



Council Offices, Kiln Road,
Thundersley, Benfleet,
Essex SS7 1TF.
Tel. No: 01268 882200
Fax No: 01268 882455



David Marchant LLB (Hons) BSc (Hons) CEng FICE FCMI
Chief Executive

AGENDA

Committee: DEVELOPMENT CONTROL

Date and Time: Tuesday 7th October 2014 at 7.30 p.m.

Venue: Council Chamber

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

Membership: Councillors Ladzrie (Chairman), Smith (Vice Chairman),
Anderson, Barrett, Blackwell, Burch, Cross, Hart, Mrs King,
Varker, Mrs Wass, N. Watson and Wood

Canvey Island Town Councillors : Acott and Greig

Officers attending: Steve Rogers – Head of Regeneration and Neighbourhoods
Fiona Wilson – Head of Legal Services
Kim Fisher – Chief Development Control Officer

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 23rd September 2014 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

Report of the Head of Regeneration and Neighbourhoods is attached.

	Application No.	Address	Page
1.	14/0348/FUL	20 Cleveland Road, Canvey Island (Canvey Island South Ward)	1
2.	14/0452/FUL	Hadleigh and Thundersley Cricket Club, John Burrows Recreation Ground, Rectory Road, Hadleigh, Benfleet (Victoria Ward)	6
3.	14/0465/FUL	7 Kollum Road, Canvey Island (Canvey Island East Ward)	10
4.	14/0487/FUL	'Fernleigh', Wensley Road, Benfleet (Cedar Hall Ward)	17

6. Land at Lubbins Car Park – Affordable Housing

Report of the Head of Regeneration and Neighbourhoods is attached. 25

7. Enforcement Update

Report of the Head of Regeneration and Neighbourhoods is attached. 29

Site Visits

Members are advised that no site inspections are recommended in respect of items attached to this agenda.

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DEVELOPMENT CONTROL COMMITTEE

23rd SEPTEMBER 2014

PRESENT: Councillors Ladzrie (Chairman), Smith (Vice-Chairman), Anderson, Barrett, Blackwell, Burch, Hart, Mrs King, Mrs Wass, N. Watson, Wood and Canvey Island Town Councillor Acott.

Councillors Bayley, Mrs Govier, Palmer, Tucker and Walter also attended.

Apologies for absence were received from Councillors Cross and Varker

10. MEMBERS' INTERESTS

There were none.

11. MINUTES

The Minutes of the meeting held on 2nd September 2014 were taken as read and signed as correct.

12. DEPOSITED PLANS

(a) 14/0304/OUT – LAND WEST OF GLEBELANDS, THUNDERSLEY, BENFLEET (ST GEORGE'S WARD) – OUTLINE PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 140 DWELLINGS, LANDSCAPING, OPEN SPACE, ACCESS AND ASSOCIATED WORKS – FOX LAND & PROPERTY

The application sought consent for the erection of up to 140 dwellings and various associated works on the site, which was allocated for Green Belt purposes. The proposal was for outline consent only with all matters reserved except access.

The Planning Officer advised that the proposal represented inappropriate development in the Green Belt and the applicant had failed to advance any very special circumstances which would justify a departure from normal Green Belt policy. The proposal was therefore contrary to Government guidance as contained in the National Planning Policy Framework (NPPF).

In addition it was considered that the current proposal was premature in that it sought to determine the location of future residential development outside the confines of the emerging Local Plan. The release of the site for residential development could prejudice the ability of the Council to achieve a high level of sustainability in meeting its housing needs as well as undermine Government

Guidance as set out in the NPPF at paragraph 83. The application was therefore recommended for refusal.

Mr Warren, on behalf of Castle Point Wildlife Group, spoke in objection to the application.

Mr Guest, on behalf of local residents, spoke in objection to the application.

Councillor Mrs Govier, a Ward Member, spoke in objection to the application.

Councillor Walter, a Ward Member, spoke in objection to the application.

During discussion Members concurred that the proposal was inappropriate as the site was allocated as Green Belt and it was considered that the applicant had not sufficiently demonstrated any very special circumstances to justify a departure from Green Belt Policy. Some Members raised concern that if permitted the development would result in continuous urban sprawl removing the strategic Green Belt corridor between the Castle Point and Basildon boundary.

Members also stated that the application was premature as it sought to determine the location of future residential development outside the confines of the emerging Local Plan. The Council was currently considering responses to consultation on its New Local Plan and it was felt that this proposal had the capacity to undermine that process. The Committee's view was that the future of the land should be determined within the context of the review of the Local Plan, when all relevant factors could be considered, and not in isolation.

Following discussion it was:

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

- 1 The site is allocated as Green Belt where National Planning Policy as set out in National Planning Policy Framework states that development of this nature is not appropriate and will only be permitted if very special circumstances exist to justify its inappropriateness. It is not considered that any very special circumstances exist or have been demonstrated to justify the proposed development which would be detrimental to the openness, character and strategic function of this part of the Green Belt, contrary to National Planning Policy.
- 2 Within the context of Government guidance and in the light of the Secretary of State's decision of the 26th June 2013, it is considered that the current proposal is premature in that it seeks to determine the location of future residential development outside the confines of the Examination in Public of the New Local Plan. The allocation of land for development on the basis of individual applications would lead to poorly planned growth and would fail to deliver housing in a managed way. To achieve sustainable growth

within the borough the decision on which sites to allocate for development should be taken at a strategic level as part of the Local Plan process, which this application seeks to circumvent.

(b) 14/0255/FUL – 74 ESSEX WAY, SOUTH BENFLEET (BOYCE WARD) – DEMOLISH EXISTING DWELLING AND EXISTING OUTBUILDING AND CONSTRUCT A NEW 4 BEDROOMED DWELLING AND NEW PITCHED ROOFED GARAGE TO THE REAR – C.O.H. PROPERTIES

The application sought to demolish the existing dwelling on the site and provide a replacement four bedroomed house with a detached garage to the rear.

The existing dwelling on the site, known as “The Moorings”, was included on the Local List of Buildings of Architectural or Historic Interest within Appendix 11 of the Adopted Local Plan. Advice on the proposed development was therefore sought from the Historic Buildings Adviser who had commented that the building was in a poor condition and that despite the assertions of local residents that the building was the best part of some 200 years old, the visible fabric of the cottage indicated that it dated from the early 20th century or later. The Historic Buildings Adviser did not therefore consider the cottage to be of sufficient interest to be included on the statutory list of buildings of architectural or historic importance. In light of this advice it was not considered that a refusal of the application on the basis of loss of a locally listed building could be successfully sustained on appeal.

However, it was considered that any replacement dwelling should identify with the existing character created by the group of dwellings to the east of the application site Nos. 76-92 Essex Way and the existing dwelling. The Planning Officer reported that the proposed replacement dwelling was of a poor design and failed to achieve a satisfactory form of development sympathetic to the character of the area. The proposed dwelling also failed to provide an adequate setting for this large and bulky dwelling in this prominent corner location.

It was considered that the proposal failed to comply with the applicable Local Plan Policies and the Government Guidance as contained in the NPPF and was therefore recommended for refusal.

During discussion Members expressed their disappointment that the current property had not been protected as a listed building and it was considered that any replacement dwelling should be in keeping with the current property and the surrounding area.

Members considered that this proposal was of a poor design and overdominant, particularly as it was situated on a corner plot. It was also out of character with the surrounding area and it was felt that if permitted it would result in a significant adverse impact on the character and appearance of the street scene.

Following discussion it was:

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

- 1 The proposed dwelling, by reason of its poor design, cramped and mean setting and unsympathetic scale and character, represents an unsatisfactory form of development, contrary to Policies EC2 and EC37 of the Council's Adopted Local Plan, RDG4 of the Residential Design Guidance and National Guidance as contained in the NPPF.
- 2 The proposal, by virtue of the size of the dwelling, coupled with inadequate setting serves to emphasise the very mean and cramped nature of the development. As such the proposal would have a significant adverse impact on the character and appearance of the street scene, contrary to Policy EC2 and EC37 of the Council's Adopted Local Plan, RDG4 of the Residential Design Guidance and Government guidance as stated in the National Planning Policy Framework.
- 3 The proposed dwelling by virtue of its proximity to the eastern boundary, coupled with its substantial mass and height would result in a proposal which would be obtrusive and overdominant in this location and would represent a poor and unsympathetic form of development, contrary to Policy EC2 of the adopted Local Plan, RDG3 of the Residential Design Guidance and Government guidance as stated in the National Planning Policy Framework.
- 4 The proposal would result in the formation of an additional access point on a busy stretch of classified road, the principal purposes of which is to facilitate the free and uninterrupted passage of vehicles between urban centres. The formation of a further crossing on this stretch of road, and the slowing and turning of vehicles associated with it, would introduce a further point of conflict and interference with the passage of through traffic and pedestrians, to the detriment of highway safety and traffic flows, contrary to Policy T2 of the Council's Adopted Local Plan.
- 5 A vehicular access already exists for this property from an unclassified road, which is proposed to be retained. This access is more suitable for accommodating the vehicular movement associated with residential dwellings. The provision of an access from Essex Way which is a classified road is therefore unnecessary and detrimental to traffic flows and highway safety and efficiency, contrary to Policies EC2 and T2 of the Council's Adopted Local Plan.

ITEM 1

Application Number:	14/0348/FUL
Address:	20 Cleveland Road Canvey Island Essex SS8 0BE (Canvey Island South Ward)
Description of Development:	Single storey side extension and garage conversion
Applicant:	Mrs Linda Clayton
Case Officer	Miss Cathy MacBride

Summary

The application seeks consent for a single storey, monopitched roofed, side extension and the conversion of the existing garage to living accommodation. The proposed development is of reasonable design and accords with the relevant paragraphs of the NPPF, policies in the Adopted Local Plan and residential design guidance and represents an acceptable form of development.

The proposal is therefore recommended for APPROVAL.

This application is presented to the Development Control Committee as the applicant is an employee of the Council.

Site Visit

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

Introduction

The application site is located on the northern side of Cleveland Road, some 35m east of the junction with Beachway. The site has a width of some 12.5m and a depth of some 50m and contains a semi-detached bungalow with attached garage.

The pair of properties represents a traditional pair of Canvey bungalows within a mixed residential area containing bungalows, chalets and houses. The adjoining property has recently been refurbished externally with timber style cladding.

The Proposal

The application seeks consent for the conversion of the garage to living accommodation and a single storey monopitched roofed, side extension some 1.676m wide and 4.422m deep.

The proposal would provide an addition to a reception room, an addition to a bedroom and a bathroom.

Supplementary Documentation

None

Planning History

There is no relevant planning history.

Local Plan Allocation

Residential

Relevant Policies and Government Guidance

National Planning Policy Framework and Guidance

Adopted Local Plan (November 1998)

EC2	Design
H17	Housing Development – Design and Layout
T8	Parking standards

Essex County Parking Standards.

Adopted Residential Design Guidance (January 2013)

RDG5	Privacy and Living Conditions
RDG6	Amenity Space

Consultation

Environment Agency

If the garage is to be converted into a bedroom then the Council should be satisfied that the dwelling has a tolerable level of safety.

Public Consultation

No response received.

Evaluation of Proposal

Policy EC2 of the adopted Local Plan states that a high standard of design will be expected of all alterations and extensions to existing buildings and any development shall be appropriate to its setting and not harm the character of the surrounding area.

Policy H17 states that in assessing the design aspects of the proposals for housing, the Local Planning Authority will have regard to its adopted Residential Design Guidance (RDG). This guidance is considered to be in compliance with the National Planning Policy Framework (NPPF).

In design terms, the side extension reflects the character and form of the host dwelling and its location to the rear of the existing garage eliminates any impact on the street scene. The conversion of the garage would have a greater impact; however this would be limited and considered unlikely to have a significant adverse impact on the character and appearance of the dwelling, or the pair of which it forms part, the roofline of the original garage being retained. As such it is not considered that the proposed development would adversely impact on the character or appearance of the host dwelling, the pair of which it forms part, or the wider street scene and no objection is therefore raised under Policy EC2.

Policy H17 RDG5 deals with privacy and living conditions. It states that primary windows should be located on principle elevations of dwellings and should be designed to provide for adequate natural light and ventilation.

The proposal introduces new large windows on both the front and side elevations and a smaller one on the rear elevation.

The proposed window on the front elevation overlooks the highway and raises no concerns in respect of loss of privacy to adjoining residents, whilst that proposed to the rear is located some 32m from the rear boundary and provides sufficient isolation to protect the amenity of the occupiers of those dwellings to the rear. However the large window proposed to the side elevation would be located some 2m from the eastern boundary of the site and has the potential to overlook part of the front garden of the adjoining property which, as a consequence of the location of the garage on the adjoining site is a relatively private area. In order to protect the privacy of the adjoining residents it is considered appropriate to impose a condition on the grant of any consent requiring the provision and retention of a 1.8m fence along the eastern boundary of the site, where it is adjacent to the host dwelling. Subject to such a condition, no objection is raised the proposal on the basis of loss of privacy.

The installation of a fence opposite the proposed window could result in a diminution of environment within the host dwelling, however, a further window is provided in the rear elevation and it is considered that the combination of the windows would allow the development to be adequately ventilated and lit.

No objection is therefore raised to the proposal on the basis of RDG5.

RDG6 states that amenity space should cater for all the outdoor needs of all occupiers and that development involving individual dwellings should be provided with at least 15m² of amenity space per habitable room. The proposal would increase the number of habitable rooms by one and would require the provision of some 75m² of amenity space. The site achieves some 400m² and therefore satisfies the requirement.

Policy T8 of the Local Plan requires off-street parking to be provided 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 contained in the 2009 document "Parking Standards: Design and Good Practice" published by Essex County Council, adopted by this Authority on 1st June 2010.

The current dwelling provides a single bedroom. The proposed extension does not provide an independent room and therefore the view is taken that the property as extended remains a one

bedroomed bungalow. As such one car parking space is required. This can be achieved on the frontage of the property

No objection is therefore raised to the proposal on the basis of Policy T8 or RDG12.

The Environment Agency has commented that if the proposal seeks to convert the garage to a bedroom consideration should be given to flood risk. The application does not identify the proposed use of the converted garage; however, it is clear that the extended accommodation relies on the existing bedroom for access and as such it is not considered that the room would conveniently form a new bedroom. It should further be noted that access to the bathroom to the property would be gained via the bedroom and converted garage. The proposal has therefore been considered as an addition to an existing bedroom rather than the creation of an additional bedroom and as such it is not considered that the proposal would increase the flood risk to occupiers of the property. No objection is therefore raised to the proposal on this basis.

Conclusion

The proposed development accords with the relevant paragraphs of the NPPF, policies in the Adopted Local Plan and residential design guidance and is an acceptable form of development.

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:

Recommendation: APPROVAL, subject to the following conditions:

- 1 The development hereby permitted shall be begun on or before the expiration of five 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 proposed development shall be finished externally in materials to harmonise with the existing development.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

- 3 Where forecourt 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.

- 4 Prior to the first occupation of the development hereby approved, a 1.8m high brick wall/close boarded screen fence shall be erected and thereafter retained along the eastern boundary of the site from a point level with the rear elevation of the converted garage to a point level with rear elevation of the proposed side extension.

REASON: To safeguard the privacy and amenities of both this and adjoining properties.

Informatives

- 1 In undertaking the works hereby approved you are advised to satisfy yourself of your obligations to occupiers of adjoining properties in accordance with the Party Wall etc. Act 1996, details of which can be inspected at these offices or you may obtain details free of charge from the Planning Portal website (www.planningportal.gov.uk) under Building Regulations.
- 2 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 subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

ITEM 2

Application Number:	14/0452/FUL
Address:	Hadleigh And Thundersley Cricket Club John Burrows Recreation Ground Rectory Road Hadleigh Benfleet (Victoria Ward)
Description of Development:	Construction of balcony/viewing gallery to the existing cricket pavilion
Applicant:	Mr Heath
Case Officer	Mrs Ishita Sheth

Summary

The application seeks the provision of a balcony/viewing gallery to the existing cricket pavilion. It is considered that the proposal would accord with the NPPF and Adopted Local Plan policies and the proposal is therefore recommended for APPROVAL.

The application is presented to the Committee as the land, the subject of the application, is within the control or ownership of the Council.

Site Visit

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

Introduction

The John Burrows Recreation Ground is some 8.5 hectares in area and is located to the north of Hadleigh Town Centre. The site is bordered by New Road to the south and Rectory Road to the east. To the north of the site are allotment gardens and residential properties in Springfield Road and Rectory Road. To the west of the site are residential properties in Templewood Road and Falbro Crescent.

This application relates to the cricket pavilion that lies towards the southern end of the site adjacent to the eastern boundary.

The Proposal

Permission is sought to provide a viewing gallery/balcony at first floor level to the southern and eastern sides of the existing cricket pavilion.

The proposed balcony is 'L-shaped' having a maximum width of some 11.2m and a maximum depth of some 5.5m. The balcony would be supported on grey steel circular columns and accessed from the existing bar area at first floor level via a door in the eastern elevation.

The proposed balcony would be enclosed by a 2m high glazed panel along the northern edge of the balcony and 1.1m high glazing panel with a rolled aluminium handrail along the eastern, western and southern edges of the balcony.

Planning History

CPT/301/09/FUL – Cricket Practice Facility was approved on 1st September 2009.

Local Plan Allocation

Public Open Space

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework

Para 73 – Open space, sports and recreation

Local Plan

EC2 Design

EC3 Residential Amenity

Consultation

Legal Services

No comments received

Operational Services Manager

No comments received

Neighbour Consultation

No responses received

Comments on Consultation Responses

None

Evaluation of Proposal

Paragraph 73 of the NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

The proposal is to provide a balcony/viewing gallery to the existing cricket pavilion. It is considered that such a provision would facilitate involvement in, and the enjoyment of, a sport related activity and as such the provision of the balcony/terrace would be consistent with the provisions of the NPPF.

Policy EC2 of the adopted Local Plan states that a high standard of design will be expected of all alterations and extensions to existing buildings.

The proposed viewing gallery is of a design that would be compatible with the character of the existing pavilion building comprising of glazed screens and metal columns. It is not considered that the proposal would be harmful to the character of the building or the area. No objection is therefore raised under Policy EC2 of the Council's Adopted Local Plan.

Policy EC3 is concerned with protecting residential amenity. It 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.

The proposed viewing balcony/gallery would be located at first floor level and would therefore offer the opportunity for overlooking adjoining properties. However, the front elevation of the nearest residential property would be located some 25m from the proposed balcony. At this distance, it is not considered that use of the balcony would result in a significant loss of privacy for adjoining residents and no objection is therefore raised to the proposal on that basis.

In terms of noise and disturbance, whilst it is acknowledged that the congregation of people on the balcony could lead to disturbance from noise, the level of isolation achieved between the area of congregation and the adjoining dwellings is considered sufficient to adequately mitigate this impact. No objection is therefore raised to the proposal on this basis.

Conclusion

The application seeks the provision of a balcony/viewing gallery to the existing cricket pavilion. It is considered that the proposal would accord with the National Planning Policy Framework and the Council's Adopted Local Plan Policies and accordingly the proposal is recommended for approval.

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

Recommendation: APPROVAL, subject to the following conditions:

- 1 The development hereby permitted shall be begun on or before the expiration of five 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 external surfaces of the development hereby approved shall be treated in accordance with the submitted schedule of finishes 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.

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 subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

ITEM 3

Application Number:	14/0465/FUL
Address:	7 Kollum Road Canvey Island Essex SS8 7TU (Canvey Island East Ward)
Description of Development:	Construction of two link detached two bedroomed chalets
Applicant:	Mrs Alicia Blackwell
Case Officer	Mr Keith Zammit

Summary

The application seeks permission for a pair of linked-detached properties to replace a bungalow. It is considered that the proposal represents an acceptable form of development and the recommendation is therefore APPROVAL, subject to conditions.

The application is presented to the Committee as the applicant is a relative of a Member of the Council.

Site Visit

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

Introduction

The application relates to a site on the western side of Kollum Road, approximately 18m wide and 18m deep. To the north of the site is a detached bungalow at 11 Kollum Road and to the south is a detached house at 75 Point Road. On its western edge, the plot has a boundary to Stella Maris Close.

The Proposal

Permission is sought for the demolition of the existing bungalow and the erection of a pair of linked-detached two bedroomed chalets. Each would have car port parking and a roof height of approximately 7m. The proposed materials are Ibstock Funton Orchard Mixture brickwork (yellow), Parex Monorex Mineral Render (colour: Athens Sand) and Marley Ludlow Plus interlocking roof tiles (colour: Smooth Grey). Paving is to be Brett Alpha Antique Flow.

Supplementary Documentation

The application is accompanied by a Flood Risk Statement and schedule of materials to be used, which can be viewed on the Council's website.

Planning History

None

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework

Paras 56 to 58 (Design) and 102 (Flood Risk)

Planning Practice Guidance

Paragraph 054 Reference ID: 7-054-20140306 (Development and Flood Risk)

Current Local Plan

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

RDG7 – Roof development

RDG12 – Parking and access

Consultation

County Highways

To be reported

Canvey Town Council

To be reported

Public Consultation

No responses received to neighbour notification at the time of writing (publicity period expires 29th September 2014). Any responses received will be reported separately.

Evaluation of Proposal

Principle

The site is allocated for residential purposes on the Proposals Map accompanying the Adopted Local Plan. There is therefore no objection in principle to the residential redevelopment of this site.

Flood Risk

Government guidance as contained in the NPPF requires all proposals for new dwellings in areas at risk of flooding to be accompanied by a site-specific Flood Risk Assessment in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood. The proposal is also required to pass the sequential and exception tests as set out in the National Planning Policy Framework and associated Planning Practice Guidance, in order to determine whether sites of lower flood risk probability exist which may be more suitable for the type of development proposed.

With regard to the sequential test, the proposal seeks to provide dwellings within the settlement of Canvey Island. For residential development to serve the community of Canvey Island it is considered that it would need to be located within that settlement. Since the settlement of Canvey Island is located entirely within Flood Zone 3 it is not considered that there are reasonably available alternative sites within the area with a lower probability of flooding that could accommodate the proposed development. Under the circumstances it is considered that the proposal passes the sequential test.

Having passed the sequential test, the proposal must then pass the exception test. In order to meet the requirements of the exception test as described at paragraph 102 of the NPPF, the proposal must demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and a site-specific Flood Risk Assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

In response to the first criterion, in a very broad sense, the continued development of Canvey Island is necessary to sustain the local community and prevent the social and economic blight of the settlement. However, in assessing whether these benefits outweigh the flood risk, the flood risks surrounding the development must be considered in more detail.

The second criterion requires that the applicant demonstrate that the development is safe, will not increase flood risk elsewhere and where possible will reduce flood risk overall.

The applicant has provided a Flood Risk Assessment and Flood Risk Worksheet. The FRA identifies that the ground level of the site is 1.83m AODN and that during a 1 in 1000 year flood event; if there was a breach of sea defences the site would be flooded up to a depth of 4.13m AODN. The finished ground floor level of the properties would be 2.13mAODN. The ground floor of the property would therefore be liable to flooding; however, with the first floor set at 4.78m AODN, there would be refuge available above flood water levels. Provided that the response of occupiers to flooding or a flood warning is managed by a Flood Response Plan, it is not considered that there would be undue risk posed by the development.

The applicant has submitted a flood warning and response plan as part of the Flood Risk Statement. Although direct delivery of flood warnings to occupiers is dependent upon the occupier registering for the Environment Agency's Flood Warnings Direct service, given the level of media coverage which would likely be afforded to a tidal flood warning affecting Canvey, it is considered that occupiers would be likely to receive such warnings in good time. The applicant's Flood Response Plan is considered acceptable for the purposes of making occupiers aware of actions

that they should take if a flood warning is issued or flooding occurs. A condition should be imposed on the grant of any consent requiring enactment of this plan.

It is noted that there is the possibility of incorporating flood resistance and resilience measures into the construction of the building in order to minimise damage to the building during a flood event and to enable a faster recovery once floodwaters have subsided. The Flood Risk Statement contains a section relating to the incorporation of flood resistance and resilience measures into the proposed construction. Following consideration of these, it appears that the applicant is intending to adopt a flood resilience or water entry strategy, where it is accepted that water will enter the building, but finishes and materials used internally will not be damaged by the flood water, or will be of a sacrificial nature so that they can be easily replaced if immersed in water. Although a little sparse, it is considered that this is an indication that the applicant has considered the flood resilience of the building and therefore no objection is raised to the details submitted.

The National Planning Practice Guidance states at paragraph 054 Reference ID: 7-054-20140306 that when considering safety, the depth and velocity of flood water and the structural safety of buildings needs to be considered. Drawing No. ABD/1156/02 contains a sectional drawing and notes which appear to demonstrate that the building construction will be able to withstand the forces which may be acting upon it during a 1 in 1000 year flood event, but these do not appear to have been validated by a structural engineer. The planning authority cannot therefore be satisfied that the measures shown would ensure the structural stability of the building under flood conditions. A condition is therefore required to ensure that details demonstrating the structural stability of the building are submitted for separate consideration. An email from the agent dated 5th September 2014 states that this course of action is acceptable to the applicant.

Subject to no adverse comments being received from the Environment Agency, there are no objections to the proposals on the basis of flood risk.

Matters of detailed design and layout

Policy EC2 of the Local Plan seeks a high standard of design in all new buildings which is considered to be consistent with paragraphs 56 to 58 of the NPPF. The Council has adopted Residential Design Guidance as a supplementary planning document, within which guidance at RDG7 states that the roof of a dwelling, either built as new or extended or altered, should be proportionate to the remainder of the dwelling and not appear top heavy, prominent or dominant. Dormers should be an ancillary feature in the roofscape and should not dominate it.

The proposed dwellings would be constructed in a chalet style with a gable feature and pitched roofed dormer window to the front elevation and a dormer style roof addition with a cat slide roof to the rear elevation. Kollum Road is mixed in terms of its character, with bungalows, houses and chalet style properties present in the street scene. In terms of the architectural style of the properties, it is not considered that the proposed dwellings would look out of context. The dormers proposed are not considered to be overly large in relation to the roofs of the dwellings or otherwise in conflict with the design guidance.

The proposed materials are considered to be acceptable in the context of the surrounding area.

In terms of the dwelling heights, there is no record of the original plans for the dwelling to the south at 75 Point Road, but there are houses to the north of this site at Nos. 17 and 19 Kollum Road with

roof heights of some 7.2m in the context of these it is not considered that the proposed roof heights of 7m would appear excessive.

No objection is therefore raised to the proposal on the basis of design.

Guidance at RDG1 requires the plot sizes of new development to be informed by the prevailing character of plot sizes. With a depth of some 18m these plots would be in keeping with the depth of nearby plots. The proposed plot width would be approximately 9m. This would be reflective of the site to the north which has been redeveloped to provide two bungalows on plots of similar width. As such there is no objection on the basis of guidance at RDG1.

Guidance at RDG2 requires the space provided around new dwellings to be reflective of the space provided around dwellings in the area. The link-detached properties would have approximately 1m provided between the flank walls and the boundaries of the site and 1m between first floor elements and the party boundary, which is considered to be reflective of the character of the area. No objection is therefore raised on the basis of guidance at RDG2.

Guidance at RDG3 requires proposals to respect established building lines. The proposed dwellings would be set midway between the building lines formed by the dwellings to the north of the site and the flank wall of the dwelling to the south at 75 Point Road. Such setting is considerable acceptable.

Guidance at RDG3 also requires proposals not to cause loss of amenity to adjacent residents by way of overshadowing or dominance.

The rear wall of the proposed dwellings would be located in approximately the same position as the main rear wall of the existing dwelling and would not therefore cause undue loss of amenity to adjacent residents by reason of overshadowing or dominance. As such there is no objection to the proposal on the basis of guidance at RDG3.

Guidance at RDG5 deals with privacy and living conditions. A distance of 9.1m is required to be provided between first floor windows and the boundary of the site.

The proposed first floor front windows would overlook the street which is within the public realm. Such windows are not considered to cause undue overlooking of properties opposite. No first floor side windows are proposed.

The proposed rear facing first floor windows would be provided with a distance to the boundary of approximately 6.5m which under normal circumstances would be viewed as inadequate. However, in this instance the windows would overlook the turning area to Stella Maris Close. No direct overlooking of adjoining properties would therefore occur. It is recognised that oblique overlooking of the flats on Stella Maris Close could occur, however oblique views may occur in any residential area where there is development of more than one storey. As such it is not considered that an objection to the proposal on this basis could be robustly defended at appeal.

Guidance at RDG6 requires the provision of 15m² of amenity space for each habitable room. The proposed dwellings would each contain four habitable rooms, requiring an amenity area of 60m². Rear gardens of approximately 58.5m² would be provided. Whilst this is marginally below the requirement it is not considered that a reason for refusal based on such a marginal deficiency would be supported on appeal. It is, however, considered necessary to curtail future occupiers'

permitted development rights in respect of the erection of extensions under Class A or outbuildings under Class E of the General Permitted Development Order, given that the uncontrolled exercise of such rights could lead to an unacceptable diminution in amenity space provision.

Parking Implications

Policy T8 of the Local Plan requires parking to be provided 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 contained in the 2009 document “Parking Standards: Design and Good Practice” published by Essex County Council, adopted by this Authority on 1st June 2010. These require a minimum of two spaces to be provided for dwellings with two or more bedrooms. Parking spaces are required to have minimum dimensions of 2.9m by 5.5m. Two parking spaces of 2.8m by 5.5m would be provided for each property. Whilst the width would be slightly deficient it is not considered that a reason for refusal based on such a marginal deficiency would likely be supported on appeal.

Guidance at RDG12 requires car parking provision not to be visually dominant. The proposed car port parking would leave a good portion of the frontage unoccupied by car parking which is considered not to result in domination of the street scene by parking. No objection is therefore raised to the proposal on the basis of Policy T8 or RDG12.

Conclusion

The proposal does not exhibit any areas of significant conflict with Council policies or guidance and as such are considered to be an acceptable replacement for the existing bungalow.

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.

Recommendation: APPROVAL, subject to the following conditions:

- 1 The development hereby permitted shall be begun on or before the expiration of five 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 development hereby approved shall be built wholly in accordance with the approved materials.

REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.

- 3 The approved car parking areas shall be hard surfaced in accordance with SuDS principles and made available for use prior to first occupation of the dwellings. Thereafter, such spaces shall be permanently retained for the parking of vehicles and not used for any other purpose

REASON: To make and retain satisfactory provision for parking off the highway.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended, no development of the type specified in Classes A and E of Part 1 of the Second Schedule to that Order (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order) shall be carried out without the formal consent of the Local Planning Authority.

REASON: In order to ensure an adequate level of residential amenity for occupiers of the site and adjacent properties.

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

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

- 6 Prior to the commencement of development, a scheme, prepared by a qualified structural engineer and demonstrating the ability of the proposed structure(s) to withstand the hydrostatic and hydrodynamic pressures likely to be acting on the buildings in a 1 in 200 year and 1 in 1000 year flood event shall be submitted to the Local Planning Authority.

REASON: To ensure the ability of the approved building to withstand the effects of flooding in the interests of the safety of the future occupiers of the site.

- 7 The development shall be constructed in accordance with the scheme submitted by a qualified structural engineer.

REASON: To ensure the ability of the approved building to withstand the effects of flooding in the interest of the safety of the future occupiers of the site.

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.

ITEM 4

Application Number:	14/0487/FUL
Address:	Fernleigh Wensley Road Benfleet Essex SS7 3DS (Cedar Hall Ward)
Description of Development:	Demolition of existing dwelling and outbuilding and construction of 2 No. four bed detached houses
Applicant:	M Huntley
Case Officer	Mr Keith Zammit

Summary

The proposal is for the replacement of a detached bungalow with two detached houses. The proposal achieves all relevant policy guidance and provisions and would not have a negative effect on the character and appearance of the area. As such it is considered that the proposal represents an acceptable form of development which is recommended for APPROVAL.

The application is presented to the Committee as approval of the scheme will require the applicant to enter into an agreement under Section 106 of the Town and Country Planning Act, to secure improvements in the condition of the highway.

Site visit

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

Introduction

The application site is located on the east side of Wensley Road with a frontage of some 36m and depth of some 27m. To the south of the site is a bungalow 'Bywood' and to the north are the rear aspects of dwellings in Swale Road. To the east of the site is land being developed by David Wilson Homes and to the west is wooded land, allocated for Green Belt purposes.

Description of Proposed Development

Permission is sought for the demolition of the existing bungalow and the erection of two detached four bedroomed houses with attached garages and forecourt parking. The roof ridge heights of the dwellings would be some 8.3m. The proposed external materials are white render, brick and dark red roof tiles.

Relevant History

August 2014 – permission refused for the demolition of the existing dwelling and outbuilding and construction of 3 No. four bedroomed detached houses (14/0094/FUL) for the following reasons:

1. The proposed development, by reason of the uncharacteristically narrow plot widths, represents overdevelopment of the site, resulting in a mean and cramped form of development, out of keeping with, and detrimental to the character and appearance of the surrounding area, contrary to Policy EC2 of the adopted Local Plan, guidance at RDG1 within the Council's Residential Design Guidance Supplementary Planning Document and Government guidance as expressed in the National Planning Policy Framework.
2. The proposed development would provide inadequate separation spaces between the buildings and the plot boundaries, to the detriment of the character and appearance of the area and contrary to Policy EC2 of the adopted Local Plan, guidance at RDG2 within the Council's Residential Design Guidance Supplementary Planning Document and Government guidance as expressed in the National Planning Policy Framework.
3. The proposed development, due to the inadequately sized garages, would be reliant on front forecourt parking to meet the parking needs of the occupiers. The development as a consequence would appear car dominated, to the detriment of the character and appearance of the area and contrary to Policy EC2 of the adopted Local Plan, guidance at RDG12 within the Council's Residential Design Guidance Supplementary Planning Document and Government guidance as expressed in the National Planning Policy Framework.

Local Plan Allocation

Long term residential

Relevant Policies

National Planning Policy Framework

Paras 56 to 58 (Design)

Current Local Plan

EC2 – Design

H5 – Safeguarding of land for long term housing needs

T7 – Unmade roads

T8 – Parking standards

Residential Design Guidance

RDG1 – Plot size

RDG2 – Space around dwellings

RDG3 – Building lines

RDG5 – Privacy and living conditions

RDG6 – Amenity space

RDG10 – Enclosure and boundary treatment

RDG12 – Parking and access

RDG13 – Refuse and recycling storage

Consultation

Refuse and recycling

To be reported

County Highways

To be reported

Neighbour notification and site notice

No responses received at the time of writing (publicity period expires 6th October 2014). Any responses received will be reported separately.

Evaluation of Proposal

The application seeks consent for two detached houses. Consideration will be given to the acceptability of such development on this site, the design, impact on neighbours and highway and parking matters.

Principle

Policy H5 of the current Local Plan states that land south of The Chase and east of Wensley Road will be safeguarded for the long term provision of housing and until such time as local plan reviews show that the land needs to be released for housing, the land will be kept free of development which would prejudice later comprehensive treatment. Much of this land is currently being developed pursuant to planning permission CPT/697/11/FUL. However, there are several plots of land fronting Wensley Road which are outside the current comprehensive development site, but within the Long Term Housing allocation. The application site is one such parcel of land. Although the site does not contribute to, or prejudice the comprehensive scheme to the east, it is capable of providing some form of residential redevelopment. The provision of such development would be consistent with the provisions of Policy H5.

This part of Wensley Road is unmade and retains a rural character. Previous applications for the provision of additional dwellings elsewhere on Wensley Road have been refused on the basis that they would have led to unacceptable urbanisation and detriment to the arcadian character of the area, partially due to pressure for the surfacing of the carriageway of Wensley Road. However, the completion of the development to the east of the application site will significantly alter the character of this part of Wensley Road as further dwellings are proposed to front this highway. Whilst these new dwellings would not gain vehicular access from Wensley Road the introduction of new dwellings into the streetscape will create a much more urban character than currently exists and in this context, subject to the achievement of appropriate design and access, it is not considered that an objection to the principle of additional dwellings could be sustained. No objection is therefore raised to the principle of residential development on this site.

Design

Policy EC2 of the current Local Plan seeks a high standard of design in all proposals. This is consistent with paragraphs 56 to 58 of the NPPF.

The street scene in Wensley Road and Swale Road is mixed in character with bungalows, some of which have been enlarged through the provision of accommodation in the roofspace, and chalets immediately adjacent to the site. A detached house and two storey flats are present at the northern end of the Wensley Road. In the context of the wider area it is not considered that an objection to the provision of two storey houses could be robustly defended at appeal.

The proposed dwellings are of unremarkable design, however, there is no particularly strong architectural character to the surrounding area, and it is not considered that refusal of the proposal on design grounds would be supported on appeal. Overall there is no objection on design grounds.

RDG1 requires the plot sizes for all new development to be informed by the prevailing character of plot sizes. The proposed plots would have widths of some 17m and 18m respectively and a depth of some 25m. This is consistent with nearby plots and no objection is therefore raised to the proposal on this basis.

RDG2 deals with space around dwellings and requires the space around all 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 disruption to this pattern.

The proposed dwellings would be provided with isolation spaces of 1.7m and 1.9m between the flank walls and the boundaries to each plot. This would reflect the character of the area and provide a reasonable setting for the dwellings. No objection is therefore raised to the proposal on the basis of RDG2.

Guidance at RDG3 requires proposals to respect established building lines. The proposed dwellings would generally respect the front building line formed by adjacent dwellings. The front bays may be viewed as a projection beyond the building line, however the guidance allows for building line incursions which add interest or make a contribution to the street scene and it is considered that the provision of bay windows may be viewed in this way. No objection is therefore raised on the basis of RDG3.

Guidance at RDG6 requires the provision of 15m² of private amenity space for each habitable room. The properties would each have seven habitable rooms requiring an amenity area of 105m² each. The dwellings would be provided with rear garden areas of approximately 155m² which satisfies this requirement.

It should be noted that utilising permitted development rights it would be possible to erect single storey rear extensions of 8m in depth which would substantially reduce the rear gardens. In order to ensure the retention of an appropriate amenity area it is considered that a condition removing permitted development rights under Class A should be attached to the grant of any consent.

Guidance at RDG10 states that means of enclosure should be informed by the prevailing character of the area and surrounding forms of enclosure, both in terms of materials and positioning, without repeating poor forms of development.

It appears that the frontage of the dwellings would be partially open to allow for car parking. There is unlikely to be any harm caused from the provision of 1m high fencing to the remainder of the front boundaries. The application form states that new 1.8m high fencing is proposed to rear gardens, which is broadly acceptable; however it is not possible to tell precisely where the fences would be erected and there is no information about side boundary treatments in advance of the front walls of the houses. Therefore, in order to protect the visual amenity of the area it is considered that a condition requiring the submission of the details of any proposed enclosure should be attached to any grant of consent.

Guidance at RDG13 requires residential development to be provided with safe, adequate and suitable means of refuse and recycling storage. The Council's refuse and recycling service has previously commented that the dwellings will have kerbside refuse collection. As these are houses with gardens they would have space to store refuse materials prior to collection. No objection is therefore raised on the basis of guidance at RDG13.

Neighbour impact

Guidance at RDG3 requires proposals not to cause excessive overshadowing or dominance of adjacent properties.

The proposed development would be well separated from the adjacent dwelling at 'Bywood' by the existing garage at that property and it is not considered that it would suffer an adverse impact from overshadowing or dominance. The existing properties to the north and proposed properties to the rear are too remote to be significantly affected by the proposal in terms of dominance. No objection is therefore raised on the basis of RDG3.

Guidance at 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. The use of obscure glazed and fixed windows can be used to prevent overlooking where inadequate separation distance is provided, but only where the windows concerned do not form the sole light source to a habitable room.

The first floor front windows would overlook the road which is within the public realm and considered acceptable in policy terms. The rear first floor windows would be provided with a distance of greater than 9m to the rear boundary. The first floor side windows would serve bathrooms which are not habitable rooms so could be obscure glazed and fixed to 1.7m from floor level to prevent overlooking without leading to unsatisfactory living conditions within the room. Subject to a condition requiring the first floor side windows to be obscure glazed and fixed to 1.7m from floor level, there is no objection on the basis of privacy loss.

Parking and highway matters

Policy T7 of the current Local Plan states that in all applications for the intensification of development served by unmade roads, the Council will seek appropriate improvements to the highway. Such improvements would be at the developer's expense and include the provision of footpaths, drainage and lighting. The NPPF does not specifically address this matter, but paragraph 35 states that development should, inter alia, accommodate the efficient delivery of goods and supplies, create safe and secure layouts and give priority to pedestrian and cycle movements.

Previous applications for intensification of development on Wensley Road have attracted recommendations of refusal on the basis that they would have led to pressure for the carriageway of Wensley Road to be surfaced, which it is considered would detract from the area's rural character. However, as previously mentioned, housing development under construction in the area will result in a change in the character of Wensley Road making it more urban in appearance. Consequently an improvement to or the making up of the surface of Wensley Road would not now be so injurious to local character, and is justified given that the introduction of further vehicular traffic to Wensley Road is likely to result in deterioration in its condition and the general character and appearance of the area.

Where new dwellings have been permitted at various sites in the vicinity of Swale Road, the developers have been required to enter into an Agreement under Section 106 of the Town and Country Planning Act to secure improvement in the condition of the roads. These improvements did not take the form of a conventional adoptable road but rather improvements involving the laying of new material and its compaction to provide a surface of improved quality than that which presently exists but which would still maintain a non-urban character. This approach is also considered suitable for Wensley Road. In the event of permission being granted for the development of this site the applicant should be required to enter into a Section 106 agreement to achieve this objective.

Policy T8 of the current Local Plan requires the provision of off-street 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 Essex Vehicle Parking Standards which were adopted by this Authority on 1st June 2010. These require the provision two spaces for properties with two or more bedrooms. Garages will only be counted as a parking space where they have internal dimensions of 3m by 7m and should have a minimum forecourt depth of 6m to allow cars to stand clear of the highway whilst garage doors are being operated.

Guidance at RDG12 requires parking not to be visually dominant.

The proposed dwellings would each be four bedroomed, requiring the provision of two off-street parking spaces. Integral garages are proposed, which would meet minimum dimensional requirements and would have a forecourt of a minimum of 6m in depth in front. This is satisfactory in numerical terms and would avoid domination of the frontage by car parking, in the spirit of guidance at RDG12. It is recommended that a condition is imposed requiring the garages to be retained for the purpose of car parking and not converted to habitable accommodation, in order that they are available for their intended purpose to reduce the desire of occupiers to hard surface the entire property frontage for car parking.

Conclusion

The proposal achieves all relevant policy guidance and provisions and would not have a negative effect on the character and appearance of the area. Furthermore the proposed development would make a contribution to the borough's housing supply. Following the reduction in the number of dwellings proposed on this land to two, it is considered that the proposal is capable of being carried out without harm to the visual amenity or character of the area and as such it is recommended that planning 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.

Recommendation: APPROVAL, subject to the applicant being willing to enter into a S106 in respect of improvements to the highway and the following conditions:

- 1 This permission should be read in conjunction with the Agreement under Section 106 of the Town and Country Planning Act 1990, dated contemporaneously with this permission.

- 2 The development hereby permitted shall be begun on or before the expiration of five 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.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, as amended, no development of the type specified in Classes A and E of Part 1 of the Second Schedule to that Order (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order) shall be carried out without the formal consent of the Local Planning Authority.

REASON: In order to ensure an adequate level of residential amenity for occupiers of the site.

- 4 Prior to their erection on site, the details of any boundary treatment or means of enclosure shall be submitted to and formally approved by the local planning authority.

REASON: In the interest of preserving the character and visual amenity of the area.

- 5 Prior to occupation of either dwelling, the approved car parking areas shall be provided and hard surfaced in accordance with SuDS principles. Thereafter, these areas shall be retained for the purpose of vehicle parking and not used for any other purpose.

REASON: To make and retain provision for parking off the highway in accordance with the Council's adopted parking standards.

- 6 The garages shall be provided in accordance with the approved plans prior to occupation of the dwellings and thereafter retained for the purpose of car parking and not used for any other purpose.

REASON: To make and retain provision for parking off the highway in accordance with the Council's adopted parking standards.

- 7 The proposed windows in the side elevations at first floor level shall be obscure glazed to at least Level 3 on the Pilkington Scale and non-opening to a height of 1.7m above the finished floor level of the rooms in which the windows are installed and permanently retained as such thereafter.

REASON: In order to protect the privacy of the occupiers of the adjoining properties.

- 8 The elevational treatment of the building shall be in adherence to coloured elevation drawing no. 2756-12 rev C unless the prior written agreement of the local planning authority is obtained to any variation.

REASON: In the interest of visual amenity and to ensure a development in character with its setting.

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 subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

DEVELOPMENT CONTROL COMMITTEE

7th October 2014

Subject: Land at Lubbins Car Park – affordable housing

Report of the: Head of Regeneration & Neighbourhoods

Report author Steve Rogers

1. Purpose of Report

- 1.1 To seek Committee authority to agree to a variation of terms of a Section 106 Planning Obligation regarding this site, to allow a payment to be made to the Council in lieu of the provision of on-site affordable housing.

2. Background

- 2.1 On 4th September 2007, planning permission was granted by Committee for the redevelopment of this land for a block of 32 flats, comprising 16 one bed and 16 two bed homes (reference CPT/163/07/FUL). At the time of the decision the applicant provided a Planning Obligation under Section 106 of the Town & Country Planning Act 1990, undertaking to make 6 flats available as affordable homes. These were to be provided through a Registered Provider.
- 2.2 The applicant subsequently found no interest amongst Registered Providers for the affordable homes being proposed. Accordingly on 7th August 2012 the Council agreed to a variation of the Planning Obligation to allow work to start on site, but before occupation, to arrange for 4 one bed flats and 2 two bed flats as the affordable homes to be delivered either as affordable rented homes or shared equity homes, with the Council taking an interest in any shared equity homes.
- 2.3 The development has now been carried out and is almost complete. However it is evident that the provision of affordable homes within the building, either as affordable rent or as shared equity, is impractical because of the need to share access, car parking, maintenance and other charges which Registered Providers will be unable to pass onto tenants. Shared equity arrangements have also proved unattractive for similar reasons.
- 2.4 The applicant has therefore asked that the Council accepts a payment in lieu of providing affordable housing at this site, to be used for the delivery of affordable housing elsewhere in the Borough. The payment would be £215,852, calculated in accordance with Council policy.

3. Implications of the Request

- 3.1 The Committee will be aware that the Council's policy regarding affordable housing is set out in Policy H7 of the Adopted Local Plan, and also in the Developers Contributions Guidance Supplementary Planning Document.

- 3.2 The Adopted Local Plan Policy H7 requires that;

Where appropriate the council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes. The number of affordable dwellings to be provided will be dependent upon the size of the site, its location, and any substantial costs associated with the provision of other necessary infrastructure, and will be determined by the council, following negotiation with the applicant.

- 3.3 The Developers Contributions Guidance Supplementary Planning Document at paragraph 6.30 advises that;

In exceptional circumstances, an off-site financial contribution may be considered if it resulted in the provision of the appropriate amount of affordable housing. A greater contribution towards affordable housing will normally be sought in these circumstances to reflect the benefit the developer gains through using the whole site for private market housing. The amount of the financial contribution sought would be equivalent to the cost of building the required number of affordable dwellings of the size and type required together with the value of the land needed to build them on at open market value, minus the amount equivalent to what would be payable to an RSL.

- 3.4 The National Planning Policy Framework states at paragraph 50 that;

where they (local planning authorities) have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

- 3.5 In this particular case it is evident that the applicant cannot fulfil the terms of the Planning Obligation, even in its amended form. That in turn would have the consequence of leaving the entire building of new homes unable to be occupied because of the planning restriction. This would be a highly unfortunate and unintended consequence of an otherwise worthy aim to provide affordable homes.

- 3.6 In these exceptional circumstances, and given the pressing need for the delivery and occupation of new homes in the Borough, it is recommended that the applicant's requested variation of the Planning Obligation to allow a cash payment be agreed. This would be in accordance with the Council's policy where such site-specific considerations prevent affordable housing to be delivered within the scheme.

- 3.7 The calculation of the payment required has been carried out in accordance with the Council's policy in paragraph 6.16 of the Developers Contributions Guidance Supplementary Planning Document, as follows;

**Calculation of Financial Contribution
as per Developer Contributions Guidance**

*Resident Earnings - £26,111
(ONS Annual Survey of Households and Earnings 2013 - Castle Point)*

Lower Quartile 1 bed flat price (Hometrack May 2014) - £105,250

Lower Quartile 2 bed flat price (Hometrack May 2014) - £132,425

This results in the following calculation:

1 bedroom contribution – $4 \times (105,250 - (26,111 \times 3)) = £107,668$

2 bedroom contribution – $2 \times (132,425 - (26,111 \times 3)) = £108,184$

Total contribution = £215,852

4. Legal Implications

- 4.1 Section 106 of the Town & Country Planning Act allows applicants to make binding undertakings relating to development and use of land. Although technically the Council is not a party to unilateral obligations, in the case of the provision of affordable homes, it clearly has an interest in their delivery. It is therefore appropriate for the Council to consider and if appropriate agree to variations to ensure the delivery of new and affordable homes, as in this case. The variation must however be agreed and payment made before any homes are occupied.

5. Financial Implications

- 5.1 The financial contribution of £215,852 has been calculated in accordance with the Council's adopted policy. Once paid, it will be reserved and then used for purposes connected directly with the delivery of new affordable homes in the Borough.

6. Human resource, diversity and equality implications

- 6.1 There are no implications of this kind arising from the recommendations in this report.

7. Asset management implications

- 7.1 There are no implications of this kind arising from the recommendations in this report.

8. Links to Council's priorities and objectives

- 8.1 The work of the Development Control Committee in implementing planning policy contributes to all the Council's priorities.

9. Timescale for implementation and risk factors

- 9.1 The applicant is anxious to allow the development to be completed and occupied as soon as possible and so the variation and payment are likely to be undertaken promptly.

Recommendation:

The Committee agrees to the variation of the Planning Obligation dated 7th August 2012 in respect of the development of Land at Lubbins Car Park (reference CPT/163/07/FUL) to allow a payment of £215,852 to be made to the Council in lieu of the provision of on-site affordable homes, plus a payment to the Council to cover its costs in preparing and executing the variation.

Resolution Required

Background Papers:

E-mail from applicant dated 22.09.14

DEVELOPMENT CONTROL COMMITTEE

7th October 2014

Subject: Quarterly Enforcement Update
Report of the Head of Regeneration and Neighbourhoods
Case Officer Robert Davis

Introduction

This is the twelfth enforcement report presented to the Development Control Committee in order to ensure that Members are aware of all formal planning enforcement action and investigations that have been undertaken by the Council's Planning Enforcement Officer.

The report commences with cases resolved informally and formally, follows this with cases where new enforcement action has been undertaken since the last enforcement update and concludes with those cases still outstanding.

Members should be aware that Planning Enforcement Officers were temporarily working with Development Management colleagues over the summer in order to assist in reducing the backlog of planning applications and this has resulted in delays to some complaints being investigated.

Cases resolved informally and formally

8 Waterdene Mews, Canvey Island

This case involved a breach of a planning condition in respect of a requirement for the provision of a balcony screen. A suitable screen to visibility has now been erected following informal discussions with the occupiers and the case closed.

27 Northfalls Road, Canvey Island

As in the case above, this involved a breach of a planning condition in respect of a requirement for the provision of a balcony screen. Officers were advised that the screen had become unsafe and was therefore removed. A replacement screen to visibility has now been erected and the case closed.

Jotmans House, Jotmans Lane, Benfleet

This case involved a breach of a planning condition requiring the removal of a mobile home prior to occupation of a replacement dwelling. This came to the attention of Officers whilst checking new Council Tax listings. The mobile home has now been removed and the case closed.

48 High Road, Benfleet

Members will recall that internal works required by the enforcement notice in respect of this premises were not, in the opinion of the Council, satisfactorily carried out. Negotiations failed to resolve the matter and the case was scheduled to be heard at Basildon Crown Court on 27th May 2014. Shortly before the case came to Court the defendant, having sought legal advice, carried out the necessary works as directed by the Council. The prosecution has now been withdrawn and the Council's file on this case closed.

30 The Crescent, Benfleet

An enforcement notice in respect of an external staircase located to the side of a rear extension and first floor balcony was issued on 25th June 2013. No appeal was lodged in response to the notice; however two planning applications for alternative schemes were submitted for consideration.

Permission for one of these schemes was allowed on appeal subject to a condition that the development was implemented within 6 months of the decision date. The works have been monitored and found to be in accordance with the approved scheme. The case is now closed.

'Danebury', Rhoda Road, Benfleet

An enforcement notice in respect of land used for the purposes of conducting a limousine hire business within the curtilage of a residential property in the Green Belt was issued on the 10th April 2012. The notice was appealed and dismissed. The operation of the limousine hire business has ceased to operate from the premises but the hard standing and building associated with this use still remain. A retrospective planning application for the retention of these developments has subsequently been submitted and been approved. The case is now closed.

196 High Road Benfleet

An enforcement notice in respect of a barber's shop and a self contained two-bedroomed residential unit of accommodation at the above site was issued on 25th March 2013. The notice was appealed and dismissed on 21st November 2013.

A recent site visit has shown that the second bedroom has been removed, internal access to the shop has been provided and the flat is now no longer an independent self contained residential planning unit. The requirements of the notice are considered to have been adequately met and the Council's file on this case has now been closed.

Land at Keswick Road, Benfleet

This site is located at the junction of Keswick Road and Church Road Benfleet. An enforcement notice in respect of the use of the land for the depositing and storage of materials and various items was issued 11th July 2012. The requirements of the notice have now been sufficiently met to enable the Council to close its file on this case. Officers will monitor site to ensure that the breach does not recommence.

396 London Road, Benfleet

Members will recall that in recent years this site has been the subject of extensive enforcement action in respect of the number of cars being displayed for sale. The site is now under redevelopment for housing. Provided the works are pursued in accordance with the permission and Section 106 Agreement further enforcement action would not be recommended to the Council unless it was expedient to do so. The occupier has been advised that the Council reserves the right to review its position, depending on site circumstances.

The Council's file on this case will remain open until the site has been redeveloped.

New Enforcement Action

Land adjacent 9 Heideburg Road, Canvey Island

An enforcement notice was issued on 13th June 2014 in respect of a site within a residential area used for the storage of a trailer and building materials. No appeal has been lodged and the trailer, and much of the material stored on the site has been removed. Discussions with the owner have taken place and it is anticipated that the requirements of the notice will be fully met shortly.

Leisure Island Fun Park, Furtherwick Road, Canvey Island

On 14th May 2014 the Council served an enforcement notice on the occupier of Council-owned land for the construction of a steel framed corrugated clad building. The notice required the occupier to demolish the building and remove all waste material arising from its demolition. These works should have been completed by 18th September 2014 but a site visit undertaken on the 24th September 2014 showed they had not commenced.

The Council's Legal Services have been notified of the situation and will be advising Officers on how it wishes to proceed with this case.

Outstanding Notices

36a Rattwick Drive, Canvey Island

An enforcement notice in respect of the erection of a flat roofed building for use as an independent residential dwelling was issued on 6th January 2014. The site, which is very narrow, previously formed part of the curtilage of a semi detached dwellinghouse. The notice requires the building to be demolished and the exposed external wall of the semi detached property to be made good. An appeal against the notice has been lodged and the decision is awaited.

Yard off Fane Road, south of Lychgate Farm, Benfleet

On 10th April 2013 an enforcement notice was issued in respect of the storage of vehicles, depositing, sorting and processing of materials at the above site. No appeal has been lodged.

A site visit in September confirmed that good progress was being made in remediating the land and to assist the occupier in completing these works the compliance date was extended to 18th January 2014.

Following further progress by the applicant the compliance date was extended by mutual agreement until the end of the Easter Bank Holiday. An informal extension of time was again granted to the occupier until June 2014.

On 30th July 2014 a site visit indicated that the condition of the land had deteriorated. Matters were not resolved by 10th September 2014 when the Enforcement Officer revisited the site. The Council's Legal Services has now been instructed to commence legal proceedings.

'Reditus', Keswick Road, Benfleet

An enforcement notice in respect of a material change of use of this land to a mixed use for the storage of commercial and domestic items and the stationing of a trailer for residential use was issued on 24th October 2011. The requirements of the notice were not met so the Council undertook legal proceedings against the occupier. The case was heard in the Crown Court and for technical reasons the defendant found not guilty.

A revised enforcement notice was issued on 13th June 2013 and subsequently appealed by the occupier. However, a change in appeal procedure from written representations to an inquiry resulted in the appellant withdrawing his appeal.

Officers took the view that unnecessary work had been incurred in processing the appeal and submitted an application for an award of costs. This was successful and the appellant (occupier) has now paid the costs incurred by the Council, which were calculated to be some £1,062.00.

The occupier should have complied with the requirements of the notice by 6th June 2014. This has not happened and his agent has advised the Council that the occupier is abroad. Discussions with the Council's Legal Services are taking place as to the best way to proceed in this matter.

Land east of Lychgate Farm, Arterial Road, Rayleigh

An enforcement notice in respect of Green Belt land used for the storage of a static home, touring caravan, container and other miscellaneous items was issued on 7th November 2013. The notice requires the land to be cleared and the hard surfacing and fencing to be removed. No appeal was lodged and the occupier has not complied with the requirements of the notice. One last attempt to resolve this matter will be made by entering into dialogue with the occupier of the land before the Council's Legal Services are instructed to commence legal proceedings.

Janda Field, Fane Road, Benfleet

Members will recall that planning permission for a change of use of this land to three Traveller pitches was refused consent at the Development Control meeting of 4th December 2012. An enforcement notice for the cessation of the use was subsequently issued on 5th December 2012. Both the enforcement notice and refusal

of planning permission were appealed and a hearing took place on 1st May 2013. On 9th July 2013 the Secretary of State advised that he would be determining the appeals rather than an Inspector. The decision was expected on or before 28th October 2013 but to date no determination has been made.