	2
2	Description of site.....	2
3	Details of the proposal	3
4	Other relevant applications	3
5	Summary of consultations	3
6	Planning considerations	4
7	Community Infrastructure Levy (CIL).....	6

Appendices:

Appendix 1	Consultations
Appendix 2	Drawings

1. Executive summary

- 1.1 This application is referred to planning committee at the request of a local ward member because of concerns raised by neighbours regarding the height of the proposed rear raised patio and overlooking of the adjacent plots from the raised patio.
- 1.2 The site is located within the defined settlement of Runwell where the principle of constructing extensions to residential dwellings is acceptable.
- 1.3 The application is retrospective as the construction of the patio has begun.
- 1.4 The rear of the application site slopes down from the rear of the house. A single storey extension has recently been constructed which matches the size of a rear addition approved under the householder prior approval process (see below). The raised patio provides a level platform when exiting the rear extension. The patio matches the width of the rear extension (7.9m) and extends by 5m. The height of the patio is approximately 0.96m from the lower ground level. It contains steps leading to the lower patio which measures approximately 0.3m in height from ground level.
- 1.5 Given the sloping ground level rear raised patios are common within this area.
- 1.6 To prevent overlooking of the neighbouring property No 24, a taller fence, not exceeding 2m in height, has been erected along the common boundary between the application site and No 24. This fence does not form part of this proposal as a 2m height fence in the rear garden would not normally require planning permission.
- 1.7 A privacy screen on the southern edge of the raised patio is proposed to prevent overlooking towards the rear of No 20.
- 1.8 The proposal would not materially differ from the existing development within the vicinity. The proposed privacy screen would prevent any intrusive overlooking towards the rear of No 20. The replacement fence on the boundary with No 24 provides effective privacy for No 24.
- 1.9 Approval is recommended.

2 Description of site

- 2.1 The site lies within the Defined Settlement of Runwell where the principle of development is acceptable.
- 2.2 The property is a detached bungalow, recently extended with a single storey rear extension.
- 2.3 The street scene contains mixed scale and form properties, many enlarged and altered with various extensions.
- 2.4 Properties on the east side of the road feature single storey front projections and single storey or one and a half storey rear additions. Due to the sloping rear ground level, many properties have raised patios with steps leading to the lower garden levels. Garages and various single storey outbuildings are also a common addition within the rear gardens. The frontages are open and provide off-road parking with side driveways leading to the rear. The rear boundary treatments vary from 2m tall timber boarded panels with concrete bases to low ever-green hedges and picket fences.

2.5 On the west side of the road are two storey, semi-detached and detached houses. Many have been extended in various ways with off-road parking to the front. These properties sit at a slightly higher ground level to the properties on the eastern side of the road.

3 Details of the proposal

3.1 The proposal includes:

- i. A single storey front extension which would measure 3.6m in depth and 3.8m in width and would have a pitched roof measuring 3.6m in height.
- ii. A single storey rear extension which has been already constructed and measures 4m in height including the lantern, 2.8m in height eaves and 5m in depth. The width matches the width of the house.
- iii. A raised patio to the rear of the constructed rear extension. The raised patio would be 0.96m in height from the ground level. The depth of this patio would be 5m and it would feature steps on both sides leading onto a lower patio, 0.3m in height from ground level.
- iv. A 1.8m high privacy screen on the southern side of the higher patio. It would project by 3.6m from the rear wall of the single storey rear extension.

4 Other relevant applications

4.1 20/00019/HHPA - Prior Approval Not Required 17th April 2020

The construction of a single storey rear extension, which would extend beyond the rear wall of the original house by a maximum depth of 5m, for which the maximum height would be 4m, and for which the height of the eaves would be 3.5m.

5 Summary of consultations

5.1 The following were consulted as part of this application:

- Runwell Parish Council
- Public Health & Protection Services
- Ramblers Association
- Essex County Council Highways
- Local residents

5.2 Runwell Parish Council strongly objected to the planning application due to the overlooking from the raised patio onto the neighbouring sites, which impacts the privacy of the neighbours. The Parish also objects to the proposed 1.8m privacy screen on top of the raised patio as this would make the scale of the rear addition unacceptable to the neighbours. Moreover, the Council considers that the submitted plans are a misrepresentation of the ground level within the rear garden of the application site. Moreover, it was noted that a new fence has been installed on the boundary with No 24 exceeded the permitted height, but this is not mentioned on the application.

5.3 Public Health and Protection Services made no comments.

5.4 Essex County Council raised no objections to the proposal as the existing vehicular access would be utilised. The proposal retains adequate off-street parking for a minimum of two vehicles.

5.5 Ramblers Association made no comments.

5.6 Several letters of objection were received from two neighbours. These raised the following concerns:

- the submitted plans are inaccurate;
- the raised patio will result in overlooking of the neighbouring properties and will impact the privacy of the adjacent neighbours;
- the rear extension is an eyesore;
- the rear patios are oversized and will result in flooding of the rear gardens;
- the protective screen will look hideous;
- the extension has been constructed not in accordance with submitted plans;
- alterations to the front yard has been made which are not shown on the drawings;
- other submitted comments relate the fence erected on the boundary with No24 and a base for an outbuilding that will be constructed in the rear garden.

5.7 Full details of consultation responses are set out in appendix 1.

6 Planning considerations

Main Issues

6.1 The main issues are whether:

- The extended property would cause harm to the neighbouring properties through overlooking from the raised patio and overbearing impacts due to the proposed privacy screen.

Character of the Street Scene

6.2 The single storey front extension would be modest in scale and similar to other existing front projections within the vicinity. It would relate well to the bungalow. The front driveway would retain sufficient space to provide off-road parking for at least two vehicles. The front area of the house would be reinstated once the building works will be finished. Conditions are attached requiring the front driveway to be reinstated with appropriate materials.

6.3 The single storey rear extension is completed and matches the size and scale of an addition permitted under the householder prior approval application (see above). There are numerous examples of similar rear additions on the neighbouring bungalows, including No 24 and No 26. The proposed rear enlargement is considered to satisfactory complement the form and appearance of the host dwelling and result in no harm to the visual amenities of the area.

6.4 The rear raised patio has been almost completed. It is attached to the single storey rear extension. Given that similar raised patios are present in the vicinity (including Nos 24 and 26), there is no harm to the overall character of the area.

Neighbour Relationship

6.5 The application bungalow lies within the row of bungalows on the east side of the road where most bungalows have been extended to the rear and have raised patios. The extended properties are Nos 2, 4,

6, 8, 10, 12, 14, 16, 18, 20, 24, 26 and 28. These extensions vary from flat roofed to one and half storey gabled additions. The patio heights seem to vary too due to the difference in the slope of the rear ground level.

- 6.6 The height and the depth of the single storey rear extension matches the overall size of the approved rear addition under 19/00000/HHPA. It is noted, that both sides neighbours were consulted at the time of the prior approval application and did not submitted any comments. The constructed single storey rear extension is set away from both side boundary lines and reflects the size and scale of the addition allowed under the prior approval application. The moderate size of the addition does not result in an adverse impact on the amenities of the adjacent Nos 24 and 20.
- 6.7 The higher patio is partially constructed. The patio has steps leading onto a lower patio level which extends the full width of the application plot and once finished would be 0.3m in height (permitted development). Raised patios in this area are common given the naturally sloping ground level within the rear gardens of the application site and other properties.
- 6.8 The fence along the boundary with No 24 has been replaced with a taller fence, which now provides privacy for both No 24 and No 22. This replacement is not included as part of the proposal as the height does not exceeds 2m, which is considered to be permitted development. Given that No 24 has an existing single storey rear extension and a raised patio similar to the submitted proposal and that the replaced fence provides effective screening, there would be no adverse overlooking into the private amenity space of No 24 from the raised patio.
- 6.9 The existing fence along the boundary of the application site and No 20 is low and currently provides unobscured views from the application site towards No 20 and vice versa. Given the low boundary treatment there is already mutual overlooking between No 20 and the application site. It is however acknowledged that the new raised patio at No 22 is now further down the garden and would allow for different views towards No 20, which can be interpreted as more intrusive. To avoid the views towards the rear of No 20 a privacy screen is proposed to be positioned along the southern edge of the raised patio. With the privacy screen in place no intrusive views towards No 20 from the level of the raised patio would be possible. It is considered that the patio with the added privacy screen would retain a satisfactory relationship with No 20.
- 6.10 The rear extension and the raised patio are visible from the rear patio of No 20. The development is located about 3.7m away from the main private outdoor area of No 20 and is positioned on the north side of the neighbour. The extension itself projects by about 3.6m beyond the rear of this neighbour, the proposed privacy screen would be 1.8m in height and project 3.6m beyond the existing extension. The screen would be fairly modest in scale and set away from the boundary. The raised patio with the privacy screen are not considered unduly overbearing on the main outdoor private area of No 20. It is not considered that the raised patio and the privacy screen would result in such a harm to the amenities of No 20 to justify a refusal.

7 Other Matters

Comments have been made regarding an outbuilding that might be constructed in the garden of the application site. This development does not form part of this application. Also, the replacement of the fence panels on the shared boundary with No 24 is not included within the current submission. A replacement of a rear garden fence, as long as the fence does not exceed 2m, is permitted development and does not normally require planning permission.

8 Community Infrastructure Levy (CIL)

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

Within two months of the date of this decision the privacy fence comprising solid fencing panels as shown on drawing No 20/228/02 B shall be constructed in accordance with drawing No 20/228/02 B and thereafter permanently retained.

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

No unbound material within 6 metres of the highway boundary shall be used in the surface treatment of the front vehicular access and parking area.

Reason:

To avoid displacement of loose material onto the highway in the interests of highway safety.

Condition 4

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.

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

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

Essex County Council Highways

Comments
<p>Recommendation</p> <p>The information that was submitted in association with the application has been fully considered by the Highway Authority. The proposal retains adequate off-street parking for a minimum of two vehicles, therefore:</p> <p>From a highway and transportation perspective the impact of the proposal is acceptable to the Highway Authority subject to the following condition:</p> <p>1. Areas within the curtilage of the site for the purpose of the reception and storage of building materials shall be identified clear of the highway.</p> <p>Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1.</p> <p>The above condition is 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.</p> <p>Informative:</p> <p>' 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.</p> <p>' The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org or by post to:</p> <p>SMO2 - Essex Highways, Springfield Highways Depot, Colchester Road, Chelmsford. CM2 5PU.</p>

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Ramblers Association

Comments
No response received

Public Health & Protection Services

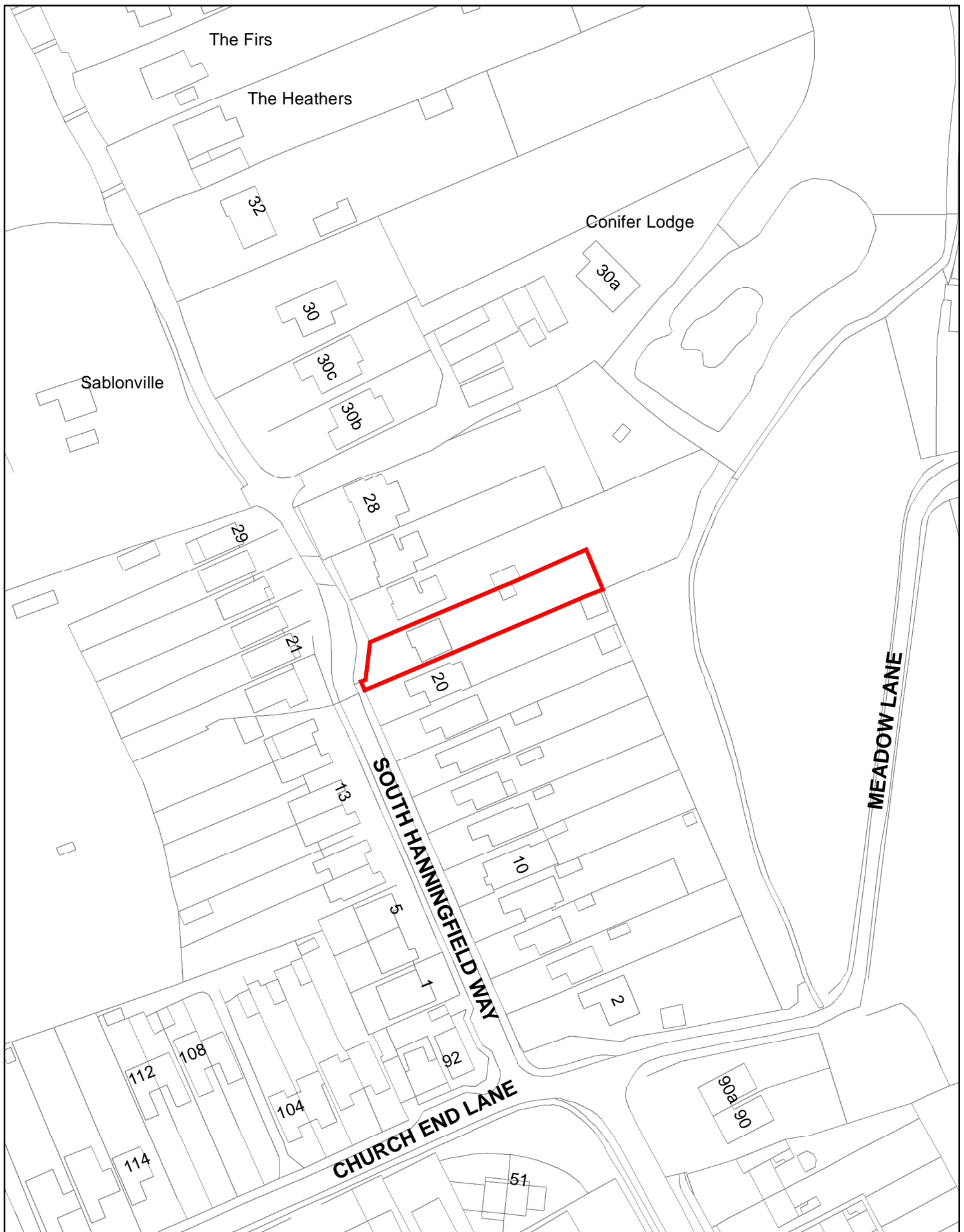
Comments
No comments with regard to this application.

Runwell Parish Council

Comments
<p>22.07.2020 - Runwell Parish Council maintain its strong objection to this application which has now been revised 4 times. The last revision places a "1800 screen" on top of an already over height patio which makes the scale unacceptable to the neighbours. The submitted plans are a misrepresentation and cannot be relied upon. As said previously the fall of the land and the true ground-line has been underestimated/misrepresented. The patio which has been built prior to receiving planning permission with little or no allowance for the true ground-line. It should also be noted that a new fence has been installed which is in excess of the permitted height but this is not mentioned on the application. The height and position of the fence is clearly visible in photographs that have been supplied. The parish council ask that this contentious application is referred to the planning committee and our Ward City Council representative Paul Clark is aware of this.</p> <p>11.06.2020 - Runwell Parish Council has been made aware that the back garden falls away from the rear of the property (previously accessed by steps). New extension and patio sits high in relation to the neighbours, overlooking their properties and infringing on their privacy. Plans do not allow for or show the fall of the garden. No further details available to view under ref 20/00019/HHPA and ref 20/00494/DEXBN for dimensions. Front extension is beyond the existing building line which sets back at this point, revised front parking layout not shown, permeable surfaces and suitable drainage will be needed. Site visit needed urgently. Runwell Parish Council would not support the application in its current form.</p> <p>07.07.2020 - Runwell Parish Council have further discussed this application and strongly object to this application. The council have taken into consideration the neighbours comments. The height and scale of the rear patio is unacceptable. There has been an assumption that the rear extension and patio together can be created to achieve one level and has already been built. This build has taken away the privacy of the neighbours, they are now overlooked. The raised patio means users can look directly into the properties of the neighbours. The patio needs to be reduced to an acceptable height so the issue of overlooking is removed. It is also noted that footings have been put in for an outbuilding further down the garden which is not mentioned on the application. The dimensions and scale need to be reduced. The current design is poor and should be changed to lessen the effect on the neighbours.</p>

Local Residents

Comments
<p>Throughout the lifetime of the application twelve letters of objection were received (online comments, numerous printed letters were also received). The comments raised the following matters:</p> <ul style="list-style-type: none">- The single storey rear extension and higher and lower patios harm the rural character of the area.- The construction of the rear extension and patios begun without planning permission.- The constructed is oppressive and enormous in size and not in keeping with other properties in the area.- The development has caused stress and anxiety for the neighbours.- Neighbours found the extensions unnerving and somewhat frightening.- No consideration has been given to the ground levels while designing the extension.- The drawings show inaccurately the soak way within the garden.- The depth of the garden is shown incorrectly on the plans.- An unattractive fence has been erected on the boundary with No24 which exceeds the permitted development criteria.- The fence on the boundary with No 24 has been erected on land that is outside the ownership of the applicant.- The fence on the boundary with No 24 blocked the access for No 24 to maintain one side of the garage, which belongs to No 24.- The height of the patio measured incorrectly – <i>“the high patio (drawing shows 960mm to ground) is at the moment 12 brick courses high down to the low level patio which is 5 courses high from ground level, this totals 19 brick courses to ground level, = in excess of 1200mm.”</i>- The development overlooks the rear of No 20 and the whole garden of this neighbour.- The dimensions of the rear extension also have been indicated incorrectly on the drawings.- The lower patio is directly abutting the boundary fence of No 20. When finished at the built level the lower patio will be against and above the timber fence panel. The neighbour from No 20 will not double up on gravel boards because this will spoil the aesthetical appearance of the existing fence.- Water and electricity supplies are prepared for a new log cabin within the rear garden but this is not shown on the plans.- The amount of hardstanding within the application site will result in flooding elsewhere.- The extension and the patios spoil the view for the neighbours.- The occupiers of No 20 have stated that they will not be willing to pay for a new boundary fence.- The loss of trees within the application site have impacted the outlook and privacy of No 20.- Request for a site visit and unbiased surveyor has been included into the comments from neighbours.- Trees have been removed from the site, the front yard is being altered – these elements have not been included into the proposal.



0 12.5 25 50 Metres

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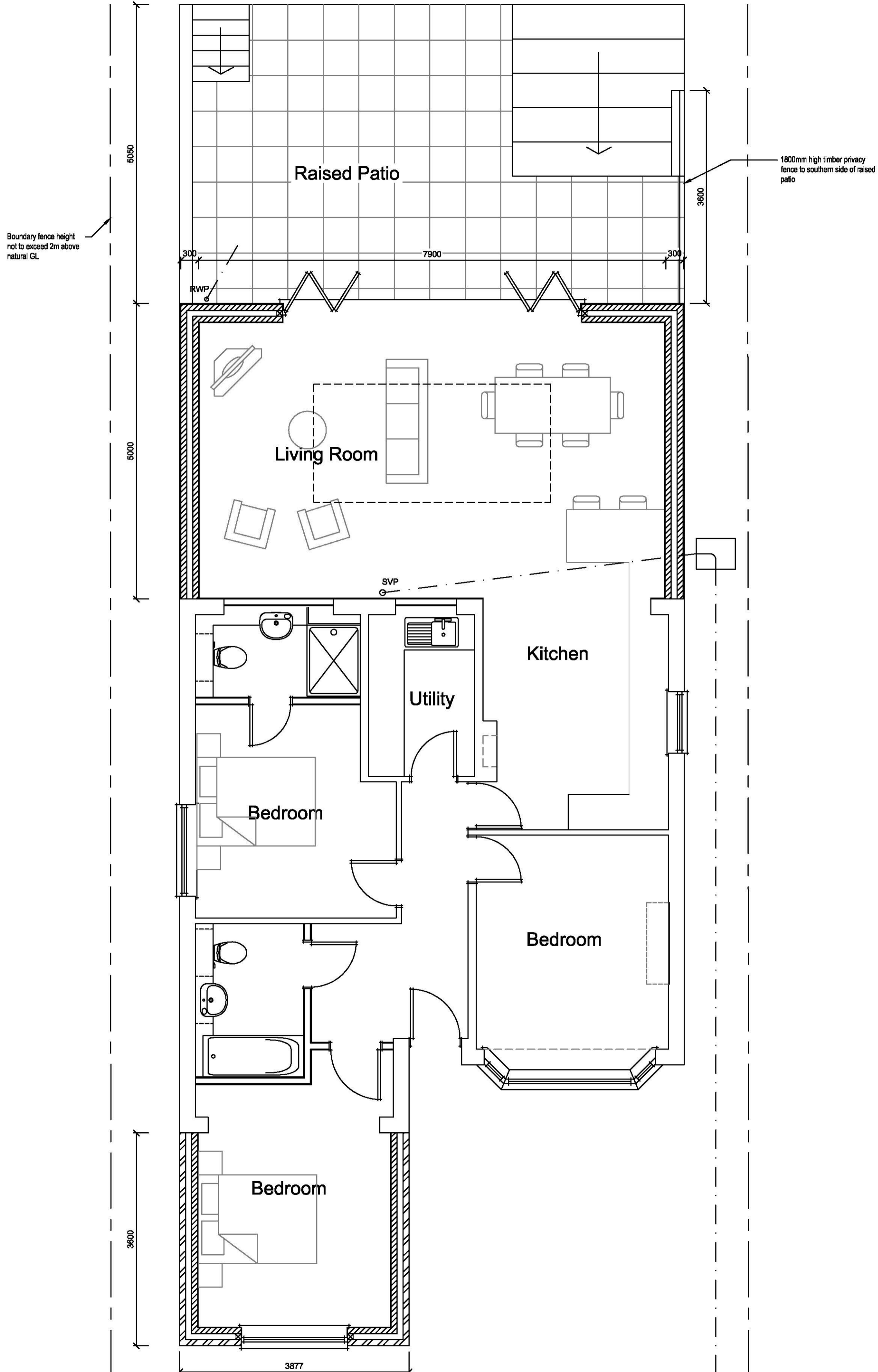


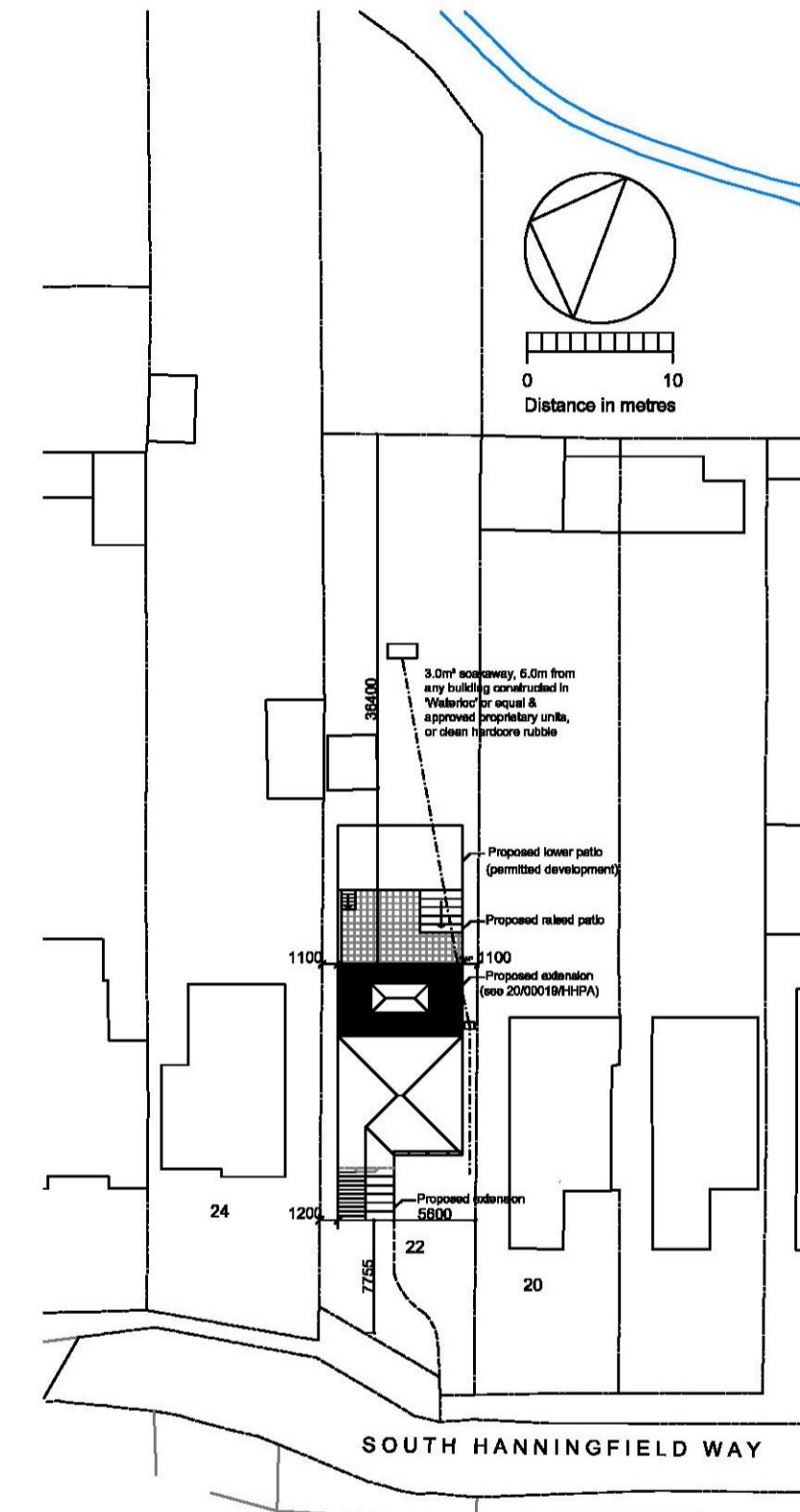
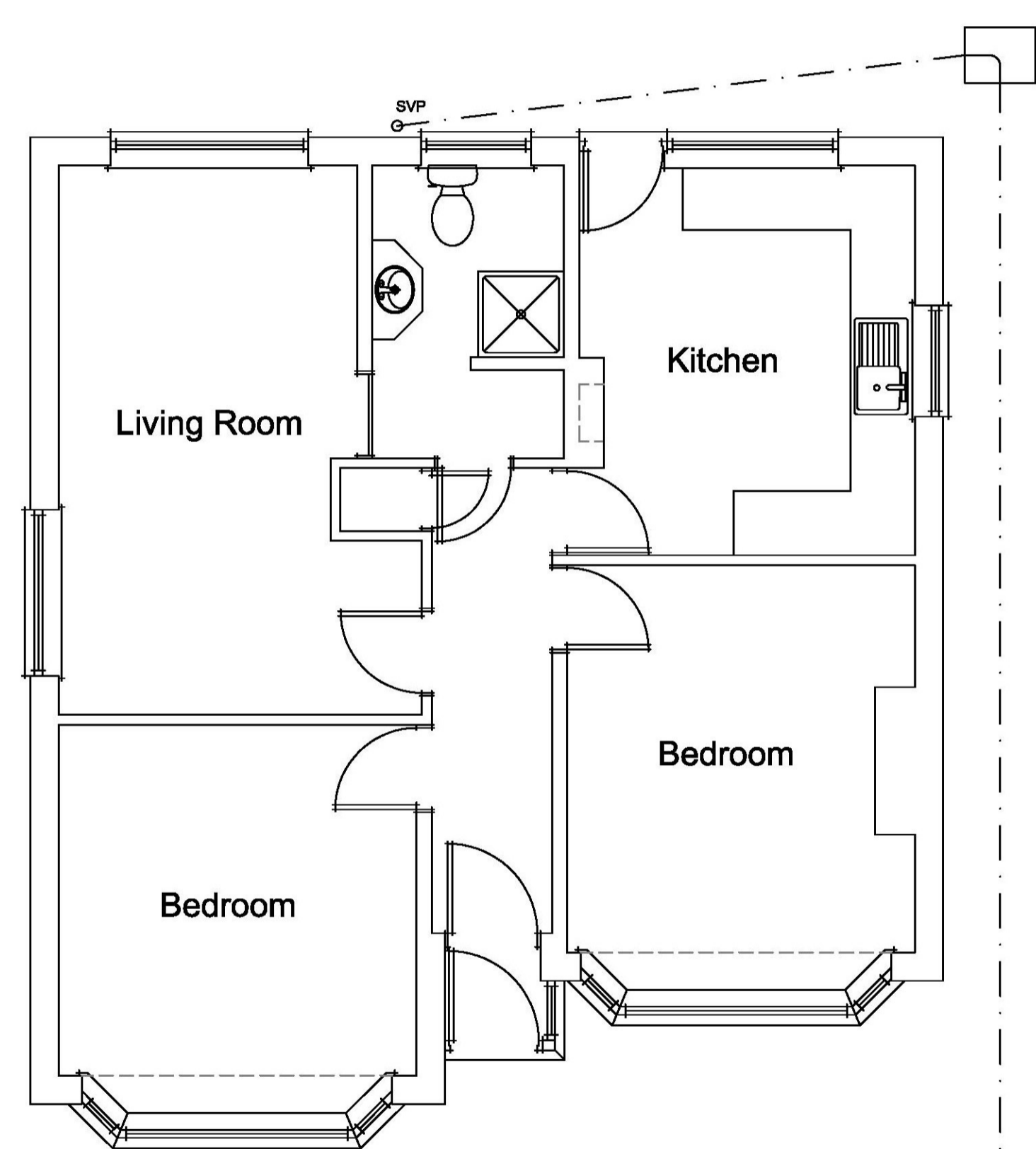
Planning Committee
20/00758/FUL

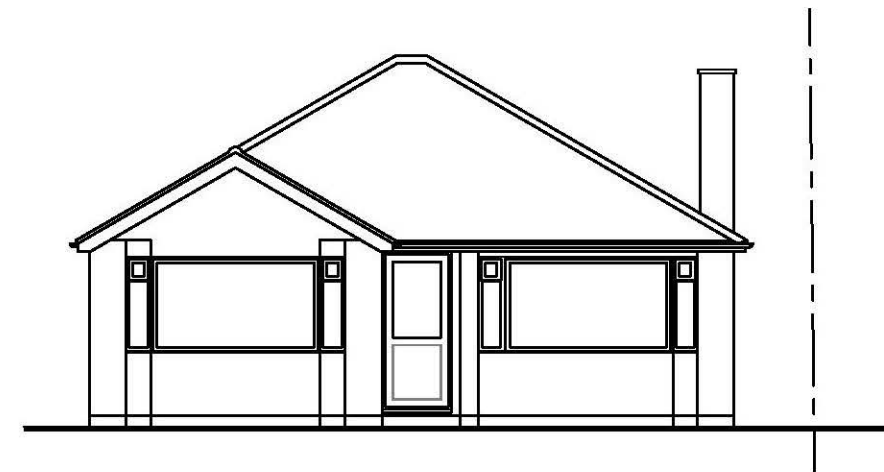
Planning & Development Management
Directorate for Sustainable Communities

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

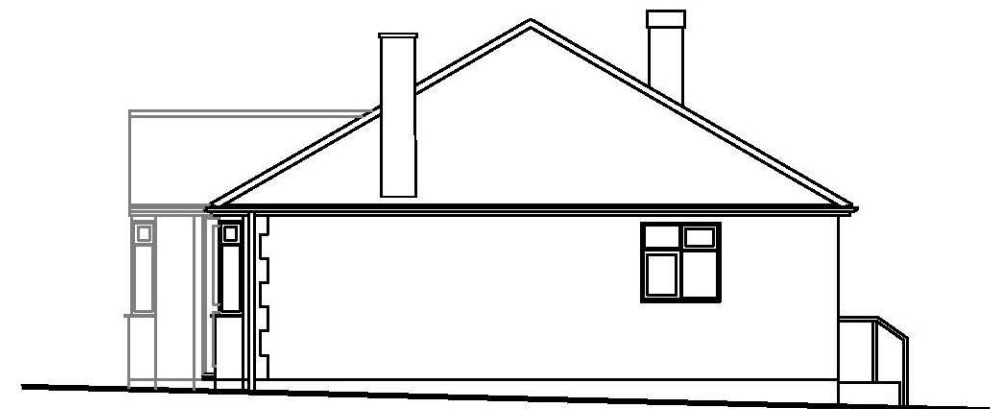
Telephone: 01245 606826







Front



Side (South)

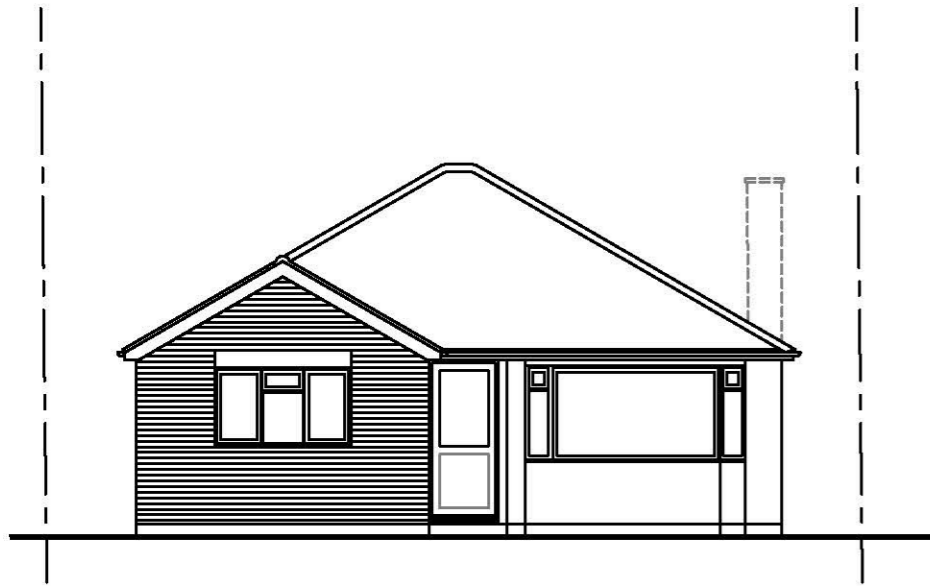


Rear



Side (North)

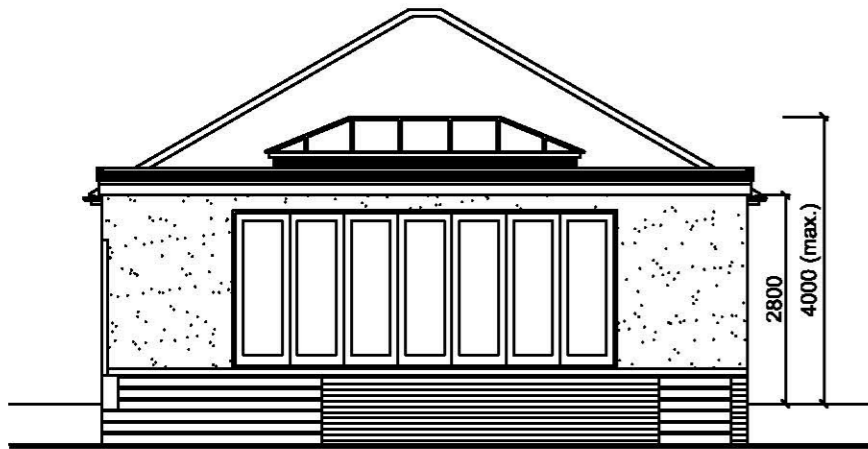
Existing Elevations



Front



Side (South)



Rear



Side (North)

Proposed Elevations

PLANNING COMMITTEE

1st September 2020

ITEM FOR INFORMATION ONLY

Subject	BEAULIEU OUTLINE PLANNING PERMISSION – 09/01314/EIA S106 AGREEMENT – FIRST VIABILITY REVIEW
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Purpose

Outline planning permission for a mixed-use, residential-led development at Beaulieu comprising up to 3,600 dwellings was granted on 7th March 2014; 09/01314/EIA refers.

The s106 Agreement committed the developer to provide at least 27% of the dwellings as affordable housing. Having regard to the long term nature of the scheme and the uncertainties inherent in any viability appraisal undertaken at the start of such a large development, the legal agreement requires the applicant, Countryside Zest, to review the viability of the development at two defined points (the First and Second Viability Reviews). The mechanism was put in place to determine whether an improved economic climate might allow for the delivery of a greater quantum of affordable housing.

The First Viability Review is to be undertaken prior to the implementation of the 1,400th residential unit and the Second Viability Review undertaken prior to the implementation of the 2,400th residential unit. The purpose of this report is to inform members of the outcome of the First Viability Review.

The review has been carried out in accordance with the requirements of the s106 Agreement and independently scrutinised by the Council's appointed viability consultant.

Members are asked to note the contents of the Non-Technical Summary provided at Appendix 1, and that the scheme will continue to deliver 27% affordable housing provision until the time of the Second Viability Review.

1. Introduction

- 1.1 Outline planning permission was granted for a mixed-use residential-led development at Beaulieu on 7th March 2014; 09/01314/EIA refers. Phases 1 and 2 of the development are currently under construction. The scheme will deliver up to 3,600 dwellings, 62,300m² of commercial floorspace including a new Business Park and neighbourhood centre (now complete) together with significant provision of open space, all through school campus and a second primary school, a radial distributor road and a new railway station.

- 1.2 The application was accompanied by a full scheme appraisal (the Initial Viability Assessment). The appraisal concluded that it would not only be impossible for the development to provide the full quantum of affordable housing required by the development plan policy at that time (35%) but achieving even the minimum quantum (27%), would result in a significant deficit relative to an agreed benchmark profit level. The Council's advisors at that time; Peter Brett Associates, accepted the conclusions of the assessment.
- 1.3 The planning permission is subject to a detailed s106 Agreement, which secures the provision of a significant level of physical infrastructure together with contributions towards on-site and off-site works. The agreement commits the applicant to provide at least 27% affordable housing provision, which was justified on grounds of economic viability.
- 1.4 Having regard to the long term nature of the scheme and the uncertainties inherent in any viability appraisal undertaken in relation to a development of this size and strategic significance, the s106 Agreement requires the applicant to review the viability of the development at two points. The mechanism was put in place in order to determine whether an improved economic climate might allow for the delivery of a greater quantum of affordable housing. The First Viability Review is to be undertaken prior to the implementation of the 1,400th residential unit and the Second Viability Review undertaken prior to the implementation of the 2,400th residential unit.
- 1.5 The purpose of this report is to inform members of the outcome of the First Viability Review.
2. s106 Agreement & Schedule 6: Affordable Housing Obligation
 - 2.1 The s106 Agreement requires that the First Viability Review is undertaken prior to the implementation of the 1,400th residential unit to ascertain (i) whether the affordable housing can be increased from 27% up to a maximum of 35%, and (ii) in respect of any residential units provided as affordable housing over and above the 27% figure, whether the tenure split of affordable housing units can be altered from that set out within the s106 Agreement.
 - 2.2 The s106 Agreement requires the review to follow a format set out in an appendix to the agreement; in this respect the inputs are carefully defined.
3. Reporting Mechanism
 - 3.1 The decision to approve the First Viability Review is a matter which falls to the Director of Sustainable Communities general responsibilities as set out in paragraph 3.4.8.1 of Part 3 of the Council's Constitution ('Development Management including decisions and representations on all planning applications and other applications'); this is because viability reviews are a common feature in the context of local planning authority development management, and there are no express constraints / limitations elsewhere in the Director's delegation that refer to viability reviews.
 - 3.2 The function of approving (or not approving) the First Viability Review does not involve the exercise of a planning or other value judgement, nor the exercise of any discretion; in short it does not involve decision making of the kind that the Planning Committee would take. The consideration of a viability review is a purely technical exercise. The carrying out of the viability review is typically undertaken by a chartered surveyor who has specialist expertise, as it has been in this case. The s106 Agreement, as outlined above, establishes the precise

parameters and content of the viability review, in terms of the inputs it must contain and stipulates that the review is to be undertaken by completing pro forma worksheets; there is no scope for deviation, or addition.

- 3.3 The viability review is a mechanical / formulaic exercise, resulting in an accurate and objectively verifiable end product, namely, a deficit or surplus figure, or even a zero figure. The task of approving the viability review is limited to ensuring that (i) all the required inputs have been included, (ii) the pro forma has been adhered to, with nothing omitted or added, (iii) the maths is correct and (iv) the inputted figures (eg: projected revenue from house sales) have integrity, that is to say, they are not based on inadequate or flawed assumptions or projections. Our consultant is satisfied on all counts.

4. The First Viability Review

- 4.1 The First Viability Review has been analysed in some detail by an independently appointed viability consultant; Bailey Venning Associates. The scope of the consultant's work was to ensure that the figures submitted to the local planning authority by the applicant's advisors, Turner Morum, accurately reflected the scheme as constructed, and the definitions contained within the s106 Agreement.
- 4.2 The First Viability Review, as originally submitted, was not accompanied by sufficient supporting information to allow the consultant to provide adequate scrutiny. Following further discussion with the applicant's advisors, comprehensive documentation followed, allowing scrutiny to a level, which amounted to an 'open book appraisal'. Several meetings took place before the consultant was able to reach his conclusion.

5. Key Findings

- 5.1 The consultant was able to agree most of the inputs to the Review as being correct, reasonable and in accordance with the definitions set out in the s106 Agreement. The findings are summarised in pages 3.8-3.31 of the report provided at Appendix 1; these elements were not disputed, or contentious.
- 5.2 Two areas of contention were identified; (i) professional fees and (ii) land value:
- The calculation of Professional Fees in the First Viability Review did not reflect the approach set out within the s106 Agreement; amending the calculation to reflect the terms of the obligation eliminated £36.6 million in costs.
 - Two adjustments were made to the submitted Land Value, which further reduced the costs by £2.8 million.
- 5.3 The removal of those costs did not however translate into a surplus capable of delivering additional affordable housing beyond the 27% minimum quantum agreed, when outline planning permission was granted.

6. Conclusion

- 6.1 Members are asked to note the conclusions of the report, that under the terms set out in the s106 Agreement, the scheme cannot be required to deliver more than 27% affordable housing at this time.
- 6.2 Officers have noted the matters raised by the consultant in relation to the drafting of the s106 Agreement concerning professional fees and land value and these will be discussed with the applicant as recommended.
- 6.3 The Second Viability Review is required to be undertaken prior to the implementation of the 2,400th residential unit.

List of Appendices

- Appendix 1 First Viability Review – Non-Technical Summary: Greater Beaulieu Park prepared by Bailey Venning Associates Ltd on behalf of Chelmsford City Council – March 2020.

First Viability Review – Non-Technical Summary

Greater Beaulieu Park

By George Venning
Director

Bailey Venning Associates Limited
on behalf of
Chelmsford City Council

March 2020

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 Bournemouth
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1.0 History and Context

- 1.1 Greater Beaulieu Park is a large, mixed use development at White Hart Lane in Springfield. When complete, it will comprise a residential development of up to 3,600 homes, and up to 62,300m² of commercial space – to include a new business park, retail, hotel, and leisure uses. It will also include significant quantities of open space, two new schools, a radial distributor road, and a new railway station.
- 1.2 Planning permission was issued on 7th March 2014 and it was accompanied by a S106 agreement. Among other benefits, that agreement committed the developers to provide at least 27% of the scheme in the form of affordable housing. This minimum provision was some way short of the quota sought by the Council's adopted affordable housing policy and was justified on grounds of economic viability.
- 1.3 A full appraisal of the scheme as it was then envisaged (the Initial Viability Assessment) was submitted to the Council, reviewed and approved. The appraisal concluded not only that it would be impossible for the development to provide the full quantum of affordable housing sought by policy but also that the achievement of even the minimum quantum would result in a significant deficit – relative to an agreed benchmark profit level. The Council and its advisors (Peter Brett Associates) accepted the conclusion of this process and a S106 agreement was drawn up, guaranteeing the provision of at least 27% affordable housing.
- 1.4 However, because of the long term nature of the scheme and the uncertainties inherent in any viability appraisal undertaken at the start of such a large scheme delivered over such a long period, the agreement requires the applicants to review the viability of the development at two points in order to determine whether an improved economic climate may allow for the delivery of a greater quantum of affordable housing.
- 1.5 The First Viability Review is to be undertaken prior to the implementation of the 1,400th residential unit and the Second Viability Review is to be undertaken prior to the implementation of the 2,400th unit.
- 1.6 This is a report on the outcome of the First Viability Review (hereafter, "the Review").

2.0 Format of the Review

- 2.1 It is important to note that the First Viability Review is not a full assessment of the economics of the development from first principles (as the Initial Viability Assessment was). Such a review would be open to considerable differences of professional opinion and the resulting disputes could lead to unacceptable levels of delay.
- 2.2 Instead, the Review follows a format set down in Appendix 14 the S106. Each of the inputs to the Review is carefully defined in such a way as to minimise the scope for professional disagreement.
- 2.3 In general, the terms aim to reflect the actual costs and values generated by the development, wherever practicable. Thus, the sales values achieved so far, reflect the actual sales completed to date, the actual costs reflect the value of contracts let and so on.
- 2.4 There are, however, limits to this approach. Most obviously, estimates of future sales values (and future construction costs) cannot be based upon actual transactions or contracts. Instead, future values and future costs are presumed to reflect those incurred to date.
- 2.5 Furthermore, certain other elements of costs are assessed by means of proxies. The cost of finance, for example, is to be estimated based on a fixed percentage of total revenue.
- 2.6 In assessing the First Viability Review as submitted by the applicants, it was not our role to determine whether the definitions of the terms in the S106 were correct or not, much less to negotiate on behalf of the Council as to what the cost of certain items ought to be.
- 2.7 Instead, our task was to ensure that the figures in the First Viability Review submitted to us by the applicant's advisors (Turner Morum) accurately reflected the scheme as constructed and the definitions in the S106.
- 2.8 Generally speaking, they did – albeit with an important exception which we will discuss below. Where we did identify inputs which seemed not to fit with the approach set down in the agreement, we sought further clarification from Turner Morum, Couttryside Zest and their various partners. Through this communication (in the course of which, we were supplied with a great deal of information) we were able to resolve the great majority of the inconsistencies. Those which remain are (with the exception mentioned above) minor. Even together, those inconsistencies did not support the provision of additional affordable housing on the site beyond the 27% minimum quantum agreed at the time of consent.

3.0 The Review and Its Implications

- 3.1 We received the First Viability Review itself in July 2019.
- 3.2 It suggested that, with the minimum quantum of affordable housing for which the S106 makes provision (27%) the development of the scheme would generate a significant deficit (£40.3m) relative to the benchmark profit set down in the S106.
- 3.3 It is important to note that this is not the same as saying that the scheme was presented as “unviable”. That was not the case. The deficit is measured relative to a benchmark level of profit that a developer might reasonably hope to make. It is *not* measured relative to the absolute minimum level of profit necessary to allow the scheme to go ahead. A deficit of £40.3m relative to the agreed benchmark therefore has a significant impact on the profitability of the scheme but it does not leave it in danger of collapse.
- 3.4 However, as initially submitted, the Review was not accompanied by sufficient supporting information to allow us to provide adequate scrutiny. We therefore reported that we were unable to conclude that 27% was indeed, the maximum quantum of affordable housing and submitted a request for supporting documentation.
- 3.5 The documentation that followed this request was extremely comprehensive and certainly appeared to have come direct from the applicant’s own internal systems. We are grateful for the level of trust that the applicant showed in granting us access to their data and conducting what amounted to an “open book” appraisal. However, we would note that one consequence of using data compiled by the applicant for their own internal purposes was that it did not necessarily follow the format set out in the S106.
- 3.6 As a result, it took us some time and several meetings to correlate all of the submitted information with the formatting set out in the S106. Nonetheless, in the end, we were eventually able to do so and we can thus confirm that, under the terms set out in the S106, the Scheme cannot be required to deliver more than 27% affordable housing at this time.
- 3.7 The sub-sections that follow summarise our findings on the various defined inputs in the S106 agreement. All of the agreed items are listed first. The smaller group of disputed items is addressed at the end.

Uncontentious Matters

Nature of Development

- 3.8 We are satisfied that the numbers set out in the first viability review reflect the development as currently under-construction and, insofar as is practicable, that it reflects the quantum and nature of development on future phases.

Private Residential Revenue

- 3.9 The estimate of Revenue arising from the development to date seems to properly reflect the number of homes sold to date and their nature. We have checked the information against public records and against current sales literature and we are content that the figures are correct in respect of historic sales.
- 3.10 In respect of future revenue, we have established that future values have been projected forward on a basis that it at least as valuable as historic sales and that the assumed future values may even represent a very modest premium on a like for like basis. Such a premium is to be expected on the latter phases of a mature scheme and we are there satisfied with this element.

Affordable Housing Revenue

- 3.11 The submitted Affordable Housing Revenues initially appeared somewhat low for the mixture of tenures and sizes applied. The explanation is to be found in the unusually stringent restrictions that the S106 places on the affordability of shared ownership homes in particular. Once these restrictions were factored in, the discrepancy disappeared. We have also been provided with copies of the contracts between L&Q and Countryside. These contracts match the figures in the Review.
- 3.12 As regards the revenue from affordable housing on future phases, we found that the values appeared to be very slightly conservative but not so much as to affect the overall conclusion. We have recommended that the Council undertakes careful monitoring of the output of affordable homes delivered – with particular care taken to ensure that the affordability criteria are properly reflected.

Commercial Revenue

- 3.13 The reported figures for the limited number of commercial uses on the site were a good match for our expectations and we have followed up with the agent responsible for marketing the units. We are satisfied that this input is robust.

Other Revenues/Grant

- 3.14 We are not aware of any Other Revenues or Grant sought or received by this development.

Building Costs

- 3.15 We have reviewed the construction costs incurred by the scheme and found them to be somewhat higher than the standard costs we would normally see with a “conventional” residential development. However, we accept that this is not a “conventional” development. It was planned from the start as a scheme of exemplary quality, featuring high standards of residential design and a rich public realm. We were able to confirm this on a guided tour of the site in November 2019.
- 3.16 We accept that this degree of quality incurs a cost premium.
- 3.17 For that reason, when we benchmarked the costs against information from BCIS (as national guidance encourages us to do) we used their published Upper Quartile cost figure (this benchmark was also used in the Initial Viability Assessment).
- 3.18 On that basis, we found the figures to be generally within our expectations. We have also been provided with a huge file of invoices incurred for construction costs. Whilst we have not undertaken an audit of those invoices, we have conducted a high level review of them. This review found that the totals match the submitted figures and the line items related to works within the definition of the build costs set out in the S106. We are therefore able to have considerable confidence in these costs.
- 3.19 There were two exceptions to the general rule.
- 3.20 The first was in respect of the area known as the Neighbourhood Centre where costs seemed out of line with expectations. The explanation for the vast majority of the discrepancy turned out to be the inclusion of a number of non-residential uses in the residential cost column. When that was rectified, a much smaller discrepancy remained. To resolve our concerns, Turner Morum were kind enough to arrange a teleconference between us and the Quantity Surveyors who were able to explain the remainder of the discrepancies we had identified.
- 3.21 The second potential exception was in respect of the final Zones – X, Y and Z. Whilst there may be no discrepancy at all, we note that these areas (surrounding the new station) will be denser and of a somewhat different character to the rest of the development. It follows that it may not be appropriate, at the Second Viability Review, to estimate the cost for these final zones on the basis of historic costs. We have therefore

advised that some additional information may be required to make an accurate assessment at that time.

Finance Costs

- 3.22 The cost of finance is defined in the S106 as a fixed percentage of the overall scheme revenue. We can confirm that it has been correctly applied.

Marketing Fees

- 3.23 Marketing costs are defined as a fixed function of Private Residential Revenue. We can confirm that they have been correctly applied.

Affordable Transfer Fees

- 3.24 Once again, these transfer fees are defined as a percentage of Revenue – this time Affordable Housing Revenue. They have been correctly applied.

Section 106, S278 and Infrastructure Costs

- 3.25 We found that the S106 costs included in the Review reflected the data in the schedule of costs provided by the applicant. Those costs, in turn, reflected the costs set out in the S106 itself (where monetary figures were appropriate).
- 3.26 For items provided in kind – such as land for the healthcare centre, we confirmed with officers that land had been duly set aside and the site hoarded off.
- 3.27 There is, of course a degree of overlap between items that constitute Infrastructure, S106 and S278. Accordingly, some of the line items were initially located under different headings in the Review from the headings under which they were reported in the applicant's schedule of infrastructure. However, following a careful audit, we were able to understand what had happened and confirm that the figures in the Review were correctly applied. We are therefore confident that these allowances are generally correct.
- 3.28 The exception was a large number of items, included under the "Infrastructure" heading, which were clearly not infrastructure and which should therefore have been included under Professional Fees, (for which a separate heading is provided). We pointed this out to the applicant, they accepted it, and we amended the headings accordingly.

Profit

- 3.29 The S106 makes different allowances for the profit levels on different elements of the scheme – 20% of revenue for Market Housing and Commercial Uses, 6% of Revenue on the affordable housing element.
- 3.30 Taken together, this amounts to a blended profit target of 18.7% of overall revenue. However, the developer claims that development of the scheme will not achieve that target in full – resulting in a deficit of £40.3m relative to the benchmark.
- 3.31 On that basis, the actual profit would be reduced to a blended rate of 14.8% - not ideal for the developer perhaps but certainly not so low as to threaten the solvency and viability of development.

Areas of Contention

- 3.32 Although we were able to agree that the majority of the inputs to the Review were correct, reasonable and in accordance with the definitions set out in the S106 agreement, there were a number of issues to resolve.

Professional Fees

- 3.33 The S106 stipulates that the allowance for professional fees shall be 6% of the Building Costs. As reported in the Review, the Building Costs are made up of four elements – the Residential Build Costs, Infrastructure, S278 Costs and S106 costs.
- 3.34 This is not the way in which the submitted Review addressed the matter. Instead, it applied the 6% element to the Residential Build Costs alone. However, as we noted in paragraph 3.28 above, a large number of items that clearly fell under the heading of professional fees had inadvertently been included under the Infrastructure heading.
- 3.35 The remedy was to remove the misapplied Professional Fees items from the Infrastructure heading and then to apply the agreed 6% fee rate to all of the four elements that make up the building costs.
- 3.36 The net effect of both changes (reducing the infrastructure heading and increasing the professional fees allowance) was to reduce the overall cost of development by a large amount – £36.3m. Reducing costs in this way eliminates around 90% of the identified deficit.
- 3.37 Nonetheless, it is critical to note that we are not suggesting that Countryside or their advisors deliberately overstated costs in order to artificially reduce the overall level of affordable housing provided.

- 3.38 We would note that all of the misallocated line items of professional fees appear to relate to allowable costs. Moreover, they do not appear to reflect a complete list of all the professional fees the development might expect to incur.
- 3.39 We note that the *Initial Viability Assessment* handled professional fees in the same way as the Review, with “standard” fees (for architects etc) expressed as a percentage (6%) of the residential build cost and other fees (such as specialist surveys) itemised and included in the infrastructure schedule.
- 3.40 We also note that 6% of the total Building Costs (as defined) is an unusually tight allowance for Professional Fees on a scheme of this type. Guidance has long recommended allowances ranging from 8-12% with the lower end generally held to reflect more generic developments and the upper end reflecting more complex, one-off developments.
- 3.41 Our hypothesis is that the drafting of the S106 was intended to reflect the practice established by the Initial Viability Assessment but that it simply failed to note that many of the items that had been included in the Assessment as Infrastructure were in fact Professional Fees. Whatever the intention behind the drafting, we are unable to follow suit and treat these fees as if they were Infrastructure because the definition of Infrastructure in the S106 precludes it.
- 3.42 The net effect of what appears to be an oversight is that the S106 seems to exclude over £40m in what may be entirely legitimate Professional Fees from consideration in the Review. The benefit of this exclusion goes to the Council but it is not quite sufficient to eliminate the deficit entirely and, thus, to generate additional affordable housing at this juncture.

Land Value

- 3.43 The S106 defines the Land Value for use in the Review as the price that the developer actually paid for the site (together with any easements, ransoms etc).
- 3.44 Having excluded a small number of items which were not, strictly speaking, payments for land as well as two land transactions for which no corroborating paperwork was supplied, we have accepted a land allowance for the purposes of this review of £134m. This is around £2.8m less than the figure originally submitted.
- 3.45 This is the figure which the text in the S106 requires us to use and there is no question as to its legitimacy in light of the drafting.
- 3.46 With that in mind, it is only for the benefit of *future* negotiations that we draw it to the Council’s attention that the drafting itself represents poor practice. Indeed, the

Government guidance on viability states that “under no circumstances” should the price paid for land by the developer be used as the land element of a viability appraisal or Benchmark Land Value. (We acknowledge that the guidance was published some years after the S106 was entered into).

- 3.47 In this case, the applicant appears to have negotiated the Initial Viability Assessment with the Council on the basis of a Benchmark Land Value of £500k/ha (£117m). Having concluded that negotiation with a minimum of 27% affordable housing they then appear to have paid the landowner some £17m more than anticipated.

4.0 Conclusions

- 4.1 We have conducted an extensive and detailed assessment of the First Viability Review document submitted by the applicant in accordance with the terms of the S106 agreement.
- 4.2 Following a great deal of scrutiny and a number of meetings (both face to face and electronic) we have established that the vast majority of the inputs to the Review are both robust and in accordance with the drafting of the S106.
- 4.3 There are two major exceptions.
- First, the calculation of Professional Fees in the First Viability Review does not reflect the approach set out in the S106. Amending the calculation to reflect the S106 eliminates £36.3m in costs.
 - Second, we have made two adjustments to the submitted Land Value which further reduces costs by £2.8m.
- 4.4 However, even together, these effects do not convert the £40.3m deficit identified by the Review into a surplus capable of delivering additional affordable housing.
- 4.5 Moreover, we would stress that the former of these two effects arises from some very unconventional drafting in the S106, which may, in fact be an error. That being the case, the parties might wish to discuss the wording of the S106 Agreement at some point well ahead of the trigger for the second viability review. In that event, they might also wish to review the approach to land value, which does not reflect either current or contemporary best practice.

Appeals Report

Appeal Decisions received between 01/07/2020 and 18/08/2020

PLANNING APPEALS

Total Appeal Decisions Received	9	
Dismissed	7	78%
Allowed	1	11%
Split	1	11%

Informal Hearing

Telephone Exchange Main Road Margaretting Ingatestone Essex

Reference	19/01282/FUL
Proposal	Change of use from sui generis former telephone exchange building and associated land to Class B2 (restoration of classic cars) with ancillary parking and outdoor storage.
Appeal Decision	Appeal Dismissed - 13/07/2020
Key Themes	- The effect upon highway safety
Agreed with CCC on	- The Inspector considered that the proposal would cause unacceptable harm to Highway Safety.
Disagreed with CCC on	
Costs Decision	None

Written Reps

Land South East Of Four Oaks Ivy Barn Lane Margaretting Ingatestone Essex

Reference	18/01939/FUL
Proposal	Proposed stable block with associated hardstanding
Appeal Decision	Appeal Dismissed - 21/07/2020
Key Themes	- whether the stable block and hardstanding would amount to inappropriate development in the Green Belt. - whether the proposal would harm highway safety through lack of visibility. - whether the proposal would lead to flood risks.
Agreed with CCC on	- The Inspector considered that the stable block and hardstanding would harm the openness of the Green Belt so could be considered inappropriate development. - it was considered that the access would not have acceptable visibility splays and would therefore harm highway safety. - The inspector considered that a lack of information regarding flooding had been submitted and therefore there may be significant harm from potential flood risk.
Disagreed with CCC on	
Costs Decision	None

Site At The Bungalow De Beauvoir Chase Downham Billericay Essex

Reference	19/01451/FUL
Proposal	Demolition of existing dwelling and ancillary buildings. Construction of two new dwellings with double garages.
Appeal Decision	Appeal Dismissed - 23/07/2020
Key Themes	Innapropriate development in Green Belt; Openness of Green Belt
Agreed with CCC on	Greater impact on Openness than existing; Innappropriate development in GB; Unsustainable location; Fallback position doesnt constitute very special circumstances
Disagreed with CCC on	
Costs Decision	None

Land South Of 69 Torquay Road Chelmsford Essex

Reference	19/01555/FUL
Proposal	Construction of a new detached dwelling. Two storey rear extension to 69 Torquay Road.
Appeal Decision	Appeal Split Decision - 31/07/2020
Key Themes	Effect on character of the area; living environment to future occupiers
Agreed with CCC on	Detached dwelling would harm the character of the area.
Disagreed with CCC on	The relatively poor outlook and ventilation to one bedroom would not negate the overall standard of accommodation when considering the proposed house as a whole.
Costs Decision	Council's application for costs: Costs refused

Notes: Note: The decision is 'split' because the Inspector granted planning permission for the proposed extension to the existing dwelling. Officers raised no objection to the extension to the existing dwelling. The proposed new house, which was the basis for the refusal of planning permission, has been dismissed by the Inspector.

Hawthorns Wantz Road Margaretting Ingatestone CM4 0EP

Reference	19/01571/FUL
Proposal	Proposed siting of containers for storage.
Appeal Decision	Appeal Dismissed - 05/08/2020
Key Themes	- Whether the proposed containers would amount to inappropriate development in the Green Belt.
Agreed with CCC on	- The Inspector agreed that the containers would amount to inappropriate development in the Green Belt and that they would harm openness.
Disagreed with CCC on	
Costs Decision	None

The Beehive 346 Baddow Road Great Baddow Chelmsford CM2 9RA

Reference	19/01826/PIP
Proposal	Permission in principle for the conversion of existing building to form up to 9 dwellings
Appeal Decision	Appeal Dismissed - 01/07/2020
Key Themes	Loss of community facility; harm to non-designated heritage asset.
Agreed with CCC on	Insufficient information put forward to demonstrate there is not a need for the building as a community facility.
Disagreed with CCC on	Harm to heritage asset would be outweighed.
Costs Decision	None

Land At 43 And Rear Of 39 And 41 Dorset Avenue Great Baddow Chelmsford

Reference	19/01764/OUT
Proposal	Demolition of existing dwelling (no 43) & replace with 5 new dwellings (Outline application all matters reserved)
Appeal Decision	Appeal Dismissed - 07/07/2020
Key Themes	- The effect of the proposal on the character and appearance of the site and surrounding area
Agreed with CCC on	- Positioning of development would result in harm to the character and appearance of the area
Disagreed with CCC on	
Costs Decision	None

Site At The Cottage Parsonage Green Broomfield Chelmsford Essex

Reference	19/01798/OUT
Proposal	Outline application for the construction of one dwelling. Access being sought all other matters reserved.
Appeal Decision	Appeal Dismissed - 23/07/2020
Key Themes	Whether the development complies with the Council's Development Plan Whether the development would harm the intrinsic character and beauty of the countryside.
Agreed with CCC on	Development is contrary to direction of the development plan Development would harm intrinsic character and beauty of the countryside.
Disagreed with CCC on	N/A
Costs Decision	None

Gay Bowers Farm Gay Bowers Road Danbury Chelmsford Essex CM3 4JQ

Reference	19/01621/CLEUD
Proposal	Residential occupation of Gay Bowers Farmhouse in breach of agricultural occupancy condition.
Appeal Decision	Appeal Allowed - 11/08/2020
Key Themes	Interpretation of agricultural occupancy condition
Agreed with CCC on	Farming activities continue on a small scale
Disagreed with CCC on	The residents of the dwelling occupy it in breach of agricultural occupancy condition
Costs Decision	None

ENFORCEMENT APPEALS

Total Appeal Decisions Received	4	
Dismissed	4	100%
Allowed	0	0%
Split	0	0%

Written Reps

Land South East Of Four Oaks Ivy Barn Lane Margaretting Ingatestone Essex

Reference	16/00563/ENFA
Proposal	Unauthorised encampment
Appeal Decision	Appeal Dismissed - 21/07/2020
Grounds of Appeal	<ul style="list-style-type: none"> - whether the gates, fencing and hardstanding would be PD or granted planning permission (grounds c and a). - Whether the works to comply with the notice are excessive (ground f) - Whether the time limit to comply with the notice is too short. (ground g)
Agreed with CCC on	<ul style="list-style-type: none"> - The Inspector did not consider that the fence was permitted development as it exceeded 1m in height. - He considered that the hardstanding, fence and gates would harm the openness of the Green Belt and would therefore not have been granted planning permission. - The Inspector considered that the works to remedy the breach were not excessive. - It was considered by the Inspector that the 6 month time period for compliance with the notice was quite adequate to complete the works required.
Disagreed with CCC on	
Costs Decision	None

Flat 33 Duke Street Chelmsford Essex CM1 1HY

Reference	16/00169/ENFC
Proposal	Without planning permission, the construction of a first floor rear extension
Appeal Decision	Appeal Dismissed - 10/08/2020
Grounds of Appeal	(a) planning permission should be granted, (b) the breach alleged has not occurred, (d) that at the time the notice was issued it was too late to take enforcement action, (e) that the notice was not served on all parties with an interest in the land, (f) that lesser steps than those required by the notice could remedy the breach and (g) that insufficient time has been allowed in order for the appellant to reasonably comply with the notice.
Agreed with CCC on	The inspector found that planning permission would not be granted for the extension as its design and the materials used in its construction were harmful to the character of the Conservation Area. They also found that the extension had a harmful effect on the living conditions of occupiers of the adjoining property with particular regard to light and outlook.
Disagreed with CCC on	
Costs Decision	None

11 The Ryle Writtle Chelmsford Essex CM1 3JQ

Reference	18/00181/ENFB
Proposal	Without planning permission, the construction of a fence.
Appeal Decision	Appeal Dismissed - 11/08/2020

Grounds of Appeal	Grounds (f) that lesser steps than those required by the notice could remedy the breach and (g) that insufficient time has been allowed in order for the appellant to reasonably comply with the notice.
Agreed with CCC on	That the steps required to demolish the fence in its entirety were proportionate and not excessive.
Disagreed with CCC on	Considered that a short extension for compliance with the notice to be secured was justified, from two months to three months.
Costs Decision	None

Rainbows End Blind Lane Sandon Chelmsford Essex CM2 7FA

Reference	18/00291/ENFB
Proposal	Without planning permission, the material change of use of the Land for storage.
Appeal Decision	Appeal Dismissed - 12/08/2020
Grounds of Appeal	Change of use of land for storage - appeal under grounds (c) no breach of planning control; (d) too late to take enforcement action; and (g) time to comply is too short.
Agreed with CCC on	The appeal on ground (d) dismissed - 10 year limitation period applies and storage use only began after 2014.
Disagreed with CCC on	The appeal on ground (c) succeeds to delete reference of the scaffold structure from the requirements of the Notice. The appeal on ground (g) succeeds to allow an extended compliance period of six months.
Costs Decision	None