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**Chief Executive**

## AGENDA

**Committee:** DEVELOPMENT CONTROL

**Date and Time:** Tuesday 7<sup>th</sup> August 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 3<sup>rd</sup> July 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.

|    | <b>Application No</b> | <b>Address</b>  | <b>Page No</b> |
|----|-----------------------|---|----------------|
| 1. | 18/0412/FULCLC        | Garages at Windsor Gardens, Thundersley, Benfleet, Essex, SS7 3YF (Victoria Ward)                           | 1              |
| 2. | 18/0527/ADV           | Runnymede Swimming Pool, Rear of Council Offices, Kiln Road, Thundersley, Benfleet, Essex (Cedar Hall Ward) | 8              |
| 3. | 18/0419/TPO           | 334 The Chase, Thundersley, Benfleet, Essex, SS7 3DN (Cedar Hall Ward)                                      | 11             |
| 4. | 18/0035/FUL           | 191-193 High Road, Benfleet, Essex, SS7 5HY (St Mary's Ward)  | 14             |
| 5. | 18/0402/FUL           | The Deanes School, Daws Heath Road, Hadleigh, Benfleet, Essex (Victoria Ward)                               | 43             |

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DEVELOPMENT CONTROL COMMITTEE

TUESDAY 3<sup>rd</sup> JULY 2018

**PRESENT:** Councillors Hart (Chairman), Mumford (Vice Chairman), Acott, Mrs Blissett\*, Cross, Mrs Haunts, Johnson, Ladzrie, Sharp and Mrs Wass.

**\*Substitute Members Present:** Councillor Mrs Blissett for Councillor Cole.

Apologies for absence were received from Councillors Anderson, Blackwell and Cole.

**4. MEMBERS' INTERESTS**

There were none.

**5. MINUTES**

The Minutes of the meeting held on 5<sup>th</sup> June 2018 were taken as read and signed as correct.

**6. DEPOSITED PLANS**

- (a) **18/0412/FULCLC – GARAGES AT WINDSOR GARDENS, THUNDERSLEY, BENFLEET, ESSEX, SS7 3YF (VICTORIA WARD) – 2 NEW DWELLINGS:– CASTLE POINT BOROUGH COUNCIL:**

This item was withdrawn from the agenda.

- (b) **18/0339/FUL – 26 QUEENSMERE, THUNDERSLEY, BENFLEET, ESSEX, SS7 3XR (VICTORIA WARD) – SINGLE STOREY REAR EXTENSION AND WHEELCHAIR ENTRANCE WITH ACCESS RAMP TO SIDE – MR RICHARD WATERS:**

The application sought permission for the demolition of an existing small rear extension and its replacement by a larger single storey rear extension with a wheelchair entrance and access ramp to the side. The proposal was considered acceptable and it was therefore recommended that the planning application be approved.

The application was presented to the Committee because the proposal was on council-owned land and the application had been submitted by the Council.

## Development Control Committee – 7<sup>th</sup> July 2018

During discussion Members expressed their full support for the proposal. It was therefore:-

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

Chairman

## ITEM 1

|                                    |  |
|------------------------------------|--|
| <b>Application Number:</b>         | <b>18/0412/FULCLC</b>  |
| <b>Address:</b>                    | <b>Garages At Windsor Gardens Thundersley Benfleet<br/>Essex SS7 3YF<br/>(Victoria Ward)</b> |
| <b>Description of Development:</b> | <b>2No. new dwellings</b>  |
| <b>Applicant:</b>                  | <b>Castle Point Borough Council</b>  |
| <b>Case Officer:</b>               | <b>Mr Keith Zammit</b>   |
| <b>Expiry:</b>                     | <b>10.08.2018</b>  |

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### Summary

The application seeks permission for the replacement of some redundant garages with two new council houses.

The proposal is felt to be acceptable as it meets all relevant policies and residential design guidance and is recommended for APPROVAL.

The application was withdrawn from the agenda in July in order that the matter of access to a neighbouring property could be resolved. The application is presented to the committee as the land is council-owned.

### Site Visit

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

### Introduction

The application relates to a completely hard surfaced site at the western end of Windsor Gardens which previously contained 14 derelict garages. The garages have now been demolished. The site is bordered by other residential gardens.

### The Proposal

Permission is sought for the erection of a pair of semi-detached two bedroomed houses following the removal of the garages to provide some additional council housing. Each dwelling would be provided with two parking spaces.

The dwellings would be 6.8m deep and have a maximum width of 7.7m with a ridge height of 7.1m. The proposed external materials are to consist of Multistock brick for the walls at ground floor level with composite weatherboarding to the majority of the first floor, concrete interlocking tiles for the roof and UPVC window frames. No precise details of these materials have been provided.

### Supplementary Documentation

The application is accompanied by a design and access statement which is available to view on the council's website.

### Planning History

2<sup>nd</sup> May 2018 – prior approval granted for demolition of garages (18/0264/DPA)

## **Relevant Government Guidance and Local Plan Policies**

The land is allocated as residential in the Local Plan. The following policies and guidance are therefore of relevance.

### National Planning Policy Framework (March 2012)

Paragraphs 56 to 58 (requiring good design)

### Local Plan (1998)

EC2 – Design

T8 – Parking standards

### Residential Design Guidance

RDG1 – Plot size

RDG2 – Space around dwellings

RDG3 – Building lines

RDG5 – Privacy and living conditions

RDG6 – Amenity space

RDG8 – Detailing

RDG10 – Enclosure and boundary treatment

RDG11 – Landscaping

RDG12 – Parking and access

## **Consultation**

No statutory consultees notified of this application

## **Public Consultation**

Four representations have been received which make the following comments and observations:

- o The proposed pair of semi-detached houses will be an asset to the area
- o Will enable two families to have a home
- o Considerable improvement to surrounding properties
- o Will lose access to rear of property
- o Not what the council said they would build over a year ago
- o Will block sunlight to garden
- o Loss of privacy due to bedroom windows overlooking

## **Comments on Consultation Responses**

- o The proposal has been amended to ensure there is no loss of access for the neighbour
- o The council is entitled to change its plans to reflect its housing needs
- o The proposal would extend less than 1.5m behind the neighbour's rear building line and has no windows facing this property

## **Evaluation of Proposal**

The site is allocated as residential land in the Local Plan therefore there can be no objection in principle to a residential development.

The main issues with this application are the design and layout, impact on neighbours and parking implications.

## *Design and layout*

Policy EC2 of the Local Plan seeks a high standard of design in all new buildings. In particular, the scale, density, siting, design, layout and external materials of any development should be appropriate to its setting and should not harm the character of its surroundings. This is consistent with paragraphs 56 to 58 of the National Planning Policy Framework (NPPF).

The council has adopted Residential Design Guidance as a supplementary planning document. Within this, guidance at RDG8 states that the provision of detailing elements for all developments must be consistent with the overall architectural approach of the dwelling and their design and siting should be an integral part of the dwelling. They must not result in the provision of prominent, dominant, alien or incongruous features which would detract from the appearance of the dwelling or the public realm. The design of all development should result in well-proportioned and balanced properties. Fenestration should be aligned both vertically and horizontally, with consideration given to ensuring that fenestration is balanced and proportionate on sloping sites.

With a ridge height of 7.1m it is not considered that these dwellings would appear excessively tall, prominent or dominant. The precise heights of adjacent houses are not known due to a lack of availability of the original plans of the council housing in the area however a height of 7.1m is considered fairly modest for a two storey property and consequently it is not felt that the proposed properties would look out of place in the context of their surroundings.

In design terms, these properties are considered to be fairly attractively designed when viewed from the front, and should not cause any visual detriment to the surrounding area. The use of more than one material for the front elevations would help to add interest to the street scene and avoid the creation of a large uninterrupted mass. There is therefore no objection to the proposal on the basis of Policy EC2 or RDG8.

RDG1 requires the plot sizes for new development to be informed by the prevailing character of plot sizes. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern. Where there is no clear pattern of plot sizes, the size of the plot should be proportionate to the size of the dwelling occupying it, having regard to the other relevant sections of the design guidance.

The proposed plots would have widths of some 6.7m and 7.1m across the front elevation of the properties and 8.5m and 8.4m across the rear elevation, which in the context of the surrounding area where plots are around 8m in width is felt to be acceptable. A plot depth of some 21.5m would not be at great variance with adjacent plots at Nos. 22 and 24 which are some 22.5m deep. No objection is therefore raised to the proposal on the basis of RDG1.

RDG2 requires the space around new development to be informed by the prevailing character of space around dwellings. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern. In forms of development where there is no clear pattern, the space around a dwelling should be proportionate to the size of the dwelling, with at least 1m between the property and the boundary.

The proposal would provide a minimum of 1m between the dwellings and the boundaries of the site which may be considered generous in relation to the character of the surrounding area where dwellings tend to have single storey side projections up to the boundary set back from their front elevations, which appear to be of original construction. No objection is therefore raised on the basis of RDG2.

RDG3 requires proposals to respect established building lines. The properties would not be in advance of the front wall of the adjacent properties therefore no objection is raised on the basis of RDG3.

RDG6 requires appropriate amounts of outdoor amenity space to be provided in proportion to the size of the dwelling. A minimum of 15m<sup>2</sup> per habitable room should be provided, with a minimum of 50m<sup>2</sup>.

The proposed dwellings would each have four habitable rooms requiring an amenity area of at least 60m<sup>2</sup>. The dwellings would have rear garden areas of approximately 70m<sup>2</sup> which satisfies this requirement. However, given that the rear garden areas are only slightly larger than the minimum required it would be prudent to withdraw permitted development rights for enlarging the dwellings so that a planning application to the council is required for further development. It is acknowledged that these properties will be council houses initially but they could be sold in the future, at which point occupiers may wish to extend them.

Subject to a condition withdrawing permitted development rights for extensions to the properties, there is no objection to the proposal on the basis of RDG6.

RDG10 requires public and private space to be clearly defined, in the form of a physical means of enclosure and/or change in surface material. The choice of means of enclosure and surface material should be informed by the prevailing character of the area and surrounding forms of enclosure, in terms of materials and positioning, without repeating poor forms of development. Any means of enclosure should not dominate the public realm.

The proposal envisages concrete fence posts and close boarded panels to separate the site from other residential curtilages, which is felt to be visually acceptable and not out of keeping with the surroundings. The front of the site would be open, with no change in surface material between the parking spaces and the general vehicular access and turning area, which would seem to go against the guidance at RDG10. However, the development is located at the end of the street and is not part of a public thoroughfare so it is not considered that this would result in the creation of development with poor legibility. No objection is therefore raised on the basis of RDG10.

RDG11 requires the provision of suitable landscaping for development. Whilst this is primarily aimed at blocks of flats and residential institutions, there may be opportunities to improve the street scene through the provision of appropriate landscaping in developments of single family dwellinghouses.

The proposal would provide rear gardens to the dwellings but the space in front of them would be dedicated to vehicle parking and turning. This might seem to go against RDG11 however the introduction of landscaped areas would reduce space for vehicle parking and turning and therefore would not be appropriate under the circumstances. Furthermore, the new dwellings and their front gardens would not be widely visible from surrounding public vantage points.

As communal landscaping could not be provided without compromising the workability of the parking and would be unlikely to make a positive contribution to the amenity of the area, there is no objection to the proposal on the basis of RDG11.

RDG12 requires parking not to be visually dominant and not to adversely impact upon adjacent residential amenities.

The frontages of the proposed dwellings would be almost entirely used for parking purposes however it is located at the end of an existing residential street so its visual impact would be very modest. Furthermore, there is existing 1.8m high fencing separating the proposed parking area



from the existing parking area of No. 24 Windsor Gardens, which is to be retained as part of the development. This would partially screen the proposed parking from wider views so any concerns about the development being dominated by parking would not form a robust reason for refusal as its impact on the amenity of neighbour occupiers would be strictly limited.

Turning to the potential impact of the development on the amenity of surrounding residents in terms of noise and disturbance from vehicular movements, this area was formerly a garage court where there would have been vehicular activity when the garages were in use. The replacement of 14 former garages with four parking spaces is not considered to increase the level of vehicular activity on the site to a degree where adjacent residents' amenity would be adversely affected. Rather, it would likely result in less vehicular activity than when the garages were in beneficial use.

The site has of course been disused for some time so adjacent residents will have become accustomed to the absence of vehicular activity on the land. However, were this application refused, the council could choose to build new garages on the land or simply lay it out as car parking, both of which would reintroduce vehicular activity to the area. In comparison to these scenarios, it is not considered that the development would result in an unfair level of disturbance being caused to people living nearby, and there is no objection to the proposal on this basis.

Overall, no objection is raised to the proposal on the basis of RDG12.

### *Impact on neighbours*

RDG3 also requires proposals not to cause undue overshadowing or dominance of adjacent residential properties. The proposed dwellings are not considered to be sited such that undue overshadowing or dominance would be caused, and consequently there is no objection on the basis of this part of RDG3.

RDG5 deals with privacy and living conditions. A distance of 9m is required to be provided between first floor windows and the boundary of the site, except in the case of secondary windows and windows serving rooms that require a high degree of privacy where the use of obscure glazing and limited openable parts may be used to prevent overlooking.

The proposal would be fully compliant with this requirement. Subject to a condition requiring the first floor bathroom windows to be obscure glazed and having limited openings, there is no objection to the proposal on the basis of RDG5.

### *Parking*

Policy T8 of the Local Plan requires the provision of parking in accordance with adopted standards. The currently adopted standards are the 2009 County Parking Standards which require the provision of a minimum of two off-street parking spaces for properties with two or more bedrooms. Parking spaces should have dimensions of 2.9m by 5.5m.

Application of these standards is consistent with paragraph 39 of the NPPF because they have been set taking into account local circumstances.

The proposal would make provision for the off-street parking of two cars for each property. This satisfies the minimum parking requirement. The existing garages would be lost, however these are unused and derelict and the proposal will not therefore result in a practical loss of car parking. There is therefore no objection to the proposal on the basis of Policy T8.

## Conclusion

The proposed redevelopment of the site raises no significant issues in terms of the impact on surrounding residential occupiers, or in terms of car parking provision or the visual amenity of the area and it is therefore recommended that permission be granted.

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

### **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 Prior to construction of the dwellings above foundation level, details or samples of all materials to be used on the external surfaces of the dwellings and on any driveway or forecourt shall be submitted to and approved in writing by the local planning authority.

REASON: In the interest of visual amenity.

- 3 The dwellings shall be constructed in accordance with such details as may be approved in relation to condition 2.

REASON: In the interest of visual amenity.

- 4 The bathroom windows at first floor level in the rear elevations of the dwellings shall be -
  - (i) obscure-glazed to at least level 3 on the Pilkington scale (or such equivalent as may be agreed in writing with the local planning authority); and
  - (ii) non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed and retained as such thereafter.

REASON: To prevent overlooking of the adjacent residential property.

- 5 Prior to first occupation of the development, the approved car parking areas shall be provided, hard surfaced and drained in accordance with SuDS principles. Thereafter, these areas shall be kept available for the parking of vehicles and not used for any other purpose.

REASON: To make and retain provision for parking off the highway to ensure that additional parking in surrounding streets does not occur, and in the interest of sustainable drainage.

- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, no development of the type specified in Class A 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 express permission of the local planning authority.

REASON: In view of the constrained nature of the site the local planning authority considers that uncontrolled enlargement of the accommodation could result in an unacceptable reduction in rear garden sizes.

## **Informative**

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

## ITEM 2

|                                    |   |
|------------------------------------|---|
| <b>Application Number:</b>         | <b>18/0527/ADV</b>  |
| <b>Address:</b>                    | <b>Runnymede Swimming Pool Rear Of Council Offices<br/>Kiln Road Thundersley Benfleet<br/>(Cedar Hall Ward)</b> |
| <b>Description of Development:</b> | <b>Non-illuminated fascia banner on a banner pole system</b>  |
| <b>Applicant:</b>                  | <b>Castle Point Borough Council</b>   |
| <b>Case Officer:</b>               | <b>Mr Stephen Garner</b>  |
| <b>Expiry Date:</b>                | <b>27.08.2018</b>   |

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### Summary

Permission is sought for the installation of a non-illuminated banner on a banner pole system on the front of the Runnymede Swimming Pool and Gym complex. It is considered that the proposal is acceptable and the application is therefore recommended for APPROVAL.

The application is presented to the committee because it is on council owned land and the application has been submitted by the council.

### Site Visit

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

### Introduction

The application concerns the Runnymede Swimming Pool and Gym complex to the rear of the council offices off of Kiln Road and adjacent to Runnymede Hall.

### The Proposal

Permission is sought for the installation of a non-illuminated banner supported on a banner pole system on the front of the gym building. The banner would be located on the front/southern elevation of the gym building, to the right of the fire escape and behind the steps and bike racks.

The sign itself would be some 1.67m wide and some 2.61m tall, projecting a maximum of 0.16m (160mm) from the wall. The bottom of the banner would be located 1.4m above the ground anchored by a pole 1m from the ground. The sign itself is to be a permanent fixture but the actual banner may change from time to time.

The banner would be constructed of PVC supported by steel brackets and aluminium crossbars. It is to have blue, green and white text on a white background and is to be used to advertise the benefits of a Castle Point Leisure membership, advertising both the gym and swimming pool.

### Supplementary Documentation

This application is accompanied by some photographs of the proposed site and a mock-up of the proposed advertising banner in place.

### Planning History

17/0047/FULCLC – Construction of side extension to the existing swimming pool building to provide a Health and Fitness Suite and new car park – Approved 8<sup>th</sup> March 2017.

## **Local Plan Allocation**

Local Government

## **Relevant Policies and Government Guidance**

National Planning Policy Framework

Paragraph 67

Local Plan (Adopted 1998)

S12 Design, Siting and Illumination of Advertisements

S14 Advertisements and Public Safety

## **Consultation**

Legal Services

Advises the proposal affects council owned land

## **Public Consultation**

No public consultation responses received.

## **Comments on Consultation Responses**

None

## **Evaluation of Proposal**

The National Planning Policy Framework (NPPF) states at paragraph 67 that control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Policy S12 of the Council's Adopted Local Plan states that advertisements should be well designed, sites and relates to the character of the building and surrounding area. Regard should be given to the location, size, materials, design, intensity, illumination and relationship with the building concerned.

Policy S14 of the Council's Local Plan states that advertisements that have an adverse effect upon the safe operation of transport or traffic, or upon the safety of pedestrians shall be refused.

Policies S12 and S14 are consistent with paragraph 67 of the NPPF.

The leisure facility currently has no advertisements on it so the proposed introduction of a banner sign supported on a pole system would not be unusual with the level of advertising one might reasonably expect to see on such an established leisure facility. The proposed signage would have no appreciable impact on the appearance of the building nor have a detrimental impact on the amenity of the surrounding area.

Turning to public safety, the proposal is for one, non-illuminated sign which will minimally project from the wall. Due to the location, siting and design of the sign, it is not considered that the

proposal will have any adverse effect upon the safe movement of traffic or the safety of pedestrians using the car park.

## **Conclusion**

The proposal is required to advertise the facilities offered by a membership to Castle Point Leisure facilities and meets all relevant national and council policies. No objection to the proposal has been made by neighbours and it is therefore recommended that permission be granted.

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 Approval with the following conditions**

No conditions are recommended other than the standard advertisement conditions set out in Schedule 2 of the Town and Country Planning (Control of Advertisements)(England) Regulation 2007.

## **Informative**

- 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.

## ITEM 3

|                                    |  |
|------------------------------------|--|
| <b>Application Number:</b>         | <b>18/0419/TPO</b>   |
| <b>Address:</b>                    | <b>334 The Chase Thundersley Benfleet Essex SS7 3DN<br/>(Cedar Hall Ward)</b>  |
| <b>Description of Development:</b> | <b>Lateral crown reduction of 4 metres to east side of two oak trees (T2 and T3) due to branches overhanging neighbouring property</b> |
| <b>Applicant:</b>                  | <b>Mr &amp; Mrs Bob &amp; Pat Kurn</b>   |
| <b>Case Officer:</b>               | <b>Mr Robert Davis</b>   |
| <b>Expiry Date:</b>                | <b>27.08.2018</b>  |

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### Summary

The application seeks permission for a lateral crown reduction of 4m to two oak trees. Subject to the works being agreed on site with an officer from the council the proposal is felt to be acceptable and is recommended for approval.

The application is presented to committee because the applicants are related to a member of staff.

### Site Visit

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

### Introduction

The application concerns a two oak trees (T2 & T3) growing in the rear garden of a dwellinghouse on the northern side of The Chase some 92m west of its junction with Rayleigh Road. The site is regular in shape having a frontage of 15m and depth of 77m.

The trees are located close to the eastern boundary of the site approximately 19m and 39m behind the rear of the dwelling. The crowns of both trees are large with a spread of approximately 14m and 20m. A significant proportion of each crown overhangs the garden of the neighbour to the east.

### The Proposal

Permission is sought for a lateral reduction of 4m to the eastern side of two oaks identified as T2 and T3 of Tree Preservation Order 4/2009 due to their branches overhanging the neighbouring property.

### Supplementary Documentation

This application is not accompanied by any supplementary documentation.

### Planning History

On 22<sup>nd</sup> September 2009 a tree preservation order, TPO 4/2009, was made in respect of 6 individual oaks, 5 groups of trees and a woodland. The order was confirmed on 12<sup>th</sup> March 2010 with modifications which added 6 ash, 1 oak and a cherry to the individual trees protected and amended some of the trees listed in the group categories.

The order was made because the council considered the trees provided a significant degree of natural vegetation to the benefit of the area and occupiers of neighbouring dwellings and formed an essential part of the general amenity of the area.

## **Local Plan Allocation**

Green Belt

## **Relevant Policies and Government Guidance**

### Planning Practice Guidance

Tree Preservation Orders and trees in conservation areas

### Local Plan (1998)

EC7 Natural and Semi-Natural Features in Urban Areas

## **Consultation**

No statutory consultations were notified of this application

## **Public Consultation**

No representation have been received

## **Evaluation of Proposal**

It is the Council's aim under Policy EC7 to retain and enhance natural and semi natural features in urban areas in order to safeguard their physical, visual, recreational, and wildlife value.

In considering applications for works to trees government guidance advises that the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it.

Local authorities are also advised to consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions and whether any requirements apply in regard to protected species.

The two oak trees are located in the rear garden of the dwellinghouse and views of them from the public realm are therefore limited. Nonetheless oak T2 can be seen above the ridge of the dwellings fronting The Chase and the trees provide a significant degree of natural relief to neighbouring residents. The trees also make a valuable contribution to the general character of the area, which north of The Chase is occupied by many trees.

The crowns of both T2 & T3 are very large and their location close to the eastern boundary of the site have resulted in a significant proportion of them overhanging the neighbouring garden. Oak T3 is somewhat larger and extends further over the neighbouring garden than oak T2.

Given the size of the trees and their limited visibility from any public vantage point a 4m lateral crown reduction would not have any adverse impact on the amenity of the area. The works are required because the applicants are concerned about the impact of the overhanging branches on the amenity of the neighbours.



The neighbours have a deep garden and in this context the trees are not thought to dominate their outlook or enjoyment of the space. Nonetheless, it is important to ensure that trees are well maintained and do not become too large for their growing environment. Though deep the neighbour's garden is only some 11m wide and therefore some limitation of the degree of lateral overhang of the trees would not be inappropriate.

However, as the lateral overhang of oak T2 is less than that of oak T3 it is recommended that less reduction in respect of this tree is undertaken. Such works would improve the form of the tree and ensure a balanced crown is retained. The applicants have been advised of this and have accepted the recommendation. The exact nature and extent of the works is best agreed on site with the contractor.

Subject to a condition requiring the works to be agreed on site with an officer from the council prior to their commencement no objection to the proposal is raised under Policy EC2.

## **Conclusion**

The proposed works would not be detrimental to the amenity of the area or have any adverse impact on wildlife, it is therefore recommended that permission be granted.

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 Approval with the following conditions**

- 1 The development hereby permitted shall be begun on or before the expiration of two 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 The works hereby approved shall only be carried out with the agreement, on site, of a member of staff of the Planning Office prior to any works authorised under this permission being undertaken on the site.

REASON: In order to ensure the works are undertaken in accordance with the consent hereby granted and in the interests of the health of the tree and the amenity of the area.

- 3 Any tree works shall be carried out in accordance with BS 3998:2010.

REASON: In order to ensure the health and safety of the tree(s) and in the interests of the amenity and character of the area.

## **Informative**

- 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.

## ITEM 4

|                                    |  |
|------------------------------------|--|
| <b>Application Number:</b>         | <b>18/0035/FUL</b>   |
| <b>Address:</b>                    | <b>191-193 High Road Benfleet Essex SS7 5HY<br/>(St. Mary's Ward)</b>  |
| <b>Description of Development:</b> | <b>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</b> |
| <b>Applicant:</b>                  | <b>Docnor Developments</b>   |
| <b>Case Officer:</b>               | <b>Ms Kim Fisher</b>   |
| <b>Expiry Date:</b>                | <b>28.09.2018</b>  |

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### 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.

My **Recommendation** is therefore **APPROVAL**.

This application is 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 some 25m at the eastern 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

Paragraphs: 2, 11, 14, 17, 19, 23, 32, 37, 39, 50, 51, 56-58, 64, 109, 111, 118, 120.

### 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

No response

Social Services

No response

**Public Consultation**

147 responses have been received from the following addresses:

|                                    |               |
|------------------------------------|---------------|
| 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 Canthers:  | 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.

The 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**

The proposal results in the loss of a local Gymnasium and the majority of the responses received to the application are from members of the gymnasium concerned over the loss of this facility and the potential implications for the health and well-being of its current and future membership. Many provide glowing testaments to the service and care provided by the facility and criticise the Council for seeking to close down this business.

Many of the responses also reveal a degree of confusion as to the nature of the proposed development.

It is considered appropriate at this stage of the report to clarify and respond to a number of the comments made:

- (i) The application site is not owned by the Council and it is not within the gift of the Council to determine the continued occupancy of the site by the current occupiers. The Council cannot therefore 'close down the business' as suggested, it can only respond to a planning application within the context provided by the provisions of the National Planning Policy Framework and the adopted Local Plan. The continued operation of the business is not a material planning consideration.

At this point it is also appropriate to point out that as the latest iteration of planning policy, the provisions of the NPPF outweigh the provisions of the Local Plan. Local Plan policies may only be applied in so far as they do not conflict with the provisions of the NPPF.

- (ii) The applicant has advised that regardless of the outcome of the determination of this application, the appropriate notice has been served on the current occupiers of the site, to vacate the premises. The Council has no power to prevent this from happening.
- (iii) The scheme proposes the provision of 14 private sheltered housing units. These units are not social housing units or specifically provided for vulnerable or homeless people.

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:

- (i) 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
- (ii) 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.

The NPPF at paragraph 23 however supports the allocation of a range of suitable sites to meet a variety of uses, including residential development, in town centres.

Paragraph 51 further encourages local authorities to approve planning applications for the change to residential use from commercial buildings where there is an identified need for housing in that area, provided that there are not strong economic reasons why such development should not be allowed.

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 Green Belt from inappropriate development.



As a consequence housing needs will need to 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 which 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 within Appendix 16 of the adopted Local Plan and is not therefore strictly relevant to consideration of the proposal under consideration, which is 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, with current retained uses, 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 an 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, by virtue the reduction of the length of the commercial frontage, increase the retail element to some 59.7% of the frontage.

In the light of this information it is difficult to conclude that the proposed development would have a significant adverse impact on the primary purpose of the Town Centre.

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.

The importance of combined trips is recognised and it is clear that the retention of the gym would have the potential to give rise to such combined trips, to the benefit of local businesses.

Furthermore comment has been made that the closure of the Gym will result in some 15 persons becoming unemployed. This is distressing and something the Planning Authority would wish to avoid; however, as previously stated, the applicant has made it clear that regardless of the outcome of this application, the Gymnasium will be closed down. The Planning Authority is unable to prevent this event. Consequently limited reliance may be placed on employment retention or the impact of combined trips, in the determination of the application.

In the light of the information available, there are no strong economic reasons why redevelopment of the site for residential purposes should not be allowed.

### **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, 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 Members of the Club also state that there are no similar Gym opportunities, offering the level of service provided by the Gym available locally.

The NPPF identifies that the Planning system has a role to perform in supporting strong, vibrant and healthy communities, by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. Paragraph 70 of the NPPF states that Planning Authorities should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs and ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

The value of local health facilities is recognised and residents of Benfleet are particularly well served by opportunities for both indoor and outdoor health 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 Gyms and Fitness suites within 5 miles of the application site.

Local objectors argue that other gyms are not as conveniently located and do not provide the same quality or level of service as is provided on the current site. Unfortunately the managerial and philosophical qualities of the operators of the site, are not material planning considerations and cannot therefore be taken into consideration in the determination of the application.

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.

Paragraph 70 of the NPPF states that the Planning Authority should guard against the unnecessary loss of valued facilities and services. This is a laudable objective which is supported by the Authority, however, the ability of the Authority to secure this objective through the management of development proposals at this level is not significant and essentially relies on it

having a legal interest in such facilities and services, in order that it may protect them. In this instance the Authority has no such interest and it is unable to either acquire the site and thus achieve control over future use of the site or require that the Gym be maintained on the site by the owner.

As a consequence, whilst it is regrettable that a much loved and well used facility should be lost, the Planning Authority cannot prevent this.

## **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 58 bullet 3 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 also a vague policy which is inconsistent with the requirements of paragraph 50 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 56 to 58 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 not harm the character of the surroundings. The appearance and treatment of spaces around buildings shall be enhanced by appropriate hard and soft landscaping. Policy EC2 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 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 or the surrounding area 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 existing 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 a 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 these occupiers, 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, 8m<sup>2</sup> of amenity space should be provided per habitable room. Where flats have fewer than three habitable rooms 25m<sup>2</sup> 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 5m<sup>2</sup>.

The proposal would attract a requirement of 325m<sup>2</sup>. 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 different scale and character to that displayed by the adjoining commercial development, but does reflect that 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 commercial 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 pavers. 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 public 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 within the adjoining residential area.

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

This quantative 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 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 commencement 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 site.

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 109 of the NPPF states:

*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*

In paragraph 118 it states:

*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 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 only 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 up to 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 this figure, up to 3 of the new dwellings could 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 15 of the residents, including 2 of the 3 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 nationally designated 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 site. 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 locally designated site which would require remediation on site.

No objection is therefore raised 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 now raises 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 fact, 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 Planning Authority is unable to ensure the continued operation of the Gym and as such it is unable to act in a manner which would preserve the Gym for current and future users.

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 does not give rise to a dereliction of the 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.

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 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 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 the development hereby approved 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 5.5 metres 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 5.5 metres for at least the first 6 metres 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 1.5 metre x 1.5 metre 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 policies DM9 and DM10.

- 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 to ensure accordance with policy DM1.

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

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

- 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 6 metres 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 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 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 the commencement of development on the site 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](http://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](mailto: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.

## ITEM 5

|                                    |  |
|------------------------------------|--|
| <b>Application Number:</b>         | <b>18/0402/FUL</b>   |
| <b>Address:</b>                    | <b>The Deanes School Daws Heath Road Hadleigh<br/>Benfleet Essex<br/>(Victoria Ward)</b>   |
| <b>Description of Development:</b> | <b>Demolition of single storey Teaching Block and<br/>erection of two storey Teaching Block and extension of<br/>existing car park</b> |
| <b>Applicant:</b>                  | <b>Secretary of State for Education</b>  |
| <b>Case Officer:</b>               | <b>Ms Kim Fisher</b>   |
| <b>Expiry Date:</b>                | <b>20.08.2018</b>  |

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### Summary

The proposal seeks consent to demolish an existing single storey school building located at the centre of the site and replace this with a part two storey Food Technology, Arts, Graphics and Science Building on land currently used for car parking purposes on the southern edge of the developed core. The site of the former school building will then be landscaped to provide an open space and replacement parking.

In addition modifications are proposed to the internal road system to facilitate access to retained and proposed car parks and 12 new covered cycle parking spaces and 2 covered motor bike spaces are to be provided.

In terms of the principle of such development, the site is allocated for Green Belt and School purposes in the adopted Local Plan. This factor, coupled with Government advice in respect of the provision of a wide range of high quality educational opportunities, the grant of consent by Essex County Council for the redevelopment of the school in 2010 and the limited impact of the proposal on the openness and strategic function of the Green Belt at this location, are considered to represent the very special circumstances required to outweigh the harm to the Green Belt.

In terms of more detailed matters the proposed development is considered to be of an appropriate design and location and appropriately controlled is considered unlikely to have a significant adverse impact on the amenity of adjoining residents, ecology or highways.

Whilst an element of doubt currently exists in respect of the potential for the proposed development to increase the risk of off-site surface water flooding, it is considered that the imposition of conditions on the grant of any consent can ensure the provision of an appropriate strategy which will limit such potential in accordance with Government guidance.

Subject to conditions seeking inter alia to secure the amenity of adjoining residents, the protection of wildlife and trees, appropriate landscaping and the implementation of an appropriate surface water drainage strategy, no objection is raised to the proposal.

My **RECOMMENDATION** is therefore **APPROVAL**

### The Site

The application site is irregular in shape and extends to some 10.75 hectares, located on the southern side of Daws Heath Road and east of Rayleigh Road. Vehicular access is available from both of these roads, although access for the school is primarily taken from Daws Heath Road.

The site is bounded to the north, west and south by residential development, whilst to the west the site abuts West Wood, an Ancient Woodland and Local Nature Reserve.

The site primarily hosts the Deanes Secondary School and associated facilities which are located on the northern part of the site with playing fields extending to the south.

The school accommodates approximately 600 pupils and is part of the Challenger Multi-Academy Trust.

The school was built in 1972 following a grant of consent in 1968 and consisted of three primary blocks.

The sports/tennis centre was added later and is available for use by the public.

A private nursery was added circa 1994.

The buildings on site are generally pebble-dashed with dark blue timber panels above and below white window frames and exhibit both flat and shallow hipped roofs.

The exception to this building style, is the Nursery which exhibits light timber panels and green cladding.

## **The Proposal**

The application seeks consent for the demolition of an existing single storey teaching block located within the centre of the built up area of the site and the making good of the retained buildings. The area occupied by the removed building will then be partly laid to lawn to provide an outdoor space within the centre of the site and partly hardsurfaced to provide replacement parking provision.

The demolished building has a gross internal floorspace of some 2,377m<sup>2</sup>.

The application also seeks consent for the replacement of the removed building with a part two storey Food Technology, Arts, Graphics and Science Building on land currently used for car parking purposes on the southern edge of the developed core.

The proposed building is 'L' shaped with a maximum width of some 37m and a maximum depth of some 34m. It would be part flat roofed and part mono-pitched, with a maximum ridge height of some 10.2m.

A small canopy is proposed above the entrance ramp to provide shelter on entering the building and will provide inclusive access.

The building would be finished in yellow bricks with through colour render, grey PPC aluminium windows and doors and a grey composite roof panel system.

The new building would have a gross internal floorspace of some 1,478m<sup>2</sup>. It therefore results in a loss of some 849m<sup>2</sup> of floorspace.

The proposal will result in the removal of 2 small, poor quality trees located immediately adjacent to the location of the proposed building.

In addition to the provision of the new building, modifications are proposed to the internal road system to facilitate access to retained and proposed car parks.



Further car parking spaces are to be provided adjacent the existing tennis centre and 12 new covered cycle parking spaces are proposed to the north of the retained bus turning and pick up area. Within the initially submitted scheme it was also proposed to provide 2no. 2 wheeled motorcycle spaces in this location, however, following expressions of concern from local residents these have been relocated into the centre of the site, away from residential boundaries. Speed humps are to be introduced in order to improve traffic flow and safety.

Vehicle entry to the site will continue to be via the existing entrance off Daws Heath Road. Construction traffic will access the site from Rayleigh Road to ensure segregation from the school where possible. This access road will only be used for the duration of the construction period.

### **Site Visit**

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

### **Supplementary Documentation**

The application is accompanied by the following documents, all of which can be viewed on the Council's website.

- Design and Access Statement
- Ecological Appraisal
- Ground Investigation Report
- Planning Statement
- SUDS Drainage Strategy
- Tree Constraints Report
- Tree Survey Schedule

### **Relevant Planning History**

#### BEN/442/67

Proposed construction of comprehensive school and playing field. Approved 22.07.68.

#### CPT/576/76

Provision of one double relocatable classroom. Approved 14/07/76

#### CPT/660/77

Three relocatable and two mobile classrooms. Approved 28.06.77

#### CPT/620/94

Two storey flat roofed extension and integral alterations. Approved 23.11.94

#### CPT/728/94

Extension to sports hall to provide extension to existing changing rooms, new fitness / dance studio new nursery and associated accommodation. Approved 01.02.95.

#### CPT/576/95

Extension to sports hall to provide additional changing hall rooms, new fitness/dance studio and ancillary accommodation and additional car parking. Approved 20.12.95.

CPT/147/96/FUL

Extension to Sports Hall to provide additional Changing Rooms, new Fitness/Dance Studio and ancillary Car Parking. Approved 23.07.96

CPT/147/96/FUL/ VAR

Variation of Condition - Extend Usage of Sports Hall to 8pm on Saturdays and Sundays. Approved 20.01.05.

CPT/442/96/FUL

Provision of Hard Surface Multi-sports Area with Twelve 6m High Floodlights and Fencing and Access Road. Allowed. 10.06.97.

CPT/442/96/FUL/VAR

Variation of Condition restricting the use of floodlighting & hard-surfaced Multi-sports Area. Approved 20.01.05

CPT/662/97/FUL

Extension to existing Sports Centre Block providing further changing rooms, storage and Lecture Theatre plus elevation changes. Refused 19.11.97

CPT/26/98/FUL

Extension To Existing Sports Centre Block Providing Further Changing Rooms Storage Lecture Theatre Plus Elevation Changes. Approved 11.02.98.

CPT/290/98

Single storey flat roofed side extension Approved 13.07.98.

CPT/378/01/FUL

Construct Pitched Roofed Building to enclose existing Tennis Courts. Approved 04.10.01/

CPT/94/10/CAA

Redevelopment of up To 15,300m<sup>2</sup> of School Accommodation with associated Hard-Standing, Car Parking and Landscaping. No Objection Raised. 06.04.2010.

CPT/94/14/FUL

Construction of temporary building for use as practical training classroom Approved 16.07.2014.

18/0127/PREAPP

A proposal for the provision of a new part two storey, part pitched roofed Food Technology. Arts, Graphics and Science Block with associated facilities was submitted to the Authority in February 2018.

Advice was provided on the basis of the submitted scheme which was revised to form the application the subject of current consideration.

**Local Plan Allocation**

The application site is identified for school use and Green Belt as set out on the adopted Local Plan Proposals Map

**Relevant Policies and Government Guidance**

National Planning Policy Framework

Section 4 Promoting Sustainable Transport

|            |  |
|------------|--|
| Section 7  | Requiring Good Design  |
| Section 8  | Promoting Healthy Communities  |
| Section 9  | Protecting Green Belt Land   |
| Section 10 | Meeting the challenge of climate change, flooding and coastal change |
| Section 11 | Conserving and enhancing the natural environment                     |

#### Adopted Local Plan

|       |   |
|-------|---|
| EC2:  | Design                                    |
| EC3:  | Residential amenity                       |
| EC13: | Protection of wildlife and their habitats |
| EC14: | Creation of wildlife and habitats         |
| EC22: | Retention of trees, woodland & hedgerows  |
| EC23: | Tree and shrub planting                   |
| CF2:  | Education facilities                      |
| CF9:  | Access & non-domestic development         |
| CF14: | Surface water disposal                    |
| T8:   | Car parking standards                     |

In addition to the adopted Local Plan, this Authority has adopted Residential Design Guidance. This does not directly relate to the proposal, given that it is not for a residential use; however RDG5 identifies acceptable standards for the protection of amenity and privacy in proximity to development and this has been used to analyse the scale, design and location of the school building in order to respect neighbouring amenity.

#### Other relevant documents

Castle Point Green Belt Landscape Assessment September 2010

Castle Point Green Belt Function Assessment September 2010

Castle Point Green Belt Sustainability Assessment 2011

#### **Consultation**

##### Emergency Planning Officer

No response received

##### Lead Local Flood Authority

No response received

##### Anglian Water

Has expressed concern in respect of the Surface Water Drainage Strategy and the potential for flooding downstream.

##### ECC Infrastructure

No response received

##### Natural England

No objection

##### ECC Highways Authority

No response received

Environment Agency  
No response received.

Cadent Gas Protection

Cadent have identified operational gas apparatus within the application site boundary. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights.

Sport England

It should be noted that Sport England has not been consulted on this proposal as it is not considered to impact on the existence or provision of playing fields on the wider school site.

**Public Consultation**

Consultation letters were sent to all adjoining residents and a Notice was placed in the Press on 14<sup>th</sup> June 2018.

Letters of response have been received which raise the following concerns:

- Increased noise and disruption arising from cycle /motorcycle parking provision
- Potential for increase light nuisance
- Any speed humps to be positioned away from dwellings
- Car park should be relocated

**Response to Consultation Responses**

A response to all relevant comments will be made in the evaluation of the proposal.

**Evaluation of Proposal**

The key planning issues to be considered in the determination of the application are:

- The principle of the development
- The design of the proposed building
- The amenity of adjoining residential properties.
- Highway impact
- Car and Cycle/Motorcycle parking
- Other detailed considerations relating to ecology, landscaping, drainage and sustainability.

**The Principle of Development**

The Development Plan for Castle Point is the adopted Local Plan (1998). The Proposals Map associated with this document identifies the site for Green Belt and School purposes.

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise (paragraph 11 of the NPPF). The 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 14 of the NPPF).

Footnote 9 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.

Paragraph 89 of the NPPF identifies the exceptions to the presumption against the construction of new buildings in the Green Belt and identifies in the final bullet point that 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, may be considered not inappropriate development in the Green Belt.

The site of the proposed development is a carpark, set between a further car park and a hardsurfaced, Multi-use Games Area and clearly represents previously developed land.

However, in order for the redevelopment of the site to be considered consistent with Green Belt policy redevelopment of the site would need to have no greater impact on its openness.

At the present time the proposal site comprises an open car park. This area is devoid of structures other than the surface of the car park and as such, whilst its presence may have an impact on the appearance of the Green Belt at this location, its open nature ensures that it does not have an impact on the openness of the Green Belt.

The replacement of the existing hardsurfaced area with a three dimensional building, will, in the opinion of the Planning Authority have an adverse impact the openness of the Green Belt at this location, and by extending the built form southwards, would result in a diminution in the perceived space between settlements and encroach into the countryside and as such the proposal is considered to represent inappropriate development which is harmful to the Green Belt and should therefore attract a recommendation of refusal.

However, The NPPF states that inappropriate development may be justified by the identification of very special circumstances.

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

Where the weight attached those very special circumstances and material considerations, either individually or cumulatively, outweighs the harm to the Green Belt, inappropriate development may be permitted.

Whether such very special circumstances and material considerations exist in the case, and the weight that may be attached to them, will be examined in the following section of this evaluation.

### **The Identification of Very Special Circumstances**

Whilst the application site carries the Local Plan allocation of Green Belt, it is also allocated for School purposes.

There was a clear understanding at the time the adopted Local Plan was drafted that the improvement of school facilities was an objective that this Council wished to support and that whilst many schools within the Borough were retained within the Green Belt, the sensitive use of these sites to enhance educational opportunities would be considered favourably, in principle.

This dual allocation represents a special circumstances which carries some weight in favour of the proposal.

In addition it should be recognised that the use of this site for education purposes is considered to be compliant with Policy CF2 (Education Facilities) of the adopted Local Plan which states that the Council will encourage the enhancement and improvement of educational facilities in the Borough.

Paragraph 72 of the NPPF outlines the importance that the Government places upon providing sufficient capacity to meet educational needs.

The provision of a new Food Technology Graphics, Arts and Science facility has the potential to provide an improved range of educational benefits to students that are fully supported by paragraph 72 of the NPPF. It is considered such support represents a Very Special Circumstance which weighs heavily in favour of the proposed development.

At this point it should be noted that in 2010 Essex County Council granted consent for a much larger redevelopment of the whole school site, which extended further south than the current proposal, in respect of which no objection was raised by the Borough Council as Local Planning Authority, in the light of Government guidance and local policy provision, this previous grant of consent and the lack of material change in the planning circumstances of the site since the granting of such consent, is considered to carry medium weight in favour of the proposal.

In considering both the scheme submitted for pre application advice and the current proposal, thought has been given to the potential for the proposed new building to be provided elsewhere on the site, in order to avoid further encroachment into visually open land.

It would be the preference of the Planning Authority for the proposed building to be located on the site of that which is to be demolished, in order to limit the sprawl of built form across the site, however, following discussion with the applicant on this point it became clear that such provision was impractical as it would require pupils to be decanted into temporary accommodation elsewhere on the site whilst the existing building was demolished and the new one built, incurring greater costs for the Education Authority and greater disruption to pupils and other users of the site. It was also concluded that an alternative location within the site could not be identified which would have sufficient capacity and less impact on the Green Belt than the site chosen for the new facility. Under the circumstances, the applicant's proposal for construction, transfer of pupils and demolition appears the most efficient and effective.

In conclusion, whilst the current proposal would have an adverse impact on the openness of the Green Belt at this location, and would result in a diminution in the perceived space between settlements and encroach into the countryside, the dual allocation of the site, the Government's encouragement of the improvement of educational facilities and opportunities, as recognised in Policy CF2 of the adopted Local Plan, and the earlier consent for a more significant redevelopment of the site for educational purposes, coupled with the absence of an alternative appropriate location within the wider site, are considered to represent Very Special Circumstances which cumulatively outweigh the harm to the Green Belt.

No objection is therefore raised to the proposal on the basis of Green Belt policy.

## **The design of the proposed facility**

Policy EC2 of the Adopted Local Plan is concerned with design. In terms of the detailed design of the proposed building it is noted that a mixed form, providing both flat and monocline roofs and a varied palette of materials is proposed.

It should be noted that the existing buildings on the wider site exhibit both flat and pitched roofs and a variety of materials and heights. The existing buildings on the site have heights which range from 3.7m for the single storey elements, 7.8m for the flat roofed two storey sections, 9m for the pitched roofed two storey sections and 10.4m for the tennis hall. The proposed two storey building is indicated to have a height of some 7m to the eaves and 10.2m to the ridge. This design provides a less tall building than was originally proposed on the site during pre-application discussions and is now considered to satisfactorily reflect the scale of development on the remainder of the site. No objection is therefore raised to the height of the building.

In terms of the detailed design and appearance of the building, most of the buildings on the site are flat roofed, with only the existing sports complex buildings presenting substantial pitched roofs.

The proposed mix of monocline and flat roofed elements on the proposed building would reflect elements of both roof forms on the site and would not be injurious to the character and appearance of the site or the surrounding area. No objection is therefore raised to the scheme on this basis.

In terms of the proposed materials, these are considered to adequately reflect the form and appearance of other buildings on the site and the palette proposed is therefore considered acceptable.

## **Neighbouring Residential Amenity**

Policy EC3 of the Castle Point 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.

With regard to amenity in terms of privacy and overbearing impact, the Local Plan has no specific policy provision relevant to school development, although the NPPF provides general guidance on the need to protect the amenity of existing residents (paragraph 17).

This Authority has adopted a Residential Design Guide as a Supplementary Planning Document. Although this relates solely to residential properties, it does contain guidelines that seek to protect neighbouring residential amenity and its application in this case would therefore appear to be appropriate.

### Loss of privacy, overshadowing and dominance

In terms of the potential for overlooking, loss of privacy, overshadowing and dominance, a key consideration is the impact that the school building will have upon residential properties to the north-west of the site, on Rayleigh Road and Balmerino Avenue. RDG5 of the Residential Design Guidance relates to Privacy & Living Conditions. This states that for all development above ground level a distance of 9 metres shall be provided between windows and the boundary it directly faces at first floor level.

The proposed building is situated some 45 metres from the boundary of the nearest residential property on Balmerino Avenue, which is well in excess of the minimum standard. Back to back

distances between the proposed building and the neighbouring properties are in excess of 60m and this degree of isolation, coupled with the presence of a wide band of retained trees will ensure that the proposal has no negative impact on neighbouring residential amenity in terms of privacy, dominance or overshadowing.

It is noted that none of the objections received in respect of the proposed development objected on the basis of dominance, overlooking or loss of privacy.

### Noise

All of the objections from adjoining residents have expressed concern in respect of the provision of a carpark/bus turning area and motor cycle parking facility immediately adjacent to the fences of the adjoining gardens. Concern has been expressed that the proposed development will result in greater noise and disturbance arising from the use of the car park.

In the first instance it should be noted that the carpark/bus turning area is already in existence and has been for a considerable period. The proposal does not result in an increase in pupil numbers or increased public access to the site and as a consequence there is no evidence to suggest that the proposed development will result in greater numbers of vehicles accessing the site, although it is acknowledged that reconfiguration of the vehicular access provision within the site would result in all vehicles visiting the site having to pass through the existing car park which may result in an marginal increase in noise and disturbance to the occupiers of two of the dwellings at the eastern end of Balmerino Avenue. However it is anticipated that such traffic will be relatively slow moving and would be travelling for the most part, through the car park, in excess of 5m from the boundary of the site. Under the circumstances it is not considered that an objection can be raised the proposal on the basis of noise and disturbance.

It should be noted however that should a statutory nuisance later be determined, action for remedy is available under other legislation.

With regard to the proposed motorcycle parking facility, this was initially located adjacent to the boundary of the site and residents were concerned that the use of this facility would result in increased noise and disturbance. Whilst there is currently no restriction on where motorcycles may be parked on the site, the perception was that the provision of a bespoke facility would encourage motor bike parking on a particular area of the site. Such parking, whilst limited in extent and likely to be intermittent in occurrence, caused concern for local residents and the applicant was therefore asked to reconsider the location of this facility. In response the applicants have relocated the motor cycle facility towards the centre of the site, to a point some 30m from the boundary with the adjoining residential development. In this location it is not considered that it would result in any undue noise or disturbance to adjoining residents.

A cycle parking facility is to be retained adjacent to the boundary of the site, however it is considered that as this use does not result in engine noise, fumes or other forms of unreasonable disturbance to adjoining residents, its location on this part of the site is acceptable.

Concern has also been raised in respect of the installation of speed humps adjacent to the adjoining development.

The installation of speed humps, coupled with appropriate speed controls, is considered beneficial in ensuring that vehicles on the site move around it in a safe and considerate manner. Properly managed it is not considered that the use of appropriate speed humps would result in significant levels of noise and disturbance or damage to adjoining properties and in the absence of robust evidence to demonstrate to the contrary it is not considered that an objection to the proposal based on the installation of traffic calming measures could be sustained on appeal.



It should be noted that the provision of speed humps within the site is not considered to constitute an engineering operation and is therefore unlikely to require the formal consent of the Planning Authority.

#### Light Pollution

One local resident has objected to the potential for lights within the site to intrude upon his amenity during the hours of darkness.

The submitted Design and Access makes reference to the provision of wall mounted luminaires only and the submitted plans do not identify the provision of lighting within the modified or proposed car parks or along the proposed access road.

Any lights attached the proposed building will be screened from view from the adjoining properties by a wide band of retained trees and it is not therefore considered that the adjoining residents would encounter any significant light pollution as a consequence of the proposed building.

Any lights provided within the modified car parks or on the proposed access road have the potential to result in nuisance to adjoining residents and disturbance to wildlife and it is therefore considered appropriate to impose a condition on the grant of any consent requiring the appropriate shielding of the lights to avoid such nuisance. Subject to such a condition, no objection is raised in respect of light pollution.

#### **Highway Impact**

The Highway Authority has made no comment in respect of the proposal. However, the current scheme does not result in an increase in the number of pupils or staff and does not alter the ancillary facilities provided on the site. The scheme is not therefore considered likely to result in any change in traffic flows to or from the site and as a consequent no adverse impact on highway capacity or safety is anticipated.

#### **Car 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 site currently provides 146 parking spaces.

It is intended to locate the new building on an area currently used for parking purposes. Initially the submitted scheme resulted in a net loss of some 72 car parking spaces. This level of loss was considered unacceptable and negotiation was entered into with the applicant to seek an improved provision.

A revised scheme was subsequently submitted which achieved the provision of 145 car parking spaces.

The currently adopted standards are the 2009 County Parking Standards which require the provision of one space for every fifteen pupils.

The maximum parking requirement for the school, which accommodates 600 pupils is therefore 40 spaces.

However, as indicated previously, the site also hosts a private Nursery and sports facilities which are used by the Public during the evening, at weekends and during the school holidays. The parking needs of these facilities must therefore be considered.

The parking standards require the provision of one parking space for each full time equivalent member of Nursery Staff. Nineteen FTE are employed on the Nursery site and thus 19 car parking spaces are required to meet the needs of this use.

This can be accommodated on the site.

With regard to the sports facilities, the 2009 Standards require the provision of 1 space for every 10m<sup>2</sup> of public area of sports facilities provided within buildings and 20 spaces per pitch for outdoor sports facilities plus 1 space per 10 spectator seats.

Consideration of the sporting facilities available suggests that in excess of 160 car parking spaces are required to serve this aspect the site's operation. In excess of 220 car parking spaces are therefore required to serve all of the facilities present on the site.

The applicant points out that as the public can only use the Sports facilities at evenings and weekends, when the School and Nursery School are not operational, spaces available for these purposes can be used by the public. As a consequence the applicant suggests that no additional parking provision should be made for the sports facilities.

At the present time it is clear that insufficient parking provision is made to fully serve all of the operations on the site, (some 220 are required and 146 are currently provided). However, it is an underlying principle of the planning system that applications cannot be used as a mechanism for remedying existing deficiencies.

As a corollary however care must be taken to ensure that proposals do not be unduly exacerbate existing deficiencies.

Following the receipt of a revised parking layout the proposal now results in the loss of one parking space. In numerical terms a loss of this magnitude is not considered sufficiently detrimental to the operation of the site or the amenity of adjoining residents to provide a robust reason for refusal and in numerical terms therefore no objection is raised to the level of parking provision now made.

It is noted however that the new parking spaces are 2.4m wide and 4.8m deep. This is inconsistent with current parking standards which requires all parking spaces to be 2.9m wide and 5.5m deep. The inadequate size of the parking spaces should therefore attract a recommendation of refusal.

However, it should be noted that the existing parking provision within the site is all based on the older standard of 2.4m by 4.8m and under the circumstances, it is not considered that an objection to the proposal on the basis of its failure to meet the new standards for the proposed relocated parking would be supported on appeal.

No objection is therefore raised to the proposal on this basis.

## **Cycle Parking**

The Essex Parking Standards (2009) define the quantity of cycle parking required to support the proposal.

For secondary schools provision is required the basis of 1 space for every five staff and one space for every three pupils.

For Crèches/Child Care centres, the requirement is 1 space for every four staff and 1 space for every 10 children and for Sports facilities the requirement is 10 spaces plus 1 space for every 10 car parking spaces.

Application of these standards to the proposal results in a requirement for approximately 250 cycle parking spaces.

Forty cycle parking spaces are currently available on the site. The current proposal seeks to provide 12 new cycle parking spaces.

This level of provision would, prima facie appear wholly inadequate in the context of the site.

As previously stated however, it is an underlying principle of the planning system that applications cannot be used as a mechanism for remedying existing deficiencies. The site currently exhibits a substantial deficiency in cycle parking provision and the scheme seeks to mitigate this by providing 12 new spaces. In the context of a proposal which does not result in an increase in pupil or staff numbers, the provision of such spaces is considered to be an improvement on the current situation and consistent with Government guidance in respect of private transport modal shift and is therefore welcomed.

No objection is raised to the proposal on the basis of the quantum of cycle parking proposed.

### **Landscaping and Arboriculture**

Policy EC22 of the adopted Local Plan states that in schemes for new development, existing trees, hedgerows and woods shall be retained wherever possible. Where development takes place, loss of existing tree cover and hedgerows will be kept to a minimum.

Policy EC23 states that encouragement will be given to the planting of native trees and shrubs in appropriate places.

The applicants have undertaken a detailed arboricultural survey of the area of the proposed development and have identified that two small Sycamore trees of poor or declining condition will need to be removed in order to facilitate development.

These trees are located adjacent to a semi-mature stand of some 8 English Oak, and make only a very limited contribution to the character and appearance of the area. The loss of these trees would not have a significant adverse impact on the character and appearance of the site or the ecology of the area and no objection is therefore raised to their removal.

It is noted that a large number of trees, some of which are the subject of Tree Preservation Orders are present on the site. Concern was initially raised in respect of the potential for such trees to be damaged by the passage construction vehicles through the site and excavation works, however provision has been made within the application to ensure that all construction traffic accesses the site via Rayleigh Road, thus avoiding the need for it come into close proximity of the preserved trees.

A condition securing the protection of other trees in proximity to the development site can be attached to the grant of any consent.

## Ecology

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 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 paragraphs 109 and 118. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraphs 118 and 119 of the NPPF.

Paragraph 109 of the NPPF states:

“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”.

In paragraph 118 it states:

“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”.

Paragraph 119 states that:

“The presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”

The proposal is not being considered, planned or determined under the Birds or Habitats Directives.

The site has no ecological designation but is within the zone of influence associated with the Ramsar site (Benfleet and Southend Marshes) and is located within 1km of Thundersley Common SSSI and immediately adjacent to West Wood which is an Ancient Woodland and Local Wildlife Site.

Great Dodds Grove SSSI and the Local Nature Reserve at Belfairs is located approximately 1.5km from the site.

Garrolds Meadow SSSI is located 2km from the site.

Natural England has confirmed that the proposed development will have no significant adverse impact on the ecological value of the designated sites, however, in view of the presence of such ecologically rich sites in proximity it is considered that the site could have the potential for ecological interest.

Assessment of the site has confirmed that it 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.

The proposal does however result in the demolition of a building. Whilst not identified as an ideal roost opportunity for bats, the Preliminary Ecological Assessment submitted by the applicant confirms that given the proximity of the site to West Wood and other designated sites, there is the potential for bats to be present within the existing building. A robust bat survey of the building to be removed should therefore be undertaken prior to any demolition works taking place and appropriate mitigation measures identified and implemented prior to the commencement of development. It is considered that these measures can be secured through the imposition of a condition on the grant of any consent.

Furthermore, given the proximity of works to existing trees which are to be retained as part of the development, it is considered that appropriate measures should be introduced to secure the protection of these trees from impact during the construction period. Such protection can be secured through the imposition of conditions on the grant of any consent.

Whilst the proposed development site currently appears to have little ecological value, redevelopment of the site offers the potential for habitat creation and it is therefore considered that any grant of consent should be subject to a requirement to provide a robust landscaping scheme focused on native wildlife friendly species. Such a scheme can be achieved via the imposition of a condition on the grant of any consent.

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

### **Flood Risk and Drainage Matters**

The application site is located within Flood Zone 1. Under the provisions of the NPPF, Flood Zone 1 is defined as low probability flood risk. Table 2 (Flood Risk Vulnerability Classification) of the accompanying NPPF technical guidance shows that schools are classed as a 'More Vulnerable' use. However, Table 3 (Flood Risk Vulnerability and Flood Zone Compatibility) identifies that the proposed development is appropriate and that there is no requirement for Sequential or Exception Testing.

With regard to surface water flooding, whilst parts of the wider school site are at risk of surface water flooding, the site the subject of the proposed development is not identified as being at risk by the EA.

No objection is therefore raised to the proposal on the basis of flood risk to the building or future users.

Paragraph 103 of the NPPF states that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere.

Anglian Water has commented that the submitted surface water strategy/flood risk assessment is unacceptable, stating that a Desktop analysis has suggested that the proposed development will lead to an unacceptable risk of flooding downstream. As a consequence it has requested that no drainage works be undertaken on the site until such time as a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority.

The Planning Authority would normally rely on the Lead Local Flood Authority for advice on surface water flood risk, however, at the time of writing this report the consultation response from the Lead Local Flood Authority to the proposed scheme has not been received, although the applicants advise that they have engaged in pre application discussion with the LLFA.

Ordinarily the preparation of a report would await the receipt of the LLFA's comments, however, the applicant is keen to obtain the views of the Planning Authority prior to the commencement of the new school year and this could not be achieved if consideration of the proposal were to be deferred until the next meeting.

Whilst perhaps a little unusual, given the facts that:

- consent for a much larger proposal was approved on this site in 2010 and
- the proposal actually seeks to redevelop a currently hardsurfaced area and return an impermeable area to grass, thus creating a larger impermeable area on the site

it is considered that the risk to others from surface water flooding arising from the proposed development would be limited and capable of being accommodated within an appropriate surface water drainage strategy, the details of which could be approved following the receipt of planning permission. Such a strategy can be secured through the imposition of a condition on the grant of any consent.

Subject to the submission and implementation of an appropriate surface water drainage strategy, no objection is raised to the proposal on the basis of surface water flooding.

## **Contamination**

The proposal concerns the redevelopment of a former car park and the demolition of a school building.

The application site has been the subject of a Desktop Ground Investigation Assessment, which was submitted with the application. The investigation found no significant potential of high risk contamination, which would require remediation, but did reveal potential risks to end users, ground-workers and off-site receptors from loose fibres of asbestos within the made ground. Appropriate mitigation measures have been identified within the report to ensure that contamination is limited as far as possible and appropriate remediation is achieved.

A condition ensuring the implementation of an appropriate scheme or remediation can be attached to the grant of any consent.

## **Archaeology**

Policy EC38 of the adopted Local Plan seeks to ensure the protection and proper recording of the archaeological record.

Essex County Council has advised that the proposed development will not impact on any features associated with the adjoining historical deer park or areas of medieval and Mesolithic finds located to the north of the site.

There are no known archaeological features on the application site itself and none are anticipated to be identified as a consequence of the current proposal.

No objection is therefore raised the proposal on the basis of archaeology.

## **Construction Management Plan**

The applicant has not provided a formal Construction Management Plan but has advised that whilst vehicle entry to the site will continue to be via the existing entrance off Daws Heath Road, construction traffic will access the site from Rayleigh Road. This has the advantage of segregating heavy traffic from areas frequented by pupils and staff and potentially could limit movements through the Woodmans Arms junction, but has the disadvantage of ensuring that such traffic will pass close the rear boundaries of dwellings on Balmerino Avenue. It is considered likely therefore that local residents will experience some noise and disturbance during the construction phase. However the access road will only be used for the duration of the construction period and as a consequence of its transient nature the noise and disturbance associated with its use will not provide a robust objection to the proposal.

No details of the hours of operation, storage of materials or unloading and loading areas or facilities for the washing of wheels before vehicles exit onto the highway have been provided however it is considered that these details can be obtained through the imposition of a condition the grant of any consent.

Subject to such a condition no objection is raised to the proposed development on the basis of the absence of a Construction Management Plan.

## **Conclusion**

The key considerations are the acceptability of the principle of such development in the Green Belt, the specific location and design of the proposed building, the impact on the amenity of adjoining residential properties, the impact on ecology, surface water drainage, the impact on the highway and Car and Cycle parking.

In terms of the principle of such development, whilst the site is allocated for Green Belt proposes in the adopted Local Plan, the site carries the dual allocation for School purposes. This factor, coupled with Government advice in respect of the provision of a wide range of high quality educational opportunities, the previous decision by Essex County Council to grant consent for a much larger proposal on the site and the limited impact of the proposal on the openness and strategic function of the Green Belt at this location are considered to represent the very special circumstances required to outweigh the harm to the Green Belt.

No objection is therefore raised to the proposal on the basis of Green Belt policy.

In terms of more detailed matters the proposed development is considered to be of an appropriate design and location and appropriately controlled is considered unlikely to have a significant adverse impact on the amenity of adjoining residents, ecology or highways.

Whilst an element of doubt currently exists in respect of the potential for the proposed development to increase the risk of off-site surface water flooding, it is considered that the imposition of conditions on the grant of any consent can ensure the provision of an appropriate strategy which will limit such potential in accordance with Government 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 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 Prior to the commencement of the development hereby approved, details of the surface water drainage for the site shall be submitted to and approved by the Local Planning Authority. 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.

For the purposes of this condition 'commencement of development' does not include the demolition of existing structures on site required to be demolished to facilitate the approved development.

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

- 3 No works 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.

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.

- 4 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

- 5 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.

- 6 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.

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

REASON: The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development. Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

- 8 Prior to the commencement of the development (including any site clearance works) all retained trees located to the west of the proposed building; and identified as trees T3, T4, T20, T21, T22, T23, T24, T25 and T26 within the submitted drawing JBA 17/236 TC01 dated 01.09.2017 must be protected by fencing in accordance with the provisions of BS5837:2012. No materials are to be stored or temporary buildings erected inside this fence. No changes in ground levels may be made within the crown spread of any tree within the identified group. Such protection measures shall be retained for the duration of the construction of the development.

REASON: In the interest of the future health and amenity value of the trees.

- 9 The external surfaces of the development hereby approved shall be treated in accordance with the approved schedule of materials from which there shall be no departure without the prior formal consent of 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.

- 10 Prior to the commencement of the development hereby approved a bat survey of the site, including any mitigating measures necessary to protect any roosts or feeding grounds identified on the site, shall be undertaken by an appropriately qualified consultant and shall be submitted to and formally approved by the Local Planning Authority.

REASON: In the interests of preserving the nature conservation value of the site.

- 11 Prior to the commencement of any development hereby approved any mitigating measures identified in the approved bat survey shall be implemented and such works shall be formally approved by the Local Planning Authority.

REASON: In order to protect the natural amenity of the site.

- 12 Prior to the commencement of development the developer shall provide details of the proposed access to the new carpark to be created on the site of the former school building.

REASON: Insufficient information has been submitted to demonstrate the provision of appropriate access to the proposed carpark.

- 13 No development shall take place on any phase of the proposed development, 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:

- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- wheel and underbody washing facilities

Such details shall supplement the details provided by drawing 0309-CMP/P1-4 dated 1 May 18.

REASON: To ensure that parking and unloading does not take place in the adjoining streets, in the interests of securing the provision and retention of appropriate landscaping to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety, residential amenity and Policy EC2 of the adopted Local Plan.

- 14 Prior to the commencement of any development on site a Site Waste Management Plan shall be submitted to and formally approved by the Local Planning Authority. Any such plan approved shall thereafter be implemented in its entirety.

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

- 15 The proposed car parking spaces shall be provided within three months of the first occupation of the proposed new school building and thereafter 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 identified on site car parking facilities to be provided on the site.

- 16 Details of any lighting scheme, including any lighting scheme provided during the construction phase, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development 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, the amenity of adjoining residents and the ecological sensitivity of the landscaped areas and adjoining land.

- 17 Should contamination be found that was not considered in the Geo Environmental Report submitted with the application, it shall be made safe and reported immediately to the Local Planning Authority. The site shall thereafter be assessed and a remediation scheme shall be submitted to, and approved by the Local Planning Authority, prior to further works being undertaken in the area of identified contamination.

REASON: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

- 18 The developer shall notify the Local Planning Authority in writing of impending completion of any remediation works within one month of the completion of the said works. Within 4 weeks of completion of such works a validation report undertaken by competent persons in respect of the agreed remediation measures, shall be submitted to the Local Planning Authority for approval.

REASON: To ensure that the site is currently in or is brought to a condition that poses an acceptable risk to future occupants, users, controlled waters, property and the greater environment from contamination in the soil and controlled waters. It also ensures that the site workers are not exposed to unacceptable risks from contamination during construction.

- 19 Prior to the occupation of the development hereby approved a landscaping scheme shall be submitted to and formally approved by the Local Planning Authority. Such a scheme shall include planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers / densities. The scheme shall provide native/non native planting on the basis of 70:30.

Any such scheme approved shall be implemented in the first planting season following occupation of the approved development.

Any trees dying or becoming diseased or damaged within five years of the date of planting shall be replaced with a tree of similar size and species within the first available planting season.

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 and the nature conservation value of the site, in accordance with Government advice as contained in the National Planning Policy framework and Policy EC7 of the adopted Local Plan.

## **Informatives**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 The applicant is advised that the proposed development is in close proximity to apparatus operated by, or activities undertaken by, Cadent and is advised to contact that organisation as soon as possible to discuss this issue further. at:

Plant Protection Cadent Block 1; Floor 1 Brick Kiln Street Hinckley, LE10 0NA  
E-mail: [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com)  
Telephone: +44 (0)800 688588