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AGENDA

Committee: DEVELOPMENT CONTROL

Date and Time: Tuesday 6th November 2018 at 7.30 p.m.

Venue: Council Chamber

N.B. This meeting will be webcast live on the internet.

Membership: Councillors Hart (Chairman), Mumford (Vice Chairman), Acott, Anderson, Blackwell, Cole, Cross, Mrs Haunts, Johnson, Ladzrie, Sharp, Taylor and Mrs Wass.

Substitutes: Councillors Mrs Blissett, Dick, Palmer and Mrs Sach

Canvey Island Town Councillors : Greig and TBC

Officers attending: Rob Davis - Planning Development and Enforcement Manager
Kim Fisher-Bright – Strategic Developments Officer
Fiona Wilson – Head of Legal Services

Enquiries: Cheryl Salmon, ext. 2454

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 2nd October 2018 is attached.

4. Public Speakers

The Chairman will announce the names of those persons who wish to speak in support /objection under Agenda Item No. 5 (if any).

5. Deposited Plans

The reports are attached.

	Application No	Address	Page No
1.	18/0587/FUL	189 Benfleet Road, Thundersley, Benfleet, Essex, SS7 1QG (Boyce Ward)	1
2.	18/0574/FUL	300 Benfleet Road, Benfleet, Essex, SS7 1PW (Boyce Ward)	12

Previously Considered Items

3.	17/1063/OUT	Garden World Plants Ltd, Canvey Road, Canvey Island, Essex, SS8 0QD (Canvey Island West Ward)	24
		Appendix 1	31
4.	18/0035/FUL	191-193 High Road, Benfleet, Essex, SS7 5HY (St Mary's Ward)	59
		Appendix 1	89

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DEVELOPMENT CONTROL COMMITTEE

2nd OCTOBER 2018

PRESENT: Councillors Hart (Chairman), Acott, Anderson, Blackwell, Cross, Dick*, Mrs Haunts, Johnson, Ladzrie, Mrs Sach* and Sharp.

***Substitute Members Present:** Councillor Dick for Councillor Mrs Wass and Councillor Mrs Sach for Councillor Taylor.

Also Present: Councillor Smith.

Apologies for absence were received from Councillors Mumford, Taylor and Mrs Wass.

13. MEMBERS' INTERESTS

All Councillors declared a non-pecuniary interest in Agenda Item 5(2) as the applicant was a Borough Councillor and therefore known to them.

14. MINUTES

The Minutes of the meeting held on 4th September 2018 were taken as read and signed as correct.

15. DEPOSITED PLANS

(a) 18/0531/FUL – 92 HIGH ROAD, BENFLEET, ESSEX, SS7 5LG (BOYCE WARD) – DEMOLISH EXISTING BUILDINGS AND ERECT THREE STOREY BUILDING COMPRISING 13 NO. FLATS – JEFFERIES SOLICITORS

The application sought permission for a redevelopment of the site with 13 flats. The Planning Officer stated that having considered the proposal in the light of all relevant policies and guidance it was felt that there remained a number of shortcomings and the applicant was trying to fit too much development on the site. The application had overcome two of the four reasons for refusal of a previous application however it was considered that the current proposed development would still not integrate satisfactorily with its surroundings and too many units were being proposed. The application was therefore recommended for refusal.

The application was presented to the Committee at the request of Councillor Smith, due to possible concerns of overdevelopment of the site, overlooking of neighbouring properties and a lack of car parking.

Mr Brown, a local resident spoke in objection to the application.

Mr Powell, the applicant, spoke in support of the application,

Councillor Smith, a Ward Member, spoke in support of the application.

During discussion of the item some Members considered that the application had overcome all the previous reasons for refusal. They felt that it represented a modern design which was acceptable in the location and did not feel that it was out of keeping with the neighbouring residential area. They disagreed with the Planning Officer's view that the development was unduly prominent to the detriment of the street scene and represented overdevelopment of the site and felt that it was in accordance with the revised National Planning Policy Framework.

Other Members disagreed and felt that the proposal was inappropriate in this location as it was completely out of keeping with the surrounding area and would represent overdevelopment of the site.

Following debate it was:-

Resolved -

1. That the application is approved because Members consider that the proposal has overcome the reasons for refusal of previous applications, is not out of keeping with the neighbouring residential development, is not unduly prominent to the detriment of the street scene and does not represent overdevelopment of the site. Furthermore, Members consider the proposal to be in accordance with the provisions of the revised National Planning Policy Framework.
2. Approval is subject to conditions as considered appropriate by the Planning Officer in consultation with the Chairman, Vice Chairman and Ward Member.

Councillors Acott, Anderson, Blackwell and Mrs Sach requested that their vote be recorded against the decision.

(b). 18/0733/FUL – 38 ATHERSTONE ROAD, CANVEY ISLAND, ESSEX, SS8 7DE (CANVEY ISLAND SOUTH WARD) – DEMOLITION OF EXISTING CONSERVATORY AND CONSTRUCTION OF A SINGLE STOREY REAR EXTENSION – MR AND MRS TOM SKIPP

Permission was sought for a single storey rear extension. It was considered that the proposal was acceptable and the application was therefore recommended for approval.

The application was presented to the Committee because the applicant was an elected member of the Council.

During consideration of the item Members expressed their support for the proposal and it was:-

Resolved - That the application be approved subject to the conditions as set out in the Planning Officer's report.

(c) **18/0039/FUL – BRIAR COTTAGE, LEIGE AVENUE, CANVEY ISLAND, ESSEX, SS8 9PL (CANVEY ISLAND WINTER GARDENS WARD) – DEMOLITION OF EXISTING COTTAGE AND ERECTION OF 11 NO. SELF CONTAINED FLATS AND CAR PARKING – HOMESTEAD PLC**

The proposal sought outline consent for the provision of 8 two bedroomed maisonettes and 3 two bedroomed flats, arranged over three-floors with associated parking, refuse and cycle storage facilities, on land at the southern end of Leige Avenue and west of the junction of Central Wall Road and Meppel Avenue.

The proposed development of the site with flats was acceptable in principle, however the proposal was considered to represent overdevelopment of the site, by reason of its scale, and form, which resulted in a visually cluttered and unduly prominent feature on the street, of mean and cramped appearance and was likely to have an adverse impact on the amenity of adjoining residents, by reason of undue overshadowing and dominance and was therefore recommended for refusal.

Councillor Greig, Canvey Island Town Council, spoke in objection to the application.

During discussion Members stated that they felt the proposal represented overdevelopment of the site and would result in overshadowing and overdominance of the adjoining dwelling. It was also considered that the development would appear visually cramped and cluttered out of character with and detrimental to the street scene.

Following discussion it was:-

Resolved - That the application be refused for the following reasons:

- 1 The proposed development, by reason of its mass, height, length, scale and proximity to the front and western boundaries of the site represents overdevelopment of the site and would present an overdominant and unduly prominent feature in the street scene, out of character with the adjoining development and detrimental to the character and appearance of the area and the amenity of adjoining residents, contrary to Policy EC2 and H17 RDG3, of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.
- 2 The proposed development, by reason of the excessive projection of the building beyond the front and rear

elevations of the dwelling to the north, would result in unacceptable overshadowing and overdominance of the occupiers of the adjoining dwelling, contrary to Policy H17 RDG3 and Government guidance as contained in the National Planning Policy Framework.

- 3 The proposed building presents a visually poor addition to the streetscape, lacking a strong focal feature and marred by a multiplicity of roof forms, with limited integration and poorly appointed dormers which combine to create a visually cramped and cluttered appearance, out of character with, and detrimental to, the character and appearance of the area, contrary to Policy H17 RDG3 and Government guidance as contained in the National Planning Policy Framework.
- (d) **18/0382/OUT – CHASE NURSERIES, THE CHASE, THUNDERSLEY, BENFLEET, ESSEX (CEDAR HALL WARD) – OUTLINE DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF ELEVEN HOUSES WITH DETERMINATION OF ACCESS, SCALE AND LAYOUT – MR AND MRS PETTIFOR**

The application site was located on the northern side of The Chase, opposite the junction with Wensley Road. It was allocated for Green Belt purposes in the adopted Local Plan. Within the context provided by the National Planning Policy Framework (NPPF) residential development of the site had been identified as inappropriate development, however, this could be exceptionally justified by the existence of very special circumstances.

A number of factors had been identified which the applicant believed justified the proposed development, however, it was the view of the Planning Officer that the identified features either in combination or isolation, did not create the very special circumstances required to justify inappropriate development in the Green Belt. The proposal therefore attracted an objection in principle.

The Planning Officer explained that were Members nevertheless minded to approve the proposed development, the low density achieved on the site was considered to result in a form of development which failed to achieve the effective use of the land, contrary to Government guidance as set out in the NPPF, which represented a further objection to the proposal.

Consideration of the proposal was considered premature in the light of work currently being undertaken in respect of the preparation of the new Draft Local Plan which would consider the future pattern of development, including, if necessary, release of Green Belt within the Borough. Consideration of the release of this site in advance of comprehensive consideration of all strategic sites was considered likely to prejudice the potential achievement of a comprehensive and efficient form of development, should this site be released from the Green Belt as part of the emerging Local Plan.

In terms of the reserved matters, whilst some minor deficiencies had been identified, it was considered that sufficient scope existed within the site to satisfy all spatial requirements.

Notwithstanding this statement however, the proposed development remained contrary to Green Belt policy and was therefore recommended for refusal.

The application was presented to the Development Control Committee at the request of Councillor Dick, in accordance with the adopted Call-in protocol.

Ms Power, a representative of the applicant, spoke in support of the application.

During debate some Members felt that as this was a small scale development on previously developed Green Belt land it was in accordance with the revised NPPF. Furthermore, the proposal was not considered to be premature in the context of the new Draft Local Plan as it had been included in previous draft versions of the Plan and should therefore be approved.

Other Members stated that they could not support the proposal because it was contrary to current Green Belt policy and felt that it was premature in regard to the work currently being undertaken on the new Draft Local Plan.

Following debate it was:-

Resolved –

1. That the Committee is minded to approve the application, because it is a small scale development on previously developed Green Belt land and therefore in accordance with the revised National Planning Policy Framework.
2. That the application be referred to the Secretary of State in accordance with the provisions of the Town and Country Planning Consultation (England) Direction 2009.

Councillors Acott, Anderson, Blackwell and Mrs Sach requested that their vote be recorded against the decision.

5. 18/0661/OUT – WAREHOUSE, 54 BEECH ROAD, HADLEIGH, BENFLEET, ESSEX (ST JAMES' WARD) – DEMOLITION OF EXISTING WAREHOUSE AND CONSTRUCTION OF THREE/FOUR STOREY BUILDING COMPRISING TWELVE 2 BEDROOM APARTMENTS AND TWO 3 BEDROOM APARTMENTS AND GYM – MR AND MRS R J HILL

The application sought outline consent for the demolition of an existing commercial building and its replacement with a flat roofed, part three storey, part four storey building providing 12 two bedroomed flats and 2 three bedroomed flats with a gym and associated parking and amenity space on land at 54 Beech Road, Hadleigh. It was presented to the Committee in view of its previous consideration of the proposal.

Whilst the application had been submitted for outline consent only with all matters reserved, in order to achieve the quantum of development sought the applicant had indicated the potential scale and form of development likely to be provided on the site. The submitted scheme was very similar to that which had been refused planning permission on two occasions in 2017. It was explained that in accordance with Members' comments in respect of the consideration of the previous applications received for the site, the current scheme did not include a commercial element.

The Planning Officer stated that no objection was raised to the principle of a residential development on this site. However, inadequate revision to previously rejected schemes had been undertaken to achieve an appropriate scheme on this site. Many of the issues identified in applications 17/0143/OUT and 17/0778/OUT had not been adequately addressed and the proposal by reason of its excessive scale, prominent siting, poor relationship with the adjoining development, obtrusive, dominant and cramped setting and adverse impact on the privacy and amenity of adjoining residents, was considered to represent overdevelopment of the site, contrary to Government guidance as expressed within the NPPF, Policies H9 and EC2 of the adopted Local Plan and RDG 2, 3 and 5. Furthermore the proposal failed to demonstrate the provision of adequate refuse and recycling storage facilities contrary to RDG13. The application was therefore recommended for refusal.

Mr Howard, a representative of the applicant, spoke in support of the application.

A Member expressed support for the proposal because it would provide much needed housing in the area, the commercial element had been removed and he considered that the development would not be overdominant or out of character with the surrounding area. Furthermore, it was believed that any issues in relation to the refuse and recycling facilities could be overcome by attaching conditions to any approval.

Members generally concurred with this view and stated that they were also satisfied that the screen provided on the eastern edge of the terrace at first floor level was sufficient to prevent overlooking and loss of privacy.

Following discussion it was:-

Resolved

1. That the application be approved as Members considered that the proposed development was not overdominant or out of character with the surrounding environment, provided a much needed supply of 2-3 bedroomed properties as identified in the Strategic Housing Market Assessment, and deleted the commercial element contained in the previous application. Furthermore Members considered that the screen provided on the eastern edge of the terrace at first floor level adequate to prevent undue overlooking and loss of privacy to adjoining residents.

Development Control Committee – 2nd October 2018

2. Approval is subject to conditions as considered appropriate by the Planning Officer in consultation with the Chairman and Vice Chairman and to include the provision of adequate, safe and convenient refuse and recycling storage facilities.

Chairman

ITEM 1

Application Number:	18/0587/FUL
Address:	189 Benfleet Road Thundersley Benfleet Essex SS7 1QG (Boyce Ward)
Description of Development:	Retain one single storey side extension and alter and retain one single storey side extension to form detached outbuilding (retrospective application)
Applicant:	Mr & Mrs Tom and Karen Sanders
Case Officer:	Mr Robert Davis
Expiry Date:	05.10.2018

Summary

The applicant seeks planning permission for the retention of a single storey side extension on the eastern side of a dwelling in the Green Belt and for the alteration and retention of a single storey side extension and leisure building to the west to provide a detached outbuilding.

The single storey side extension to the east has been found to be a proportionate extension to the dwelling which would comply with national and local policy but that the outbuilding constitutes inappropriate development. However it is considered that there are very special circumstances which outweigh the harm to the Green Belt and therefore the application is recommended for **APPROVAL**.

The application is being presented to the Committee at the request of Councillor Smith in order for the Committee to assess the effect of the development on the Green Belt.

Site Visit

It is not considered necessary for members to visit the site prior to the determination of the application.

Introduction

The application site is located on the southern side of Benfleet Road. It comprises of a detached two storey house located on an irregularly shaped plot having a maximum depth of some 110m and maximum width of some 20m. The house is set back from the road by some 30m, and is served by a long in and out driveway.

The street scene comprises a mixture of different designed two storey detached dwellings. Within this part of Benfleet Road, the dwellings on the southern side have generous plots and are located within the Green Belt. The northern side of this part of Benfleet Road has a close knit residential character, and these properties are located within an area allocated for residential purposes within the adopted Local Plan.

The adjacent side neighbours, No.185 and No.197 Benfleet Road, are set further forward than the application dwelling, being approximately 24m and 15m respectively from their front boundaries.

The Proposal

The applicant seeks retrospective planning permission to retain a single storey side extension to the eastern side of the dwelling and detach the single storey side extension on the western side of the dwelling to provide a separation distance of 1m between the dwelling and the outbuilding to which it is also attached.

The outbuilding, which houses a swimming pool, spa, gym, plant room, shower area, towel area and garage is to be retained and the former dining room would become a games room.

The eastern side extension measures a maximum of some 12m deep, 6m deep and 3.8m high. This extension contains two bedrooms, two en-suites, a cupboard and a W.C.

The outbuilding as proposed measures some 16m wide, 20m deep and 3.9m high at the front where there is a mock pitched roof. The rear section of the building is flat roofed and measures some 3.4m at the rear.

Supplementary Documentation

The application is supported by the following documents:

- o 3D massing renders
- o Planning Statement
- o Statutory Declaration of Thomas Sanders (the applicant)
- o Photographs
- o High Court Decisions:
 - o *Mansell v Tonbridge & Malling Borough Council* [2018] JPL 176
 - o *Tesco Stores v Secretary of State for the Environment* [1992] JPL 268.
 - o *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466
 - o *Euro Garages Limited v Secretary of State for the Environment* [2018] EWHC 1753 have been submitted to cover the second area.

Planning History

Original Dwelling

BEN/7/54 – Detached house – Approved 11th January 1954

14/0718/FUL – Retrospective application for construction of single storey side extensions, single storey front extension, infill porch, replacement front bay window, two storey rear/side extensions and loft conversion with balcony and roof lights. Construction of outbuilding, new front wall, entrance gates and raised rear patio – This application was presented to committee and refused planning permission by members on 4th March 2015 for the following reasons:

1. The proposed development is situated within an area of land allocated for Green Belt purposes as defined in the Council's Adopted Local Plan, where development is only allowed in the most exceptional circumstances. The proposed extensions would disproportionately increase the size of the original dwelling, resulting in an oversized, inappropriate form of development, which if allowed would be likely to have an adverse impact on the character, appearance and openness of the Green Belt. The applicant has failed to demonstrate any very special reasons why the proposal might exceptionally be

permitted and in the absence of such very special circumstances approval of the proposal would be contrary to Policy GB5 and Appendix 2 of the Adopted Local Plan and national policy as set out in the National Planning Policy Framework (NPPF).

2. The proposed outbuilding is situated within an area of land allocated for Green Belt purposes as defined in the Council's Adopted Local Plan, where the construction of new buildings is inappropriate development, and is only allowed in the most exceptional circumstances. The proposal would construct a new building, the outbuilding, resulting in an oversized, inappropriate form of development, which if allowed would be likely to have an adverse impact on the character, appearance and openness of the Green Belt. The applicant has failed to demonstrate any very special reasons why the proposal might exceptionally be permitted and in the absence of such very special circumstances approval of the proposal would be contrary to national policy as set out in the National Planning Policy Framework (NPPF).

15/0796/CLP – Proposed certificate of lawfulness for the removal of unauthorised development and restore dwelling to pre-existing condition and construction of single storey side/rear extension – Deemed Permitted Development 26th January 2016

15/0797/CLP – Proposed certificate of lawfulness for the removal of unauthorised development and restore dwelling to pre-existing condition and construction of two storey rear extensions – Deemed Permitted Development 26th January 2016

15/0798/CLP – Proposed certificate of lawfulness for the removal of unauthorised development and restore dwelling to pre-existing condition and construct detached outbuilding – Deemed Permitted Development 26th January 2016

These certificate of lawfulness have not been implemented.

18/0457/FUL – Retrospective application for erection of wall railings and gates to front – Approved 2nd August 2018

Local Plan Allocation

Green Belt

Relevant Policies and Government Guidance

National Planning Policy Framework (NPPF) (July 2018) and Planning Practice Guidance

Local Plan (Adopted November 1998)

EC2	Design
GB5	Extensions to Dwellings
Appendix 2	Development in the Green Belt
H17	Housing Development – Design and Layout
T8	Car Parking Standards

Residential Design Guidance (Adopted January 2013)

RDG2	Space around Dwellings
RDG3	Building Lines

RDG6	Amenity Space
RDG7	Roof Development
RDG8	Detailing
RDG10	Enclosure and Boundary Treatment
RDG12	Parking and Access

Essex County Parking Standards September 2009 (Adopted June 2010)

Green Belt Boundary Review (November 2013)

Consultation

Cadent Gas

Plant Protection - Operational gas apparatus identified within the application site boundary, and may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent Gas assets in private land. Comments relate to construction, their legal rights and if diversion is required to contact Cadent Gas.

Public Consultation

No responses received as a result of the neighbour notification and the site notice posted on 18th July 2018.

Comments on Consultation Responses

- o An informative can be attached to the decision notice notifying the applicant of their responsibilities and information received from Cadent Gas.

Evaluation of Proposal

The proposal has been submitted to overcome the reasons for refusal associated with planning application 14/0718/FUL, which relate to the impact of the proposal upon the Green Belt. The evaluation will therefore focus on this aspect.

Policy background

The site is located in an area allocated for Green Belt purposes in the adopted Local Plan.

The National Planning Policy Framework (NPPF), in paragraph 133, states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.

Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 145 specifies that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.

Policy GB5 of the adopted Local Plan states that with the Green Belt extensions to dwellings need to be of a scale and character so that the dwellinghouse shall not be impaired and it shall not have an adverse impact on the Green Belt and its surroundings.

Supplementary guidance at Appendix 2 to the adopted Local Plan defines what the planning authority would consider to be an appropriate extension to a dwelling in the Green Belt.

The General Permitted Development Order, at the time of the preparation of Appendix 2 of the adopted Local Plan, allowed, subject to specific criteria, the extension of dwellings up to 70 cubic metres, or 15% to a maximum of 115 cubic metres, without the need for specific planning permission.

Appendix 2 allows a further enlargement of 25m³ in addition to those unimplemented permitted development rights existing to the original dwelling as a reasonable enlargement of a dwelling in the Green Belt.

It is recognised that this advice is based on the provisions of Class A of 1995 General Permitted Development Order, which has now been superseded. However, it is considered that the principle it enshrines, which is to limit to a reasonable proportionate degree the extent by which a dwelling in the Green Belt may be extended, remains valid despite the more recent changes to domestic permitted development rights.

The NPPF clarifies the original dwelling as a building as it existed on 1st July 1948 or, if construction after 1 July 1948, as it was built originally.

Appendix 2 permits small scale garaging provision; however such garaging must not exceed 3m x 6m internally, must be of a low pitch roof and be separate from the dwelling to prevent the future conversion of the garage to living accommodation. Appendix 2 states that this separation between the garage and dwelling to be a minimum of 3m.

Extension

The original dwelling was built under the 1954 consent. This had a volume of some 980m³.

A proportionate extension to the property would therefore be one which did not exceed the volume of the original dwelling by more than 140m³, which comes to 1120m³.

The proposal removes part of the original dwelling, including the garage, chimneys, roof between the garage and dwelling and the cloakroom. These removed elements have a volume of some 87.9m³. The garage has been included as part of the habitable accommodation, as it was attached to the dwelling and was capable of being converted into living accommodation.

The volume of the side extension has been measured and found to be some 248.5m³. However, once the volume of the former garage, roof and space below linking it to the dwelling, cloakroom and chimneys has been removed this leaves the dwelling having been extended by some 161m³ giving the dwelling a total size of 1141m³. This is slightly larger than the figure indicated by Appendix 2, but not significantly so.

The front porch infill has not been included in the additional volume as there is no increase in volume as the porch infills below an existing original structure. The alterations to the living room

bay window results in a minimal change in volume, and therefore has also been excluded from the overall volume.

The planning statement comes to different figures, and states that the proposed extension is approximately 104m³ greater than the original garage, W/C and covered link, and that in the context of the dwelling having an overall volume in the region of 1,000m³ an increase of 10% is considered proportionate.

The application of Appendix 2 to this proposal provides for an enlargement of the dwellinghouse of some 14%. The volume of the proposed side extension after taking into account those elements removed is in the region of 16.5%. This is reasonably close to that permitted under Appendix 2 and in the context of the more recent NPPF guidance considered to be an acceptable enlargement.

Turning to other aspects of Policy GB5, the proposed extension is consistent in style and design with the rest of the dwelling, since the dwelling has been rendered and roof tiles replaced and given its location not particularly prominent. The proposal fails to provide the required 3m isolation to the eastern boundary however the previously extended dwelling also failed to provide this level of isolation. Consequently, the proposal would not materially alter the level of isolation to the eastern boundary.

In conclusion, the proposal before members is broadly in line with the guidance set out in Appendix 2 of the adopted Local Plan and considered to be compliant with guidance set out in the more up to date NPPF. Accordingly this aspect of the proposal does not constitute inappropriate development in the Green Belt.

Outbuilding

The proposal would create a new building to house two garages, and additional accommodation in the form of a swimming pool, spa, games room, gym, plant room, shower and toilet, towel store and cupboard.

The Local Plan has no specific policies or guidance relating to outbuildings in the Green Belt other than for replacement garages, the details of which have been set out earlier in this report. The proposed garage/leisure outbuilding is of a substantial size, measuring some 16.1m wide, 19.8m deep and maximum of 4.2m high and therefore significantly larger than might be accepted as a replacement garage in the Green Belt under Appendix 2.

In addition the garage is an integral part of the leisure outbuilding and provides only 1m of separation from the dwelling rather than the 3m required in Appendix 2. As a consequence there is limited separation between the garage and the dwelling which increases the visual mass of the dwelling and outbuilding across the width of the site thereby reducing the openness of the Green Belt and making it more difficult to prevent the gap being infilled and the outbuilding incorporated into the dwelling at a future date.

The NPPF states that inappropriate development is by definition harmful to the Green Belt should not be approved except in very special circumstances. The proposed garage/leisure outbuilding does not fall within any of the exceptions listed paragraph 145 or 146 and should therefore attract a recommendation of refusal.

Very special circumstances

It is incumbent on planning authorities to consider if any very special circumstances exist which might outweigh the harm to the Green Belt.

The planning statement accompanying this application considers that the fall-back position, alternative development that can be built as permitted development, is a material consideration and sufficient to outweigh the potential harm to the Green Belt arising from the proposed leisure building. Members should note the courts have determined that a valid permitted development fall back is a material consideration in the determination of a planning application. The applicant's case is set out below.

The dwelling has already been altered, and the statement states that the applicants are unwilling to restore the dwelling to its original size. The applicants have experience in the development industry, financial means, technical expertise and a clear intention to construct the permitted development extensions set out in the certificates of proposed lawful development (CLPs) issued by the council should this application fail. However to undertake the approved CLPs would result in considerable inconvenience, expense and fair degree of upset. The statement considers that the permitted development proposals are a viable prospect and a material consideration.

To support this proposal the applicant has submitted case law for consideration under two separate areas, the permitted development fall-back position and the meaning of openness in a Green Belt sense.

Permitted development fall-back position

Under the first area two cases have been submitted *Mansell v Tonbridge & Malling Borough Council [2018] JPL 176* and *Tesco Stores v Secretary of State for the Environment [1992] JPL 268*.

Mansell sets out how much weight can be attributed to a fall-back position if it is specific and that the relevance of a fall-back depends on there being a finding of actually intended use as opposed to a mere legal or theoretical entitlement (*R. v Secretary of State for the Environment and Havering London Borough Council, ex parte P.F. Ahern (London) Ltd. [1998] Env.L.R. 189*)

In the *Tesco* decision, the fall-back position was an extant permission granted permission on the basis that planning benefit gained from removing ugly buildings by smaller and more attractive buildings was 'very special circumstances' justifying inappropriate development in the Green Belt.

It considered that if the proposal had the same perceived benefits as an extant permission (a specific fall-back position) then it would be inconsistent to refuse the application if it was identical in legal terms and produced the same amount of planning benefit.

Meaning of openness

Turner v Secretary of State for Communities and Local Government [2016] EWCA Civ 466 and *Euro Garages Limited v Secretary of State for the Environment [2018] EWHC 1753* have been submitted to cover the second area.

Turner set out that the concept of "openness of the Green Belt" is not narrowly limited to the volumetric approach, but is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these factors is how built up the Green Belt is now, how built up it would be if redevelopment occurs and

factors relevant to the visual impact on the aspect of openness which the Green Belt presents. Furthermore the openness of the Green Belt has a spatial aspect as well as a visual impact, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building.

The *Euro Garages* decision considers both the *Turner* decision and *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council [2018] EWCA (Civ) 489*. It considers that where the issue of openness arises the visual impact of the development will generally require consideration, and that should be the case whether there is likely to be a visual impact or there is no visual impact. Concluding the open textured approach visual impact, as well as spatial impact, requires consideration, subject to a margin of appreciation. It is not sufficient to treat any change as having a greater impact on the openness of the Green Belt, it is the impact or harm of the changes, if any, that need to be considered.

Outbuilding

A CLP has been granted for the construction of an outbuilding to the western side of the application dwelling (15/0798/CLP). The current application is accompanied by a drawing comparing the side extension as built with the CLP application for the outbuilding (western section). The planning statement asserts, in paragraph 5.10, that the position and footprint of the outbuilding is almost identical to the proposed outbuilding, and that the only difference between the two relates to the retention of the shallow front projection of about 10m³ to the existing unauthorised garage.

The statement submits that to remove this element would cause the internal dimensions of the garage to fall below the LPA's adopted standard of 7m x 3m per parking space. Furthermore, this part of the outbuilding is only seen against the back drop of the remainder of the building and does not materially enlarge the massing of the structure or exacerbate its effect on the openness, character and appearance of the Green Belt.

In paragraph 5.11 the statement further considers that the proposed outbuilding would retain the existing crown roof provided to the unauthorised extensions to conceal the flat roof to improve the appearance of the outbuilding. The statement considers that the LPA accepts such roofing solutions should not count against a development in volume terms where they are solely intended to enhance its design and refers to Appendix 2, paragraphs A2.14 – 2.16 of the Adopted Local Plan. On this basis the statement states that the additional massing when compared to the permitted development fall-back is very small and the effects upon the openness of the Green Belt are, as a result, not material.

Firstly, the fall-back outbuilding shown in the approved CLP is a specific and realistic proposition. Discussions have taken place with the applicant and his agent and it is quite clear that this development will be constructed if permission for the current proposal is not obtained. The CLP was not granted due to any very special circumstances, it was granted because the development met the requirements of the Town and County Planning (General Permitted Development) (England) Order 2005 (as amended).

Nevertheless, it is considered necessary to question whether the proposal would result in greater harm to the openness of the Green Belt than the permitted development fall-back position.

In volumetric terms the proposal is 112.14m³ greater in volume than the permitted development scheme. The proposal has a noticeably higher roof form, 1m if the parapet wall of the CLP is

taken into account, and a larger footprint to the permitted development scheme. All of which would in principle affect the perceived openness of the individual site. These elements therefore need careful consideration.

The proposed crown roof to the proposed outbuilding is of a low pitch and incapable of providing additional floor space, however, permission is not being sought for a pitched roof over an existing flat roofed building but rather to retain a pitched roof over an existing building.

Nonetheless, applied in the context of a realistic permitted development fall-back position, which would have a flat roof, it should be recognised that once built the applicant could subsequently apply for a pitched roof above it in accordance with the guidance set out under Appendix 2.

Whilst the crown roof increases the presence and mass of the proposal compared to the permitted development scheme when viewed from the roadway, and would visually have a greater impact than the permitted development fall-back scheme, balanced against this is the fact that the provision of a crown roof is more aesthetically pleasing than a flat roof and more sympathetic in design terms to that of the existing dwelling. It is also lower than a pitched roof that could potentially be applied for and granted consent under Appendix 2 should the permitted development scheme be constructed.

The recent Green Belt Boundary Review (November 2013) is also relevant to the consideration of this case.

This states that when travelling along this part of Benfleet Road the area does not exhibit high levels of openness and is not characteristic of the Green Belt. However, the openness is retained to the rear of dwellings and this serves as an important Green Belt linkage between the north and the south of the Borough. Its designation as Green Belt safeguards against the potential for further urban encroachment which would be likely to have a detrimental impact on the character and openness of the surrounding Green Belt.

To conclude, the applicant has applied for and been granted a certificate of lawful proposed development in respect of an outbuilding of similar proportions. The applicant states that he has the means, technical expertise and a clear intention to undertake this development if permission is refused for the current proposal. From meetings and discussions that have previously taken place between officers and the applicant this assertion is not in doubt. The Mansell principle is considered to have been met.

The proposal is slightly larger than the permitted development scheme, but not significantly. Nonetheless it cannot be said that the perceived benefits from this application are the exactly the same as the permitted development scheme and therefore the findings in the Tesco case are not considered to have been met. However, if the proposal meets the tests set out in the following judgements it is not necessary to rely on this particular piece of case law.

Spatially, the proposal is almost identical, the only difference being the addition of a very small projection to the front of the garage. In the context of the proposal this would have no material impact on the footprint of the building.

Visually it is acknowledged that the retention of the crown roof would increase the impact of the building when viewed from the highway. However, as the Green Belt Review acknowledges the frontage development of Benfleet Road is not characteristic of the Green Belt and does not check

urban sprawl or prevent the merging of settlements. It is the extensive areas of openness behind the frontage development that serves to stop encroachment and safeguard against further urban encroachment into the countryside.

Therefore, given the built up nature of the frontage development of this part of Benfleet Road, the impact of the crown roof and that of the garage projection would have a very limited impact on the openness of this part of the Green Belt. Furthermore, as the crown roof is restricted to the front section of the leisure building it would have no meaningful visual impact on the openness of the Green Belt to the rear of the dwelling. The findings of the Turner and Euro Garages cases are considered to have been met.

Other matters

The Council has adopted the Essex County Parking Standards September 2009 (adopted June 2010) and these state that a garage below the dimensions of 7m x 3m internally would not count towards the parking provision. In this case there is sufficient parking in front of the dwelling in accordance with the parking standards to more than meet the demands of the household. A garage of smaller dimensions would not adversely affect the parking provision on site and provides limited support for the proposal.

Conclusion

The retention of the extensions and alterations to the dwellinghouse have been found to be acceptable in terms of national and local Green Belt policy. The alterations to the dwellinghouse and retention of the outbuilding constitutes inappropriate development but it is considered that there are very special circumstances that outweigh the harm to the openness of the Green Belt caused by this development.

Whilst the proposed outbuilding would have slightly more impact than the permitted development fall-back position the spatial area covered by the buildings are very similar. The context of the Benfleet Road frontage, 2013 Green Belt Review, potential for a future pitched roof under Appendix 2, improved aesthetics from the current proposal and limited impact of the proposal over and above that of the fall-back position are all material considerations which in this case are considered to amount to very special circumstances.

Accordingly the application is recommended for APPROVAL.

My Recommendation is Approval with the following conditions

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, no development of the type specified in Classes A to E of Part 1 of the Second Schedule to that Order (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order) shall be carried out without the formal consent of the Local Planning Authority.

REASON: In order to regulate and control further development in the interest of preserving the open character and strategic function of the Green Belt.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and negotiating acceptable amendments to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for a revised scheme, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 The applicants attention is drawn to the comments received from Cadent Gas in respect of plant protection.

ITEM 2

Application Number:	18/0574/FUL
Address:	300 Benfleet Road Benfleet Essex SS7 1PW (Boyce Ward)
Description of Development:	Replacement dwelling
Applicant:	Mr G Judd
Case Officer:	Mrs Sophie Adams
Expiry Date:	05.10.2018

Summary

The applicant seeks planning permission for a replacement dwelling located within the Green Belt. The application has been submitted to overcome the reasons for refusal associated with planning application, 17/0217/FUL.

The replacement dwelling is materially larger than the building it is replacing in terms of its mass, scale, form and general lines contrary to national and local policy, and constitute inappropriate development.

A number of factors have been identified which the applicant believes justifies the proposed development, however, it is not considered that these factors, either in combination or isolation, amount to the very special circumstances which outweigh the harm to the Green Belt and consequently the proposal is recommended for **REFUSAL**.

The application is being presented to the Committee at the request of Councillor Smith in order for the committee to assess whether the proposal amounts to inappropriate development in the Green Belt.

Site Visit

It is not considered necessary for members to visit the site prior to the determination of the application.

Introduction

The application property is a detached bungalow in a backland location on the north side of Benfleet Road. It is accessed via a driveway leading between numbers 296 and 304 Benfleet Road. The bungalow itself is located approximately 90m from Benfleet Road. It has a detached garage to the rear and a detached outbuilding to its western side. The site slopes down from front to back and adjoins Shipwrights Wood, an Ancient Woodland.

The Proposal

The applicant seeks planning permission for the replacement of the existing dwelling with a new detached five bedroom property with two pitched roofed front dormers. The plans show that the proposed dwelling has a 'U' shaped footprint measuring 16m deep by 19.5m wide. The dwelling would be set 600mm below current natural ground level providing it with a ridge height of 6.1m when viewed from the front and 7.1m from the rear.

At ground level there is a lounge, kitchen, utility, study, boot room, three bedrooms, two en-suites, bathroom, wardrobes and cupboard. At first floor level there are two further bedrooms and a 'Jack and Jill' en-suite. A raised decked area is proposed to the rear of the dwelling enclosed by three of its walls.

The dwelling is to be finished externally in white painted render with white aluminium windows and slate effect roof tiles.

Supplementary Documentation

The application is supported by the following documents which are available to view on the Councils website:

- o Covering letter
- o Supporting statement with appendices

Planning History

The original dwelling was built prior to the 1st July 1948.

In 1952 planning permission was granted for a single storey rear extension, front bay windows and a garage (BEN/117/52). The application shows the existing floor plans for the dwelling, and this is considered to represent the original dwelling. At this time the property was known as "Sunnybank". The bungalow had an overall volume of some 489m³.

Between 1952 and 2013 the property was extended with a single storey front and side extension which increased the volume of the dwelling to 579m³.

In 2013 planning consent was refused for the provision of a replacement garage block with workshop and storage area (CPT/95/13/FUL).

In 2017 planning permission was refused for the provision of a replacement dwelling, with a volume of some 1280m³, (17/0217/FUL) on 18th July 2017 for the following reasons:

1. The proposed development is situated within an area of Green Belt as delineated within the Council's Adopted Local Plan where inappropriate development is not permitted except in very special circumstances. The proposal, by reason of its scale, mass and form, would result in the creation of a dwelling materially larger than the dwelling it is to replace and constitutes an inappropriate form of development which, if allowed, would be likely to have an adverse impact on the openness, character, appearance and strategic function of the Green Belt. The applicant has failed to demonstrate any very special reasons why the proposal might exceptionally be permitted and in the absence of such very special circumstances approval of the proposal would be contrary to local policy as set out in Policy GB4 and Appendix 2 of the Adopted Local Plan and national policy as set out in the National Planning Policy Framework.

Following the refusal of planning permission, pre-application advice was sought (17/0693/PREAPP) for a replacement four bedroomed dwelling. The advice concluded that the replacement dwelling was materially larger than the dwelling it was to replace and inappropriate development.

In late 2017 a householder prior approval application was submitted for the construction of an 8 metre deep single storey rear extension with a maximum height of 4 metres and an eaves height of 3.2 metres (17/1032/HPA). The prior approval of the planning authority was not required for the development.

In 2018 the council refused to grant a certificate of lawfulness for a proposed side and rear extensions as it did not constitute permitted development (17/1045/CLP).

In 2018 the council granted a certificate of lawfulness for a proposed single storey flat roof side extension (18/0228/CLP).

Local Plan Allocation

Green Belt

Relevant Policies and Government Guidance

National Planning Policy Framework (NPPF) (July 2018) and Planning Practice Guidance

Local Plan (Adopted November 1998)

EC2	Design
EC22	Retention of Trees, Woodland and Hedgerows
GB4	Rebuilding of Existing Dwellings in the Green Belt
Appendix 2	Development in the Green Belt
H17	Housing Development – Design and Layout
T8	Car Parking Standards

Residential Design Guidance (Adopted January 2013)

RDG2	Space around Dwellings
RDG3	Building Lines
RDG5	Privacy and Living Conditions
RDG6	Amenity Space
RDG7	Roof Development
RDG8	Detailing
RDG12	Parking and Access

Essex County Parking Standards September 2009 (Adopted June 2010)

Green Belt Boundary Review (November 2013)

Consultation

Legal Services

The Council owns Shipwrights Wood adjoining the site and used as public open space. The Legal Services is concerned as to the proximity of the work to the Councils boundary line. The Legal Services is also concerned as the Property is located within the Green Belt.

Public Consultation

No responses received as a result of the neighbour notification.

Comments on Consultation Responses

- o The proposed dwelling is located away from the boundary with Shipwrights Wood.

Evaluation of Proposal

The proposal has been submitted to overcome the reasons for refusal associated with planning application 17/0217/FUL, which relate to the impact of the proposal upon the Green Belt. The evaluation will therefore focus on this aspect.

Policy background

The site is located in an area allocated for Green Belt purposes in the adopted Local Plan.

The National Planning Policy Framework (NPPF), in paragraph 133, states that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.

Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Paragraph 145 specifies that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this include the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

Policy GB4 of the adopted Local Plan states that proposals for the rebuilding of existing dwellings in the Green Belt will satisfy the following criteria:

- o The residential use of the dwelling to be replaced has not been abandoned
- o The replacement dwelling shall be sited in the same position as the existing or former dwelling unless its resiting would be less obtrusive and would improve the appearance of the Green Belt
- o The size, general lines and form of the replacement dwelling are similar to that of the previous dwelling. Additional cubic volume up to that of the maximum of the unimplemented permitted development rights of the original dwelling may be included
- o Gaps shall be maintained between the flank walls of any structure and the boundaries of the curtilage which coincide with the gaps around the structures to be replaced or provide minimum gaps of 3m, whichever is the greater
- o A scheme of landscaping, including, where appropriate, substantial strips along curtilage boundaries, shall be provided, implemented and appropriately maintained
- o The replacement dwelling shall be sympathetic in scale, form, design, height and materials to the rural character of its surroundings and nearby buildings

With the exception of the first bullet point, Policy GB4 is considered to be consistent with the NPPF.

Appendix 2 of the adopted Plan elaborates on the phrase “size, general lines and form”.

Paragraph A2.23 clarifies that the “size” of the dwelling is the gross cubic volume of the dwelling to be replaced. The cubic volume will include that of the existing roof, porches and conservatories as well as the main body of the dwelling. It will not include the cubic volume of any garages, sheds, barns or other outbuildings within the curtilage of the dwelling, nor the cubic volume of any accommodation provided to the existing dwelling below natural ground level.

Paragraph A2.25 clarifies the reference to “general lines and form” and states that in order to protect the character of the Green Belt, it is essential that any new development reflect that which is replaced. Single storey dwellings only will be acceptable where a single storey dwelling is replaced; similarly a two storey dwelling is only acceptable where a two storey dwelling is replaced. The insertion of dormer windows into the roof of a bungalow, or the provision of a chalet style dwelling will be held to be a two storey dwelling and will not be considered an acceptable replacement for a single storey dwelling.

Paragraph A2.13 clarifies the gross cubic volume allowed. In respect of proposals to rebuild dwellings (except for development in accordance with paragraphs A.2.14 to A.2.20) no additional provision beyond that available from redevelopment of the original dwelling plus permitted development right (70 cubic metres or 15%, to a maximum of 115 cubic metres) plus 25 cubic metres shall be considered acceptable.

On the 1st October 2008 new regulations came into force which removed the volume limitation attached to extensions and replaced it with a series of dimensional criteria designed primarily to limit the impact of proposals on adjoining residents. Whilst it is recognised that the General Permitted Development Order no longer refers to volume, NPPF guidance in respect of the replacement of dwellings in the Green Belt still refers to their size and it is therefore considered reasonable to include volume in any assessment. It is considered that this approach coincides with the advice in the NPPF.

It should be noted that any replacement dwelling, irrespective of the cumulative size of previous additions the replacement dwelling incorporates, will be entitled to further extensions and alterations in the future provided they do not result in disproportionate additions over and above the size of the newly replaced dwelling.

Appropriateness of development

The NPPF states that the construction of new buildings in the Green Belt is inappropriate unless the new building is in the same use and not materially larger than the one it replaces. There is no definition in the NPPF of what constitutes a materially larger building but something which can be perceived as being significantly larger, visually, would clearly fall within the ambit of this advice.

As previously mentioned the volume criteria set out under Appendix 2 of the Local Plan is considered a useful tool to indicate when replacement buildings are likely to appear materially larger. However, following changes introduced by the NPPF its application has been modified so that all existing dwellings may benefit from this approach whether or not they have been previously enlarged.

In considering the impact of replacement dwellings on the openness of the Green Belt members should be mindful that once built the occupiers of a replacement dwelling would still be entitled to extend it further providing that any proposed extensions did not result in a disproportionate enlargement. The removal of permitted development rights would not prevent this.

The proposed building will be in the same use as the former building and therefore consistent with paragraph 145 of the NPPF.

The existing dwelling was built prior to 1st July 1948 and has been extended by front and side extensions bringing the volume of the dwelling being replaced to 579m³.

The application of Appendix 2 would provide for a replacement dwelling that is some 112 m³ larger (15% plus 25 m³) having a maximum volume of 691m³.

The applicant states that the proposed replacement dwelling would have a volume of 1197³, which is clearly well in excess of the figure derived at under Appendix 2 and materially larger. The proposed development therefore does not fall within the exceptions listed within paragraph 145 of the NPPF and is considered to constitute inappropriate development to which substantial harm is attributed.

Very special circumstances

The planning statement accompanying this application considers that the fall-back position, alternative development that can be built as permitted development, would be more harmful to the Green Belt than the proposed scheme and provides examples of replacement dwellings that have been granted permission in similar circumstances.

In support of the proposal the statement says it is design led within an existing rural setting and the change to the siting will not harm the Green Belt. The fall-back position is both realistic and achievable. However, there are qualitative limits to the design and layout of the fall-back position which could be overcome by replacing the dwelling as opposed to merely extending it and the proposal represents an enhancement in terms of architectural style, form and appearance.

The statement goes on to say more compact nature of the replacement dwelling reduces the sprawl of the built environment, providing betterment to the Green Belt, offers energy/cost efficiency and the social aspects of living in a beautiful house that performs to the highest of modern standards. It would be of a better design, and represent an environmental improvement over simply extending the existing dwelling.

Fall-back position

The fall-back position referred to by the householder is an application to extend the rear of the dwelling (17/1053/HPA) for which the prior approval of the local planning authority was not required and an application for a certificate of proposed lawful development in respect of a flat roofed side extension (18/0228/CLP) which was found to be lawful. Members should note that the courts have determined that a valid permitted development fall back is a material consideration in the determination of a planning application.

The householder prior approval application (HPA) proposed a single storey hipped roofed rear extension measuring a maximum of 8m deep, 14.3m wide and 4.6m high. The extension enables a rearrangement of the existing ground floor to provide a larger dining room, larger lounge, a utility room, an en-suite and larger bathroom. The four existing bedrooms would be relocated to the extension to provide larger bedrooms with two en-suites.

The roof form of the extension differs between the roof plan, floor plan and the elevations, and a judgement has been taken to base the volume on the submitted roof plan and floor plan. The volume of the HPA extension is approximately 389m³.

The application for a certificate of proposed lawful development (CLP) proposed a single storey flat roofed side extension to the dwelling's western side in place of an existing outbuilding. The ground level at the corners differ between the different elevations, for example the north western corner is shown to be 3.6m high on the rear elevation and 4m high on the side elevation. A maximum height of 3.6m is consistent with the majority of the elevations, and therefore taken to be the height of the flat roof.

This extension measures a maximum of 7.1m wide, 11.9m deep and 3.6m high, and includes three bedrooms. Two of these bedrooms are served by side windows and one by a rear window. This extension has a volume of some 267m³.

These two proposed developments together with that of the existing dwelling provide a volume of some 1235m³, which is broadly in line with the figure provided by the applicant and similar to the volume of the proposed dwelling.

Whilst a CLP and HPA show extensions which are theoretically possible to construct under permitted development this does not automatically mean that these proposals would be constructed. As set out in the *Mansell v Tonbridge & Malling Borough Council [2018]* ruling there should be an actual intended use of the fall-back position not just a theoretically one. The planning statement and nature of the fall-back proposals therefore demand careful consideration.

In the first instance the planning statement states or infers in several places that the permitted development extensions are unsuitable forms of development.

For example, section 4.7 acknowledges that there are compromises inherent in trying to improve a dwelling and by pursuing a new build the applicant is not constrained by the spreading layout of the existing dwellings with the extensions added for additional accommodation (para 4.9).

Section 5.23 states that the permitted development extensions would not achieve the high level of design and amenity standards that can be achieved by the replacement dwelling and internal layout of permitted development extensions can result in an impractical layout (para 6.8).

Further to these points the attention of members is drawn to the internal layout of the fall-back position. At least two of the proposed bedrooms have windows as their sole source of light located on flank elevations where the outlook is very limited and the presence of vegetation reduces levels of natural light. A third bedroom is shown as having its only window located some 800mm away from a blank wall forming part of the side extension.

It can be seen that the proposed dining room measures some 3.7m wide by 7.7m deep so the rear part of this room is therefore also unlikely to receive adequate levels of natural light. The bathroom and one of the en-suites would also have no external windows, which is unusual for such a householder development.

It is concluded that the level of amenity provided to occupiers resulting from such an internal layout would be very poor and if these developments required planning permission would be contrary to the council's supplementary planning guidance RDG5.

It should also be noted that the CLP side extension requires the removal of the decking and outbuilding on it. It has been confirmed that this is not the intention in the case of the replacement dwelling, which is set a little further forward in its plot and has been designed to wrap around the outbuilding. This appears to indicate a reluctance on the part of the applicant to remove this substantial structure and implement the permitted development side extension.

It is also fairly safe to say that due to the physical structure of the existing bungalow any permitted development scheme would not include living accommodation within the roof space. Furthermore, no permitted development scheme would be able to increase the ridge height of the dwelling.

It is possible that alternative CLP and HPA applications could be designed to improve the layout and living conditions of the occupiers which might present a more realistic likelihood of being implemented and provide a better basis for a fall-back position. However, without a specific proposals it is difficult to say whether these would have a greater or lesser impact on the openness of the Green Belt than the proposed dwelling.

Accordingly limited weight is attributed to the fall-back position put forward by the applicant and it is considered to be more of a theoretical entitlement rather than a realistic proposition.

Notwithstanding the conclusion above it is appropriate to look at the impact of the proposal in terms of how built up the Green Belt is and factors relevant to the visual impact of the proposal on the openness which the Green Belt. It is also relevant to consider the spatial impact of the proposal.

Effect on Openness, Character and Appearance

The submitted plans show the proposed dwelling would be 6.1m to the ridge compared to the 5.2m of the current dwelling. It is acknowledged that the ground level of the proposed dwelling is set lower than the current dwelling so that the ridge would only be some 300mm higher overall. Nonetheless the front elevation would still be visible by visitors approaching the dwelling as the front of the property is not 'buried' below the ground. At the rear where ground levels begin to markedly fall away the ridge height of the proposed dwelling would be 1m higher.

The front roof plane of the existing dwelling is for the most part currently uninterrupted by roof projections of any significant size. However, the proposed replacement dwelling has a large front gable and two pitched roof dormers sitting much higher up on the front roof plane of the dwelling than the current roofs over the porch and study, and these would also add to the visual impact of the proposed dwelling.

The proposed dwelling, though slightly nearer to the front of the site than the existing dwelling would be in the same general position and provide similar levels of isolation spaces between its flank walls the side boundaries. However, unlike the frontage development of Benfleet Road, which is not particularly open or characteristic of the Green Belt, the proposed dwelling is set to the rear of these dwellings where the land is far less developed and open in character. Such sites, as the 2013 Green Belt Review states, form part of an extensive area of openness behind the frontage development that serves to stop encroachment and safeguard against further urban encroachment into the countryside.

Spatially the proposed dwelling has a smaller footprint than the permitted development fall-back position, but only by some 30m. However, once the floor space of the side extension blocking the side bedroom window of the rear extension is removed, which due to its impact on the side bedroom is considered highly unlikely to ever be built, and the void occupied by the raised decking between the two 'U' shaped wings is included, which results in the overall envelope of the building appearing larger than its mass ought to, the proposed dwelling would have a larger spatial footprint than the fall-back position.

Furthermore, as the proposed new dwelling would retain the existing detached outbuilding to the western side of the bungalow, which would be lost if the permitted development side extension were implemented, there can be little doubt that the proposal would result in a greater spatial footprint.

It should be acknowledged that, in the context of this permitted development fall-back position, if the single storey flat roofed side extension were ever built the applicant could subsequently apply for a pitched roof above it in accordance with the guidance set out under Appendix 2.

However, on balance, officers are of the view that the proposed development would increase the overall volume, bulk and amount of development on site and visually appear materially larger than the fall-back position, thereby reducing the openness of the Green Belt visually and spatially. The proposal is therefore considered to be in conflict with the NPPF and the adopted Local Plan.

Other considerations

The statement refers to examples from other local planning authorities where planning permission has been granted for large replacement dwellings and the local authority or the planning inspectorate granted permission by attaching significant weight to the 'fall back' position. These decisions are sites outside the Castle Point Borough Council boundary and therefore no weight is attributed to them.

The statement also refers to other examples of replacement dwellings in the Green Belt, granted and implemented within the Castle Point Council area. These are Nos.304, 310 and 320 Benfleet Road, White Lodge Thundersley Park Road and Five Acres Great Burches Road.

Nos. 304 and 310 Benfleet Road were granted consent for the replacement of the dwelling in the 1980s prior to the current adopted Local Plan and National Policy, and therefore provide no support for the current proposal. No.320 Benfleet Road was built prior to 1st July 1948 and has not been replaced.

White Lodge Thundersley Park Road was granted approval in 2011 (CPT/474/11/FUL), replacing a two storey house with a two storey house significantly larger than the original dwelling, but similar in size to the dwelling which existed on site when the application was made. Therefore the additional harm to the Green Belt was limited. The circumstances of this case are dissimilar to the current proposal and provide no support for the current proposal.

Five Acres Great Burches Road was granted approval in 2014 (14/0331/FUL), replacing a dormer bungalow, two storey dwelling, with a three storey house.

This replacement dwelling was recommended for refusal by officers as the replacement was materially larger in volume terms and in scale and form than the existing dwelling. The applicant had submitted extensions under permitted development and prior approval allowances, but it was

considered by officers that the poor design and layout achieved by such extensions severely limited their likelihood of these being carried out, and that no application had been submitted. Consequently, the applicant's assertions were considered to provide insufficient weight to overcome the harm to the Green Belt.

In granting planning permission for the development the Planning Committee considered that the existing dwelling could be extended under permitted development and prior approval allowances to create a larger building than the one proposed, and that such extensions would result in a more unattractive building and overcame the harm to the Green Belt.

Photographs of other dwellings within Benfleet Road are also included, notably Nos.301, 292, 296 and 277, and all of these dwellings were built prior to 1948, in the late 80s (No.301) or in the late 50s (No.277), and therefore prior to the planning process or current adopted policy and provide no support for the proposal.

The statement refers in paragraph 5.62 to an emerging Local Plan and a "direction of travel" as an indication that future council policy would allow a materially larger dwelling. The new Local Plan 2018 is at an early stage and the finished document has not been ratified by the council, therefore no weight can be attached to it. Previous versions of the emerging Local Plan, in 2014 and 2016, have been withdrawn and therefore also carry no weight.

The proposal is considered acceptable in terms of all other adopted policies and guidance.

Impact upon the Ancient Woodland

Policy EC22 states that existing trees shall be retained wherever possible, and where development does take place, loss of existing tree cover should be kept to a minimum. This policy is considered to be in compliance with the NPPF.

The site is adjacent to an Ancient Woodland. However there are no trees or their roots within the area of the proposed extension, and the application form confirms that the trees would not influence the development. Consequently it is considered that there would be no loss of trees as a result of the proposal and subject to a condition excluding materials and vehicles from the RPAs (root protection areas) of trees on the site during construction of the dwelling no objection is raised to the proposal in respect of Policy EC22.

Impact upon Protected Species

The impact of the proposal upon protected species is a material consideration in the determination of a planning application, and paragraph 175 of the NPPF states that if significant harm to biodiversity results from a development and cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

The application site adjoins Shipwrights Wood, an Ancient Woodland, and it is possible that protected species use the site for foraging or other opportunities.

There is one small upper floor window within the existing property. It is understood that the roof space is purely loft space for storage. There were no obvious cervices within the roof space and consequently it is unlikely that there are any bats or birds using the site for roosting/nesting. Therefore there is no need for a survey to be provided. There are mature trees within the site but

these are sufficiently isolated from the proposed works and would not be affected, as discussed above.

Due to the proximity to the woodland, it is possible that badgers and other wildlife may forage within the site. However, there was no visual evidence of any setts when the site visit was undertaken and the proposed development itself is a small proportion of the overall site and therefore unlikely to reduce any foraging opportunities for badgers and any other wildlife. By reason of the scale of the development and the size and characteristics of the site the proposal is unlikely to be detrimental to local wildlife.

Nonetheless, to mitigate any potential problems of wildlife falling becoming trapped within any trenches, excavations and pipes created during the construction of the development it is necessary to ensure that adequate escape ramps are provided. This is a matter that can be controlled by condition to any grant of consent.

Conclusion

The proposal is for a replacement dwelling which has a materially larger footprint and visual impact than the building it replaces.

The fall-back position identified by the applicant is not considered to be a viable and realistic proposition and therefore unlikely to be implemented in its current form. Even if it were to be constructed the spatial and visual impact of the fall-back position would be less than the proposed dwelling which given its location to the rear of dwellings fronting Benfleet Road is located in an area of the Green Belt generally free from built form and characterised by its openness.

A number of other factors have been identified which the applicant believes justifies the proposed development, however, it is the view of the Planning Authority that the identified features either in combination or isolation, do not create the very special circumstances required to overcome the harm that would occur by reason of inappropriate development in the Green Belt, or any other harm.

Consequently the proposal is considered to be contrary to national and local Green Belt policy and recommended for REFUSAL.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation.

My Recommendation is Refusal for the following reason:

- 1 The proposed development is situated within an area of Green Belt as delineated within the Council's Adopted Local Plan where inappropriate development is not permitted except in very special circumstances. The proposal, by reason of its scale, mass and form, would result in the creation of a dwelling materially larger than the dwelling it is to replace and constitutes an inappropriate form of development which, if allowed, would be likely to have an adverse impact on the openness, character and appearance of the Green Belt. It is not considered that the permitted development fall-back position is a realistic proposition, or that the applicant has demonstrated any other very special reasons why the proposal might exceptionally be permitted, and in the absence of any very special circumstances approval of the proposal

would be contrary to Policy GB4 and Appendix 2 of the Adopted Local Plan and national policy as set out in the National Planning Policy Framework.

Informative

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

Previously Considered Items

ITEM 3

Application No:	17/1063/OUT
Address:	Garden World Plants Ltd, Canvey Road, Canvey Island, Essex, SS8 0QD (Canvey Island West Ward)
Description of Development:	Demolition of Existing Buildings and Construction of Residential Care Home Comprising Of 57 No. Units
Case Officer:	K. Fisher-Bright
Expiry Date	09.11.2018

Members will recall that at the meeting of the 4th September consideration was given to an application for outline permission for the development of land at the junction of Northwick Road and Canvey Road, known as 'Garden World' with a part three storey, part two storey pitched roofed building providing a nursing home supporting 57 units of accommodation (60 bed-spaces) with associated communal and administrative facilities and 47 parking spaces.

The proposal was recommended for refusal on the basis of Green Belt policy, prematurity, mass, scale, disposition and proximity to the boundaries of the site.

Following consideration of the report, Members were of the view that the proposal was in accordance with the NPPF as it was on previously developed land and was not premature in the context of the Local Plan as the site had consistently been included in previous draft versions of the Local Plan for development purposes. The development was not considered excessive or over dominant to the surrounding area and Members felt that there was a need for this type of accommodation in the local area. Members were therefore minded to grant consent of the development.

However, by virtue of the provisions of the Town and Country Planning (Consultation) (England) Direction 2009, the application was identified as one which needed to be referred to the Secretary of State, in order that he might consider whether this was an application he wished to call in for his own determination.

The Secretary of State has now advised that he has decided not to call in this application and is content that it should be determined by the local planning authority. The reason for this decision is that, having regard to his policy on call in, the application does not involve issues of more than local importance justifying the Secretary of State's intervention.

Accordingly the matter is referred to Members for final determination.

Notwithstanding the provisions of the report presented to the Development Control Committee on the 4th September, 2018, a full copy of which is contained at Appendix 1 to this item, should Members now be minded to grant permission for the proposed development, the following conditions are recommended:

1. The development hereby permitted may only be carried out in accordance with details of the landscaping of the site (hereinafter called "the reserved matters"), the approval of which shall be obtained from the Local Planning Authority before development is begun.

Application for the approval of the reserved matters shall be made to the local planning authority within three years beginning with the date of this outline permission.

The development hereby permitted shall be begun on or before whichever is the latter of the following dates - (a) the expiration of three years beginning with the date of the outline permission; or (b) the expiration of two years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: The particulars submitted are insufficient for consideration of the details mentioned, and also pursuant to Section 92 of the Town and Country Planning Act 1990.

NOTE:

The applicant is advised that landscaping schemes are expected to include planting plans, identification of plant species, types, sizes, numbers, densities, planting regime and aftercare.

2. The reserved matters application shall include full details of the means of achieving a 2.4m x 43m vehicular visibility splay to the west of the proposed access on Northwick Road. Such sight splay shall thereafter be provided prior to the first use of the building hereby approved and thereafter permanently retained as such.

REASON: In the interests of highway safety.

3. Prior to the first occupation of the development hereby approved, a 2m wide footpath, to the satisfaction of the Planning Authority, shall be provided along the entire frontage of the site to Canvey Road and Northwick Road, and thereafter, permanently retained as such.

REASON: In the interests of highway safety.

4. The development hereby approved shall be built wholly in accordance with the approved materials.

REASON: To ensure a satisfactory form of development, in accordance with Policy EC2 of the adopted Local Plan.

5. The proposed window in the northern elevation at first floor level shall be obscure glazed and fixed to a height of 1.7m from the finished floor level of the area it serves. This window shall be installed and glazed prior to the first occupation of the building and shall thereafter be permanently retained as such.

REASON: In order to protect the privacy and amenity of adjoining residents.

6. The reserved matters application shall include details of all energy and water efficiency and renewable energy measures to be incorporated into the construction of the building. Such measures as are identified and installed shall thereafter be permanently retained unless alternative measures are approved by the Planning Authority.

REASON: In the interests of water and energy efficiency, in accordance with the provisions of Policy H17, RDG9 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

7. Prior to first occupation of the development hereby approved, appropriate storage facilities for general and medical waste shall be provided on the site, details of which shall previously been submitted to, and approved by, the Local Planning Authority.

REASON: In the interests of securing appropriate waste removal from the site, in the interests of the amenity of future residents and the surrounding area, in accordance with Policy EC2 of the adopted Local Plan.

8. Parking provision to serve the proposed development shall be laid out in accordance with the details shown on drawing number 1410/S1/F dated Jan 2013, from which there shall be no divergence unless previously approved by the Planning Authority.

Any parking provision so provided shall be available for use prior to the first occupation of the development hereby approved and shall thereafter be permanently retained for the sole use of residents, staff and visitors to the proposed development.

REASON: In order to ensure the provision and retention of appropriate parking facilities to meet the needs of the proposed development, in accordance with Policies EC2 and T8 of the adopted Local Plan.

9. Prior to the first occupation of the development hereby approved, provision shall be made for safe and convenient, covered bicycle and powered two wheeled vehicle parking facilities on the basis of one bicycle parking space for each five staff members and one space plus one space per twenty car parking spaces for powered two wheeled vehicles, details of which shall be submitted to and approved by the Planning Authority prior to construction/installation.

Any such provision shall thereafter be permanently retained for the sole use of residents, staff and visitors to the proposed development.

REASON: In order to ensure the provision and retention of appropriate parking facilities to meet the needs of the proposed development, in accordance with Policies EC2 and T8 of the adopted Local Plan.

10. Prior to the first occupation of the development hereby approved a vehicular crossover shall be provided in accordance with the details submitted on the approved plans and permanently retained as such thereafter.

REASON: In order to provide adequate on site car parking facilities for the accommodation proposed.

11. Finished ground floor levels shall be set no lower than 2.57 metres above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To reduce the risk of flooding to the proposed development and future occupants.

12. Prior to the first occupation of the development hereby approved a Flood Response Plan shall be submitted to and approved in writing by the Planning Authority.

REASON: In order to ensure the safety of future residents in the event of a flood, in accordance with Government advice as contained in the National Planning Policy Framework.

13. Upon occupation of the development hereby approved, the approved Flood Response Plan shall be enacted and thereafter maintained at all times that the development is occupied. Any revisions to the Plan shall be submitted to and formally approved by the Planning Authority.

REASON: In order to ensure the appropriate protection of occupiers of the building in the event of a flood.

14. The proposed reserved matters application shall include details of all appropriate flood resistant and resilient construction measures to be incorporated into the construction of the proposed development, for the approval of the Planning Authority.

Any submitted flood resistance and resilience measures shall be in accordance with the latest available best practice/Government guidance.

REASON: To minimise damage to the building caused by floodwater and to enable faster recovery following a flood.

15. The proposed development shall be constructed and fitted out in accordance with the approved scheme of flood resistance and resilience measures.

REASON: To minimise damage to the building caused by floodwater and to enable faster recovery following a flood.

16. The reserved matters application shall include details of the surface water drainage for the site. The scheme shall in the first instance make provision for the disposal of surface water on site through the use of a Sustainable Drainage System (SuDS). Only if it can be demonstrated that SuDS are not suitable shall the scheme incorporate measures for the off-site disposal of surface water.

REASON: To ensure the hard surface limits the potential for increased surface water runoff from the site.

17. Prior to the first occupation of the development hereby permitted, the approved surface water drainage scheme shall be implemented on site.

REASON: To ensure the hard surface limits the potential for increased surface water runoff from the site.

18. The surface water drainage scheme as implemented on site shall be permanently retained.

REASON: To ensure the retention of the hard surface and to limit the potential for increased surface water runoff from the site in the future.

19. The surface water drainage scheme as implemented on site shall be permanently retained.

REASON: To limit the potential for increased surface water runoff from the site in the future.

20. No works shall be begun on the excavation of the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority prior to excavation of the site.

Any works identified shall be undertaken in accordance with the approved details.

REASON: In order to ensure the preservation of the historic record if present on the site, in accordance with Policy EC38 of the adopted Local Plan and Government guidance as contained in the National Planning Policy Framework.

21. The reserved matters application shall include a Construction Method Statement which shall provide for:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities.

Such Statement as is approved by the Planning Authority shall be adhered to throughout the construction period.

REASON: To ensure that parking and unloading does not take place within the adjoining streets, to the detriment of adjoining and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy EC2 of the adopted Local Plan.

22. The reserved matters application shall include a Site Waste Management Plan. Such Plan as is approved by the Planning Authority shall be adhered to throughout the construction period.

REASON: In order to ensure that construction waste is recycled or re-used in order to make the most efficient use of natural resources.

23. Details of any external lighting of the proposed development shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved. Such approved lighting Strategy shall thereafter be carried out in accordance with the approved details.

REASON: To ensure the provision of an appropriate scheme of lighting, in the interests of the needs of users of the site and the ecological sensitivity of the landscaped areas and adjoining land.

24. No unbound material shall be used in the surface treatment of any of the vehicular accesses within 6 metres of the highway boundary.

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

25. Prior to first occupation of the development hereby approved, the proposed amenity areas shall be provided and thereafter permanently maintained.

REASON: In order to ensure the provision and retention of appropriate amenity areas within the site, in the interests of the amenity of future residents and in accordance with Policy H17 RDG6 of the adopted Local Plan.

26. There shall be no discharge of surface water 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 in accordance with Policy EC2 of the adopted Local Plan.

27. The proposed dry food store and flood risk provisions room at first floor shall be provided prior to first occupation of the building and shall thereafter be permanently retained as such.

REASON: In order to ensure an appropriate response to residents needs in the event of a flood.

INFORMATIVES

1. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and determining the proposal in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
2. All relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the development must be taken. Water suppression shall be employed for any stone or brick cutting and if necessary neighbours shall be advised in advance of any particularly noisy works.

Please be aware that the accepted times in the Borough for noisy works in terms of construction are:

Monday - Friday: 8am - 6pm

Saturday: 8am - 1pm

Sundays and bank holidays: no works

The site may be in operation outside of these hours. The above times relate to noisy works which will cause a disturbance to residents and businesses in the surrounding area.

The granting of planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received.

1. Page 16 of the Ecological Assessment shows that the Ascot Barn has walls and a roof of corrugated asbestos. Asbestos should always be handled with caution and removal should be carried out by a licensed contractor. For further advice it is recommended that you consult with the Health and Safety Executive.
2. Should the works unearth any contaminated land, such as what would be considered in an Environmental Investigation (Contamination) or asbestos containing materials careful consideration must be given to its handling and correct disposal. Waste transfer receipts must be obtained and kept.
3. Under the Clean Air Act 1993 it is an offence to emit dark or black smoke or burn material that is likely to give rise to dark or black smoke on industrial and trade premises, or burnt in connection with any industrial or trade process. If a bonfire is producing or likely to produce dark or black smoke by the burning of trade or commercial waste, then the persons responsible may be liable to a fine.
4. In undertaking the works hereby approved you are advised to satisfy yourself of your obligations to occupiers of adjoining properties in accordance with the Party Wall etc. Act 1996, details of which can be inspected at these offices or you may obtain details free of charge from the Planning Portal website (www.planningportal.gov.uk) under Building Regulations.
5. The applicant should be aware of the potential relocation of utility apparatus in the highway; any relocation shall be fully at the applicant's expense.
6. All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO3, Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, CM13 3HD or emailed to development.management@essexhighways.org

Appendix 1 to 17/1063/OUT

Report presented to Committee on 4th September 2018

Application Number:	17/1063/OUT
Address:	Garden World Plants Ltd Canvey Road Canvey Island Essex SS8 0QD (Canvey Island West Ward)
Description of Development:	Demolition of existing buildings and construction of residential care home comprising of 57 units.
Applicant:	S. Howard
Case Officer:	Ms Kim Fisher-Bright
Expiry Date:	28.09.2018

Summary

The application seeks outline permission for the erection of a part two storey, part three storey, 57 bedroomed nursing home with associated parking.

Consideration of the proposal under the provisions of the NPPF and adopted Local Plan identifies that the proposal constitutes inappropriate development in the Green Belt, which could only be justified if Very Special Circumstances could be identified, either individually or cumulatively, which outweighed the harm to the Green Belt.

The need for specialist residential accommodation has been identified as a circumstance to which consideration should be given; however, there has been no demonstration that this need can only be met on the application site. In the absence of a clear demonstration that the identified need could not be met elsewhere it is not considered that this circumstance nor any others suggested by the applicant or identified by the Planning Authority either individually or cumulatively would justify inappropriate development in the Green Belt.

The proposal is therefore contrary to Government guidance as contained in the NPPF.

Furthermore, in the context of Government advice and the continuing work on the preparation of a new Local Plan, the proposal is considered to be premature.

In considering the principles embedded within the scheme, whilst the proposed materials and general form of development is considered acceptable in principle, it is considered that the specific scale of development proposed is excessive, resulting in a building of mean and cramped appearance and lacking the ability to satisfy the requirements of the Residential Design Guidance.

The proposal is therefore recommended for **REFUSAL**.

The application is presented to the Development Control Committee as the applicant is related to a Member of this Council. Such action is in accordance with the provisions of the Council's adopted Constitution.

The Site and its Surroundings

The application site is an irregular shaped plot of land, incorporating the site of the Garden World Garden Centre, the carriageway of Old Canvey Road and the parking bays provided on the eastern side of that road. The developable area of the site extends to some 0.4ha of land on the west side of Old Canvey Road, at the junction with Northwick Road.

The development site is currently used as a garden centre and hosts a single storey flat roofed retail/display building and a number of single storey canopies which shelter a large plant display area.

The retail building is irregular in shape and has a maximum width of 40m and a maximum depth of 21.5m. It is set some 19m from the front boundary of the site.

The canopy at the front of the site is some 22m wide and 15m deep. It is set some 3.5m from the front boundary.

The site is entirely hard-surfaced or covered in buildings. Car parking is provided to the front of the site within an off-road stand provided specifically for the Garden Centre.

To the north the site is adjoined by a detached two storey dwelling beyond which is a bungalow and some 112m further to the north, the Dutch Cottage, a Grade II Listed building.

To the west the site is bounded by open land designated an Ancient Landscape and Wildlife site (West Canvey Marshes Nature Reserve) and used, in part, for the grazing of horses.

To the south, beyond Northwick Road, the site is bounded by commercial buildings forming part of the Charfleets Industrial Estate.

To the west, beyond Canvey Road is residential development within the urban area of Canvey Island.

The Proposal

Outline permission is sought for the erection of a part three storey, part two storey pitched roofed building providing a nursing home supporting 57 units of accommodation (60 bed-spaces) with associated communal and administrative facilities and 47 parking spaces.

The application is in outline form with only landscaping excluded from consideration at this stage.

Access, Appearance, Layout and Scale are not reserved for later consideration and will therefore form part of the consideration of the current application.

The proposed 'L' shaped building is three storey in form, with two storey wings at its northern end.

The building will be primarily pitched roofed, although a flat roofed element is provided to the southern-most element to accommodate the proposed span and provide third floor accommodation in a building designed to appear as being two storey in height.

A turret feature is provided at the south eastern corner.

The building would have a maximum height of some 13m, a maximum width to Canvey Road of some 52m and a return width to Northwick Road of 46m.

The building would be located a minimum of 4m from both road frontages, although the proposed portico porch would extend to within 1.2m of the front boundary. The entrance staircase and access ramp would extend up to the highway boundary.

The proposed building would be set some 1m – 1.3m above natural ground level. This is to assist in the reduction of flood risk and flood remediation.

Supplementary Documentation

The application is accompanied by:

- A Flood Risk Assessment
- Structural Design Review
- Ecological Assessment
- Core Strategy DPD Examination Submission Report.

All of these documents can be viewed on the Council's website.

Site Visit

It is recommended that Members visit the site prior to determination of the application.

Planning History

There is limited specific planning history relevant to the development of the site for the provision of a nursing home. One application of relevance concerns alterations to the existing access and the formation of a layby to provide parking for the Garden Centre. This was approved in 1985 (CPT/392/85).

In more recent times the site has been the subject of consideration within the context of the preparation of the Draft New Local Plan.

Policy H17 of the 2014 Draft New Local Plan identified the site, as part of a larger site incorporating the dwellings to the north, as suitable for the provision of a nursing home with capacity for 50 units of accommodation by 2031, subject to, inter alia, the condition that the redevelopment of this site would only be permitted when it could be demonstrated that there were no other sites reasonably available for the provision of a residential care home in Castle Point, and the sequential and exception tests could be met.

Following consideration of the responses to the 2014 Plan, Members resolved to prioritise the protection of the Green Belt over meeting the Borough's objectively assessed needs and deleted all undeveloped Green Belt sites that did not benefit from an extant planning permission or was previously developed land, from further consideration. The application site represented previously developed land and consequently retained its 2014 conditional allocation in the 2016 Plan.

For technical reasons the 2016 Plan was formally withdrawn from further consideration on the 29th March 2017. No weight may therefore be attached to its policy statements or guidance, although it is considered that the evidence base underpinning the Plan remains capable of being relevant and valid.

Relevant Government Guidance and Local Plan Policies

The site is located for Green Belt purposes on the 1998 Local Plan Proposals Map.

The following policies are of relevance:

National Planning Policy Framework

Paragraphs: 2, 7-10, 11, 12, 15, 38, 47, 48, 49, 91, 92, 124, 127, 130, 133, 134, 145, 150, 155 –165, 170, 172, 175, 177, 178, 179, 180, 181, 182, 183, 189, 190, 192 – 197.

Local Plan

EC2: Design

EC3: Residential Amenity

EC4: Pollution

EC13: Protection of Wildlife and their Habitats

EC19: Ancient Landscapes

EC38: Archaeological Sites and Monuments

T2: Intensification of Access Use

T8: Car Parking Standards

CF1: Social and Physical Infrastructure and New Developments

CF14: Surface Water Disposal.

Residential Design Guidance

RDG1 Plot Size

RDG2 Space around Dwellings

RDG3 Building Lines

RDG4 Corner Plots

RDG5 Privacy and Amenity

RDG6 Amenity Space

RDG7 Roof Development

RDG8 Detailing

RDG9 Energy and Water Efficiency and Renewable Energy

RDG10 Enclosure and Boundary Treatment

RDG12 Parking and Access

RDG13 Refuse and Recycling Storage

Essex Planning Officers Association Vehicle Parking Standards September 2009 (Adopted June 2010)

Thames Gateway South Essex Strategic Housing Market Assessment (May 2017)

South Essex Surface Water Management Plan (2012)

Castle Point Borough Local Wildlife Sites Review (November 2012)

Consultation

County Highways

Objects to proposal on basis of highway safety: footpaths and sight splays.

Lead Local Flood Authority

No Objection subject to conditions.

Anglian Water

No response

Environment Agency

No objection on flood risk grounds, subject to conditions.

Social Care Direct

No response

ECC Independent Living Programme

No response

Essex County Council Fire and Rescue Service

No response

Essex Policy Contingency Planning

No response

Essex Police

No response

CPBC Environmental Health

No objection subject to conditions

CPBC Legal Services

No response

CPBC Streetscene

Full details of waste storage facilities required. Revised location unacceptable.

Canvey Island Town Council

Objects to proposal on following basis:

- The proposed development is on Green Belt land as defined with in the 1998 Local Plan.
- Insufficient parking for the number of potential visitors to the area.
- It was not clear that a Sequential Test Report was provided.

Natural England

The proposed development will not have significant adverse impacts on statutorily protected sites or landscapes.

RSPB

No response

Invertebrate Conservation Trust (Buglife)

No response

Essex Wildlife Trust

No response

National Health Services

No response.

Public Consultation

One local GP, a resident from Leigh on Sea and the Practice Managers of two local Doctor's Surgeries have objected to the proposal on the basis that the current health infrastructure is inadequate to service the proposal and questioning whether the local Clinical Commissioning Group had been consulted.

One letter of support from a chiropodist associated with the applicant's current nursing home, has also been received.

Response to Consultation responses

Comments made by the statutory consultees will be addressed within the evaluation of the proposal.

With regard the queries in respect of the provision of health care resources, the Authority has sought to discuss this matter with the National Health Service providers but has been unable to secure a response.

In the absence of comment it must be presumed that local NHS Service commissioning group has no objection to the proposal.

Evaluation of the Proposal

The proposal seeks outline consent for a 57 bedroomed (60 bed-space) nursing home. Whilst in outline form, the applicant seeks consideration of Access, Appearance, Layout and Scale at this time.

The application site is allocated for Green Belt purposes in the adopted Local Plan.

Consideration must therefore be given to the acceptability of the principle of the proposed development on the site in the first instance.

Consideration will also be given to the issues of prematurity, flood risk, ecology, and impact on the historic environment within the following evaluation.

The Principle of Development

Planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise (paragraph 2 of the NPPF). The adopted development plan is the starting point for decision making. Development that accords with the Local Plan should be approved and proposals which conflict with the Plan should be refused unless material considerations indicate otherwise.

Where the Development Plan is absent, silent or relevant policies are out of date, the Planning Authority should grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework or specific policies in the Framework indicate that development should be restricted (paragraph 11 of the NPPF).

Footnote 8 to the NPPF identifies that land allocated for Green Belt purposes is an example where development should be restricted. The footnote does not however state that development in such areas is prohibited.

The Development Plan for Castle Point is the adopted Local Plan (1998). This identifies the site as Green Belt.

The NPPF states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. Within the Green Belt there is a general presumption against inappropriate development. Such development should not be approved, except in very special circumstances.

Paragraph 136 states that once established Green Belt boundaries should only be altered in the most exceptional circumstances, through the preparation or review of the Local Plan.

Paragraph 143 of the NPPF clearly states that inappropriate development in the Green Belt, which includes large scale residential development, is by definition harmful to the Green Belt and should not be approved, except in very special circumstances and paragraph 88 of the NPPF states that when considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Paragraph 145 states that the Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. It does however list a number of exceptions to this presumption against development, one of which is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) whether redundant or in continuing use, (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The site currently operates as a Garden Centre and contains a number of buildings and structures covering approximately one third of the developable site.

Whilst it is recognised that the canopies over the display areas have the appearance of more temporary structures, these have been present on the site for a number of years and are considered to be permanent structures, thus their presence can be taken into consideration in the determination of the application.

The site may therefore reasonably be considered to constitute previously developed land, the redevelopment of which need not be contrary to Green Belt Policy, provided such redevelopment

would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Impact on the Openness of the Green Belt

It is the view of the Planning Authority that openness can be measured both in physical and perceptual terms. Put simply, development may physically reduce the amount of open space available within the site and thus physically affect openness by replacing open space with built form, or it may give the impression of reducing openness by providing a bulkier or more visually prominent building on the site.

At the present time the application site hosts a relatively large single storey building, and a bank of display canopies which according to the submitted plans have a gross area of some 1081m², although the applicant identifies the buildings on the site as having an existing gross internal floor space of some 1145m². As such buildings on the site can be concluded to occupy between 27% and 28.6% of the garden centre site.

The proposed building has a gross footprint of some 1242m² and thus covers approximately 31% of the site. The proposed building would therefore, in physical terms cover a greater proportion of the site and albeit marginally would reduce the openness of the Green Belt by enclosing more space within a building.

Of greater significance however is the impact of the proposed building on the perceived openness of the Green Belt.

At the present time the site hosts a retail building with a maximum height of some 3.8m and three display canopies with a maximum height of 4.2m. The impact of these buildings on views from the east is limited to a significant extent by the mature hedge provided along the western edge of the Canvey Road carriageway which renders the site largely invisible, unless viewed closer to the junction with Northwick Road where the site forms a more obvious, but nevertheless muted, feature in the street scene.

From the west and north the limited height of the buildings renders them of no significance in long distance views.

The proposed nursing home represents a much more substantial two/three storey building with a maximum height of some 13m. This would be clearly seen above the mature hedge and would appear as a prominent feature even in long distance views.

The height of the building, coupled with its significantly increased mass and proximity to the highway boundary when compared to the current buildings on the site, would result in a much more prominent and dominant feature in the street scene and in longer views, which would adversely impact on the openness of the Green Belt at this location.

In accordance with the provisions of the NPPF, this harm to the Green Belt attracts substantial weight.

Impact of the proposal on the purpose of including land within the Green Belt.

Paragraph 134 of NPPF sets out the five main purposes of Green Belts:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Consideration must therefore be given to the comparative impact of the proposed development over that which currently exists on the site, on these purposes.

(a) To check the unrestricted sprawl of large built-up areas:

Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are its openness and permanence.

The 2010 Green Belt Functions Assessment, identifies the wider area of land 'trapped' between Canvey Road and Roscommon Way, as successful in preventing the sprawl of the developed area of Canvey Island. As such the area is identified as performing a positive Green Belt function.

However, the application site exhibits significant built form and whilst not intensively developed in the same manner as the adjoining residential and commercial areas, it is clear that the site is developed and it is considered debateable as to whether it physically contributes to the function of impeding urban sprawl or whether it forms part of the urban sprawl.

Given the presence of significant development on the site, it is not considered that redevelopment of the site would in principle, significantly alter this situation. This carries some limited weight in favour of the proposal.

(b) To prevent neighbouring towns from merging into one another:

The application site is located on the western edge of the developed area of Canvey Island; however, given the level of isolation achieved between this parcel of Green Belt land and the adjoining towns, it is not considered that the redevelopment of the application site would prejudice the objective of preventing towns merging. This stance is supported by the provisions of the 2010 Green Belt Assessment and carries some limited weight in favour of the proposal.

(c) To assist in safe guarding the countryside from encroachment:

The site represents a previously developed site on the edge of the Green Belt and itself represents an historic encroachment into the Green Belt. The proposed development however results in a significantly greater form of development on the site and encroachment of two/three storey development on areas of the site which are primarily only hardsurfaced at the present time.

It is considered that replacement of the existing development with that proposed would result in a greater physical and visual encroachment into the Green Belt. This carries some weight against the proposal.

(d) To preserve the setting and special character of historic towns:

It is not considered that the application site makes any contribution to the setting or special character of an historic town. Redevelopment of the site would have no impact on the site's function in this respect.

(e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land. The 2014 and 2016 Draft Local Plans both identified that redevelopment of the site for residential care purposes would only be acceptable, if it could be demonstrated that there were no other sites reasonably available for the provision of a residential care home in Castle Point. Such demonstration has not been made and it is not possible therefore to determine that the refusal of the current scheme might not assist in urban regeneration by encouraging the redevelopment of a site within the urban area for residential care purposes.

This attracts some weight against the proposed development. .

However, it must be recognised that the site represents previously developed land in the Green Belt, the appropriate redevelopment of which would be consistent with Government guidance.

The impact of the redevelopment of the site on urban regeneration is therefore considered to be limited.

Conclusion on Green Belt considerations

The proposal represents the redevelopment of previously developed land within the Green Belt.

Such development would be consistent with Government guidance provided it had no greater impact on the openness of the Green Belt and the purposes for including land within that designation.

From the analysis undertaken it is concluded that whilst redevelopment of the site would not in principle have a significant adverse impact on some of the purposes of including land within the Green Belt, it will result in a visual encroachment into the country side and by reason of the significantly increased mass and bulk of the development proposed, would have a substantial adverse impact on the openness of the Green Belt. As such the proposal represents inappropriate development.

Paragraph 143 of the NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.

It is also clear that other material considerations may also justify inappropriate development in the Green Belt.

The existence of Very Special Circumstances

There is no statutory definition of the term 'very special circumstances' as the Courts have held that very special circumstances will be specific to the particular scheme under consideration. The Planning Authority defines a 'very special circumstance' as one which is unique to the site or, at the very least, incapable of frequent repetition. This definition has no statutory basis, but has been applied by the Planning Authority for some 35 years and was incorporated into the New Local Plan.

The Planning Authority considers that a very special circumstance need not be a single matter, but may result from a combination of matters which individually may not be considered very special, but which in combination, when viewed objectively, may be identified as very special.

The applicant does not identify any Very Special Circumstances to support the case but has submitted a copy of a Submission Report prepared in respect of the Examination of the Core Strategy which as Members will be aware was withdrawn in 2011.

In this submitted report, which appears to be concerned with the development of the site with an alternative form of development, the applicant identifies that the site is sustainable, deliverable and accessible by public transport. It is considered that these comments could be made of many sites in the Green Belt and as such it is not considered that these, in isolation, represent the very special circumstances required to justify inappropriate development in the Green Belt.

Whilst not specifically related to the current proposal, the applicant has identified in the submitted Submission Report that the proposal would generate a range of employment opportunities.

This comment is noted but adds limited weight to the determination of the application as provision of such a facility on any site within the Borough would be likely to generate the same employment opportunities.

Of greater interest with regard to the current proposal however are the comments made in respect of the need for specialist accommodation for older people.

This aspect of provision was particularly identified by the Planning Authority when it was preparing the 2014 and 2016 Draft Local Plans and identified the application site as a site suitable for the provision of such development.

However, both plans were cautious in the identification of the current proposal site, limiting release of the site until a clear absence of alternative sites had been demonstrated. This demonstration has not been provided and neither of these Plans have been progressed. Whilst compliance with an allocation in an emerging Local Plan which was close to adoption may have constituted a Very Special Circumstance, following the withdrawal of both the 2014 and the 2016 Local Plans, no weight may be attached to their provisions.

The Greater Essex Demographic Forecasts show that 35% of the population will be of retirement age or older (65+) by 2031. However, advances in medicine and lifestyle quality mean that most people now do not experience the consequences of older age until much later in their lives.

The document: Housing in later life - planning ahead for specialist housing for older people recommends calculating need for specialist accommodation based on the 75+ age group. When applied to the likely population of Castle Point when delivering growth set out in the 2016 plan it was determined that there was a significant need for specialist accommodation for older people including extra care (750 homes) and enhanced sheltered accommodation (375 homes), accommodation for people with dementia (94 homes) and sheltered housing for the active elderly (1,970 homes).

To a large extent, the nature of existing housing provision in Castle Point (including a large number of bungalows and park homes) addresses the demand from the active elderly within the community; however specialist accommodation that includes the provision of care is currently under provided in Castle Point, with need in the region of some 1,220 homes. However such need alone does not justify inappropriate development in the Green Belt. Policy H17 of the 2014 Draft New Local Plan and H10 of the 2016 Draft New Local Plan, were clear that development of the application site with a nursing home should only be permitted when it could be demonstrated that

there were no other sites reasonably available for the provision of a residential care home in Castle Point.

No such demonstration has been provided. In the absence of such demonstration and any other identified very special circumstances development of the site in the manner proposed cannot be justified.

An objection is therefore raised to the proposal on the basis of Green Belt policy.

Prematurity

While emerging plans may acquire weight during the plan-making process, in the context of the National Planning Policy Framework and in particular the presumption in favour of sustainable development arguments that an application is premature are unlikely to justify a refusal of planning permission other than in exceptional circumstances (where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account). Such circumstances are likely to be limited to situations where both:

- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood plan; and
- b. the emerging plan is at an advanced stage but has not yet been adopted (or, in the case of a neighbourhood plan, been made).

Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination, or in the case of a neighbourhood plan, before the end of the local planning authority publicity period.

Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

In July 2017, the Leaders and Chief Executives of the South Essex Authorities (Basildon, Brentwood, Castle Point, Rochford, Southend-on-Sea, Thurrock and Essex County Council) initiated an approach of collaboration to develop a long-term place-based growth ambition. A joint strategic approach will enable the South Essex sub-region to collectively support economic growth and respond to external pressures such as the Thames Estuary 2050 Commission and the London Plan.

Part of the South Essex growth ambition will be realised through the preparation and adoption of a Joint Strategic Plan (JSP). The JSP will be a high level planning framework covering the whole South Essex area. It will set out the overarching spatial strategy, housing target and distribution, strategic employment areas, key transport and other infrastructure priorities and strategic development opportunity areas. It is set to deliver a minimum of 90,000 new homes and 52,000 new jobs by 2038. Along with housing and employment the vision aims to deliver large scale infrastructure that will permit long term growth for the region.

The JSP will be part of the development plan in Castle Point, forming a portfolio of documents that will be used to inform local decision making once adopted.

In accordance with NPPF, a statement of common ground will support the preparation of the JSP, to ensure that there is not only a proactive and positive approach to strategic planning matters across housing market areas, but that there is a clear (and agreed) approach to how these will be delivered in all relevant local plans.

The Council is currently preparing a further Local Plan with consultation on the issues being undertaken in July 2108. This document will seek to implement the overarching strategic JSP at the local level.

The Local Plan, incorporating the provisions of the JSP will determine the location of future development within Castle Point.

The application site represents a small area within a much larger site, the future of which is being considered in the preparation of the New Local Plan. The future use of this site has previously been considered in both the 2014 and 2016 Local Plans and in view of the implications of the development of this site for the wider area east of Roscommon Way and north of Northwick Road it is the view of the Planning Authority, that the future of the site should be determined within the confines of an Examination in Public of the new Local Plan.

It is considered that the current proposal by seeking the redevelopment of the site at this time in the intensive manner proposed, represents an attempt to circumvent the Local Plan process and, if allowed, it is considered that the release of this site for an intensive form of development could prejudice unbiased consideration of the future the area of land bounded by Northwick Road, Canvey Road and Roscommon Way and could thus prejudice the ability of the Council to achieve a high level of sustainability in meeting its needs.

It is considered therefore that the current proposal has the capacity to undermine the Council's New Local Plan for the development of Castle Point and as such it is considered that the future of this land should be determined within the context of the Local Plan, when all relevant factors can be considered, and not in isolation.

As such an objection is raised to the proposal on the basis of prematurity.

The Reserved Matters

Whilst objections have been raised to the proposal on the basis of Green Belt policy and prematurity, it is considered appropriate to respond to the applicant's specific request in terms of consideration of the matters identified as not being reserved for future consideration. In this way it is hoped that any future proposals may fully reflect Council policy and Guidance.

It is also considered appropriate to comment on other matters such as flood risk and ecology in order to inform any future submissions.

None of the comments made hereafter however should be construed as outweighing the principle objection raised above.

Access

Policy EC2 of the adopted Local Plan requires all modes of transport to be safe and convenient.

At the present time vehicular access to the site is obtained via a dropped kerb crossing provided approximately midway along the Northwick Road frontage. It is proposed to relocate this access to a point adjacent to the western boundary of the site. The Highway Authority has objected to the formation of an access at this point on the basis that the developer has not demonstrated that the proposal would be acceptable in terms of highway safety and efficiency. As far as can be determined from the submitted plans the applicant does not appear to control sufficient land to provide the required vehicular visibility splays of 2.4m x 43m to the west. The Highway Authority considers that this lack of such visibility would result in an unacceptable degree of hazard to all road users to the detriment of highway safety and has raised an objection accordingly.

The Highway Authority has also stated that in any future submission provision should be made for a 2m footway to be provided along the entire frontage of the site.

Government guidance is clear that where an objection to a proposal can be overcome by the imposition of a condition on the grant of any consent this route should be adopted over the refusal of a proposal.

It is the view of the planning authority that the provision of an appropriate sight splay to the west could be achieved on land currently beyond the ownership or control of the applicant through the mechanism of a Grampian style condition.

A Grampian style condition requires work to be undertaken on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body. Such conditions often fail the tests of reasonableness and enforceability, however it is possible to achieve a similar result using a condition worded in a negative form, i.e. prohibiting development authorised by the planning permission until a specified action has been taken, such as the provision of an appropriate sight splay. Such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission, however the applicant has advised that in this instance there is high probability that the splay can be achieved and under the circumstances it is considered that a Grampian style condition requiring the provision of an appropriate sight splay and overcoming the objection of the Highway Authority, could be imposed on the grant of any consent.

Similarly, with regard to the footway provision, this would appear capable of being provided on land within the ownership or control of the applicant and thus a condition may reasonably be appended to the grant of any consent.

Subject to such conditions no objection is raised to the proposal on highway safety grounds.

Appearance and Layout

Adopted Local Plan Policy EC2 seeks to ensure a high standard of design in all proposals with particular regard paid to the scale, density, siting, design, layout and external materials which should be appropriate to the setting, and which should not harm the character of, the surroundings. Proposals should take account of all elements of the local design context.

The NPPF similarly seeks well designed development and it is therefore considered that Policy EC2 is consistent with the NPPF.

Local Plan Policy H17 states that in designing proposals, regard must be had to the design and layout guidelines contained within Appendix 12 of the Local Plan. Appendix 12 has been superseded by the adopted Residential Design Guidance (RDG).

Whilst not adopted Policy the Draft New Local Plans also offered advice on the design of any building to be provided on this site. Specifically it stated that in order to ensure that the development was of a high quality and responded to local circumstances the development must adopt a contextual approach to urban design in order to integrate with the existing built form and existing landscape, (in particular the open landscape and historical features), be resilient and resistant to flooding from tidal and surface water sources, make provision for safe, on-site refuge facilities in the event that a flood does occur and have regard to the Council's Residential Design Guidance.

In general terms the proposed development is three storeys in height with a two storey element at the northern end of the 'L' shaped footprint. The roof is a mix of primarily hipped or gabled elements with small dormers provided to the front and side elevations. The westernmost element is essentially a flat roofed section but is designed to give the appearance when viewed from the south, of a pitched roofed element. This disguise is less successful when viewed from other angles.

In terms of materials, the proposed mix comprises:

- * White wood boarding
- * Yellow/buff brick.
- * Grey slate
- * Grey aluminium doors and windows
- * Main doors: natural wood.

These materials differ from those used in the buildings immediately adjacent, but given the broad palette available locally, are considered acceptable.

Detail and articulation is provided to the building by exaggerated fascia boards, projecting gables and elemental use of materials. A key feature of the building is a turret provided at the south eastern corner which seeks to 'turn the corner' and provide a focal point of the development.

This variety of material, features and form has resulted in the creation of a mixed visual character.

The character of the adjoining residential development differs from that proposed; however this development is an institutional building and it is appropriate that it should demonstrate its purpose in its form. As such, whilst different in scale and form from the adjoining development, in the context of Policy EC2, it is not considered that the proposal would disrupt the built character and appearance of the wider area to such a degree to support a robust reason for refusal.

In terms of the provisions of the adopted Residential Design Guidance, it should be noted that RDG1 states that within the existing built up area the plot sizes for new development should be informed by the prevailing character of plot sizes.

Residential development in proximity of the site is limited and provides little context for new development. As a consequence it is not considered realistic to expect the existing character of the area to influence the proposed development to a significant degree. The development site is

one of the largest plots within the immediate area. No objection is made to the proposal on the basis of plot size.

RDG2 states that in forms of development where there is no clear pattern of development the space around a dwelling should be proportionate to the size of the building, for buildings providing specialist housing and care homes a space equivalent to 25% of the width of the property should be provided.

The proposed building has a width to Canvey Road of some 52m and a width to Northwick Road of approximately 46.4m. Isolation spaces of 13m and 11.6m respectively are required. The scheme provides some 7m of isolation space to the Canvey Road elevation and some 10.5m to the Northwick Road elevation. The proposal therefore fails to achieve appropriate levels of isolation. Whilst this is less critical to the Northwick elevation, the identified deficiency on the Canvey Road frontage is significant and fails to provide an appropriate setting for the building, providing a cramped and unduly constrained appearance, which is exacerbated by the mass of the building and proximity to the front boundary of the site, in an area which has historically been relatively open in character. The cramped nature of the building represents an objection to the proposal.

RDG3 states that within the existing built up area all new development should be informed by the prevailing building lines to the public realm it faces; however it must not repeat poor forms of development. Where there is a distinct pattern of development which creates an exceptionally strong building line, development must not result in disruption to this pattern. In all cases projections into building lines which face the public realm must make a positive contribution to the streetscape.

RDG3 also states that development which would result in excessive overshadowing or dominance to any elevation of an adjoining property will be refused.

Canvey Road at this point has only a weak building line, due to the limited number of dwellings present. The proposed building would sit some 3m – 6m further forward than the adjoining dwellings and would therefore be inconsistent with the setting of the adjoining properties but given the weakness of the building line is not considered to have a significant adverse impact on the building line. However, the prominent siting of the building, coupled with its scale and mass and its relationship with the adjoining development is considered to result in an unduly dominant and prominent feature which would be detrimental to the character and appearance of the area and result in significant overshadowing and dominance of the adjoining property. An objection is therefore raised to the proposal on the basis of its relationship with the adjoining development.

RDG4 states that development on corner plots should be designed to turn corners. It also states that all new or replacement dwellings on corner plots should provide active and articulated frontages to all elevations that face the public realm.

Corner plots should also be designed to limit the length of high level garden screening, particularly along return frontages. The guidance states that in all appropriate cases opportunities should be taken to create features on corner locations, which enhance legibility.

The proposed development provides a focal feature at the junction, whilst contrived and somewhat commonplace in larger schemes, successfully turns the corner. The submitted application form identifies that no significant enclosure will be provided on the eastern or southern

boundaries. The proposal therefore satisfies the principles of RDG4 and no objection is raised to the proposal on this basis.

RDG5 states that for all development above ground floor level a distance of 9m shall be provided between windows, edges of balconies or raised amenity space and the boundary it directly faces at first floor level and 15m at second floor level.

This requirement is satisfied in respect of windows provided in the main eastern and western elevations, which overlook the highway and amenity and parking area respectively. No objection is raised to these windows.

The secondary western elevation has windows located some 6m from the boundary. However, these windows serve a corridor and would overlook grazing land. Given this context it is not considered that these windows would result in loss of privacy or amenity. No objection is therefore raised to the proposal on this basis.

Windows in the southern elevation are located only 4m – 6m from the boundary of the site, but as these overlook the carriageway of Northwick Road it is not considered that these would result in any loss of privacy or amenity for adjoining users. No objection is therefore raised to the proposal in this respect.

The window in the northern elevation at first floor level is located some 3m from the side boundary but serves a stairwell. It is considered that this window may be obscure glazed and fixed to 1.7m above finished floor levels without adversely affecting living conditions within the building and would protect the amenity of the adjoining residents. This may be secured by a condition attached to the grant of any consent. Subject to such a condition no objection is raised to the proposal under RDG5.

RDG6 is concerned with the provision of private amenity area so that the outdoor needs of occupiers are provided for. Specialist accommodation such as that proposed is required to provide 8m² of amenity space for each habitable room.

The proposal provides 57 rooms and therefore generates a requirement for 456m² of amenity space.

The proposed development provides a useable amenity area to the rear of the site of some 440m². Whilst marginally below the requirement, it is not considered that the level of deficiency is so significant as to justify refusal on this basis. No objection is therefore raised to the proposal under RDG6.

RDG7 is concerned with roof development and particularly seeks to ensure that proposals which incorporate feature such as dormers and rooflights into roof planes do not result in overdominant or disproportionate roof treatments.

The proposed development provides a number of dormers. Where provided these are generally sympathetic to the scale of the roof and align with fenestration in the elevation. No objection is raised the proposal on the basis of RDG7.

RDG8 requires the design of all development to result in well-proportioned and balanced properties. Fenestration should be aligned both vertically and horizontally.

The proposed building is considered to be well proportioned and balanced and whilst some minor variance occurs it is not harmful to the character or appearance of the building. Consequently the proposal is considered to meet the expectations of RDG8.

RDG9 is concerned with the achievement of energy and water efficiency and renewable energy. No reference is made to such matters within the submissions; however, the layout of the scheme exhibits some opportunities for solar gain and daylight penetration, with principal elevations predominantly orientated to the south, east and west.

Opportunities also exist for rainwater harvesting and greywater recycling and the applicant is encouraged to investigate the use of these features further. Their absence from the scheme however does not represent a robust objection to the proposal.

RDG10 provides guidance in respect of boundary treatments and states that the means of enclosure and surface material should be informed by the prevailing character of the area and that any means of enclosure should not dominate the public realm. It also states that in all cases the means of enclosure and surface treatment must be of high quality materials, appropriate in terms of appearance and ongoing maintenance to the location.

The applicant identifies that a 1.8m close boarded fence will be provided to the northern and western boundaries and that the southern and eastern boundaries will not be enclosed. Such treatment is considered acceptable.

No objection is raised to the proposed surface treatments which essentially replace an existing concrete surface.

No objection is therefore raised to the proposal under RDG10.

RDG11 of the Residential Design Guidance is concerned with landscaping. Landscaping is a matter reserved for later consideration and may not be determined at this stage. However the applicant is advised that landscaping schemes are expected to include planting plans, identification of plant species, types, sizes, numbers, densities, planting regime and aftercare.

The applicant is further advised that in order to enhance the ecological value of the site any landscaping scheme should be focused on native species.

RDG13 is concerned with the provision of appropriate refuse and recycling storage facilities.

The applicant identifies that specialist contractors will be used to remove human and medical waste from the site, however, no storage facilities for such waste is identified. This omission represents an objection to the proposal.

Storage facilities are identified for the storage of general refuse and recycling. However, the location is inappropriate as access by refuse operatives would be precluded by vehicles parked within the identified van parking bay. The failure to provide an appropriately located refuse storage area represents an objection to the proposal, however it is considered that an alternative location may be identified on the site and can therefore be achieved within the context of a condition imposed on the grant of any consent.

Car Parking is a key feature in an appropriate layout. Policy T8 of the Adopted Local Plan requires the provision of appropriate levels of on-site car parking in accordance with the Essex Planning Officers Vehicle Parking Standards 2009. Standard C2 is relevant to the proposed development and requires one space to be provided for each full time equivalent member of staff plus one visitor space per three beds.

Policy EC2 of the Adopted Local Plan highlights the need to ensure that all modes of movement are safe and convenient.

The applicant has advised that staff will be provided at a ratio of one full time member of staff for every eight residents with up to six catering staff/ cleaning staff being present during the mornings. On this basis a maximum of 14 staff members will be present during the working period, although the potential for larger numbers to be present during changeovers does exist.

During these short periods there is the potential for up to 22 staff members being present on the site. Accommodation of all of this staff would require the provision of 22 car parking spaces. Sixty bed spaces are provided thus 20 visitor car parking spaces are required.

In total 42 parking spaces are required.

The scheme provides 45 car parking spaces plus 2 van spaces. The car parking is divided between new on site and existing off site provision, with 21 existing spaces located on the eastern side of the Old Canvey Road, provided specifically for and by the Garden Centre and a further 22 new spaces provided to the rear of the building. Two additional staff spaces and the two van spaces are provided at the front of the site.

The provision of this level of parking would be more than adequate to accommodate the parking needs of the site. No objection is therefore raised to the proposal on the basis of car parking provision.

In addition the applicant is required to provide bicycle parking and powered two wheeled vehicle parking facilities on the basis of one bicycle parking space for each five staff members and one space plus one space per twenty car parking spaces for powered two wheeled vehicles. None are identified on the site. This represents an objection to the proposal. However, it is considered that scope exists within the site to remedy this deficiency. This could be achieved through the imposition of a condition on the grant of any consent in the event of permission being granted.

Scale

The issue of scale in terms of its impact on the openness of the Green Belt has already been discussed and the principles of that discussion will not be repeated here.

In terms of more generalist comments in respect of the scale of the development, it is noted that the development is partly two storey and partly three storey in nature with the height diminishing towards the northern and western boundaries of the site in an apparent, if unarticulated attempt to integrate the development more satisfactorily into the context created by the adjoining development and open land.

In purist terms this works relatively well, with the bulk of development located in the centre of the site and a focal point provided at the junction and the height falling towards less prominent features in the landscape at the extremes of the building. However, the proximity of the building to

the front boundary of the site and the relationship of the building to the adjoining dwelling, results in the creation of an over-dominant and overbearing structure with limited setting and a cramped appearance. To this extent the proposal does not integrate well with the adjoining development, presenting itself as a form of development which is out of scale with its domestic surroundings.

The mass of the building and its relationship with the boundaries of the site and adjoining property renders the proposal inappropriate on this site. An objection is raised accordingly.

Other Considerations

Flood Risk

Canvey Island lies within an area identified as falling within Flood Zone 3. Within such areas there is an identifiable risk of flooding. For Canvey this risk takes the form of both fluvial and pluvial inundation. Under the provisions of the NPPF, all proposals for new dwellings in areas at risk of flooding are required to be accompanied by a site-specific Flood Risk Assessment (FRA) in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood.

It should be noted that a Care Home provides residential accommodation and is therefore considered to provide dwellings.

A Care Home is classified as a 'more vulnerable' form of development in Table 2: Flood Risk Vulnerability Classification of the NPPG. In order to comply with national policy the proposal must therefore pass the sequential and exception tests as set out in the NPPF and the Planning Practice Guidance (PPG), in order to determine whether sites of lower flood risk probability exist which may be more suitable for the type of development proposed.

With regard to the sequential test, the proposal seeks to provide a care home on Canvey Island. For such development to serve the community of Canvey Island it is considered that it would need to be located within, or immediately adjacent to, that settlement (although as previously indicated, not necessarily on this site). Since the settlement of Canvey Island is located entirely within Flood Zone 3 it is not considered that there are reasonably available alternative sites within the area with a lower probability of flooding that could accommodate the proposed development. Under the circumstances it is considered that the proposal passes the sequential test.

It should be noted that the lack of alternative sites with a lower flood risk does not equate to the lack of availability of alternative sites in principle.

Having passed the sequential test, the proposal must then pass the exception test. In order to meet the requirements of the exception test as described in paragraph 159 of the NPPF the proposal must demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment (FRA) where one has been prepared; and a site-specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

In a very broad sense, and setting aside the principle fact that the proposal represents inappropriate development in the Green Belt, the continued development of Canvey Island is necessary to sustain the local community and prevent the social and economic blight of the

settlement. However, in assessing whether these benefits outweigh flood risk, the flood risks surrounding the development must be considered in more detail.

The second criterion requires that the applicant demonstrate that the development is safe and where possible will reduce flood risk overall.

The applicant has provided a FRA which demonstrates that the site is currently protected by sea defences and that the proposed development will not be at risk of flooding in a 0.5% (1 in 200) annual probability flood level.

The FRA further demonstrates that the defences will also offer protection over the lifetime of the development, providing the defences are maintained in accordance with the TE2100 Policy, which is dependent on future funding.

In the event of a breach of the sea wall the Environment Agency has identified that in a 0.5% annual probability including climate change breach flood event, the building could experience flood water depths of up to 1m and up to 2m in a 0.1% annual probability including climate change breach flood event. Under such conditions the ground floor of the building will experience inundation, however the upper floors of the building will be above even the 0.1% flood water levels and as such safe refuge can be provided at first floor level in the event of a flood.

The applicants have identified a dry food store and flood risk provisions room at first floor. It is considered that this facility, coupled with the communal facilities available at first floor would provide appropriate refuge for residents in a significant flood event.

In order to ensure the provision and retention of these facilities conditions may be attached to the grant of any consent. Subject to such conditions, no objection is raised to the proposal on the basis of flood risk.

The applicant has not provided a Flood Response Plan and this would need to be provided in order to ensure that appropriate actions were taken to move residents to safety under flood conditions. A condition requiring the submission and approval of such a Plan can be attached to the grant of any consent.

It is further noted that flood resilience and resistance measures have not been identified. As the building could experience water levels of up to 2m within the building under flood conditions, it is considered that the provision of such measures would be prudent. An advisory suggesting the provision of such measures can be attached the grant of any consent.

All proposals for development within the Flood Zone are required to demonstrate that the building proposed would be able to withstand the hydrodynamic and hydrostatic pressures likely to impact on the building under flood conditions. The applicant has provided a series of calculations, verified by a Structural Engineer, which demonstrate that the building will be able to withstand the relevant pressures under flood conditions. Provided the building is therefore constructed in accordance with the structural engineer recommendations, no objection is raised the proposal on the basis of structural instability.

Paragraph 163 of the NPPF states that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere.

The site is not identified by the EA as being at high risk from surface water flooding, however development of a site would ordinarily run the risk of the potential for run off onto other sites. As a

consequence the LLFA has required the submission of an appropriate surface water drainage strategy to ensure the proposed development does not exacerbate surface water run-off and adequately treats any such run off before it is discharged from the site.

Subject to the submission and implementation of an appropriate surface water drainage strategy, which can be achieved by condition, no objection is raised to the proposal on the basis of surface water flooding.

Ecology

Policy EC13 states that the Council will refuse development which is prejudicial to the interests of all wildlife and the retention and management of important habitats.

Policy EC14 encourages proposals to promote the creation of new wildlife habitats. It further states that the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

Policy EC14 is considered consistent with the NPPF, particularly in respect of paragraph 174. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraph 175 of the NPPF.

The site has no ecological designation but is within the zone of influence associated with the Ramsar site (Benfleet and Southend Marshes), is located within 500m of the Canvey Marshes SSSI, within 2.4km of Holehaven Creek SSSI and directly abuts West Canvey Marshes which is a very extensive area of historic grazing-marsh, ditches, scattered scrub and inter-tidal habitats located to the east and north of the site. As a consequence it is considered that the site could have the potential for ecological interest.

The applicants have submitted an ecological assessment. It is noted that the survey was prepared in November 2016 and is therefore now potentially dated. It was also undertaken at a sub optimum time of the year. Its findings must therefore be treated with an element of caution. Consideration of the development of the site has identified that it would have no direct impact on priority habitat and is not required to be retained in its current state in the interests of maintaining the integrity or facilitating the management of any designated site.

Assessment of the site has confirmed that the site is entirely developed or hard surfaced with no pockets of vegetation or open ground which might provide habitat potential. Under the circumstances it is not considered that the open areas of the site provide any ecological interest.

Assessment of the buildings on the site also failed to identify any opportunity for bat roosts and whilst foraging may occur across the site it is not considered that the proposed development would adversely impact on this.

The existing site may therefore be concluded to have no significant ecological value and no objection is therefore raised to the proposal on the basis of its impact on local ecology.

It is however considered that the redeveloped site could offer the potential for habitat creation and it is therefore considered that any future landscaping scheme should be focused on native wildlife friendly species.

Subject to such an appropriate landscaping scheme being prepared no objection is raised to the proposal on the basis of its impact on ecology.

Impact on Historic Assets

Policies EC19 and EC38 of the adopted Local Plan seek to ensure that heritage assets are not adversely affected by proposed development.

The NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

The Framework continues that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent.

No assessment of historical assets has been submitted by the applicant; however it should be noted that in the case of the current proposal the heritage assets are represented by the Grade II Listed Building, The Dutch Cottage and the Designated Ancient Landscape to the north and west of the site.

The proposed development is located some 112m to the south of the Dutch Cottage and directly abuts the designated Ancient Landscape which comprises the Canvey Marshes to the west and north of the site.

In terms of impact on the Listed Building, it should be noted that the application site is relatively isolated from the curtilage of the Listed Building and that other dwellings of no historic importance, are located between the Heritage site and the development site. Whilst the new building would be

visible in some views of the Listed Building, the impact, due to this isolation and intervening development is not considered so substantial as to represent significant harm to the setting of the Listed Building. No objection is therefore raised the proposal on the basis of its impact on the Listed Building.

Ancient Landscapes have been defined by Essex County Council as areas containing a significant assemblage of visible features, both man-made and semi-natural, of pre- 1600 origin. They are the 'living' elements of the countryside, where the landscape has evolved and adapted over the course of millennia. These areas are consequently of great historic importance and interest in their own right, although frequently they coincide with areas of high nature conservation value and visual amenity as well.

West Canvey Marshes has been identified as being of historical importance as a consequence of its management and use since the Middle Ages and has been identified as an Ancient Landscape in the adopted Local Plan.

In recognition of its historic value and interest Policy EC19 of the adopted Local Plan seeks to protect the area from development that would affect its nature and physical appearance.

The proposed development is not located within the designated area and, subject to appropriate conditions to secure appropriate management of surface water runoff in particular, it is considered unlikely that it would have an adverse impact on its nature.

It is recognised that the new building will have an impact on long views across the Marsh, but it is not considered that this impact would have a significant adverse impact on the physical appearance of the designated landscape due to its peripheral location relative the designated area. No objection is therefore raised to the proposal on this basis.

Given the proximity of the site to identified areas of historic interest however it is considered that the site may offer some archaeological interest.

It is therefore considered that a condition requiring appropriate archaeological investigation of the site prior to commencement of the redevelopment of the site, should be attached to the grant of any consent.

Sustainability

A local GP and two local practices have raised concerns about the capacity of local GPs to appropriately service the proposed nursing home. Whilst the limited availability of GPs on Canvey Island is noted, no objection has been raised to the proposal by NHS England.

Under the circumstances it is not considered that an objection to the proposal based on the capacity of the local health infrastructure could be sustained on appeal.

Sustainable Transport

The NPPF seeks to ensure that new development is sustainable. In the case of transport, developments are expected to demonstrate the opportunity for use of sustainable transport modes and limited journeys.

Access to public transport from the site is generally good with easy access to bus and rail facilities. The site would consequently appear to be well placed in terms of the opportunities available to limit use of the private car.

Under the circumstances it is not considered that an objection to the proposal on the basis of undue reliance on private vehicles could be sustained on appeal.

Noise and Disturbance

Consideration must be given to the potential for residents of the proposed development to experience noise and disturbance from the adjoining employment area, located some 9m to the south of the site.

Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. Noise can interfere with residential and community amenity and the utility of noise-sensitive land uses. Noise exposure can have effects including sleep disturbance and annoyance. It is also agreed by many experts that environmental noise can lead to chronic health effects. For example, associations have been found between long term exposure to some types of transport noise, particularly from aircraft and road traffic, and an increase in the risk of cardiovascular effects (heart disease and hypertension). For these reasons, noise is a material consideration in the planning process and a key aspect of sustainable development.

PPG Paragraph 001 (reference ID: 30-001-20140306) states that noise needs to be considered when new developments would be sensitive to the prevailing acoustic environment. In determining applications opportunities should be taken to consider improvements to the acoustic environment.

PPG Paragraph 003 (reference ID: 30-003-20140306) states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.

The NPPF states at paragraph 170 that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at, unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 178 of the NPPF states that in order to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

The Noise Statement for England (2010) seeks to promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development and through the effective management and control of environmental, neighbour and neighbourhood noise.

Policy EC4 of the adopted Local Plan states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air or by reason of dust, vibration, light or heat will be refused.

It is inevitable that the development of the application site will generate noise and disturbance and potentially pollutants during the constructional phase. However, such noise is transitory and will rarely provide a robust reason for refusal of an application for development of the type proposed.

Of greater concern is the potential for noise generated by uses on the adjoining industrial estate/road to adversely impact on the amenity and health of future residents of the proposed home. However the Council's Environmental Health Officer has expressed no concerns in respect of such considerations and it is considered that any persons seeking to reside at the site would be fully aware of its relationship to the adjoining industrial development and highway network and would be able to determine the suitability of the site for themselves.

Under the circumstances it is not considered that impact of the existing environment on future residents of the site represents a robust or defensible objection to the proposal.

Ground Conditions and contamination

The site has been used as a Garden Centre for many years and it is considered that potential exists for the site to have been contaminated by chemical spillages. In order to ensure the safety of construction workers and future users of the building it is considered that a condition requiring an appropriate assessment of the site should be submitted to, and approved by, the Local Planning Authority prior to the commencement of any development on the site.

It is noted that the Ascot Barn present the site has walls and a roof comprised of corrugated asbestos. Removal of this material must be undertaken by a specialist contractor and an informative reminding the applicant of this requirement can be attached to the grant of any consent.

Summary and Conclusion

Assessment of the proposal under the provisions of the NPPF and adopted Local Plan identifies that the proposal constitutes inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and which could only be justified if Very Special Circumstances could be identified, either individually or cumulatively, which outweighed the harm to the Green Belt.

The Planning Authority defines a 'very special circumstance' as one which is unique to the site or, at the very least, is incapable of frequent repetition. This definition has no statutory basis, but has been applied by the Planning Authority for some 35 years and has been incorporated into the New Local Plan. It is against this definition that Very Special Circumstances are assessed.

The applicant has not specifically identified any Very Special Circumstances although some may be deduced from the submitted 'Submissions Report'. This document sought to support the

allocation of the site for Nursing Home purposes in the context of the preparation of the Core Strategy. This resulted in an allocation for such purposes in both the 2014 and 2016 draft New Local Plans.

Whilst consistency with the provisions of the emerging Local Plan might have constituted a Very Special Circumstance, following the withdrawal of the Local Plan no weight may be attached to its provisions.

The need for specialist residential accommodation has been identified as a circumstance to which consideration should be given; however, there has been no demonstration that this need can only be met on the application site. In the absence of a clear demonstration that the identified need could not be met elsewhere it is not considered that this circumstance can be considered special, let alone a very special circumstance, as is required to justify inappropriate development in the Green Belt.

In isolation none of the circumstances identified by the applicants constitute the Very Special Circumstances required to outweigh the harm to the Green Belt that the inappropriate development proposed would cause.

Furthermore, it is not considered that the circumstances, in combination, provide a sufficiently robust set of circumstances which outweigh the harm.

In addition, in the context of Government advice and the continuing work on the preparation of a new Local Plan, the proposal is considered to be premature.

In conclusion therefore, the proposal is considered to be premature and to represent inappropriate development in the Green Belt in respect of which the Planning Authority has failed to identify sufficient Very Special Circumstances, either individually or cumulatively, which might justify a departure from normal Green Belt policy. The proposal is therefore contrary to Government guidance as contained in the NPPF.

In considering the principles embedded within the scheme, whilst the proposed materials and general form of development is considered acceptable in principle, it is considered that the specific scale of development proposed is excessive, resulting in a building of mean and cramped appearance and lacking the ability to satisfy the requirements of the Residential Design Guidance.

I have taken all other matters raised by interested parties into consideration, but none are sufficient to outweigh the considerations that led to the recommendation.

My Recommendation is Refusal for the following reasons

1 Within the context of Government guidance it is considered that the current proposal is premature in that it seeks to determine the location of future development outside the confines of the Examination in Public of the New Local Plan. The release of land for intensive development on the basis of individual applications would lead to poorly planned growth and would fail to deliver development in a managed way. To achieve sustainable growth within the borough the decision on which sites to allocate for development should be taken at a strategic level as part of the Local Plan process, which this application seeks to circumvent. The site is allocated as Green Belt where national planning policy as set out in the National Planning Policy Framework states that

development of this nature is not appropriate and will only be permitted if very special circumstances exist to justify its inappropriateness. It is not considered that any very special circumstances exist or have been demonstrated to justify the proposed development which would be detrimental to the openness of this part of the Green Belt, contrary to national planning policy.

2 The proposed development, by reason of its mass, scale, disposition and proximity to the boundaries of the site represents overdevelopment of the site resulting in the creation of a building of mean and cramped appearance, detrimental to the character and appearance of the area and likely to result in undue dominance and overshadowing of the dwelling to the north, contrary to Policy EC2 and H17 RDG2 and 3 of the adopted Local Plan.

Informative

1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.

ITEM 4

Application Number:	18/0035/FUL
Address:	191-193 High Road Benfleet Essex SS7 5HY (St. Mary's Ward)
Description of Development:	Demolition of existing buildings and erection of three storey building containing 14 sheltered flats, with communal rooms and recessed roof garden in the roof, new cross-over and driveway, and off-street parking at rear.
Applicant:	Docnor Developments
Case Officer:	Ms Kim Fisher-Bright
Expiry Date:	09.11.2018

Introduction

Members will recall that at the meeting of the Development Control Committee held on the 7th August, 2018, following the receipt of significant objection from the occupier and patrons of 'Body Care' gymnasium which currently operates from part of the site, Members resolved to defer consideration of the application in order to facilitate discussion between the landowner and the leaseholder in respect of the possible amendment of the application to secure space for the retention of a gymnasium on the site.

After detailed discussions with the owners, the operators of 'Body Care' have now advised that it is their intention to vacate the premises in May 2019 and that they no longer wish to object to the redevelopment of the site for residential purposes.

My amended report is as follows:

Summary

The proposal represents the redevelopment of an urban brownfield site, allocated for shopping purposes in the adopted Local Plan, with 14 sheltered housing units within a three storey block. The site is located on the west side of High Road, close to the Junction with Brook Road and is allocated for shopping purposes. Redevelopment of land for residential purposes is consistent with the provisions of the NPPF and in principle is considered acceptable on this site, subject to conditions.

Whilst the scheme exhibits a minor deficiency in terms of isolation spaces, when assessed against the adopted policies and guidance of the Planning Authority, this deficiency is not considered so significant as to provide a robust reason for refusal.

This application was originally presented to the Development Control committee at the request of Councillor Sheldon.

Site visit

It is not considered necessary for Members to visit the site prior to determination of the application.

THE PROPOSAL

Site description

The site is located on the western side of High Road, some 40m south of the junction with Brook Road. It is an irregular shaped plot with a maximum depth of some 55m and a width ranging from some 7m at the western end to 25m at the western frontage.

The site is currently occupied by a single storey building and a two storey building providing two shops at ground floor level and two flats above. The southern-most retail unit is used for the sale of flooring whilst the ground floor unit of the two storey building is currently used as a Gym.

To the south of the site is a three storey block of flats whilst to the north is a terrace of commercial premises including retail units and estate agents, all with flats over.

To the east of the site are further commercial premises, whilst to the west is a three storey sheltered housing complex.

Directly opposite the site, on the eastern side of High Road is the access to 'The Fairways', a four storey sheltered housing scheme.

It may be noted that part of the site the subject of the current application, was included within the site for the redevelopment of land on Brook Road with a 14 unit sheltered housing scheme. The land was developed to provide improved access to the rear of the site and the provision of parking to serve both the sheltered scheme and the retained commercial units on the High Road frontage.

The current proposal has implications for the parking provision to the Brook Road Scheme. This will be discussed under the section on parking below.

Description of proposed development

The proposal seeks consent for the demolition of all of the existing buildings on the site and their replacement with a part three storey, part four storey, part pitched roofed building, providing 9 two bedroomed flats and 5 one bedroomed flats with guest suite and communal facilities, within the roof.

Vehicular access to the development will be from the High Road and will be taken through the building to a car park providing 14 resident spaces and 2 warden spaces. One of these spaces will serve the development to the rear of the site and pedestrian access is to be provided between the two.

Pedestrian Access will also be from the High Road.

The site will provide two formal amenity areas, one at ground floor level and one within a roof terrace at fourth floor level.

Supplementary documentation

A number of supporting documents have been prepared in support of this planning application which comprise the following:

- Design & Access Statement
- Topographical Survey
- SUDS Checklist
- Surface water Network Design and Layout

All of these documents may be viewed on the Council's website.

Relevant history

The site has significant history related to the commercial use of the site, none of which is of direct relevance to the current scheme.

The site was the subject of a request for pre application advice in respect of a proposed mixed use development comprising 14 sheltered units and a shop at ground floor level in September 2016.

Local Plan allocation

The site is allocated for shopping purposes in the adopted Local Plan.

The site is not however located within a Primary Shopping Frontage or a designated Local Parade as identified in Appendix 16 of the adopted Local Plan.

Relevant policies and Government guidance

National Planning Policy Framework

Introduction:

Paragraphs: 1, 2, 3

Achieving Sustainable Development

Paragraphs: 6, 7, 10, 11, 12

Decision Making

Paragraphs: 38, 47

Delivering a sufficient supply of homes

Paragraph: 59

Ensuring the vitality of town centres

Paragraph: 85

Promoting healthy and safe communities

Paragraphs: 91, 92

Promoting sustainable transport

Paragraphs: 102, 105, 106, 108, 109

Making effective use of land

Paragraphs: 117, 118, 121, 122, 123

Achieving well-designed places

Paragraphs: 124, 127, 128, 130,

Meeting the challenge of climate change. Flooding and coastal change

Paragraphs: 148, 149, 150, 151, 153, 155, 163, 165

Conserving and enhancing the natural environment

Paragraphs: 170, 175, 178,

Conserving and enhancing the historic environment

Paragraphs: 184, 189, 190, 192, 193, 194, 195, 196, 197 and 198.

Local Plan Policies

S4 Non-Retail Development

S9 Local Shopping Parades

EC2 Design

EC3 Amenity

EC13 Protection of wildlife

EC14 Creation of habitat

H7 Affordable Housing

H9 New housing densities

H10 Mix of development

H13 Location of development

H17 Spatial standards

T8 Parking Standards

Residential Design Guidance

RDG2 Space around dwellings

RDG3 Building lines

RDG4 Corner plots

RDG5 Privacy and living conditions

RDG6 Amenity space

RDG9 Energy and water efficiency and renewable energy

RDG10 Enclosure and boundary treatment

RDG12 Parking and access

RDG13 Refuse and recycling storage

It should be noted that whilst the applicant describes the proposal as a sheltered scheme, there are no policy concessions available in respect of such developments which are consequently subject to all policies applicable to other forms of flatted development.

Consultations

CPBC Environmental Health Officer

No objection subject to informatives.

LLFA

No objection subject to conditions.

Anglian Water

No objection subject to conditions.

Street Scene

No objection.

Essex Highway Authority

No objection subject to conditions

Essex Fire and Rescue Service

No objection subject to appropriate compliance with the Building Regulations.

NHS Property Service

No response

Social Services

No response

Public consultation

147 responses were received in respect of the originally submitted proposal. The details of origin are now contained within Appendix 1 to this Item. In summary these responses raised the following objections/comments:

- Concerned about the loss of a local amenity
- Concerned about impact on High Street/Town centre.
- Concerned about impact on health and fitness of local community
- Noise, disturbance and dirt from construction phase
- Parking and Traffic implications
- Height, loss of privacy and dominance
- Noise and disturbance arising from occupation
- inappropriate location for sheltered scheme
- No need for social housing
- Duty to look after local residents
- Adverse impact on local architecture
- Loss of light to adjoining flats
- Concerned about impact of attenuation tank.

Comments on consultation responses

As was previously reported, the proposal would result in the loss of a retail unit (flooring shop) and local gymnasium and the majority of the responses received to the application were from members of the gymnasium concerned about the loss of this facility and the potential implications for the health and well-being of its current and future membership.

Since consideration of the application at the August meeting of the Development Control Committee, the occupier and operators of the gymnasium, (Body Care) have been in discussion with the developer in order to determine how the needs of each may be met. As a consequence of those discussions, the operators of Body Care have advised that they are now in a position to withdraw all objection and opposition to the application and will be vacating the premises no later than May 2019.

In the face of this statement, the weight that may be attached to objections based on the loss of the facility from this site is now extremely limited.

In response to the comment in respect of 'social housing', it should be noted that the scheme is for market housing only.

All remaining appropriate responses will be made within the evaluation of the proposal.

Evaluation of proposal

The main issues for consideration are the principle of the proposed residential development, the design and layout of the scheme, the impact on surrounding residential properties, impact on the viability and vitality of the Town Centre, parking implications and flood risk.

The Principle

Paragraph 2 of the NPPF confirms that planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. It further confirms that the National Planning Policy Framework is a material consideration in planning decisions.

Paragraph 14 states that where the development plan is absent, silent or relevant policies are out-of-date, the planning authority should grant consent for development unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

There are no specific policies within the Framework which would restrict the development proposed in this case.

The site is allocated for shopping purposes in the adopted Local Plan and is located within the town centre, where Policy S4 of the Local Plan seeks to retain town centre uses (A1, A2, A3, A4, A5, B1, D1 and D2).

The proposal seeks to provide a residential development on the site which would, prima facie, appear inconsistent with the Local Plan allocation.

However, paragraph 85 of the NPPF supports the allocation of a range of suitable sites to meet a variety of uses, including residential development, in town centres.

The Written Ministerial Statement (WMS), 'Planning for Growth', dated 2 March 2011 gives significant weight to the provision of housing in sustainable locations close to significant employment opportunities. The WMS states that:

"Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy."

It is well documented that Castle Point has an identified need for housing and limited opportunity within the urban area to meet that need.

It is also well documented that Members place a high priority on the protection of the Green Belt from appropriate development.

As a consequence housing needs will be primarily met from within the urban area.

It is therefore appropriate that acceptability of the principle of residential development be considered on this site.

The site has for many years performed a retail/leisure function which is clearly consistent with the site's edge of Town Centre location and has contributed to the economic strength of the Town Centre. In determining the principle of the residential development of the site, the economic impact of the loss of this site from commercial use must be considered.

Policy S9 of the adopted Local Plan has been referred to by a local resident objecting to the proposal. The objector considers that the proposal is inconsistent with the policy as it seeks to remove retail development in favour of residential development.

It should be noted that Policy S9 only applies to the designated local shopping parades identified with in Appendix 16 of the adopted Local Plan and is not therefore applicable to the application site which is located within a Town Centre, however, the policy does provide a framework for identifying whether a proposal would undermine the retail function of a parade and as such can provide an indication of whether strong economic reasons exist which would prejudice favourable consideration of the current proposal.

Paragraph 6.25 of the adopted Local Plan states that planning permission for non-retail uses at ground floor level in local shopping parades will not be permitted unless it can be demonstrated to the satisfaction of the Council that this would not result in the undermining of the existing shopping function of that area. Thus non-retail uses should not exceed 45% of the length of the frontage within the parade, so as to ensure that retail uses still predominate.

At the macro level, the parade of shops formed by numbers 191 – 209 High Road currently provide a total frontage of some 66m of which some 35m is within Class A1 use, some 20m is within Class A2 use and approximately 11m is within Class D2 use.

From this it can be deduced that A1 uses within this part of the Town Centre constitute approximately 53% of the units and as a consequence the parade already has a marginally weakened retail offer, although retail uses still dominate.

Following redevelopment of the site, this offer would be reduced to some 52% of the reduced frontage. The retail element of the reduced parade would still therefore dominate.

Given the marginal reduction in the retail element It is not considered that redevelopment of the site would have a significant adverse impact on the retail function of this part of the Town Centre, sufficient to sustain a reason for refusal on appeal.

Within the context of the wider Town Centre, retail uses currently occupy approximately 59.4% of the frontage. Retail therefore represents the dominant use within the Town Centre.

The loss of the application site would not adversely affect this dominance. In fact, by virtue the reduction of the length of the commercial frontage, and the loss if a large non-retail unit, the proposal would actually increase the retail element to some 59.7% of the frontage.

As previously stated, a number of objectors to the proposal have stated that the loss of the Gym would have an adverse impact the town centre as a consequence of the loss of footfall achieved from combined leisure/shopping trips.

As has been confirmed by the gym operator however, it is intended to vacate the premises no later than the 19th May 2019. As the gym will no longer be present, no reliance may be placed on the potential for combined leisure/shopping trips.

The potential for new residents to use local shops must also be considered.

In the light of the information available, it is not considered that there are any strong economic reasons why such development should not be allowed which could be sustained on appeal. No objection is therefore raised the proposal on this basis.

Impact on amenity and health of residents

A number of objectors to the proposal have commented that redevelopment of the site would result in the loss of a valued local amenity and would not be conducive to improving the health and well-being of local residents, consistent with the provisions and objectives of the Government's Health and Well-Being Strategy.

The NPPF identifies that the Planning system should enable and support healthy lifestyles through, inter alia, the provision of sports facilities and open space.

The value of local sport facilities is recognised and residents of Benfleet are particularly well served by opportunities for both indoor and outdoor healthy recreation activities. In addition to the open space provided at the St Mary Playing Fields and within the Hadleigh Castle Country Park, it should be noted that there are at least 10 Gymnasias and Fitness suites within 5 miles of the application site.

The evidence suggests that Benfleet is not deprived in terms of opportunities for achieving improved health and well-being and as a consequence it is not considered that a robust argument for the protection of the current facility can be made, (notwithstanding the actual capability of the Planning Authority to achieve this).

Paragraph 92 of the NPPF states that the Planning Authority should guard against the unnecessary loss of valued facilities and services.

There is a significant need for housing within the Borough and with an ageing population, the need for sheltered accommodation is growing. Sites suitable for the provision of such development is limited and sites on the edge of Town Centres often identified as suitable for such development, (as is evidenced by the existing sheltered schemes located immediately to the east and west of the site). The provision of housing is an essential element of the role of the planning system. Such development cannot be described as unnecessary.

The loss of retail sites within Town Centres to accommodate residential development is encouraged by the NPPF, particularly in areas with identified housing shortages.

The loss of the existing facilities to accommodate that development cannot therefore be described as unnecessary.

No objection is therefore considered sustainable in respect of the loss of a 'valued local facility'.

This is particularly the case as here, where there is a clear and stated intention by the operator to vacate the site, thus removing the facility, regardless of the outcome of the application.

Design and layout

The form of development.

The proposal seeks to provide 9 two bedroomed flats and 5 one bedroomed flats with associated amenity space, communal facilities and parking provision. The building will appear as a three storey building with rooms formed in the roofspace.

Local residents have objected to the provision of flats, identifying it as an inappropriate site for such development, and inconsistent with the character of the area.

Policy H13 of the Adopted Local Plan considers the principle and location of flatted development and provides criteria on design, scale and siting. This policy is considered generally consistent with the NPPF.

The policy specifically states that proposals for flats should be located on main roads.

The site fronts the High Road, which is a major distributor through the Borough and clearly falls within the definition of a main road. Furthermore the site immediately abuts the sites of flatted development to the south and west and is opposite the entrance to a sheltered housing scheme on the eastern side of the High Road. The principle of the provision of flats in this location, on land allocated for shopping purposes is therefore well-established. In this context it is not considered that an objection to flats at this specific location could be sustained on appeal.

Density and Mix of Housing

Policy H9 of the adopted Local Plan requires the optimum density of development to be achieved on any site. The optimum number is generally defined as the quantum of development that can be achieved whilst providing an attractive layout and without causing harm to the surroundings.

Whilst broadly consistent with paragraph 123 of the NPPF, Policy H9 is somewhat vague and a better test of whether the density of the development is appropriate is assessment of the proposal against the Council's Residential Design Guidance, which will be undertaken later in this report.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This is also a vague policy which is inconsistent with the requirements of paragraph 61 of the NPPF which requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The most up to date local evidence of need in respect of the mix of development on sites is the 2017 Addendum to the 2016 Strategic Housing Market Assessment (SHMA May 2016). This identified that for the Castle Point area, in the period 2014 – 2037, 32% of new dwellings should be 1 and 2 bedroomed properties and 68% of new dwellings should be 3 and 4+ bedroomed properties.

The proposed development consists of a mixture of one and two bedroomed units, the provision of which will meet an identified need.

Under the circumstances the proposal is considered to satisfy the requirements of Policy H10 of the adopted Local Plan.

Design

Policy EC2 of the current Local Plan requires a high standard of design in all new buildings. This is consistent with paragraphs 124 - 130 of the NPPF. Proposals will have regard to the scale, density, design, layout and external materials which should be appropriate to the setting of the building and which should not harm the character of the surroundings. The appearance and treatment of spaces around buildings shall be enhanced by appropriate hard and soft landscaping. It also states that all modes of movement shall be made safe and convenient.

The proposed development provides a traditional combination of hipped and pitched roofs with projecting gables and large areas of glazing. The plans indicate that the external walls would be finished in a mixture of brick and render with projecting bays and gable features and rendered and glass balustrades.

The scheme closely reflects the height, style and character of the flatted development to the south. The proposed balconies to the front elevation have been commented on by local residents and would appear a little incongruous in a town centre setting, however, they also have the capacity to provide an element of interest in the streetscape and are not considered so injurious to the appearance of the building as to provide a robust reason for refusal.

Comment has also been made that the proposed flats are inconsistent with the scale and form of the existing shops to the north. Whilst this is clearly evident, the proposed flats appearing as a three storey building adjacent to the two storey shops and having a much wider frontage than the adjoining development, the same argument may also be raised in respect of the current development on the site. The retail building being single storey and flat roofed as opposed to two storey and pitched roofed.

Consideration of the High Road reveals that there is no consistent architectural style or character and that significant variety of built form occurs. This is a common feature of many Town Centres which have developed and redeveloped over many years. The variety achieved is not unattractive and it is not considered that the continuation such variety in the current proposal would be harmful to the established character.

No objection is therefore raised the overall character and appearance of the scheme.

Acceptability in terms of the detail of the scheme will be determined within the framework provided by the Council's adopted Residential Design Guidance.

Within the Council's Residential Design Guidance Supplementary Planning Document, guidance, RDG2 requires the space around new development to be informed by the prevailing character of space around dwellings. Where there is no clear pattern of development the space around a dwelling should be proportionate to the size of the dwelling. It should seek to provide at least 1m between the properties and the boundary.

Buildings containing, *inter alia*, flats or sheltered accommodation should provide space equivalent to 25% of the width of the building.

The proposed development extends across the full width of the plot and provides no isolation between the development and the boundaries of the site.

As such this element of the proposal fails to meet the requirements of RDG2. However, the site is located within a Town Centre where a tighter grain of development is considered acceptable. The utilisation of the full width of the plot reflects the current situation on the site and under the circumstances it is not considered that an objection to the setting of the building could be sustained on appeal. No objection is therefore raised to the proposal on this basis.

Guidance at RDG3 requires all new development to be informed by the prevailing building lines to the public realm it faces, without repeating poor forms of development. Development must not result in disruption to strong building lines.

RDG3 also requires proposals not to cause excessive overshadowing or dominance to adjacent properties.

The building line to High Road varies in depth, with the residential buildings to the south being located some 6m – 11m from the highway boundary and the commercial development to the north being set on, or within 1m of the boundary. The proposed development would appear, by virtue of the projecting balconies, to be located on the highway boundary; however in the context of the adjoining development this arrangement would not appear unacceptable. No objection is therefore raised to the proposal on the basis of building lines.

Local residents have objected to the proposal on the basis of height and dominance.

In terms of height it should be noted that the proposed building will have a maximum height of some 12m. Whilst this is higher than the commercial development to the immediate north, it is comparable to many of the flatted developments in the area, including that to the immediate south of the site. As such it is not considered that an objection to the height could be sustained on appeal.

The proposed flats would extend beyond the front and rear elevations of the adjoining residential flats; however the proposed development is located to the north of these neighbours and considered unlikely to have a significant detrimental impact in terms of overshadowing.

Whilst dominance may be a source of concern for the occupiers of the flats to the south, the proposed development would only extend some 5m beyond the rear elevation and 3m in advance of the front elevation. As such it is not considered that the occupiers of the adjoining buildings would be significantly adversely affected by the proposed development in terms of dominance.

The proposed flats would be located to the south of the adjoining terrace of mixed commercial/residential properties and would, as a consequence of its location within the site have the potential to overshadow and dominate those buildings. However, those closest to the proposal and therefore more likely to experience overshadowing and dominance already experience this as a consequence of the design and subsequent extensions to the buildings currently on site. It is not considered that the impact of the proposal, whilst discernible, would be so significant as to present a robust objection to the proposal.

All other development is considered too remote to experience a significant adverse overshadowing or dominance as a result of the construction of the proposed development.

No objection is therefore raised to the proposal under the provisions of RDG3.

RDG5 provides guidance on privacy and living conditions; and states that for all development above ground floor level a distance of 9m shall be provided between any first floor opening/balcony and the boundary it directly faces. For development at second floor level a distance of 15m shall be provided. Development above second floor should be provided with 18m.

It also considers that all new dwellings should be provided with windows to ensure adequate natural light and ventilation to the rooms they serve.

The proposed development seeks to provide windows in the southern, eastern and western elevations across all floors.

The windows and balconies provided to the front elevation would overlook the highway and public realm and would not result in any loss of residential amenity for adjoining occupiers, provided appropriate screens are provided to the sides of the proposed balconies.

Windows and balconies provided in the rear elevation would some 26m from the rear boundary of the site and would not result in any loss of residential amenity for adjoining occupiers.

Whilst balconies are provided in close proximity to the side boundary, the provision of appropriate screens will ensure the amenity of adjoining occupiers.

Windows in the southern elevation serve stairwells. These would be located within 0.2m of the site boundary. Such windows have the capacity to result in undue overlooking and loss of privacy to the adjoining residents as well as encroachment should the windows be opened. In order to avoid these potentialities however, the windows may be obscure glazed and fixed, thus preserving the privacy and amenity of adjoining residents without unduly compromising conditions within the proposed development. Subject to an appropriate condition no objection is raised to the proposal on the basis of RGD5.

RDG6 requires appropriate amounts of amenity space to be provided, in proportion with the size of the dwelling(s). For buildings containing flats or specialist residential development, 8m² of amenity space should be provided per habitable room. Where flats have fewer than three habitable rooms 25m² of amenity space should be provided for each flat.

The provision of balconies can be included in this, provided that they have a depth of at least 1.5m and a floor area of 5m².

The proposal would attract a requirement of 325m². Approximately 77 sqm of amenity space is provided at ground floor level and approximately 72sqm of amenity space is provide within a roof top terrace.

All of the flats at first and second floor level have large balconies providing some 135sqm and an additional 50sqm of communal space is provided within a communal lounge and kitchen at third floor level which supplements the external amenity space.

In total therefore the scheme provides some 334sqm of amenity space, which is sufficient to meet the requirements of RDG6.

RDG8 requires that all development is designed to provide well-proportioned and balanced properties which complement the surrounding area. .

A local resident has objected to the proposal on the basis that it is architecturally inconsistent with the buildings to which it would be attached.

The existing two storey unit forms part of the terrace of shops extending to the north. The proposed development seeks to maintain this arrangement and the roof of the adjoining property will dovetail into the roof of the proposed development.

The commercial terrace has no special historic or architectural value and Government guidance is clear that Planning Authorities should not attempt to impose architectural styles or particular tastes on developers or require them to conform to certain development forms or styles.

The proposed development does exhibit a number of features which are consistent with the adjoining commercial terrace, most noticeably the pitched roofs, albeit at a larger scale. Furthermore the scheme reflects the scale and character of the flats immediately adjoining the site to the south, with projecting bays and multiple pitched roofs. Under the circumstances it is not considered that an objection to the proposal based on divergence from the character of the adjoining development could be sustained on appeal.

In terms of the appearance of the building itself, all doors and windows are vertically and horizontally aligned and the articulation of the frontage successfully breaks up the visual mass of the building.

The proposed building would have no adverse impact on the character and appearance of the surrounding area and is considered to satisfy the requirements of RDG8.

In terms of the palette of materials to be used, orange/brown brickwork will be enhanced with white render, with grey concrete pantile roofs. Paved areas will be finished in grey paviors. All doors and windows will be of white UPVC.

This palette reflects that of the adjoining properties and as such is considered acceptable.

RDG9 encourages the incorporation of measures for achieving high levels of energy and water efficiency into developments. It also requires the design and siting of energy and water efficiency measures not to result in prominent, dominant, alien or incongruous features.

The scheme primarily faces east and west and offers potential for passive solar gain. This feature, coupled with the use of appropriate thermal insulation and energy efficient appliances is considered sufficient to satisfy RDG9.

RDG10 requires means of enclosure not to dominate the public realm.

A brick wall, marking the front boundary of the site is to be located along the eastern boundary of the site. No height is identified in respect of this boundary treatment, however in principle the provision of a brick wall is acceptable and a condition can be imposed on the grant of any consent limiting the height to no more than 1m. No boundary treatment will be permitted within the visibility sight splay serving the proposed access.

As the building extends to the site boundaries to either side, no means of enclosure to these boundaries will be evident from any public vantage point. All other boundary treatments are to remain as existing and essentially comprise a mix of 2m high brick walls and fences.

Such enclosure is considered acceptable in principle and will satisfy the requirements of RDG10.

Parking and Access Arrangements

RDG12 is concerned with the provision of appropriate access and parking arrangements.

Access to the development is proposed to be taken from a new access point created from the High Road.

The vehicular access to the site is to have 2m high gates set back into the site by some 6m in order to allow a vehicle to wait at the gates clear of the highway.

Internally, the site layout is to be a part shared surface design.

The main pedestrian access is also proposed from the High Road frontage and is similarly recessed in order to create articulation within the elements of the building.

This arrangement is considered satisfactory.

In terms of parking, Policy T8 of the Local Plan requires the provision of car parking in accordance with adopted standards. This is consistent with paragraph 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstances.

The currently adopted standards are the 2009 County Parking Standards.

Two potentially relevant parking standards are available – that for flats which requires the provision of one space for one bedroomed properties and two spaces for properties with two or more bedrooms, plus visitor parking at a rate of 0.25 spaces per dwelling, rounded up to the nearest whole space, and that for retirement developments (warden assisted independent living accommodation) which requires the provision of one space per unit.

Under the provisions for flats the maximum parking requirement for this development would be as follows:

9 units with 2 or more bedrooms: 18 spaces

5 units with one bedroom	5 spaces
Guest Suite	1 space
Visitors 0.25 x 14	<u>4 spaces</u>
Total	28 spaces.

It is the practice of this Authority to apply parking standards flexibly in locations which offer good access to public transport and services. The proposal site is considered appropriate for consideration in this context and would therefore attract a requirement of one parking space for every residential unit (including the guest suite). This would equate to the provision of 15 spaces.

No visitor parking would be required given the proximity of the site to public car parks and opportunities for the use of public transport within the adjoining area.

Calculation of parking provision on the basis of sheltered housing would also generate a requirement for 15 parking spaces.

This quantitative provision is achieved on the site.

It should be noted that there is no requirement to provide warden parking.

Car parking spaces are required to be 2.9m wide and 5.5m deep. This is achieved on the site.

As previously stated, the current application site includes an area which originally provided some parking for the existing Sheltered Scheme to the west. Incorporation of this land into the application site has the effect of reducing parking on the adjoining site to 13 which is insufficient to satisfy the needs of that site. The applicants have however identified an opportunity to provide an additional parking space within the site to the west, thus providing parking on the basis of 1:1 as required. The works to create the additional parking space would need to take place on land beyond the confines of the current application site, but still on land within the control and ownership of the applicant. It is therefore considered that a Grampian style condition requiring the provision of an additional parking space to serve the development to the west prior to the occupation of development on the current application site, could be imposed on the grant of any consent, thus securing appropriate parking for both schemes.

Subject to such a condition no objection is raised in respect of impact on the parking provision on the adjoining site.

It should be noted that the Highway Authority has been consulted on this proposal but has raised no objections.

The residential cycle parking requirement for sheltered flats is one secure space per eight dwellings. Within the context of a sheltered development, cycle storage for 2 bicycles is required. The submitted application form indicates that 6 spaces will be provided. It is considered that this can be achieved within the mobility scooter store room provided at ground floor level.

Local residents have objected to the proposal on the basis of inadequate parking and traffic generation.

As demonstrated above the scheme provides sufficient car parking provision to meet the needs of the proposed scheme.

In terms of traffic generation, it must be noted that the site represents an allocated shopping site which currently supports commercial activities which are uncontrolled in terms of their hours of operation or potential for trip generation.

The proposed development will replace the significant potential for user vehicles to access the site with cars via Brook Road thus reducing traffic through that junction and reducing adverse noise and disturbance for residents and other users of the commercial activities to the north of the site.

No objection is therefore raised to the proposal on parking or traffic grounds.

Refuse and Recycling

RDG13 deals with refuse and recycling storage and requires such facilities to be of adequate size for the development they serve and not to adversely impact on the streetscene. A refuse bin storage area is to be provided at the front of the site. The Councils Refuse and Recycling Officer has raised no objection to this provision.

Ecology and Trees

Policy EC13 of the adopted Local Plan states that the Council will refuse development which is prejudicial to the interests of all wildlife and the retention and management of important habitats.

Policy EC14 states that the council will encourage proposals for further nature reserves. It will also promote the creation of new wildlife habitats in conjunction with development proposals. In considering planning applications, the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

Paragraph 170 of the NPPF states that *the planning system should contribute to and enhance the natural and local environment by:*

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures
- avoiding risk of pollution and mitigating despoiled land.

In paragraph 175 it states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is

likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

- development proposals where the primary objective is to conserve or enhance biodiversity should be permitted;
- opportunities to incorporate biodiversity in and around developments should be encouraged;
- planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss.

The site is a commercial site with significant built form and areas of hardsurfacing. The site currently provides no landscaped areas and consequently offers limited opportunities for wildlife.

The site has been identified as having very low landscape value.

Given the absence of vegetation present on the site and the poor quality of the landscape it is not considered that development of the site would have a significant adverse impact on visual amenity or wildlife in the immediate vicinity.

The proposal does however provide the potential to increase the ecological interest and value of the site. A condition will therefore be attached to the grant of any consent requiring the submission, approval and implementation of a robust landscaping scheme, heavily biased towards indigenous, wildlife friendly species.

Consideration of Natural England's Impact Risk Zones for international and national designated sites reveals that the application site is within the zone of influence for the Southend and Benfleet Marshes Special Protection Area, Special Area of Conservation and Ramsar site and Canvey Wick and Holehaven Creek SSSIs.

More detailed consideration of the potential impact of the proposed development on these sites is therefore required.

The Need for Habitat Regulations Assessment (HRA) – The Impact on Internationally Designated Sites

The application site lies within 900m of Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site and is wholly within the identified Risk Impact Zone.

This European designated site comprises an extensive series of salt marshes, mud-flats, scrub and grassland supporting a diverse range of flora and fauna. The site is of international importance for wintering birds such as Knot, Dark Bellied Brent Goose and Grey Plover, as well as of national importance for Wintering Dunlin, Redshank and Ringed Plover and supports eleven nationally scarce plants. A section of the European site is of outstanding importance for invertebrates, with 30 Red Data Book species recorded to date.

Due to the proximity of the site to the Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Ramsar site, and its status as a European designated site, consideration of the application is subject to the requirements and obligations of the Conservation of Habitats and Species Regulations 2010. In determining the planning

application this Authority must determine whether this development could cause 'likely Significant Effects' in the context of the Habitats Regulations (regulation 61).

Ordinarily the Planning Authority would consult Natural England to assist in determining the impact of proposed development on sensitive sites, however, Natural England has advised that it only requires consultation when dealing with proposals for residential development providing 50 or more units. The proposal seeks to provide up to 14 residential units. As a consequence advice on the current proposal has not been sought.

Nevertheless, it is incumbent on the Planning Authority to consider the potential impact of the proposed development on the designated site.

A HRA typically follows a two stage process to identify if the project is likely to have a significant effect on the interest features of the site.

A screening assessment must first be completed. If significant effects are predicted within this assessment, a more detailed 'Appropriate Assessment' must be undertaken.

The screening process is generally dealt with in four stages:

- Site management: to ascertain whether the plan or project is directly connected with or necessary for the management of Natura 2000 sites.
- Project description and 'in combination effects': A description of the plan or project and explanation of any other plans or projects which, in combination, have the potential for having significant effects on Natura 2000 sites ('in-combination effects').
- Site characteristics: A description of Natura 2000 sites characteristics and
- Assessment of significance: An assessment of likely significance of any effects on Natura 2000 sites.

Site Management

No part of the proposed development is directly connected with or is necessary for the management of the relevant Natura 2000 site – the Southend and Benfleet Marshes SSSI, SPA, SAC and RAMSAR site.

Project Description and in Combination Effects

The proposed development site is located approximately 900m to the north of the designated site and seeks to provide 14 dwellings with associated parking and amenity space. This scheme is capable of accommodating up to 28 residents.

Other housing projects have been recently completed in proximity to the application site or within the wider area. In-combination effects must therefore be considered.

Site Characteristics

As stated above the designated site comprises an extensive series of salt marsh, mudflats, scrub and grassland supporting a diverse range of fauna and flora.

The conservation objective for the internationally important populations of regularly occurring migratory bird species and assemblage of wildfowl is to maintain in favourable condition the habitats present within the designated area, in particular the shell banks, salt marsh, intertidal mudflats and sandflat communities and Eelgrass beds.

Assessment of significance

The application site, due to the distance from the designated area, is not considered likely to have any direct impact – there will be no loss of habitat, fragmentation or coastal squeeze as a consequence of the development of the application site.

The introduction of new dwellings has the potential to increase traffic which is likely to result in more emissions of nitrogen oxides and deposition of nitrogen. However the proposed development will not create or add to any significant commuter routes that could adversely impact upon the designated site.

The noise associated with the development phase and subsequent residential use of this site will not impact upon, and will not cause a disturbance to, any part of the designated site.

No illumination associated with the development phase or subsequent residential use of the site will cause a disturbance to any part of the designated site.

Recreational use of the designated area by new residents associated with the proposed development could result in deterioration of habitats through trampling of habitats and disturbance of species.

Deterioration of habitats is however considered unlikely to be an issue as most people will tend to utilise existing routes and footpaths and much of the designated site's habitats such as the mudflats and saltmarshes would be inaccessible, therefore this assessment will focus on disturbance related impacts.

The site characteristics confirmed that the designated area's conservation value is broadly based on the presence of birds.

The effect of disturbance on birds varies greatly between different species and also on the size and characteristics of the relevant habitat and the availability of alternative sites.

The habits of birds also make them more vulnerable to disturbance. Birds which flock together are highly sensitive, while those that are water-based are less prone to reacting to disturbance.

Sensitivity to disturbance also varies throughout the year, depending on the birds' specific activity at each location. Breeding and over-wintering waterfowl are particularly sensitive to disturbance.

Impacts of activity during high tide are thought to be higher, due to the proximity of the birds to recreational areas.

Most wading birds roost at high tide and are typically faithful to roost sites so frequent disturbance can cause them to totally abandon a site, relocating to another suitable area.

Depending on the magnitude of the disturbance, some birds may take flight temporarily, but return shortly after the disturbance ends. Other birds may modify their feeding habits. When a bird is

forced to take flight, energy expenditure increases. At times of limited food supply and/or cold weather this could be potentially life threatening.

The proposed development does not create any new access routes of any type to the designated area.

The existing formal recreational use that could cause disturbance at the designated area is regulated with a combination of legislative control, educational provision and voluntary codes.

The potential recreational pressure from the new residents will not impact upon these existing control measures within the designated area.

It is more likely that any minimal disturbance associated with the new residents within or adjacent to the designated area will be through casual recreation use – walking with or without the family dog.

High tide walkers with dogs have a much higher impact than walkers without dogs and the RSPCA indicates that on average approximately 23% of households own a dog. It should be noted however that few sheltered schemes allow dogs on a permanent basis, however, based on the national average, up to 4 of the new dwellings are likely to be occupied by people with dogs.

Recent statistics indicate that on average 55% of adults in England walk at least once a month for recreational purposes. On this basis it may be concluded that potentially 38 of the residents, including 3 of the 4 dog owning occupiers of the development site, would walk once a month adjacent to the designated area if they chose to visit that site every time.

On this basis it is concluded that a very low amount of possible disturbance is likely to arise as a result of the proposed development. This level of activity is considered unlikely to cause significant additional disturbance.

It is also considered unlikely, given the distance involved that new resident dog owners would seek to exercise their dogs within the designated area on a regular basis.

The location and size of public car parks adjacent to the designated area that could facilitate recreational visits from the proposed development are located within South Benfleet, adjacent to the railway station. These offer the opportunity for access to the designated area via the Country Park, however given the limited number of potential visits as examined above, it is not considered that a significant adverse impact would occur as a result any increased use of the Country Park as a consequence of the proposed development.

On balance, considering the scale of the proposed development and its operational implications, the distance from the designated site and the limited likelihood of extensive use of the area for informal recreational activity, it is not considered that the proposal would, in isolation, have a significant adverse impact on the designated area.

A major development comprising 18 flats and two new dwellings is currently under construction at 242 High Road. Such development could generate approximately 48 new occupiers and 32 potential walkers.

In combination an additional 70 visits a month could be made to the Designated Site. It is not considered that this level of activity, in the context of the wider use of the Country Park, would have a significant adverse impact on the designated area.

Appropriate Assessment is not therefore considered necessary.

Impact on Nationally Designated Sites

Canvey Wick SSSI is located in excess of 3km to the south of the application site. Given that this site and that adjacent to it at Holehaven Creek are further from the site than the Internationally designated site referred to above, the SPA/SAC RAMSAR site is considered more likely to experience increased recreational pressure as a result of the addition of new residents.

For the same reasons as have been identified for the International site, it is not considered that these sites would experience significant adverse impacts as a consequence of the proposed development, either in isolation or cumulatively.

Impact on Local Designated Sites

The site lies within 1.3km of Local Wildlife Site CPT4 Canvey Grazing Marshes, within 700m of CPT6 Benfleet Sewage Works Wildlife Site and within 600m of CPT37, Benfleet Marsh. All represent examples of grassland and grazing marsh.

Due to the location of the sites, access to CPT4 and 6 are considered less easy and therefore potentially less attractive to occupiers of the proposal site, whilst CPT7, appears as an adjunct to the larger St Mary's playing field and potentially less obvious as a wildlife step. The availability of large non-designated open spaces in close proximity to the site is considered likely to limit direct impact on the designated sites and as a consequence it is not considered that the proposal, either cumulatively or in isolation, would represent a significant risk to the ecological or landscape value of the designated site which would require remediation on site.

No objection is therefore raised to the proposal on this basis.

Flood Risk

The NPPF states that a site-specific FRA should demonstrate that the development will be safe for its lifetime (taking into account the vulnerability of its users), without increasing flood risk elsewhere and, where possible, reduce flood risk overall.

The site is identified as falling within Flood Zone 1 and is therefore at low risk of fluvial or tidal flooding, however some parts of the site would be susceptible to surface water flooding. The extent of the site susceptible is limited and would not appear to impact on the proposed dwellings, as such no objection is raised to the proposal on the basis of its vulnerability to flooding.

Development of a site would ordinarily run the risk of the potential for run off onto other sites, thus potentially increasing off-site flood risk, contrary to Government guidance. In this instance however it is noted that the site is extensively hard-surfaced and that the proposed scheme would result in a greater area of the site being permeable.

As the post-development's impermeable area is less than the current site, the volume of surface water run-off is likely to be reduced as a result of implementing the scheme, thus reducing the risk of off-site flooding.

Despite this situation however the applicant intends to install sustainable drainage measures onto the site in order to reduce surface water discharge from the site and improve the quality of water entering the public sewer network.

The Lead Local Flood Authority have thoroughly considered the submitted Flood Risk assessment and following the raising of an initial holding objection in order to seek the submission further information, the LLFA raise no objection to the proposal, subject to appropriate conditions.

A response has been received from a local resident expressing concern over the impact of the provision of an attenuation tank close to their property and the ability of local infrastructure to cope.

It should first be noted that the provision an attenuation tank is a mitigation measure which will afford the existing surface water drainage system the capacity to cope with significant downpours. Given that the site is completely hardsurfaced at the present time and demonstrates no mechanical measures to mitigate surface water runoff, the provision of an attenuation tank will result in significant betterment on the site which should improve the situation for adjoining residents.

The fact that flow rates into the surface water system will then be controlled from the attenuation tank into the surface water system represents a further improvement over the current situation.

No objection is therefore raised to proposal on the basis of flood risk or surface water drainage.

Impact on surrounding residential properties

The effect of development on residential amenity is an important planning consideration. Policy EC3 of the adopted Local Plan states that development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused.

Local residents have also raised concerns in respect of the proposed development, specifically with regard to the potential for noise, dirt and disturbance, parking and traffic considerations and loss of privacy.

Concerns in respect of parking, traffic, and privacy have been considered in the foregoing evaluation and will not be repeated.

Loss of Light

A local resident has objected to the proposal on the basis that it would block light to a kitchen window in the side elevation for the adjoining building. This window is located approximately 1m from the side boundary and provides secondary light to the kitchen area of a through lounge kitchen.

The adjoining property was constructed in the early 1980s and since that time has enjoyed the benefit of unimpeded light across the adjoining land as a consequence of the low-rise nature of the adjoining development, however this benefit is not enjoyed by right and the Planning system is unable to protect light to side windows.

It is however appropriate to consider whether the proposal would have a significant adverse impact on the living conditions of the adjoining residents.

The affected window is located in the northern elevation of the building and consequently experiences limited natural light as a consequence of the relative orientation of the building.

This feature, coupled with the fact that the window is a secondary window to the living space and serves the kitchen which does not require high levels of natural light militates against the provision of a robust reason for refusal. Whilst it is acknowledged that the proposed development would have an impact on light levels reaching this window, it is not considered that the impact on the living conditions of the adjoining resident would be so significant as to represent a robust reason for refusal.

No objection is therefore raised to the proposal on this basis.

Inappropriate location for sheltered housing

A local resident has objected to the proposal on the basis that it is an inappropriate site for a sheltered housing complex.

This allegation is rejected. Consideration of the area identifies that a Sheltered Housing Scheme exists to the rear of the site on Brook Road and a further scheme exists on the eastern side of the High Road, opposite this site, at the Fairways. The presence of these schemes attests to the fact that most providers of sheltered housing seek sites on main roads with good access to local shops and services. As a site on the edge of a Town Centre, the application site is an ideal location for such development. No objection is therefore raised the proposal on this basis.

Noise, Dirt and Disturbance.

Construction will inevitably result in some noise and disturbance being experienced by adjoining residents. However such occurrences are transitory in nature and cannot therefore represent a robust objection to the proposal.

With regard to noise experienced as a result of the operation of the sheltered scheme, it must be remembered that the proposal seeks to redevelop an existing commercial site with a residential development. It is not considered that the proposed use would give rise to unusual levels of noise and disturbance relative to the context of the site and its former and potential use.

No objection is therefore raised to the proposal on this basis.

In terms of dirt/dust generated through the construction period, legislation is currently available to control such matters (Environmental Protection Act) and the applicant's attention will be drawn to the need to implement appropriate site management to avoid adverse impacts on adjoining residents and the wider road network.

Duty of Care to Residents

A number of objectors have commented that approval of the current proposal would represent a dereliction of the duty to care for local residents. This assertion is made on the basis that the loss of the Gym from the site is considered by Gym users in particular as likely to have an adverse impact on their health and well-being.

Whilst the sentiment of this comment is acknowledged, as previously stated, the operators of the gym have advised that they intend to vacate the site in 2019.

Furthermore the general rule in law is that the broad, discretionary power of a local authority to grant planning permission does not give rise to a duty of care at common law. In other words, when an authority grants planning permission, it has no liability in negligence to neighbouring landowners even if the effect of the permission is contrary to the neighbours' interests.

This principle holds true for users of a particular facility as much as for landowners, thus granting permission for the redevelopment of the site would not give rise to a duty of care and planning permission cannot be refused on this basis.

Conclusion

The proposal represents the redevelopment of an urban brownfield site, allocated for shopping purposes in the adopted Local Plan, for residential purposes. Re-use of the land for residential purposes is consistent with the provisions of the NPPF and in principle is considered acceptable on this site.

Whilst the scheme exhibits a minor deficiency in terms of its setting when assessed against the adopted policies and guidance of the Planning Authority, this deficiency is not considered so significant as to provide a robust reason for refusal.

Key concerns of Members in the earlier consideration the application, was the impact of the proposed redevelopment of the site on existing users and the impact of the loss of retail frontage on the vitality and viability of the Town Centre.

The developer has engaged in extensive discussions with the current occupiers of the site, which have resulted in the occupier advising that they are content to vacate the site. The occupier has confirmed that this move will occur regardless of the determination of the application.

The occupier has further withdrawn their objection to the redevelopment of the site for residential purposes.

Under these circumstances it is not considered that an objection to the proposal on the basis of the retention of an existing service represents a robust reason for refusal capable of being sustained on appeal.

Furthermore, it is not considered that strong economic reasons for the retention of the site in commercial use can be provided, particularly in the face of significant need for housing and the Government's attitude, as expressed at paragraph 85 of the NPPF, towards encouraging residential development within Town Centres.

I have taken all other matters raised by interested parties into consideration but none are sufficient to outweigh the considerations that led to the following:

My Recommendation is **APPROVAL** subject to the following conditions:

- 1 The development hereby permitted shall be begun on or before the expiration of three years beginning with the date of this permission.

REASON: This condition is imposed pursuant to Section 91 of the Town and Country Planning Act 1990.

- 2 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period.

The Statement shall provide for:

- 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.

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 in accordance with Policy EC2 of the adopted Local Plan.

- 3 Prior to the commencement of works above foundation level details or samples of all materials to be used on the external surfaces shall be submitted to, and formally approved by the Local Planning Authority.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

- 4 Prior to the first occupation of the development hereby approved, the proposed vehicular access as shown on planning drawing 1529/S1/G 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 be 5.5m and shall be provided with an appropriate dropped kerb vehicular crossing of the highway verge and footway.

REASON: To ensure that vehicles can enter and leave the highway in a controlled manner in the interests of highway safety in accordance with Policy EC2 of the adopted Local Plan.

- 5 Prior to the occupation of the proposed development, the proposed shared access shall be constructed to a width of 5.5m for at least the first 6m from the back edge of highway boundary.

REASON: To ensure that vehicles can enter and leave the highways in a controlled manner and to ensure that opposing vehicles can pass clear of the limits of the highway, in the interests of highway safety in accordance with Policy EC2 of the adopted Local Plan.

- 6 Prior to occupation of the development a 1.5m x 1.5m pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity.

These visibility splays must not form part of the vehicular surface of the access.

REASON: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with Policy EC2 of the adopted Local Plan.

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

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport, in accordance with the provisions of the National Planning Policy Framework..

- 8 Prior to first occupation of the development hereby approved, the proposed windows in the southern elevation above ground floor level shall be obscure glazed to at least Level 3 of the Pilkington scale and fixed to a height of 1.7m from finished floor level of the area they serve and thereafter permanently retained as such.

REASON: In order to protect the privacy and amenity of the adjoining occupiers, pursuant to Policy EC2 of the adopted Local Plan.

- 9 Prior to the first occupation of the proposed development, within the proposed mobility scooter storage area provision shall be made for the secure storage of at least two bicycles.

REASON: In order to encourage modal shift away from the private car.

- 10 Prior to first occupation of the development hereby approved, a 1.8m high close boarded fence shall be provided along the southern boundary of the site and permanently retained in this position unless otherwise consented by the Planning Authority.

A 1.8m fence shall also be provided along the northern boundary of the site, along the entire depth of the curtilage of No, 195 High Road and permanently retained in this position unless otherwise consented by the Planning Authority.

The wall provided between the site and the dwellings to the south shall be permanently retained as such.

REASON: In order to protect the privacy and amenity of the adjoining residents and occupiers.

- 11 Prior to the first occupation of the development hereby approved a landscaping/tree planting scheme shall be submitted to and formally approved by the Local Planning Authority. Such a scheme shall include full details of all proposed tree planting, including species, size, density, methodology and the proposed times of planting and planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers / densities.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

- 12 Prior to the first occupation of the development hereby approved all landscaping works shall be carried out in accordance with the approved landscaping scheme.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

- 13 Prior to the first use of the balconies provided to the front and rear elevations, an obscure glazed screen to at least Level 3 on the Pilkington Scale and a minimum of 1.8m in height measured from the finished floor surface of the balcony shall be erected at the northern and southern edges of the balconies provided and permanently retained as such thereafter.

REASON: In order to protect the privacy of the occupiers of the adjoining properties

- 14 Prior to first occupation of the development hereby approved, the proposed amenity areas shall be provided and thereafter permanently maintained.

REASON: In order to ensure the provision and retention of appropriate amenity areas within the site, in the interests of the amenity of future residents and in accordance with Policy H17 RDG6 of the adopted Local Plan.

- 15 The proposed car parking shall be laid out as shown on Drawing No. 1529/S1/G dated August 2017 and received by the Planning Authority on the 30th January 2018. Such spaces shall be made available for use prior to the first occupation of the site and shall be permanently retained as such thereafter, unless otherwise consented by the Planning Authority.

REASON: To ensure adequate space for parking off the highway is provided and retained and to ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety, in accordance with Policy EC2 of the adopted Local Plan.

- 16 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 in accordance with Policy EC2 of the adopted Local Plan.

- 17 No unbound material shall be used in the surface treatment of the vehicular access within 6m of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with Policy EC2 of the adopted Local Plan.

- 18 The proposed wall on the eastern boundary of the site shall not exceed 1m in height. No part of the wall shall be constructed within the sight splay provided pursuant to condition 6 above.

REASON: In the interest of preserving the visual amenity of the area and the safety of pedestrians and other road users, in accordance with Policy EC2 of the adopted Local Plan.

- 19 Where car parking spaces are provided on the site these facilities shall be retained solely for that use and for no other purpose whatsoever without the formal consent of the Local Planning Authority.

REASON: To ensure the retention of adequate on site car parking facilities to meet the Councils adopted standards for the amount of accommodation to be provided on the site in accordance with Policy T8 of the adopted Local Plan.

- 20 Any gates provided at the shared vehicular access shall be inward opening only and shall be set back a minimum of 6m from the back edge of the highway boundary.

REASON: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed and to allow parking off street and clear from obstructing the adjacent carriageway in the interest of highway safety in accordance with Policy EC2 of the adopted Local Plan.

- 21 No works above foundation level shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

- Limiting discharge rates to 1l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change.
- Provide sufficient storage to ensure no off site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Final modelling and calculations for all areas of the drainage system.
- The appropriate level of treatment for all runoff leaving the site, in line with the CIRIA SuDS Manual C753
- Detailed engineering drawings of each component of the drainage scheme.
- A final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, ensure the effective operation of SuDS features over the lifetime of the development and provide mitigation of any environmental harm which may be caused to the local water environment.

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

- 22 No works above foundation level shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

REASON: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk. Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

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

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

- 24 Prior to first occupation of the development hereby approved, works shall be undertaken to secure the provision and retention of 15 car parking spaces on the adjoining land, as shown on drawing No. 1529/S1/H dated August 2016.

REASON: In order to ensure the provision and retention of adequate parking to serve the needs of the adjoining development in accordance with Policy EC2.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and determining the proposal in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 In undertaking the works hereby approved you are advised to satisfy yourself of your obligations to occupiers of adjoining properties in accordance with the Party Wall etc. Act 1996, details of which can be inspected at these offices or you may obtain details free of charge from the Planning Portal website (www.planningportal.gov.uk) under Building Regulations.
- 3 The applicant should be aware of the potential relocation of utility apparatus in the highway; any relocation shall be fully at the applicant's expense.

- 4 All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be addressed for the attention of the Development Management Team at SMO3, Essex Highways, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, CM13 3HD or emailed to development.management@essexhighways.org
- 5 All relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the development must be taken. Water suppression shall be employed for any stone or brick cutting and if necessary neighbours shall be advised in advance of any particularly noisy works.

Please be aware that the accepted times in the Borough for noisy works in terms of construction are:

Monday - Friday: 8am - 6pm

Saturday: 8am - 1pm

Sundays and bank holidays: no works

The site may be in operation outside of these hours. The above times relate to noisy works which will cause a disturbance to residents and businesses in the surrounding area.

The granting of planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received.

- 6 Should the works unearth any contaminated land, such as what would be considered in an Environmental Investigation (Contamination) or asbestos containing materials careful consideration must be given to its handling and correct disposal. Waste transfer receipts must be obtained and kept.
- 7 Under the Clean Air Act 1993 it is an offence to emit dark or black smoke or burn material that is likely to give rise to dark or black smoke on industrial and trade premises, or burnt in connection with any industrial or trade process. If a bonfire is producing or likely to produce dark or black smoke by the burning of trade or commercial waste, then the persons responsible may be liable to a fine.
8. Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence

Appendix 1 to Application No. 18/0035/FUL
191-193 High Road Benfleet Essex SS7 5HY

Consultation responses.

Appleton Road:	18, 66
Ash Road:	7
Belfairs Park Drive, Leigh on Sea:	94
Belfairs Close, Leigh on Sea:	6
Blake Hall Drive, Wickford:	47
Bouldrewood Road:	46
Boyce Green;	19
Brook Road:	67, 82
Canvey Road:	108
Clarence Road North:	77
Chelsworth Close, Southend:	4
Church Road:	452
Collingwood:	6
Creek Road, Canvey Island:	R1004
Crescent Road:	23
Cumberland Avenue:	205
Danescroft Drive Leigh on Sea:	32
Deerhurst:	27
Dorothy Gardens:	8
Dundonald Drive	23
Elham Drive Basildon,:	20
Essex Way: 1 with no address,	148
Fernlea Road: No number given,	55, 58
Granville Close:	2,
Greenfields Close:	2
Greenwood Avenue:	29, 38
33 Grosvenor Road:	Flat 3
Grove Road:	49a
Hackamore:	46
Hall Farm Road:	3, 5, 64b 101
Halstow Way, Basildon:	37
Hamilton Close:	11
Hazlemere Road:	28
Heilsburg Road, Canvey Island:	69
Hermitage Close:	8
Henry Drive:	61
High Beeches:	1
Highfield Avenue:	25
High Road:	193 (BODYCARE FITNESS CLUB), 384, 489, 491, 516, 557, 630,
Highview Court, High Road:	Flat 2,
Hillside Road:	5
Hilltop Avenue:	'Torbeg'
Kennedy Close:	11
Kents Hill Road:	58, 77 241

Kiln Road:	45: Flat 4
Kimberley Road:	19a,
Kingfisher Drive:	29, 46
Kingston Road:	29, 51
London Road:	81
Manor Road	: 57
Malyons:	55
Mount Road:	19, 189
Maplin Close:	15
Melcombe Road:	15
Merrygold Close;	5
Muir Way:	8
Nore Road; Leigh on Sea	34
Oakleighs:	27
Oakfield Road:	131. 191, 228
Overton Close:	7
Peregrine Drive:	32
Philmead Road:	30
Queens Road:	29
Richmond Avenue:	35
Rayleigh Road:	146
Raymonds Drive:	7
Sandown Road:	21
St Mary's Drive:	23, 24, 31, 84
St Mary's Road:	23, 56. 43
Scrub Lane:	76
Flat 10, Othello Court, 50 Shakespeare Road, BEDFORD	
Stansfield Road:	30
Southview Road:	27
Southwold Crescent:	84
17 Station Road;	Flat 1
Tamarisk:	12
The Canters:	12
The Chase:	1
The Dale:	57
The Thundersley Park Road:	110, 126, 134, 144,
Underhill Road:	2, 48, 68
Undercliff Gardens, Leigh on Sea:	46 Flat 7,
Uplands Road:	2
Vicarage Hill:	65, 111
Villa Road:	14, 32 40, 42, 126
Watlington Road:	17
Wavertree Road:	54
Wincoat Drive:	10a
Windermere Road:	'Oakdene'
Woodcote Way;	16
Woodfield Road:	99
Woodside Avenue:	186

Twenty six further responses, not associated with specific addresses were also received.

