



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



Angela Hutchings
Chief Executive

AGENDA

Committee: DEVELOPMENT MANAGEMENT

Date and Time: Tuesday, 4th April 2023, at 7.00pm

Venue: Council Chamber, Council Offices

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

Membership: Councillors Greig (Chairman), Acott, Anderson, Barton-Brown, Bowker, C. Mumford, Riley, Skipp, Taylor and J. Thornton.

Substitutes: Councillors Fuller, Savage, A. Thornton and Withers.

Canvey Island Town Councillor: S. Sach

**Officers attending: Stephen Garner – Planning Manager
Sophie Adams – Planning Officer
Jason Bishop – Solicitor to the Council**

Enquiries: Ann Horgan, ext. 2413

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 3rd March 2023 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 report is attached.

	Application No	Address	Page No
1.	22/0037/FUL	Walsingham House, Lionel Road, Canvey Island, Essex, SS8 9DE	1
2.	22/0339/FUL	179-195 Church Road, Thundersley, Benfleet, Essex, SS7 4PN	36
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5.	22/0854/FUL	102-106 High Street, Canvey Island, Essex, SS8 7SH	79
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DEVELOPMENT MANAGEMENT COMMITTEE

TUESDAY 7th MARCH 2023

PRESENT: Councillors Greig (Chairman), Acott, Anderson, Barton-Brown, Bowker, C. Mumford, Skipp, Taylor and J. Thornton.

SUBSTITUTE MEMBERS PRESENT: None

CANVEY ISLAND TOWN COUNCIL: Councillor S. Sach.

ALSO PRESENT: Councillor A. Thornton also attended.

APOLOGIES: Councillor Riley

22. MEMBERS' INTERESTS

There were no declarations of interest.

23. MINUTES

The Minutes of the meeting held on 7th February 2023 were taken as read and signed as a correct record.

24. PUBLIC SPEAKERS

There were no public speakers.

25. DEPOSITED PLANS

- (a) **22/0482/FUL – CHAPMAN SANDS SAILING CLUB, EASTERN ESPLANADE, CANVEY ISLAND, ESSEX, SS8 7PQ (CANVEY ISLAND EAST WARD) – DEMOLITION OF EXISTING SAILING CLUBHOUSE AND REPLACEMENT WITH 7 NO. DWELLINGS WITH GARAGES INCLUDING NEW CROSSOVERS AND NEW SERVICE ROAD – RYGA PROPERTIES LTD & G BRITNELL PARTNERSHIP LTD**

The application sought planning permission to demolish the existing building and construct seven new dwellings. The application was presented to committee as the site was allocated as public open space and the proposal was a departure from that allocation in the adopted Local Plan.

Whilst allocated as public open space the site did not perform a public open space function as it was occupied by the vacated Chapman Sands Sailing Club and associated car park, and therefore surplus to requirements under paragraph 99 of the National Planning Policy Framework (NPPF).

The Planning Officer explained that the proposal did result in the loss of a recreational facility, which was also covered by paragraph 99 and was a concern.

However, the building was no longer used as a recreational facility, was in a poor condition and was previously found to have a low membership. It was unattractive for other sailing clubs, and a re-use of the facility for an alternative recreational facility could not be found. This indicated that the facility was surplus to requirements, however, no assessment had been submitted to confirm that the facility was surplus to requirements, as it was unclear whether the site had been advertised as a sailing facility or whether any measures were undertaken to increase membership. Therefore, appropriate weight was attributed to its loss under paragraph 99 of the NPPF.

The tilted balance under paragraph 11 of the NPPF was applicable as the Council was unable to demonstrate a five-year housing supply. The weight attached to the need for housing was significant and considered to outweigh the weight attributed to the harm arising from the loss of the recreational facility. The proposal was therefore recommended for approval.

Following the presentation Councillor S. Sach, a representative of the Canvey Island Town Council, stated that the Town Council could find no reason to object to the application but had a concern that the new development design seemed small and cramped.

In response to questions from Members the Planning Officer stated that the evidence suggested that the current facility was surplus to requirements however as no formal assessment had been undertaken some weight had been given to its loss as a recreational facility. Adequate external access would be achieved at the rear of the development. A communal refuse bin pick up point was specified and there was an acceptable distance for refuse and recycling operators to collect items. Each property had two parking spaces with one additional visitor parking space on the site and therefore the development was deficient by one parking space however this was not considered a sufficient reason to refuse the proposal. It had been agreed that the applicant would submit a Construction Management Plan so that the disruption from this development could be managed alongside the ongoing works on the seawall by the Environment Agency to minimise the impact on the surrounding area. It was unclear who would manage the packaged pumping station detailed in the Surface Water Strategy, a condition could be added to obtain more detail on this aspect.

During debate an amendment to the recommendation, to include a condition to provide more detail on the management of the surface water drainage strategy was moved and seconded. The Committee voted FOR the amendment.

Following debate it was:

Resolved - That the application be approved subject to the conditions as set out in the Planning Officer's report and an additional condition to provide more detail on the management of the surface water drainage strategy required under condition 14.

ITEM 1

Application Number:	22/0037/FUL
Address:	Walsingham House, Lionel Road, Canvey Island, Essex, SS8 9DE (Canvey Island Central Ward)
Description of Development:	Phase 2 to provide 13No. Flats and 20No. residential dwellings
Applicant:	SJT Developments Ltd
Case Officer:	Ms Kim Fisher
Expiry Date:	10.04.2023

Summary

The application seeks planning permission, for the erection of 20 detached and semi-detached 2, 3 and 4 bedroomed dwellings and two blocks comprising a total of 13 one and two bedroomed flats with associated works and access road, on a brownfield site in the urban area, which is allocated for School and Worship purposes in the adopted Local Plan.

Government guidance as set out in the NPPF, is clear that where opportunities exist to provide housing on sustainable sites which are allocated for development purposes, (not necessarily residential development purposes), planning permission should not be unreasonably withheld.

Detailed consideration has been given to the proposal in the context of national legislation, Government guidance, the adopted policies and guidance set out in the adopted Local Plan and associated Design Guidance and the comments received in response to consultation, and for the reasons set out in the following report, subject to appropriate conditions and the applicant being willing to enter into a S106 agreement to secure:

- (i) The provision of a contribution towards the satisfaction of affordable housing needs
- (ii) Biodiversity Net Gain
- (iii) Retention, enhancement and management of retained wooded areas within the site for ecological purposes
- (iv) An appropriate contribution towards the mitigation of recreational pressure on designated sites.(RAMS) and
- (v) Retained pedestrian access to St Joseph's school, to the north of the site,

My Recommendation is **APPROVAL**.

Site Visit

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

The Site

The application site extends to some 0.608ha and comprises an irregularly shaped area of land having a frontage to Lionel Road of some 14m, increasing to some 175m at the rear with a maximum depth of some 120m.

The application site sits within a wider area of land within the control or ownership of the applicant which extends to some 1.008ha and has a maximum width of some 110m and a maximum depth at its eastern edge of some 122m, reducing to some 18m on its western edge. Part of this site benefits for consent for nine dwellings which are currently under construction.

The larger site achieved outline consent for 32 units in 2019. This consent has now expired.

The site is located on the northern side of Lionel Road, opposite the junction with Convent Road and was formerly occupied by a large two storey building known as Walsingham House, which was most recently used as a Youth Retreat Centre by the Brentwood Diocese. This use ceased at the end of 2017 when the operation was moved to more accessible and suitable facilities elsewhere in Essex.

Topographically, the wider site exhibits a 'valley' formation running east-west through the site with ground levels rising to the north and south. This valley broadly coincides with the location of a 750mm surface water sewer which crosses the site (Anglian Water Asset).

Vehicular access to the wider site is to be provided from Lionel Road, on the southern boundary of the site.

The site is abutted to the south and east by residential development fronting Lionel Road and Stuart Close. A large, detached dwelling is located adjacent to the western frontage, beyond which lies further private residential frontage development and the playing field attached to the adjoining junior school, located to the north.

The character of the surrounding area is primarily that of residential development in a suburban setting.

The Proposal

Planning permission is sought for Phase 2 of a two-phase scheme which will provide a total of 42 dwellings across the wider site. Phase 1 provides 9 houses which are currently under construction.

Phase 2, the subject of the current application, seeks to secure planning permission for 14 three and four bedroomed, semi-detached houses, four detached, two bedroomed houses, four detached, four bedroomed houses and thirteen one and two bedroomed flats, with parking, together with a new access road.

All dwellings are two storey in height, as is Flat Block A, although this structure will be slightly raised out of the ground to secure appropriate flood risk mitigation. Flat Block B will be three storey in height.

An undeveloped easement area will be retained along the line of the existing surface water sewer pipe. It is proposed to divert part of the sewer to secure this.

Ecological areas are to be retained within the site at its eastern and western margins

It should be noted that whilst the application site forms part of a wider phased development Phase 2 must be considered on its own merits.

Supplementary Documentation

The submitted application was accompanied by the following documents, all of which may be viewed on the Council's website.

- Design and Access Statement
- Construction Maintenance Plan

- Construction Environment Management Plan and Demolition Method Statement
- Flood Risk Assessment
- Flood Response Plan
- Sequential Test
- Resilient Design and Construction Statement
- SuDS Report
- Refurbishment and Demolition Survey
- Sustainability Report
- Material Specification
- Area Schedules
- Badger Mitigation Report
- Tree Survey and Constraints Plan
- Biodiversity Impact Assessment
- Biodiversity Strategy
- DEFRA BNG Metric Report

The applicant has also submitted a viability assessment.

Relevant Planning History

- | | |
|-------------|---|
| 17/0964/OUT | Outline consent for 32 dwellings, granted on the 22 nd of July 2019 subject to the applicant entering a S106 agreement to secure affordable housing, an appropriate Recreational Disturbance Mitigation (RAMS) contribution and the management and maintenance of any proposed open space for recreational and ecological use. |
| 21/0688/FUL | Construction of nine dwellings and associated access road and infrastructure. Approved 05.04.2022 |

Relevant Government Guidance and Local Plan Policies

The 1998 Local Plan is currently the adopted Local Plan for Castle Point. This identifies that the site is allocated for School and Worship purposes.

The following policies and guidance are of relevance:

National Policy Planning Framework (2021)

Introduction and achieving sustainable development

Paragraphs: 2, 7-10, 11, 12, 14.

Decision making

Paragraphs 47, 49, 50, 54.

Delivering a sufficient supply of homes

Paragraphs 61.

Promoting healthy and safe communities

Paragraphs 92, 93, 98, 100.

Promoting sustainable transport

Paragraphs 107, 108, 110.

Making effective use of land

Paragraphs 119, 120,

Achieving well designed places

Paragraphs 126, 130.

Meeting the challenge of climate change, flooding and coastal change

Paragraphs 154, 162-165, 167.

Conserving and enhancing the natural environment

Paragraphs 174, 180, 183, 184, 186.

Adopted Local Plan

EC2:	Design
EC3:	Residential Amenity
EC5	Crime Prevention
EC13:	Protection of Wildlife and their Habitats
EC14	Creation of new Wildlife Habitats
EC22	Retention of Trees Woodlands and Hedgerows
H9	New Housing Densities
H10	Mix of Development
T8:	Car Parking Standards
CF1:	Social and Physical Infrastructure and New Developments
CF14:	Surface Water Disposal.
RE4	Provision of Children's Playspace and Parks

Residential Design Guidance

RDG1	Plot Size
RDG2	Space around Dwellings
RDG3	Building Lines
RDG4	Corner Plots
RDG5	Privacy and Amenity
RDG6	Amenity Space
RDG7	Roof Development
RDG8	Detailing
RDG9	Energy and Water Efficiency and Renewable Energy
RDG10	Enclosure and Boundary Treatment
RDG12	Parking and Access
RDG13	Refuse and Recycling Storage

Other relevant Documents

- Essex Planning Officers Association Vehicle Parking Standards – C3 (August 2009)
- Addendum to the South Essex Strategic Housing Market Assessment (2017)
- Addendum to the South Essex Strategic Housing Market Assessment (2020)
- South Essex Economic Needs Assessment (2017)

Consultation Responses

Anglian Water

No objection on the basis of drainage capacity but confirmed the presence of AW infrastructure within the site which would need to be accommodated within any proposed layout. This has been achieved in the current proposal.

Environment Agency

Following the receipt of revised plans – No objection.

Lead Local Flood Authority

No objection, subject to conditions.

Essex County Council Highway Authority

No objection, subject to conditions.

Essex County Council – Education Authority

No response

ECC Fire and Rescue

Access Road must be able to accommodate the weight of a fire appliance.
Additional fire hydrants will need to be installed within the site.

Essex Police

No objection.

Essex Police requests that the developer seeks to achieve the relevant Secured by Design accreditation for this development and achieves an appropriate lighting strategy.

Canvey Island Town Council

Objects to the proposal as follows:

- The site appears overdeveloped.
- Lionel Road is a narrow road, and the extra vehicles would have an adverse impact on the existing infrastructure.
- The fire officer report requested a lay out of the site showing the main water ring for the fire hydrant, but this wasn't included within the application.
- There is already inadequate parking provision for this new development, by only providing 2 spaces this could have an adverse impact on the surrounding roads.
- Concerns were raised that a Preliminary Ecological Assessment should be carried out as there is a possible badger sett and bats nesting on this site, therefore, the committee feels that further studies are needed.
- No electric car charging points have been included in the application.

CPBC Legal Services

No observations

CPBC Street Scene

No response

CPBC Environmental Health

No objection, subject to conditions.

Badger Protection Group

Objects to the proposal on the basis of adverse impact on Badgers.

National Health Service

No response

Public Consultation

Responses to neighbour notification, press and site notices

1 letter of objection has been received in respect of the proposed development, raising the following concerns:

- Too many properties
- increased traffic levels
- objects to flats
- poor condition of Lionel Road
- surface water flooding
- inadequate parking
- impact on wildlife
- proximity to school.

Comments on Consultation Responses

With regard to the comments of the Canvey Island Town Council. It should be noted that the Fire Officer has not requested a layout of the site identifying the new water main but has stated that once the new water main scheme has been provided by the Water Authority, it will liaise directly with that body to ensure all necessary fire hydrant layouts are provided. Such detail is not required to be submitted with the planning application. Its absence does not therefore constitute a robust objection to the proposal.

It should further be noted that the submitted sustainability report identifies that infrastructure for the provision of EVCP will be provided to each dwelling. Conditions to ensure the installation of such facilities can be attached to the grant of any consent.

With regard to the comments of the Badger Protection Group, it should be noted that the applicants have confirmed that the Badgers will be retained on the site and that the sett area will be enhanced.

All other relevant comments will be addressed in the evaluation of the proposal.

Evaluation of Proposal

Outline consent for the development the wider site with up to 32 dwellings was approved in July 2017 and permission for nine dwellings on the southern part of the wider site was approved on the 5th April 2022. The principle of the acceptability of the use of the site for residential purposes has therefore been established. There has been no change in the planning policy framework over the intervening period which would warrant reconsideration of that principle.

In terms of the principle of the provision of houses and flats on the site, it should be noted that the surrounding area is characterised by a mix of single and two storey residential development, including flatted development. In this context it is considered that the provision of detached and semi-detached houses and flats would, in principle, be acceptable.

Whether the detail of the proposed scheme is similarly considered acceptable will be determined when the proposal is assessed against the Council's Residential Design Guidance (RDG), which will be discussed later in the report.

Density and Mix of Housing

Policy H9 of the current 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.

Paragraph 125 of the revised NPPF strongly encourages increased density of development on appropriate sites in order to mitigate extant housing need. In particular it encourages the provision

of taller buildings where this would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards) and can maintain safe access and egress for occupiers.

Paragraph 125 of the NPPF reinforces this stance by stating that where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site. Local Authorities should refuse applications which they consider fail to make efficient use of land, considering the policies in the Framework. In this context, when considering applications for housing, the NPPF requires that authorities take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

As currently proposed the development achieves a similar density of development to that achieved in the surrounding area and would largely integrate successfully with the character and appearance of the surrounding area. Whilst the introduction of three storey flats would be inconsistent with the character and scale of development in the area, such provision in this highly sustainable location would be entirely consistent with Government advice, as set out in the NPPF and, by virtue of their proposed location within the site, would not harm the character and appearance of the surrounding area.

Under the circumstances it is not considered that an objection based on the density of the development or the principle of three storey development on this site could be sustained on appeal.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This is a vague policy which is inconsistent with the requirements of paragraph 62 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 Addendum to the South Essex Strategic Housing Market Assessment (SHMA) for Castle Point (2020) identifies that there will be demand from a range of different household types, although demand will be particularly strong from families with children and people of retirement age. This means that there is a strong demand, for 3 or 4-bedroomed properties, reflecting the need of growing families. It is important that these homes are provided as they will help to attract more professional and working aged people to live in the area. This is particularly important for business growth and sustaining public services, such as healthcare.

The Addendum identifies the potential demand for different housing types and sizes as follows:

Type of Accommodation required				
	Houses	Bungalows	Flats	
	68%	25%	7%	
Size of Accommodation required				
	1 bed	2 bed	3 bed	4+ bed
	6%	22%	43%	29%

The proposed development identifies the provision of:

Type of Accommodation				
	Houses	Bungalows	Flats	
	61%	0	39%	
Size of Accommodation				
	1 bed	2 bed	3 bed	4+ bed
	6%	45%	18%	30%

Whilst it is acknowledged that the proposal provides more 2 bed roomed properties and fewer three bed roomed properties than the Addendum suggests is required, the proposal achieves a range of dwelling types, which is aligned to the principle of securing family homes and homes for older people within the Borough and as such is considered to satisfy the requirements of Policy H10 of the adopted Local Plan and the provisions of the NPPF.

Design and Layout

Adopted Local Plan Policy EC2 seeks to ensure a high standard of design in all proposals with particular regard paid to the scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting and should not harm the character of its surroundings; that the appearance and treatment of spaces around buildings shall be enhanced by appropriate hard and soft landscaping and that all modes of movement is safe and convenient.

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

RDG1 seeks to ensure that the layout and scale of new development is informed by the prevailing character of plot sizes.

Each of the proposed semi-detached plots has a width of some 7.5m – 8.5m whilst the detached properties have frontages of between 7m and 12m. Plot sizes in the vicinity vary with plots ranging between 7m and 16m in width. In this context it is not considered that the plot widths proposed would be so inconsistent with the character of the area as to provide a robust reason for refusal, particularly in light of the provisions of the NPPF to secure higher densities of development in appropriate locations.

Plot depths would be broadly consistent with the adjoining development and in general terms the proposal is considered to satisfy the requirements of RDG1.

RDG2 requires space around new development to be informed by the prevailing character of space around dwellings.

Development in the surrounding area is generally characterised by dwellings which, in the case of detached properties, are set at least 1m from the side boundaries of the plot and in the case of semi-detached properties are set at least 1m from the non-party boundary. Where this distance is less it is usually to accommodate a garage or similar structure.

The proposed development replicates this layout.

The spatial arrangement of the dwellings is therefore considered to be consistent with the character and appearance of the adjoining development and no objection is therefore raised to the proposal on this basis.

Guidance at RDG3 requires proposals to respect established building lines.

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

The proposed development represents development behind the established frontage and as such the proposed development would have no relationship with the established building line to Lionel Road. Within the development, strong building lines are created to all frontages, which reflects the overall character of the area.

Isolation achieved between proposed and existing development ensures that no undue overshadowing or dominance of adjoining properties will arise as a result of the proposed development. Consequently, no objection is raised to the proposal on that basis.

RDG4 is concerned with corner plots and requires all elevations which face the public realm to be provided with articulation and fenestration at all floor levels.

The dwellings on Plots 15 and 20 are both on corner plots and both have windows at ground and first floor in the side elevations, which overlook the public realm. As such the proposal satisfies the requirements of RDG4.

RDG5 provides guidance on privacy and living conditions and states that for all development above ground floor level 9m shall be provided between any first-floor openings and the boundary they directly face. It also considers that all new dwellings should be provided with windows to ensure adequate natural light and ventilation to the rooms they serve.

Windows located in the front elevation of all of the proposed dwellings would be located less than the requisite distance from the front boundary of the individual curtilages. However, as these windows would overlook the highway and would be more than 9m from the boundaries of the dwellings on the opposing frontage, it is not considered that residents of the proposal would experience undue overlooking or loss of privacy in this respect.

Windows provided on the rear elevations would all be located a minimum of 9m from the opposing boundary.

Where present windows provided side elevations at first floor level serve ensembles, bathrooms and stairwells and may be obscure glazed and fixed shut to 1.7m above finished floor levels to protect the privacy and amenity of future and adjoining residents without unduly compromising living conditions within the dwellings. This can be secured by condition.

Subject to such a condition, no objection is raised to the proposed dwellings on the basis of possible overlooking and loss of privacy arising from the provision of windows.

It should be noted that windows serving the proposed second floor flats in Block B all overlook the car park at the front of the site and result in no overlooking of adjoining properties, either proposed or existing.

It may be noted that in the early stages of the consideration of the current proposal, concerns were raised in respect of the potential for windows in the proposed flats of Block A would be able to overlook the pool area of the adjoining school. Mindful of this, the developer has designed the flats at the rear of the block so that the windows are angled away from the northern boundary and are screened, thus avoiding the potential to overlook sensitive areas of the adjoining site. No objection is therefore raised to the proposal on the basis of such overlooking.

Guidance at RDG6 requires appropriate amounts of amenity space to be provided to ensure the outdoor needs of the occupiers are met.

Each dwelling provides the appropriate level of amenity space and the proposed amenity areas for the flats significantly exceeds that required by the Guidance.

No objection is therefore raised to the proposal on the basis of RDG6.

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

The proposed development presents reasonably articulated and balanced elevations to the road frontages. The design borrows elements from adjoining buildings presenting both hipped and gabled roofs and the use of brick and render, which are common themes in the adjoining development.

The buildings are to be finished in red and cream brick with silver pearl render and white Hardie Board planking. The roofs are to be finished in Marley Ashmore smooth brown and Old English Dark red tiles and the windows and doors are to be white UPVC. The main entrance and garage doors are to be grey in white frames.

Hard surfaced areas are to be Brett Brindle block paving.

This palette is consistent with that proposed in Phase 1 and will result in traditional style buildings which will have a positive impact on the character and appearance of the area.

No objection is raised to the proposal under RDG8.

RDG9 is concerned with energy and water efficiency and renewable energy. Details of the energy and water efficiency measures to be incorporated into the buildings have been submitted. These include the active use of passive design to maximise solar gains and good levels of natural light, high efficiency gas boilers, low energy light fittings, measures to secure the efficient use of water such as dual flush WCs and the installation of water butts to facilitate use of grey water for gardening and car washing purposes.

In addition, each dwelling will be provided with the infrastructure to provide EVCP.

The installation of these measures will exceed the requirements of the Building Regulations and is considered acceptable.

Installation of the identified energy efficiency measures can be secured by the imposition of conditions on the grant of any consent. Subject to such conditions, no objection is raised to the proposal under RDG9.

RDG10 is concerned with the appropriate treatment of enclosure and boundary treatments.

Side and rear boundaries are to be defined by 1.8m high close boarded fences and front garden side boundaries will be defined by 0.9m high close boarded fences. Front boundaries will be unenclosed. Such treatment is consistent with other forms of enclosure in the area and the approved Phase 1 scheme. No objection is raised to the proposal on the basis of RDG10.

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

Policy T8 of the adopted Local Plan requires the provision of car parking in accordance with adopted standards. This is consistent with paragraph 107 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 which require the provision of two spaces for properties with two or more bedrooms.

The standard does however allow for flexibility under certain circumstances.

Plots 10-15 and 18 – 25 (inclusive) are all provided with single garages having internal dimensions of 3m by 7m, in accordance with the standards. Each garage is served by a 6m deep forecourt. Thus, each is provided with two parking spaces and require no further consideration in this regard.

Plots 16 and 17 have no garage provision, each being provided with 2 parking spaces on the frontage.

Plots 26 – 29 (the two bedroomed properties) also have no garage provision, these have a single parking space provided in front of the dwelling and a 'remote' space located in a parking area opposite the dwellings.

The proposed flats are each provided with one parking space.

Five visitor parking spaces are also provided. All parking spaces are of the requisite size.

In respect of plots 16 and 17, RDG12 requires that parking does not dominate the public realm. Whilst reliance on frontage parking will result in the frontage of these properties being potentially dominated by vehicles, within the context of the wider scheme, the impact will be limited. No objection is therefore raised to the proposal on this basis.

With regard to plots 26-29, whilst provision of 'remote' parking is not common, it does occur in other parts of the Borough, in the form of courtyard parking areas, or in association with flatted development. There is no policy requirement for parking provision to be made in curtilage and the provision made in this instance achieves an appropriate and satisfactory form of parking, whilst facilitating the provision of smaller dwellings for which there is a local identified need.

No objection is therefore raised to this element of the development.

With regard to the flats, Members will be aware that it is the practice of this Authority to apply residential parking standards flexibly in flatted schemes in locations which offer good access to public transport and services. The proposal site is considered appropriate for consideration in this context, given its proximity to the Town Centre, health facilities and public transport routes and as a consequence it is considered that the proposed flats would be satisfactorily served by the provision of one parking space for each unit.

It is however acknowledged that Members have previously expressed concern in respect of the provision of parking on this basis.

It should be borne in mind that the Government is keen to secure transport modal shift and high densities of development in sustainable locations such as this, where the proximity of services mitigates the need to travel by car. The achievement of higher densities will inevitably place pressure on the identification of large areas of land for parking provision and in a Borough such as Castle Point, where housing need outstrips housing land supply, it is unlikely that a refusal based on limited parking provision in sustainable locations would be supported.

Further it should be noted that the 2011 Census data for car ownership levels by dwelling type, tenure and size for households within Castle Point, shows that the average car ownership level for occupied flats / apartments with 1 – 3 rooms (i.e. 1- and 2-bed flats) is 0.69 cars per household, and that 42% of the occupiers of such flats / apartments do not own a car.

On this basis 5 of the proposed units are likely to be occupied by persons who do not own a car and the remaining 8 flats would generate a need for 6 parking spaces.

While it is acknowledged that this data is now somewhat dated, it remains the most up to date evidence of car ownership available.

In order to encourage modal shift, the applicant will be required to provide a Residential Travel Information Pack (including bus passes) to each unit of occupation. This can be secured by condition.

One resident has expressed concern that the proposed development will result in increased on street parking. Whilst the current proposal provides ample opportunity for off-street parking within the confines of the site, it must be conceded that conversion of the garages to living accommodation in the future may result in an increase in on-street parking both within and off site, to the detriment of traffic flows and the safety and convenience of other road users. To eliminate this concern a condition requiring the retention of garages and parking spaces for the parking of vehicles will be attached to the grant of any consent. A similar condition was imposed on Phase 1.

RDG13 is concerned with the provision of appropriate refuse and recycling facilities. The proposed development will form part of the normal domestic refuse collection round. No specific or formal refuse collection facilities are therefore required for the proposed dwellings. The proposed flats have identified refuse storage areas.

RDG16 Paragraphs 60 – 62 of the NPPF seek the delivery of a wide choice of high quality homes to meet the needs of different groups in the community including families with children, older people, people with disabilities, and service families.

This requirement is reflected in RDG16 which requires all new dwellings to provide appropriate internal space and circulation space to meet the existing and future needs of occupiers over their lifetime without the need for extensive alteration or adaptation.

It further states that internal space and circulation space should reflect current best practice.

Current Best Practice is provided by the Nationally Described Space Standards which establish appropriate internal space provision.

Consideration of the proposed dwellings against the criteria has identified minor deficiencies in respect of three of the proposed flats. Units 31 and 33 have double bedrooms with a floorspace of some 11.3m², instead of the requisite 11.5m² and Unit 35 provides only 1.5m² of storage space.

In the case of units 31 and 33, the gross floorspace of the flats exceeds the minimum requirement by some 4m², which is considered to adequately compensate for the 0.2m² deficiency in bedroom floor space.

In addition, Unit 35 exceeds the minimum gross floorspace by some 3.8m², which provides adequate opportunity for the achievement of a further 0.5m² of cupboard space.

In light of these considerations, it is not considered that an objection to the proposal on the basis of the NDSS could be sustained on appeal.

Flood Risk and Drainage

Canvey Island lies within an area identified as falling within Flood Zone 3a. Within such areas there is an identifiable risk of flooding. For Canvey this risk takes the form of both fluvial and pluvial inundation.

Under the provisions of the NPPF, all proposals for new dwellings in areas at risk of flooding are required to be accompanied by a site-specific Flood Risk Assessment (FRA) in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood.

The proposal is also required to pass the sequential and exception tests as set out in the NPPF and the Planning Practice Guidance (PPG), to determine whether sites of lower flood risk probability exist which may be more suitable for the type of development proposed.

The applicant has submitted a FRA. The Environment Agency (EA) has stated that sequential and exception tests must be considered before any grant of planning permission.

With regard to the sequential test, the proposal seeks to provide dwellings on Canvey Island. For residential development to serve the community of Canvey Island it is considered that it would need to be located within, or immediately adjacent to, that settlement.

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 in paragraph 164 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 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 flood risk, the flood risks surrounding the development must be considered in more detail.

The second criterion requires that the applicant demonstrate that the development is safe and where possible will reduce flood risk overall. In a 1:200 breach event (including climate change) water levels could reach depths of up to 1.39m across the site. This will clearly result in some ground level accommodation being inundated.

However, it should be noted that all of the dwelling houses are two storey in height and can provide refuge at first floor level and that Block B is composed primarily of 'maisonettes' with accommodation spread across two floors. This enables all sleeping accommodation to be located at first floor level and above, and as a consequence is capable of providing safe refuge in both a 1:200 and a 1:000 year flood event. This feature, coupled with the incorporation of identified flood

resilient design measures and the submitted flood response plan is considered an appropriate response to flood risk on the site.

Block A is comprised of single level flats and provides sleeping accommodation at ground floor level. However, the scheme has been designed so that ground floor finished floor levels are above the 0.1% (1 in 1000) annual probability breach flood level with allowance for climate change, of 2.97mAOD. There is therefore safe refuge within the flats at ground floor level.

No objection is raised to the proposal on the basis flood inundation.

Calculations demonstrating the hydrostatic and hydrodynamic stability of the buildings under flood conditions have not been provided. Such calculations and demonstration of stability under flood conditions can be secured by a condition attached to the grant of any consent.

Subject to such a condition and the implementation of the measures identified, it is considered that the proposed development is capable of being made safe for its lifetime. No objection is therefore raised to the proposal on the basis of residual flood risk.

In terms of surface water (pluvial) flooding, the Surface Water Management Plan has identified Canvey Island as a critical drainage area in respect of surface water flooding; (although the site is not statutorily defined as being within a critical drainage area by the Environment Agency). The application site is within an area which is identified by the EA as being at low risk of surface water flooding.

Development of the site may however create a greater risk of surface water runoff onto other sites and must therefore be considered.

It must be recalled that the site formerly hosted a large building and associated hard surfaced area. Site coverage under the current proposal is larger than was previously the case and consequently development of the site in the manner proposed could have implications for surface water drainage.

Infiltration methods are not effective on Canvey and the applicant has therefore submitted a sustainable drainage report which identifies the use of rain gardens and attenuated flows into the existing surface water drainage system to accommodate surface water runoff. A pumping station will be provided on the wider site to facilitate flows.

The LLFA has considered the proposal and found it to be acceptable. Subject to a condition securing installation of the surface water drainage measures, no objection is raised to the proposal on the basis of surface water drainage.

Provision of Affordable Housing.

The current proposal seeks to achieve 33 residential units on the site. The applicant has previously acknowledged that the currently proposed phase of the development of the wider site, Phase 2, will be required to meet the affordable housing need generated by the development of the whole of the Walsingham House site and that the affordable housing calculations undertaken within the proposal for the development of Phase 2 will need to include the housing product of Phase 1.

Paragraph 65 of the NPPF states that where major development involving provision of housing is proposed (10 or more units), planning policies and decisions should expect at least 10% of the homes to be available for affordable housing ownership.

Policy H7 of the adopted Local Plan sets out the Council's current policy in relation to affordable housing provision. It states that 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 necessary infrastructure. The Council's Developer Contributions Supplementary Planning Document requires the provision of 35% affordable housing on sites of 15 units or more. Under this provision 15 affordable housing units should be made available on the site.

Where there is evidence that the development is not viable with the level of contribution sought, it is the responsibility of the developer to demonstrate the case to the satisfaction of the planning authority.

It is the stance of the applicant that the proposed development would not be viable with a policy compliant affordable housing contribution.

A viability assessment has been submitted in respect of the current proposal and an independent review of the assessment, commissioned by the Planning Authority, has identified that the achievement of a policy compliant scheme on this site would not be viable. The site has however been determined as capable of providing six affordable housing units.

Given the limited availability of land within the Borough to meet housing needs it is the strong preference of the Planning Authority that affordable housing provision be secured on site; however, under exceptional circumstances the Council can consider proposals for off-site provision where the provision of affordable housing is equivalent to the policy requirement.

In discussion with the applicant's agents, it has been intimated that the whole of the Walsingham House development is likely to be sold to a single purchaser. In this context it is considered that seeking the provision of affordable housing units on this site is likely to prove problematic. It is therefore considered, in this instance, that the provision of a financial contribution, which can be utilised by the Council to progress its own housing projects, would be more appropriate.

The applicant has agreed to such provision which can be secured through a S106 agreement.

Amenity of existing residents

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.

Loss of amenity in terms of potential overlooking and overshadowing have been considered above and will not be repeated here.

It is inevitable that the development of the application site will generate noise and disturbance during the constructional phase. Such noise is transitory and rarely provides a robust reason for refusal of an application for development of the type proposed. However, development of large sites can extend over significant periods and it is therefore incumbent upon the Planning Authority and the applicant to ensure that the levels of noise and disturbance generated during the constructional period is kept as low as practically possible, in the interests of the amenity of local residents and the wider environment.

To facilitate this the applicant has submitted a construction environment management plan (CEMP) which identifies the hours of operation, the hours of delivery and the location of facilities within the site including wheel washing and storage areas. The CEMP does not identify the

preferred route for vehicles engaged in the construction stage of development, however, such additional details can be secured by a condition attached to the grant of any consent.

In terms of the amenity of future residents, it should be noted that the application site originally provided an alternative access point for the school to the north. This access was infrequently used and primarily facilitated access to coach transportation associated with school trips. Such access was necessary as coaches are unable to access the school from its frontage on Vaagen Road.

The developer has agreed to retain this facility within the proposed scheme. This will be provided the form of a pedestrian access located immediately to the east of Block A.

Concern was initially raised that this element of the proposal could result in inconvenience to future residents, however, the school advises that the access will only be used for school trips and suggests that this should be for around 30 hours a year, it will not provide a secondary point of access to the school as part of its normal operations.

Such use is considered relatively infrequent and unlikely to cause significant disturbance to new residents, who will doubtless be aware of such provision prior to occupation.

It is considered however that extended use of the access could encourage parents to drive to the site to collect their children, to the detriment of the amenity and convenience of new residents. In order to ensure that this does not happen, it is considered that an agreement should be secured with the developer and the school to prevent such use.

Subject to such an agreement the provision of an access is considered acceptable.

It should be noted that the issue of access across the application site is a private land ownership matter which can be granted or withdrawn by the landowner at any time. Inclusion of the provision and retention of such access within a S106 will secure this facility for as long as it is required whilst affording the opportunity to control its use, in the interests of the amenity of future residents.

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 paragraph 179. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraph 180 of the NPPF.

Policy EC22 is concerned to ensure the appropriate retention of trees, woodland and hedgerows in all new proposals for development.

The NPPF makes it clear that decision makers should minimise impacts on biodiversity and provide net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity.

The site has no ecological designation but is within the zone of influence associated with the Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site and the Outer Thames SPA.

Consideration of the Habitats Regulations Assessment 2020 has identified that development of the site has the potential for likely significant effects (LSE) on the designated areas.

'Significant effects' has been defined through case law. A significant effect is any effect that would undermine the conservation objectives for the qualifying features of Habitats Sites potentially affected, alone or in combination with other plans or projects. There must be a causal connection or link between the development and the qualifying features of the designated site(s) which could result in possible significant effects on the site(s). Effects may be direct or indirect and a judgement must be made on a case-by-case basis. The decision as to whether or not a potential impact is significant depends on factors such as: magnitude of impact, type, extent, duration, intensity, timing, probability, cumulative effects and the vulnerability of the habitats and species concerned. What may be significant in relation to one site may not be in relation to another. An effect which is not significant can be described as 'insignificant', 'de minimis' or 'trivial'- i.e. it would not undermine the conservation objectives.

Given the identified potential for adverse impact there is a need for a Habitats Regulations Assessment (HRA) to be undertaken in respect of the proposal to identify that potential and any appropriate mitigation.

There is a wide range of potential impacts and in the context of the current application the following impacts are considered most likely to cause a Likely Significant Effects:

- Habitat loss and fragmentation / land take as a result of development.
- Loss of functionally linked land (land outside the SPA and Ramsar site).
- Increase of any type of disturbance.
- Changes in water availability or water quality as a result of development and increased demands for water treatment, and changes in groundwater regimes due to increased impermeable areas.
- Changes in atmospheric pollution levels due to increased traffic, waste management facilities etc.

Each will be considered in turn:

Habitat loss and fragmentation / land take by development and loss of functionally linked land.

The Benfleet and Southend Marshes SPA and the Outer Thames SPA have been designated in view of their importance to wetland birds.

However, birds may use off-site habitat (land outside of the SPA and Ramsar site boundary) for feeding, roosting, foraging and loafing, especially large fields comprising arable and pastoral land uses and coastal habitats. Natural England has advised that the recognised foraging distance threshold for the majority of wetland bird species is 2km from a designated site.

The application site is located within the existing urban area, is small and isolated and exhibits clear evidence of management for non-ecological purposes. In addition, the site does not contain appropriate habitat to meet the needs of wildlife within the designated areas (it is not a large field comprising arable and pastoral land uses or coastal habitat) and consequently, is considered unlikely to realistically be functionally linked land.

Development of the site will not therefore result in habitat loss or fragmentation or loss of functionally linked land.

Increase of any type of disturbance.

Disturbance concerns species, rather than habitats e.g., wetland birds and the intensity, duration and frequency of repetition of disturbance are important parameters.

Any event, activity or process contributing to the:

- The long-term decline of the population of the species on the site.
- The reduction, or to the risk of reduction, of the range of the species within the site or
- The reduction of the size of the available habitat of the species,

can be regarded as significant disturbance.

Factors such as noise, light, dust and vibration and even invasive species, are all capable of causing significant disturbance.

Recreation can also create increased pressure on the qualifying features of the Habitats Sites.

It is considered that the isolation the application site from the designated areas mitigates to some extent any impact in respect of noise, light and dust. This impact can be further mitigated through the implementation of the submitted Construction Environment Management Plan. This can be secured by condition attached to the grant of any consent.

The application seeks consent for 33 dwellings and within the context of the current proposal the proposal has the potential to adversely affect the designated site through increased recreational pressure.

In 2020 Castle Point adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This identifies that within Castle Point any new residential development will be likely to generate recreational activity within designated areas.

It further identifies that such impact can be mitigated through investment in the management, education and control of visitor numbers.

To fund such investment, every net dwelling provided within the Borough is expected to make a financial contribution.

The proposal seeks to provide 33 additional dwellings and as such a contribution towards RAMS is required and can be secured through a S106 agreement.

Payment of such a contribution would ensure that the recreational disturbance impact is appropriately mitigated.

It should be noted that a RAMS payment in respect of the Phase 1 scheme has already been received.

Changes in water availability, or water quality

Canvey Island is flat and largely below sea level. As a result of severe flooding of the Island in 1953, the Island now benefits from a very high standard of tidal flood risk management infrastructure. It is the intention of the agencies involved to maintain and improve the sea defences on Canvey Island.

The flat, low-lying topography of Canvey Island creates issues associated with surface water management and the ability to drain water away during heavy rainfall events. As a result, Canvey Island has been identified as an area which experiences localised issues of surface water flooding during heavy rainfall events.

The quality of the Habitats Sites (wetlands) is dependent on water quantity and quality. Any changes in water quantity and quality therefore have the potential to significantly impact them. Consequently, impacts could arise if developments cause increased demands for water or water treatment, or changes in groundwater regimes, because of increased impermeable areas.

It should be noted that following the expansion of the Abberton Reservoir there is sufficient capacity to meet water demand for the foreseeable future. No further consideration needs therefore be given to this aspect of the development.

At the present time a significant proportion of the site is permeable. Development will inevitably limit permeability because of the provision of a greater area of hard surfacing. This has implications for surface water runoff not only in terms of surface water flooding, but also through nutrient enrichment of water and potential lowering of dissolved oxygen as well as increased water velocities and levels, all of which could adversely impact on the designated sites.

All runoff is directed to and treated at one of three water recycling centres (WRC) operated by Anglian Water. All discharge into the Thames or its tributaries and each has the capacity to adversely impact on the designated sites if wastewater generated by development exceeded capacity and untreated wastewater was allowed to enter the ecosystem.

Anglian Water has confirmed however that there is sufficient capacity within the WRCs to accommodate the proposed growth. This, coupled with the requirement for all new development to limit pollution through the implementation of Construction Environmental Management Plans and to secure sustainable drainage methods which limit the quantity and/or speed of water reaching the WRCs, will sufficiently mitigate impacts to avoid significant effects.

Changes in atmospheric pollution levels.

There are several atmospheric pollutants which can result in direct or indirect impacts on Habitats sites. These impacts are usually caused when the qualifying features are plants, soils and wetland habitats although some species may also be indirectly impacted from air pollution causing changes in habitat composition.

The main source of air pollution in the Borough has been identified as traffic emissions, particularly along the major routes. The Highways Agency Design Manual for Roads and Bridges (DMRB)¹⁶ assumes that air pollution from roads is unlikely to be significant beyond 200m from the road itself.

The application site is located approximately 104m from the A130 (Long Road) and has the potential therefore to be adversely affected by traffic emissions. However, the site sits behind significant frontage development and is therefore shielded from significant pollution levels. No objection may therefore be raised to the proposal on the basis of the impact of pollution on the development.

The application site is considerably further than 200m from the designated sites and it is not considered that any pollution generated by the normal use of the site would lead to significant pollution impacts on the designated sites. However, the proposed development is indirectly capable of impacting the sites through the generation of pollution associated with the construction period and the construction and post construction generation of traffic emissions.

During the construction period precautionary air quality mitigation will be secured through the Construction Environment Management Plan. This will ensure that the proposed development will not, either individually or cumulatively lead to an unacceptable risk to air quality.

Implementation of the Construction Environment Management Plan can be secured through the imposition of a condition on the grant of any consent.

Given the limited size of the development, and its nature, it is not considered that the operational phase of the development will result in pollution levels sufficient to impact on the integrity or conservation status of the designated areas.

Cumulative Impact

Development of the larger site, of which the application site forms part, would not, for the most part, have an adverse impact on the designated sites or any functionally linked land. The only area of concern is that of the potential for additional recreational disturbance arising from an increase in population. It is considered that in respect of development of the scale currently proposed, that impact could be satisfactorily mitigated through the provision of a financial contribution under the Recreational Disturbance Avoidance Strategy (RAMS).

Conclusion on Habitat Regulations Assessment

It is considered that the development proposed will **not** have an adverse impact on the integrity of the designated sites, provided an appropriate contribution towards the mitigation of recreational disturbance is secured and an amended Construction Environment Management Plan is provided which addresses pollution and water quality/quantity impacts during the construction phase of the development. This can be secured through a pre-commencement condition.

The specific ecological interest of the application site and the implications of development.

The site is largely represented as (now) unmanaged amenity grassland with no notable plant specimens present.

Assessments undertaken by appointed ecologists have identified that the site provides no habitat suitable for bats, reptiles, barn owls or dormice although birds were noted to be using the trees.

Badgers have been known to forage the site historically. Recent surveys suggest that a Badger clan of around five members is present on the site. Three badger setts, comprising a very large Main Sett and two outliers (Setts 2 and 3) have been identified on the site and a large annexe (Sett 4) has been identified on land just outside the site boundary. Surveys have identified that the Badgers regularly use the Main Sett and Sett 4, but Setts 2 and 3 are unused.

Badgers and active setts are protected under the Protection of Badgers Act 1992 and Schedule 6 of the Wildlife and Countryside Act 1981 and consideration must be given to the impact of development on both Badgers and active setts and the potential for the suitable mitigation of such identified impact.

The layout of the proposed scheme has been developed to ensure that areas of the site, which broadly coincide with the areas of greatest Badger activity, are retained and enhanced with appropriate native planting, to provide secure Sett provision and improved foraging opportunities. It is intended to provide fencing with 'Badger gates' around the Main sett and the development closest to it, to facilitate the protection of the Sett from human and domestic pet disturbance whilst maintaining Badger access across the site.

It must be acknowledged however that approximately half of the entrances to the Main sett are within the Zone of Influence associated with the construction Block A and that Setts 2 and 3 will be impacted from works within 20m. Works to these Setts is therefore required which will result in a reduction in Sett provision on the site as well as a loss of foraging area and connectivity to the wider area.

The proximity of Block A to the Main sett will necessitate the temporary closure (outside of the breeding season) and partial destruction of that sett prior to the commencement of development associated with Block A, removing approximately 15 of the current 31 sett entrances.

Proximity to development will also necessitate the later closure and removal of setts 2 and 3.

In itself, the temporary closure and partial destruction of the Main sett is not considered fatal to the scheme. Closure/destruction of the active sett can only be undertaken under the auspices of a Natural England Licence and will be carefully controlled in order to ensure that the sett is vacated before works commence and that the impact on the Badgers is limited. If Natural England is not persuaded of the appropriateness of the mitigation measures, a licence will not be granted.

It should also be noted that the availability of three other setts on the site and adjacent to the site, provides significant opportunity for the resident Badgers to be temporarily displaced from the Main sett, into accommodation with which they are already familiar, and which, in the case of setts 2 and 3 within the site, will not be closed until the reduced Main sett is re-opened and the Badgers have relocated.

Familiarity with the alternative accommodation will reduce the stress that temporary closure of the Main Sett is likely to cause and the close proximity of the subsidiary setts to the Main Sett and the retained opportunities for foraging within the site and within the adjoining school site, which is already a significant foraging resource for the Badgers, will reduce the likelihood for extensive dispersal across the wider area and particularly roads, which is a particular concern to the Badger Protection Group (BPG). In this regard it should be noted that road calming measures will be introduced into the completed development in order to further protect Badgers from harm during the operational phase of the development. In addition, it should be noted that the proposed badger mitigation includes the provision of significant planting of food source plants which will mitigate to some extent the diminution in foraging area.

Under the circumstances, temporary closure of the Main sett and its partial destruction is not considered, within the context of the mitigation to be provided and the alternative resources in close proximity, to be a significant adverse impact on the clan, sufficient to justify the refusal of planning permission.

It will be noted that the BPG has objected to the proposal on the basis that temporary closure of the Main sett would have a 'catastrophic' impact on the Badgers, that the reaction of the Badgers to the closure of the Main Sett cannot be quantified or predicted and that inadequate consideration has been given to the impact of the proposal on the Badgers. These statements do not however appear to be based on a detailed assessment of the number of badgers present on site and do not appear to give objective consideration to the mitigation that is proposed by the applicant.

Much of the objection appears focused on what the objector believes to be an omission from the mitigation plan. Reference is made to an earlier suggestion that a 'corridor' should be provided along the northern boundary of the site, to facilitate access for the Badgers between the Main Sett and the annexe to the east. Whilst this was a consideration in the early stages of the development of the proposal, and the merits of such provision appear significant, discussions between the

applicant and the Essex Police 'Designing Out Crime' Team identified a lack of police support for such provision on the grounds that it would make the rear of those dwellings adjacent to the path vulnerable to crime and anti-social activity. This was confirmed by letter dated April 2022.

The objector has advised that following their own discussion with the Designing Out Crime Team, the police raised no objection to the provision of such a pathway.

Following receipt of this information, Officers contacted the Designing Out Crime Team and received confirmation of the original advice that the provision of a 'Badger Path' along the northern boundary of the site represented an opportunity for criminal activity and would not be supported.

Policy EC5 of the adopted Local Plan expects all new development schemes to have regard to the desirability of minimising the risk of crime and maximising security by virtue of their design layout and landscaping.

Introducing a pathway along the northern boundary of the site would run contrary to that policy provision.

Under the circumstances it is not considered that the absence of such a corridor represents a robust objection to the proposal.

Further, the mitigation identified within the proposal, is suitable and acceptable and clearly demonstrates that consideration has been given to the impact on Badgers, in accordance with the legislation.

More generally, in order to protect the Badgers during the construction phase, all contractors/employees will receive instruction in Badger protocols, all trenches will be covered at night and ramps will be provided in all trenches, so that in the event of a Badger falling into one of the trenches, the means to escape will be present. All chemicals on site will be securely stored, lighting will be directed away from the ecological areas, work will be limited to daylight hours only and low speeds will be enforced on all vehicles on site. Conditions securing the implementation of these measures will be appended to the grant of any consent.

Subject to full implementation of the mitigation measures identified and conditions as described above, it is not considered that the impact on the Badgers on this site represents a robust and sustainable reason for refusal and no objection is raised to the proposal on that basis.

Biodiversity Net Gain

The NPPF requires at para 174(d) that planning decisions should contribute to and enhance the natural and local environment by minimising impacts, and provide net gains for, biodiversity.

The Environment Act 2021 requires the achievement of a minimum of 10% biodiversity net gain. The requirement does not gain legal status until 2023, however, given the potential for the construction period to extend beyond this date, it is considered that this aspect of the proposal should be given consideration.

As a consequence of the historic use and management of the site, it has been assessed as being of low biodiversity value.

The proposed development, by reason of its intensive urban nature, as is appropriate within the urban area, will result in a loss of biodiversity value from the site, primarily as a consequence of the removal of trees.

Whilst some replacement tree planting on site is proposed, the form and scale of development precludes the achievement of enhancement of biodiversity by 10% on site and discussions are on-going with the applicant to secure appropriate compensatory provision both onsite in the form of a robust planting and landscaping scheme which will be secured by condition and off-site, secured by the provisions of a S106 agreement.

It is considered essential that any off-site provision should be provided on Canvey Island, in order to maintain and improve the existing ecological value of the Island. Preliminary discussions have taken place with Environmental Services (Parks Team), with a view to identifying potentially appropriate site(s) and then developing appropriate planting and maintenance regimes to secure the necessary improvements to biodiversity.

It should be noted that the Council will expect any scheme to be maintained by the developer for 30 years, as required by the Environment Act.

Subject to the imposition of conditions on the grant of any consent to secure an appropriate landscaping and planting scheme on-site and securing implementation of a planting and landscaping off site to achieve a minimum increase in biodiversity of 10% no objection is raised to the proposal on the basis of loss of biodiversity.

Offsite provision will be secured through the completion of an appropriate S106 agreement. It should be noted that the applicant is positively engaged in securing an appropriate agreement.

It may also be noted that initial discussions have secured the potential for a 13% increase in biodiversity as a consequence of the proposed development.

Contamination

Policy EC4 of the adopted Local Plan seeks to ensure that development which would have a significant adverse impact on health, the natural environment or general amenity by reason of noise, dust, vibration, light or heat will be refused.

Impacts from noise, dust, light or heat arising during the construction phase can be remedied through the provision and implementation of a robust Construction Environment Management Plan. The applicant has submitted a CEMP which will mitigate the impacts of the construction phase and can be secured by condition.

The site has previously been categorised as low risk in terms of contamination. No objection is therefore raised to the proposal on the basis of potential adverse impact on the health of contractors or future occupants.

In the event that unforeseen ground contamination is encountered during development, to include demolition, the LPA will require notification and appropriate ground investigation and/or remediation. This can be secured by condition.

Sustainability

The NPPF seeks to ensure that new development is sustainable and within paragraph 8 identifies three overarching objectives:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right

time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure,

- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
- c) an environmental objective – to protect and enhance our natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF is clear that whilst these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged.

They are however worthy of some consideration in the context of the current proposal.

In terms of the sustainability objectives, economically it is acknowledged that the construction period of the proposed development will result in some economic gain, which may be extended into the operational period as new residents patronise local services, generate demands within supply chains and provide a new work force for local employers.

Socially, the provision of 33 dwellings, and the means of secure a further six affordable housing units, would have a positive impact on housing supply.

Environmentally, the site is near local retail and entertainment facilities, healthcare facilities and schools.

Employment sites at Charfleets Industrial Estate and on Roscommon Way and the Canvey Retail Park are approximately 2 miles to the west.

Whilst the railway station is approximately 2.6 miles away, access to bus routes is good and provides links to all local facilities.

The site does therefore offer the opportunity for alternative means of travel than the private car.

In terms of the development itself, the orientation of many of the dwellings will facilitate passive solar gain and, as previously stated, measures to be incorporated into the scheme include the use of energy efficient boilers as the primary source of heating and hot water, the use of low energy light bulbs and the installation of water butts and ECVF infrastructure, all of which will support the environmental credentials of the development.

When viewed in the round it is considered that the proposal represents a sustainable form of development, consistent with the requirements of the NPPF.

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

Other matters

One letter of objection has been received which raised the following concerns:

- Too many properties
- increased traffic levels

- objects to flats
- poor condition of Lionel Road
- surface water flooding
- inadequate parking
- impact on wildlife
- proximity to school.

Consideration has already been given to surface water flooding, parking and the impact on wildlife and no further comment in respect of these aspects of the proposal will be made here. However, a number of other matters still require address.

With regard to the comment that the proposal seeks to provide too many properties on the site, it should be noted that the proposal achieves all relevant policy and guidance requirements and achieves a density, scale and form of development which is similar to that found in the surrounding area. No sustainable objection may be raised in respect of the number of dwellings proposed. This is a sustainable site, within the urban area where development of the type proposed should be encouraged in order to meet housing needs whilst relieving pressure for the development of non-urban sites.

With regard to the anticipated increase in traffic levels, all new development will attract traffic and the Highway Authority has raised no objection to the proposal on the basis of the capacity of the highway network to accommodate traffic flows associated with the development. No objection may therefore be raised on the basis of increased traffic.

An objection is raised to flats, however there is no rationale for the objection, and it must be acknowledged that flats do exist elsewhere along Lionel Road. The proposed flats are located centrally within the site, will have no impact on existing adjoining residential units and accord with all relevant policy and guidance. There is therefore no sustainable objection to the provision of flats within the proposed development.

The condition of Lionel Road is considered to be no poorer than the condition of many other roads in the Borough. No objection has been raised to the proposal by the Highway Authority on the basis of inadequate access via the highway network. The condition of the road does not therefore provide a robust reason for the refusal of the current proposal.

Concern is raised in respect of the proximity of the proposed development to the school. Within an urban context it is common for schools and dwellings to be in close proximity. Indeed, some homeowners, for example those with children of school age, actively seek homes close to schools. It is not considered that an objection to the proposal based on its proximity to the school can be defended.

Finally, Members may recall that when considering the proposal for nine dwellings on the southern part of the wider site in 2022, some Members considered that provision should be made for children's playspace within the site. It was suggested that this might be incorporated within Phase 2.

The applicant has given consideration to this request, however, concerns over the potential impact that such provision would have on the capacity of the site to secure the enhancement of ecological features, (the only site available for such provision being within close proximity of the ecologically sensitive areas) and the potential for anti-social behaviour arising from misuse and the potential impact that such provision could have on the viability of the site and the potential for such provision to adversely impact on the provision of affordable housing, has militated against such provision.

It should be noted that Policy RE4 of the adopted Local Plan seeks to provide and facilitate the provision of additional children's playspace and parks in areas of identified need, where possible and appropriate.

The application site is in close proximity to a large area of open space at the Paddocks and both open space and an equipped children's play space at King Georges playing fields. In this context, the site has not been identified as located within an area of identified need for playspace provision. There is therefore no policy basis on which to secure such provision.

Under the circumstances, the applicant's decision not to provide a playspace does not represent a robust objection to the proposal.

Conclusion

The site represents a brownfield site in an urban area, the redevelopment of which for residential purposes would be entirely consistent with the provisions of the NPPF.

The proposal would meet an identified housing need and subject to appropriate conditions is considered satisfactory.

It is considered that the development proposed will not have an adverse impact on the integrity of the designated sites, provided an appropriate contribution towards the mitigation of recreational disturbance is secured and a revised Construction Environment Management Plan is provided which addresses pollution impacts during the construction phase of the development. This can be secured through a pre-commencement condition.

It is further considered that with the provision of an appropriate Biodiversity Net Gain plan and landscaping scheme will ensure that the proposal is capable of enhancing retained habitats and securing biodiversity net gain in an off-site location.

In addition, it is not considered that, subject to the implementation of the identified mitigation measures, the impact of the proposed development on the Badgers present the site would be so substantial or significant to provide a robust reason for refusal.

The proposal is satisfactory within the context of all relevant national and Local Plan policy and guidance requirements.

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**

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 The development shall be completed in accordance with the approved plans listed above.

REASON: In order to ensure the provision of an appropriate form of development.

- 3 Development of the site shall be undertaken in accordance with the provisions of the submitted Badger Monitoring and Mitigation Strategy prepared by Southern Ecological Solutions dated February 2023, from which there shall be no deviation without the prior approval in writing of the Local Planning Authority.

REASON: In order to appropriately and adequately mitigate the impact of the proposed development on the protected species, its setts and adjacent habitat.

- 4 Prior to the commencement of the development details of:
- (i) The means of providing advance notification to neighbours and other interested parties of proposed works and
 - (ii) the public display of contact details including an email address and accessible phone contact to persons responsible for the site works for the duration of the works
 - (iii) The construction vehicle route to and from the site

shall be submitted to and approved by the Local Planning Authority.

The approved details shall thereafter be installed/implemented throughout the project period.

REASON: To ensure that the amenity of local residents is protected during the construction period.

- 5 Prior to the commencement of the development (including any site clearance works) all trees and shrubs (including hedges) to be retained within the site shall 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 or within 1m of any hedge or shrub within the identified areas. Such protection measures shall be retained for the duration of the construction of the development.

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

REASON: In the interest of the future health and amenity value of the trees/shrubs/hedges and the amenity and character of the area.

- 6 The development hereby permitted shall not be commenced until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

REASON: To ensure that drainage system implemented at the site will adequately function and dispose of surface water from the site.

- 7 Prior to the construction of the development above foundation level, 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.

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

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

- 8 Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

REASON: To prevent environmental and amenity problems arising from flooding.

- 9 The development permitted by this planning permission shall be carried out in accordance with the approved Walsingham House SuDS Report, March 2022 by Civil Engineering Solutions Ltd and the following mitigation measures detailed within the Report:
- o Limiting the discharge from the site to 3.8l/s from each of two discharges, subject to approval by Anglian Water Services.
 - o Provide attenuation storage (including locations on layout plan) for all storm events up to and including the 1:100 year storm event inclusive of climate change.

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

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and ensure the effective treatment of surface water runoff to prevent pollution.

- 10 Details of any external lighting of the proposed development shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.

Such approved strategy shall thereafter be fully implemented, in accordance with the approved details, prior to first occupation of the proposed development.

REASON: To ensure the provision of an appropriate scheme of lighting, in the interests of the needs of users of the site and the ecological sensitivity of the landscaped areas and adjoining land, in accordance with Policies EC2 and EC5 of the adopted Local Plan and the provisions of the National Planning Policy Framework.

- 11 Prior to the vehicular accesses serving the proposed dwellings being brought into use, within the confines of each plot, a 1.5m x 1.5m clear to ground visibility splay shall be provided at the junction of the vehicular access and the highway which shall be maintained free of obstruction in perpetuity.

REASON: In the interests of highway and pedestrian safety.

- 12 Prior to occupation of the development the shared vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway as shown in principle in the Block Plan Layout Drawing No.1670/S1/Q.

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

- 13 Prior to occupation of the development, the principal access road shall be constructed to a width of 5.5m with junction radius and footway on each side as shown in principle with DWG No.1670/S1/Q.

REASON: To ensure that all vehicles using the access road do so in a controlled manner and to ensure that opposing vehicles may pass clear of the limits of the highway and to provide appropriate footway connection, in the interests of highway safety.

- 14 Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction / access is first used by vehicular traffic and retained free of any obstruction at all times.

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

- 15 Prior to occupation of the development a vehicular turning facility, of a design to be approved in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

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

- 16 Prior to first occupation of the development, the Developer shall be responsible for the provision, implementation and distribution 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.

These packs (including tickets) are to be provided by the Developer to each dwelling free of charge.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Government guidance as set out on the NPPF.

- 17 No part of the proposed development shall be occupied until such time as the access road and vehicle parking areas serving the dwelling has been provided. The vehicle parking areas and associated turning areas shall be retained in this form at all times. The vehicle parking areas and garaging shall not be used for any purpose other than the parking of vehicles that are related to the use of the development for residential purposes, unless otherwise agreed with the Local Planning Authority.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy T8 of the adopted Local Plan.

- 18 Prior to occupation 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 prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Failure to carry out the required maintenance 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.

- 19 Prior to the first occupation of the development hereby approved, details of the means of enclosing the external boundaries of the site shall be submitted to and approved by the Local Planning Authority.

Such enclosure as is subsequently approved shall be installed prior to first occupation of the adjacent dwelling and thereafter permanently retained as such.

REASON: To safeguard the privacy and amenities of the proposed and adjoining properties and ensure the permeability of the site for wildlife.

- 20 Prior to occupation of the development hereby approved a landscaping scheme for the 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.

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.

- 21 Prior to the first occupation of the development hereby approved all landscaping works within the application site shall be carried out in accordance with the approved landscaping scheme and such works shall be formally approved by the Local Planning Authority.

Any tree contained within the approved landscaping scheme dying or being damaged, removed or becoming seriously diseased within 5 years of the date of this permission shall be replaced by a tree of a similar size and species by the applicant or the applicants successor in title, as formally approved by the Local Planning Authority.

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.

- 22 Prior to the first occupation of the development hereby permitted details of bat and bird boxes to be provided on the site shall be submitted and approved by the Local Planning Authority. Such details shall include the number of boxes, the timing of the installation of these boxes, the position of the boxes and the future monitoring and maintenance of the boxes.

REASON: To ensure that adequate provision is provided for the roosting of bats and nesting of birds to compensate the loss of habitat within the site.

- 23 The submitted Construction Management Plan received by the Planning Authority on 16.03.2022 shall be implemented in full throughout the construction period.
- REASON: To ensure that parking and unloading does not take place within the sensitive areas of the site or in the adjoining streets, in the interests of the amenity and convenience of local residents and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy EC2 of the adopted Local Plan.
- 24 The provisions of the submitted Construction Environment Management Plan and Demolition Method Statement received by the Planning Authority on 18.08.2022, with the exclusion of paragraph 9.1, shall be implemented in full throughout the construction period.
- REASON: IN order to ensure appropriate activity of the site during the construction period, in the interest of the amenity of adjoining residents and occupiers of the school.
- 25 All waste arising from the site shall be properly disposed of by a licensed waste carrier.
- REASON: In order to ensure the appropriate disposal of all waste arising from the site.
- 26 The development permitted by this planning permission shall be carried out in accordance with the recommendations contained within the Flood Risk Assessment (FRA) prepared by Civil Engineering Solutions Ltd, referenced 20201120_Ces615_Walsingham_House_Fra1 and dated 2-Nov-20.
- REASON: In order to ensure the safety of residents in the event of a flood.
- 27 The proposed development shall be constructed incorporating the design principles provided in the Department of Communities and Local Government document 'Improving the Flood Performance of New Buildings. Flood Resilient Construction'.
- REASON: In order to ensure the provision of robust buildings, capable of rapid recovery in the event of a flood, in the interests of the amenity, health and wellbeing of future occupiers.
- 28 The development hereby approved shall be built wholly in accordance with the approved materials as identified in the submitted Material Specification, received by the Local Planning Authority on the 10th March 2022.
- REASON: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.
- 29 Any windows provided in the side elevations at first floor level shall be obscure glazed to at least level 3 on the Pilkington scale and fixed to 1.7m above the finished floor level of the rooms they serve, and permanently retained as such.
- REASON: In order to protect the privacy and amenity of future and adjoining residents.
- 30 The proposed development shall be completed in accordance with the provisions of the submitted Sustainability Statement received by the Local Planning Authority on 16th March 2022, from which there shall be no deviation without the formal prior approval of the Local Planning Authority.
- Such measures as are identified and installed shall thereafter be permanently retained unless alternative measures are approved by the Planning Authority.

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

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

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 32 Any road or shared surface provided for the purposes of vehicular access to and within the site shall be constructed in a manner demonstrated to be capable of withstanding the weight and turning manoeuvres of a 32 tonne refuse vehicle.

REASON: In order to ensure that refuse and recycling associated with the occupation of the development proposed may be appropriately collected and removed from the site, in the interests of the amenity of the area, consistent with the provisions of Policy EC3 of the adopted Local Plan.

- 33 All vehicle parking spaces shall be provided with appropriate infrastructure to facilitate the provision of electric vehicle charging points.

REASON: In order to encourage the use of electric vehicles in the interests of sustainability and climate control, consistent with the provisions of the NPPF.

- 34 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.

- 35 Upon first occupation of the dwellings, the approved Flood Response Plan (Document PP-0943949 dated November 2021) shall be enacted and thereafter maintained at all times that the dwellings are 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.

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.

- 36 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.

- 37 No gates, walls or other means of enclosure shall be erected at the entrance of the site, or to any part of the site, without the former consent of the Local Planning Authority.

REASON: To avoid the need for vehicles to wait on the highway whilst the gates are opened, in the interests of highway safety and traffic flow.

- 38 There shall be no discharge of surface water onto the Highway.

REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety, in accordance with the provisions of Policy EC2 of the adopted Local Plan.

- 39 Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed

- 40 The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35dB LAeq 16 hrs daytime and of more than 30 dB LAeq 8 hrs in bedrooms at night.

REASON: In order to ensure acceptable living conditions for future residents, consistent with the provisions of paragraph 187 of the NPPF.

- 41 All trenches shall be covered overnight and wooden ramps sufficient to enable the escape of any badger which may inadvertently enter the trenches, shall be placed in any trench overnight during the construction period.

REASON: In order to provide an appropriate means of escape for any foraging badgers.

Informatives

1 Essex Highways

- All highway related details shall be agreed with the Highway Authority
- All works affecting the highway to 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

Anglian Water

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.

Please note that if diverting or crossing over any Anglian Water assets, the permission of Anglian water will be required. Please see Anglian Water website for further information: <https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/>

Queries in respect of Anglian Water Assets should be directed to the Anglian Water Planning & Capacity team on:07929 786 955

Essex Police

Requests that the developer seeks to achieve the relevant Secured by Design accreditation which in this case will be Secured by Design 2019 Version 2, March 2019. Secured by Design is the official police security initiative that works to improve the security of buildings and their immediate surroundings to provide safe places to live and is designed to address emerging criminal methods of attack. The Secured by Design website (<https://www.securedbydesign.com/guidance/design-guides>) provides full details.

Essex Fire and Rescue

Water Supplies

The architect or applicant is advised that additional water supplies for firefighting are necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

Sprinkler Systems

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

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

Lead Local Flood Authority

Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to suds@essex.gov.uk.

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.

- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.

ITEM 2

Application Number:	22/0339/FUL
Address:	179-195 Church Road, Thundersley, Benfleet, Essex, SS7 4PN (St Peter's Ward)
Description of Development:	Demolish existing buildings and erect four storey building containing 44 flats with associated parking and amenity spaces and alterations to vehicular access
Applicant:	Castle Point Letting Limited
Case Officer:	Mr Keith Zammit
Expiry Date:	10.08.2022

Summary

The application seeks permission for redevelopment of existing residential properties and business uses with a block of 44 flats containing a mixture of one-, two- and three-bedroom dwellings. In all the circumstances officers are unable to support the scheme due to design concerns, neighbour impact concerns, a lack of affordable housing provision and unresolved drainage issues. It is therefore recommended for REFUSAL.

Councillor Cole has requested a committee decision to give members the opportunity to consider the merits of the redevelopment of a brownfield site for residential purposes.

Councillor Hart has requested a committee decision as this is a large-scale development with significant public interest, possibly over development.

Site Visit

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

Introduction

The application relates to a site of some 0.3ha comprising four semi-detached bungalows, two lawful flats, seven other flats, a car repair garage, taxi office and tanning studio. It has a frontage to Church Road of some 75m and a return frontage to Manor Road of some 40m.

The Proposal

The application seeks permission for the demolition of the existing buildings on site and the erection of a four storey building with a maximum height of some 13.3m, containing 44 flats, with the ground floor used as covered parking (51 spaces). Seven of these spaces are 'tandem' spaces for two-car families, so each flat would have one or possibly two parking spaces. Six further outdoor parking spaces are proposed for visitors.

The proposed flats are 11 one-bedroom, 25 two-bedroom and eight three-bedroom properties. The application form states that all would be market housing for sale with no affordable housing component/products proposed.

The external finish of the building is stated to be a mixture of brick and cladding board, with a standing seam cladding roof.

Supplementary Documentation

There are numerous background documents with the application. These include:

- o Contaminated land report
- o Design and access statement

- o Noise assessment
- o Sustainable drainage reports
- o Viability assessment
- o Gross internal areas schedule

These are available to view on the council's website.

Planning History

14/0609/CPA – 193A Church Road, Thundersley – Change of use from office (Class B1) to 1 No. bed flat (Class C3) – It was considered that prior approval was not required on 17th December 2014.

14/0610/CPA – 191A Church Road, Thundersley – Change of use from office (Class B1) to 1 No. bed flat (Class C3) – It was considered that prior approval was not required on 17th December 2014.

21/0585/MAJPRE – Proposed redevelopment of site with 46 flats. Response provided 4th November 2021.

Procedural Matters

Throughout the course of this application, the true number of flats on the site has been in dispute, with the number changing as the application progressed. The application form submitted on 11th May 2022 stated there were seven flats (four 1-bedroom and three 2-bedroom).

Conversely the applicant's submitted viability assessment dated 28th February 2022 at section 5.2 states that there are eight studio flats, not the seven stated on the application form.

Following receipt of an initial viability review on 17th October 2022, the council raised concerns regarding the number of studio flats onsite and there being no planning record for them.

A site visit was conducted on 9th November 2022 which confirmed that there were in fact nine flats (five 1-bedroom and four 2-bedroom). Following discussion with the agent, an amended application form reflecting the number of flats at the site was received on 17th November 2022.

On 10th November 2022 a schedule of accommodation setting out the Gross Internal Areas (GIAs) of the development was submitted, with an overall total GIA of 6771.77m². However, on 9th January 2023 further information relating to the development's GIAs was provided, with an overall total GIA of 5779.66m². A comparison of the values can be seen below which shows not inconsequential differences between the two submissions totalling a reduction in GIA of 992.11m² between the two provided schedules.

	10 th November 2022	9 th January 2023	Difference
Ground Floor	1751.11m ²	1747.86m ²	-3.25m ²
First Floor	1588.47m ²	1409.67m ²	-178.80m ²
Second Floor	1589.00m ²	1371.26m ²	-217.74m ²
Third Floor	1477.11m ²	1225.44m ²	-251.67m ²
Roof Terrace	366.08m ²	25.43m ²	-340.65m ²
Total	6771.77m ²	5779.66m ²	-992.11m ²

These changes in the number of existing units onsite combined with the changes to the schedule of GIA has introduced a fair level of confusion and additional work over the course of the

application, frustrating the review of the initial viability assessment and necessitating additional work by the viability consultant and officers.

The number of existing lawful flats on the site is considered to be two as the Local Planning Authority only holds records of prior approval applications for two flats at this site, not the nine in total that currently exist. The burden of proof is on the applicant to prove that all nine flats are lawful and they have not been able to evidence this either by way of planning consents or through certificates of lawfulness.

The applicant has repeatedly claimed to be in receipt of a letter from an officer at the Local Planning Authority stating that all the flats are lawful and do not require planning permission, however they have been unable to produce a copy of this letter despite being asked numerous times. Officers have also interrogated the council's records and have not been able to find a copy of any such letter. In the absence of confirmation that all nine units are lawful, only the two which were subject of prior approval applications are considered to be lawful at the current moment in time.

Officers offered the applicant additional time to meet and discuss the proposal as well as have the opportunity to address officers' concerns with the proposal which they had been informed of. However, through the agent, the applicant advised that as the report was ready to be taken to the April DMC meeting, they would rather the application be presented at the April DMC meeting for consideration, despite officers' concerns with the proposal.

Local Plan Allocation

The existing bungalows are allocated as residential in the Local Plan and the remaining eastern part of the site is allocated as employment land.

Relevant Policies and Government Guidance

NPPF National Planning Policy Framework (the Framework, 2021)

Local Plan (LP, 1998):

EC2	Design
H7	Affordable housing
H10	Mix of development
H13	Location of development
CF1	Social and physical infrastructure and new developments
ED3	Protection of employment areas
T8	Car parking

Residential Design Guidance (2013):

RDG2	Space around dwellings
RDG3	Building lines
RDG4	Corner plots
RDG5	Privacy and living conditions
RDG6	Amenity space
RDG8	Detailing
RDG10	Boundary treatment
RDG11	Landscaping
RDG12	Parking and access
RDG13	Refuse and recycling storage
RDG16	Liveable homes

Brownfield Land Register (2022)

DCLG Technical housing standards – Nationally described space standard (2015)

Developer Contributions Guidance (2023)

Essex Vehicle Parking Standards 2009

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (2020)

Consultation

Legal Services – No observations in relation to the planning application, although it may well require a section 106 agreement or unilateral undertaking.

Anglian Water –

- o Wastewater treatment: The foul drainage for this development is in the catchment of Benfleet Water Recycling Centre which currently does not have the capacity to treat the flows from the development site. AW is obliged to accept the foul flows and would take the necessary steps to ensure that there is sufficient treatment capacity if planning permission is granted.
- o Used water network: There is a lack of information and unacceptable flooding downstream is predicted. A condition would need to be imposed on any planning permission requiring a drainage strategy.
- o Surface water disposal: The surface water strategy is unacceptable to AW due to no evidence of the drainage hierarchy being followed or the point of connection being clearly marked. A condition is required for a surface water management strategy.

Essex Police (Designing out crime officer) – More information is needed on the following areas to form a more detailed opinion of the development:

- o Overall proposed security for the flats including cycle and bin storage
- o Delivery of mail
- o Undercroft parking can be a crime generator – can be mitigated through lighting, surveillance and security
- o A copy of the lighting plan for the development. Lighting deters criminal activity, promotes a feeling of safety and can reduce the potential for crime in both public and private spaces.

Essex County Council (Lead Local Flood Authority) – issue a holding objection to the granted of planning permission. The applicant needs to do the following:

- o Provide treatment indices tables for pollution and treatment in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753
- o Demonstrate that all storage features can half empty within 24 hours for the 1 in 30 plus 40% for climate change critical storm event
- o The LLFA does not accept QBar, the 1 in 1 greenfield rate should be used for all calculations
- o Submit a drainage plan which details exceedance and conveyance routes, finished floor levels and ground levels, and location and sizing of any drainage features.

Environment Agency – No objection. It is important that planning decisions take full account of paragraph 187 of the National Planning Policy Framework when a new development is built near to an existing vehicle depollution facility.

Environmental Health – No objection with conditions suggested relating to noise-proofing of the new development and the reporting of any unforeseen ground contamination.

NHS – Contribution of £21,700 requested to increase capacity for the benefit of patients of the Primary Care Network in the vicinity of the application site.

Refuse and recycling – Refuse collection vehicles must have direct access from the road to any bin stores that are provided for the residents. The bin store must be suitable for 1100-litre wheeled bins and have sufficient capacity for the number of residents expected. Roads in the development must be able to support 32 tonne vehicles and the bin store must have a dropped kerb and sufficient space for the bins to pass one another with doors that open outwards.

Essex County Council (Highways) – No objection with conditions suggested.

Planning Policy – For a net 31 unit scheme (i.e. 44 units minus the 13 to be demolished) the following contributions are required:

Playing pitches – This includes natural grass pitches (football, rugby union and cricket) and 3G

- o Capital cost - £9,615
- o Changing rooms capital cost - £16,227
- o Total for site - £25,842
- o Total per unit - £833.61

Indoor sport facilities – This includes sports halls and indoor bowls. Swimming and indoor 3G are not included as there are no proposals for this.

- o Total for site - £13,921
- o Total per unit - £449.06

County Education – No contribution requested

Public Consultation

The following objection comments have been made:

- o What will happen to the residents living in the existing properties?
- o Increase in traffic/detriment to highway conditions
- o 44 flats is too much, not in keeping with the area
- o Additional noise
- o Impact on doctors and dentists which are already busy
- o Overlooking of nearby properties
- o Loss of light to nearby properties/overshadowing of gardens
- o Detriment to pedestrian safety from vehicle accesses
- o Addition to drainage/sewerage problems
- o Insufficient parking
- o Size and height of development
- o Increased surface water runoff
- o Loss of jobs resulting from loss of existing businesses

The following support comments have been made:

- o Support this sensible planning application on a brownfield site
- o Favour brownfield development over greenfield

Comments on Consultation Responses

- o Unfortunately the LPA do not know for certain what will happen to the existing residents of the site and this is a civil matter between the residents and their landlord(s), however they would be protected by whatever clauses exist within their current tenancy agreements in relation to notice periods, evictions etc.
- o Additional noise from new residents on a site currently occupied by a combination of residential and commercial uses does not form a robust reason for refusal as it is based on assumptions about the behaviour of new occupants. Antisocial behaviour by reason of excessive noise from residential use is a matter that can be dealt with as appropriate under Environmental Health legislation.
- o It is a common objection that new development will worsen existing problems with the drainage network e.g. sewers. The relevant statutory undertaker has a responsibility to deal with existing problems so these cannot form a reason for refusal and the statutory undertaker has accepted responsibility and acknowledged that they will make provision for the development to connect to the utilities network. The development however needs to manage its own surface water sustainably.
- o Other matters are considered in the evaluation of the proposal

Evaluation of Proposal

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 set out that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (paragraph 2 of the Framework).

The development plan for Castle Point is the policies of the 1998 Local Plan (LP) that were saved by direction under Article 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

The policies of most relevance to this application are:

EC2 – Design
 H7 – Affordable housing
 H10 – Mix of development
 H13 – Location of development
 CF1 – Social and physical infrastructure and new developments
 ED3 – Protection of employment areas
 T8 – Car parking

These policies and their degree of consistency with the Framework will be discussed in more detail below.

The main issues with this application are the principle, the design, impact on neighbours, living conditions for future occupants, impact on infrastructure, parking and drainage.

Principle

The council's LP policy ED3 seeks to retain employment areas for uses falling within Classes B1, B2 and B8 of the Use Classes Order (prior to the 2020 amendments). This supports the Framework objective at paragraph 61 of creating the conditions in which businesses can invest, expand and adapt.

Prima facie there is a conflict between the allocation of part of the site and the proposed residential development. The four existing bungalows are allocated as residential in the adopted LP so there is no objection to the principle of a residential redevelopment on this part of the site.

However, the part of the site containing business uses and flatted development is allocated for employment purposes in the LP.

The 2022 Brownfield Land Register identified and assessed the site, referred to as CP0030 and the subject of this application, as having a potential capacity for at least 40 homes. The only way that this could be provided within the small footprint of this site would be through a flatted development. The proposal is therefore broadly in line with the assessed capacity set out in the Brownfield Land Register. It is noted that the applicant has sought to optimise the capacity of the site through the provision of undercroft car parking.

It should also be noted that this site is no longer entirely in employment use as there are two lawful flats and seven other flats on the site. It was not possible to identify any applications for planning approval for the majority of these flats with the exception of two as discussed earlier within this report. However, this existing use already contradicts the allocation within the adopted local plan.

The taxi office (use class B1) and tanning studio (*sui generis* use) on the site are not traditionally viewed as employment uses as they are uses that would normally be expected to be located in a shopping parade, but would be expected to relocate to a nearby shopping area or local shopping parade. Castle Point Motors (use class B2) would be required to relocate as part of the proposal, but it is expected that this business would be able to relocate elsewhere within the Manor Trading Estate.

Taken as a whole, the site is predominantly occupied by residential uses, albeit the lawful status of seven of the flats is uncertain. The existing tanning salon is also a *sui generis* use which is not protected under Policy ED3. Whilst the proposal would result in some loss of some land capable of providing employment space, it is considered that the benefits of the proposal and the already largely residential nature of the site would not represent a robust reason for refusal which would be sustainable on appeal.

Policy H13 of the Adopted Local Plan provides advice on design, scale and siting. This policy is considered generally consistent with the NPPF and states that the scale, siting and design of proposed development should not have an adverse impact on the character or appearance of the area and specifically states that proposals for flats should be located on main roads.

Church Road meets the requirements of being a main road and there is an existing adjacent block of flats to the western side of Manor Road. Under the circumstances, in principle, the site is seen as a reasonably good candidate for redevelopment for the provision of flatted accommodation. This would not be out of character by the mere presence of flats, given the existing flatted scheme to the west. However, this is providing that the proposal is acceptable in relation to other relevant adopted policies and guidance.

Paragraph 119 of the NPPF states that Local Planning Authorities (LPAs) should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. As much use as possible should be made of previously developed or brownfield sites.

It is considered that allowing the redevelopment of this site with flats and permitting the regrettable loss of land allocated for employment opportunities in the current adopted plan would represent an efficient use of identified brownfield land in the borough to meet an identified housing need where current land supply is constrained as required by Chapter 11 of the framework. Therefore, no objection is raised to the principle of the proposal on this basis.

Design

The council's LP policy EC2 seeks a high standard of design in all new buildings. Particular regard should be had to the scale, density, siting, design, layout and external materials of any development, which should be appropriate to its setting, and which should not harm the character of its surroundings. This furthers the Framework objective of achieving well-designed places.

The council has adopted Residential Design Guidance as a supplementary planning document. Within this, guidance at RDG2 seeks appropriate space around new development. In the case of flats, isolation spaces equivalent to 25% of the building width should be provided. RDG3 requires proposals to be informed by the prevailing building lines to the public realm it faces, avoiding disruption to exceptionally strong building lines. RDG4 requires development on corner plots to be designed to turn corners, avoiding blank elevations or excessive lengths of high-level garden screening to return frontages.

In terms of the overall mass and bulk of the building, the height, 13.3m at its tallest, is considered too great and in combination with the lateral mass of the building and its proximity to Church Road, is considered would have a detrimental effect on the street scene. While reference has been drawn from Manor Court to the west of the site, in terms of form and building line, that building has its short end facing Church Road which has much less impact. Other development in the area is either single or two storey commercial development or set back much further from the highway.

This concern was raised with the applicant in the officer's response providing pre-application advice. It appears an attempt has been made to address this concern by slightly reducing the height of the scheme (0.5m). It is also noted that the building has been set back an additional metre from Church Road compared to schemes on which preapplication advice was sought, which is what the note on the drawing refers to. The ground floor front elevation would now be set back six metres from Church Road and Manor Road for the most part, tapering to five metres. However, the first and second floor balcony structures would project some 1.8m from the front elevation which would reduce the visual effect of any set-back of the building from the highway.

Whilst the applicant has stated in their supporting statement at section 4 that they have attempted to 'fragment' the building by adopting a 'terrace-loggia hybrid' to reduce the perceived mass of the building, the minimal spacing between the sections of the building together with the minimal degree of set back and large expanses of loggia is such that the mass of the building still remains. As such the building would still appear large and dominant, for the most part due to its large bulk and mass in close proximity to the boundaries of the site. The applicant has not gone far enough to address the significant concerns regarding this aspect of the development raised during the pre-application process, and this aspect of the proposal remains largely unchanged when compared to the pre-application scheme.

The building width is some 63m with isolation spaces totalling some 11.m. This falls below the 25% guidance which would be some 15.75m. While not a deciding factor in isolation this contributes to the view that the building would be too bulky and massive, lacking an adequate degree of isolation space in which to provide the proposed building with a reasonable setting within and proportionate to its surroundings, leaving the building appearing somewhat cramped and squeezed into the site.

Although the development follows the line of buildings on the east side of Manor Road there are also concerns about how the development would integrate with the street scene along this frontage. The transition between the proposed buildings and the chalet bungalows to the north would be abrupt and stark. Although the third floor has been cut in to provide a more stepped transition it is still considered that the development would appear somewhat massive in relation to

the dwellings to the north, dominating the outlook from this this vantage point. The transition between the proposed development and development in Manor Road, as well as the effect of the development on the street scene in Church Road, needs to be carefully reconsidered to assess how this dominance and massing issue can be resolved in a sensitive fashion.

The development is designed to turn the corner well although this is of little consequence in the overall scheme of things.

The proposal is therefore contrary to LP policy EC2 inasmuch as its scale and siting would not be appropriate to its setting as well as RDG2 and RDG3 of the supplementary Residential Design Guidance.

RDG11 seeks, for flatted development, the provision of landscaping suitable for the type of accommodation, which should be set out in a landscaping scheme. This is consistent with the Framework requirement at paragraph 130b) for appropriate and effective landscaping.

There is little landscaping detail submitted with this application but there is space for some landscaping to take place. If permission is granted there would need to be a condition requiring the submission and approval of landscaping details.

RDG12 requires parking not to dominate the public realm or have an adverse impact on visual or residential amenity. The proposed parking is largely beneath and enclosed by the building which would not be detrimental to visual or residential amenity. Six spaces are proposed on the Church Road and Manor Road frontages. With appropriate and 'effective' landscaping as mentioned above, this is not considered to be detrimental to the street scene.

RDG13 requires the provision of safe, adequate and suitable means of refuse and recycling storage. There are two bin rooms shown on the ground floor of the building with room for 10 bins. There is concern that 10 bins may be rather low provision for refuse, recycling, food waste and glass for 44 flats. For 44 flats it is considered that at least eight 1100-litre bins for recycling, eight 1100-litre bins for refuse, two 500-litre bins for food waste and six 240-litre bins for glass would be a more reasonable figure to provide ample opportunities to encourage occupants to dispose of their waste correctly and responsibly. If permission is granted, revised refuse storage details could be required by condition, and it is considered that there is the opportunity to provide space for this facility elsewhere within the site.

It is expected that the refuse collection lorry would service this site from the highway as the bin bays are quite near the highway but in case the vehicle does need to enter the site, the roadway off of Manor Road should be required by condition to be capable of supporting a 32 tonne refuse collection lorry in order to facilitate this.

Impact on neighbours

The council's guidance at RDG3 requires development not to cause excessive overshadowing or dominance of adjacent properties. The concern noted with this proposal is that there is a chalet bungalow immediately to the north of the proposed development. A shading plan is not provided with the application to fully understand the implications of the proposal for overshadowing on this adjacent property. However, without demonstration to the contrary, it is considered likely from the information submitted that the proposal would lead to overshadowing of the property to the north (130 Manor Road) and would be a dominant structure which would have a detrimental impact on the living conditions of occupiers therein. This was another issue raised during the pre-application process which has not been adequately addressed through the proposal.

RDG5 deals with overlooking and seeks a distance of at least 9m from first floor windows (or edges of balconies) to the boundary of the site to prevent excessive overlooking of adjacent sites. This increases to 15m at second floor level and 18m at third floor level or above. The proposed development only directly borders residential property to the north, at its western end. The building has been designed to avoid direct and unmitigated overlooking of the nearest residential property at 130 Manor Road. Subject to conditions requiring provision and retention of balcony screening or obscure glazing as appropriate there would not be a detrimental impact on the amenity of those adjacent residents.

There would be a gap of some 23m between the proposed flats and existing flats at Manor Court (across Manor Road). The council's design guidance does not specifically provide for a window-to-window distance between dwellings. The Manor Court flats are situated around 12.5m from the middle of Manor Road. The proposal would be around 11m from the middle of the road. While this proposal would be slightly closer to the highway than Manor Road, in the context of an urban area it is not considered that this relationship is unreasonable and would lead to excessive privacy loss.

The same is true of houses on the southern side of Church Road where the gap would be some 26m and in between the frontages of properties are open to public viewing, so it is considered that there would be no undue loss of privacy or residential amenity as a result of this.

There were some concerns about overlooking within the development at preapplication stage, specifically the internal corners of the 'courtyard' area. The relationships between the proposed flats have been improved since preapplication stage and this does not represent an objection to the current proposal. Whilst there is a raised roof terrace at first floor level with a low maintenance green roof proposed with access out onto this, this is proposed as a means of escape or for maintenance purposes only. Subject to a condition requiring no general access to be permitted by residents, outside of a means of escape or for maintenance, onto this first floor area in order to protect the privacy of residents within the development and the neighbouring property to the north, no objection is raised to the proposal on this basis

Living conditions for future occupants

Guidance at RDG5 also requires windows to be designed and be of a size which allows for adequate natural light and ventilation to the room they serve.

The NPPF also seeks to achieve high-quality living environments which this authority has taken to include occupants of habitable rooms being provided with a reasonable outlook. This approach has been well supported at appeal throughout the borough.

Concern was raised during the pre-application advice regarding the level of light provided to flats as a result of the loggias and balconies/terraces which act as an intermediary space between habitable rooms and the outside of the building. This concern is still present in this scheme with habitable rooms such as bedrooms, open plan living spaces, kitchens etc. in effect being internal rooms looking out onto these spaces. Whilst there is a large amount of glazing to the balconies/terraces, this would still result in restricted levels of light reaching these internal rooms as the overhangs of floors above would additionally impact on the natural light provision, particularly the rear flats which look into the development in itself and even more so the north facing flats, which would experience low levels of natural light.

It would have been useful to receive sunlight calculations for these rooms within the development so that a well-informed decision could be made, however in the absence of this information and after careful consideration it is considered that whilst this remains a concern and little has been done to address this concern, that this would not represent a robust reason for refusal in isolation,

that would be sustainable on appeal. However, in order to ensure the best possible outcome, should the application be approved, it is considered reasonable to implement a condition requiring the windows and doors serving rooms with aspects out onto the loggias, balconies/terraces, to be fully glazed, with clear glazing in order to ensure the best possibility for natural light into these rooms and an outlook for occupants.

RDG6 requires appropriate amounts of outdoor amenity space to be provided in proportion to the size of the dwellings. For flats, at least 8sqm per habitable room should be provided, with a minimum of 25sqm per flat.

The arrangement of flats is as follows:

1 bed (3 habitable rooms) = 11 flats x 25sqm = 275sqm

2 bed (4 habitable rooms) = 25 flats x 32sqm = 800sqm

3 bed (5 habitable rooms) = 8 flats x 40sqm = 320sqm

Total = 1,395sqm

There is 600sqm of ground around the building which would be available for use as communal amenity areas. There is also a roof terrace of 337sqm. While not quite reaching the figure above this is nevertheless a good communal amenity area in absolute terms. There is a note on the drawings that a landscaping design is to follow for the communal terrace. If permission is granted the council would ensure that this is done in such a way as to avoid overlooking of neighbouring properties which may along the northern extents of the terrace require some form of screening.

The scheme would also provide a balcony for each flat. Guidance at RDG6 on balconies is that they may contribute towards amenity space provision where they have a floor area of at least 5sqm and depth of 1.5m. Some smaller balconies do not quite meet the depth requirement at only 1.4m but given the ground-level and roof-level amenity space available, it is not considered that this marginal deficiency would amount to a robust reason for refusal, and these balconies are a positive contribution to the overall amenity space provided by the development.

In absolute terms it is considered that the proposed development provides a reasonable level of amenity space both in the form of communal spaces and private balconies which is suitable for the quantum of habitable accommodation proposed in the development. Therefore, no objection is raised to the proposal on this basis.

RDG6 also states that balconies visible in the public realm must be provided with screening which obscures views of the use of public balconies and any items stored on balconies. This approach has also been supported at appeal.

Subject to a condition requiring frosted glass to balconies, the view of balconies would be obscured. It is not considered that this would detrimentally impact upon the design and appearance of the building and no objection is therefore raised to RDG6.

RDG16 states that all new dwellings should provide appropriate internal space and circulation space reflecting the character of the surrounding area and current best practice. The DCLG Technical housing standard – Nationally described space standard is an example of best practice.

The schedule of accommodation and notations on the floor plan appear to show a 2-bedroom, 4 person flat on the third floor (flat F37), with a floor area of 66.59sqm where it should be 70sqm, however on further inspection this is a 2 bedroom, 3 person flat for which the required minimum floor area is 61sqm, which the floor layout complies with. There are no other concerns raised with

regard to the proposed GIA of the accommodation proposed and there is therefore no objection based on RDG16 or the technical guidance.

The Framework states at paragraph 187 that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities and, that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

There are nearby vehicle repair premises on the industrial estate, as well as general noise emitting businesses on the estate, the noise from which could affect new residents. The Environmental Health consultation response has considered noise from the industrial estate and traffic noise. It recommends conditions to address the impact of noise on future occupiers and requires the submission of a scheme to reduce noise to certain dB levels within the dwellings. The planning authority has experience of such schemes and considers that this would be a suitable way of addressing noise at this development. Subject to the suggested Environmental Health conditions requiring submission and approval of an adequate noise mitigation scheme for occupants, there is no objection to this aspect of the proposal.

Impact on infrastructure

LP policy CF1 states that the council will expect developers to provide appropriate infrastructure improvements where the needs of development cannot be met by the existing provision. This accords with the requirement at paragraph 34 of the Framework for development to make contributions towards the provision of infrastructure, albeit that this statement is directed primarily at plan-making rather than decision-taking. It also supports the Frameworks objective of achieving sustainable development.

In this particular instance the development would require existing infrastructure to be improved to accommodate it. Doctors' surgeries, playing pitches and indoor sports facilities have been identified through the consultation process as areas that require a contribution from the developer. The applicant has confirmed that they are happy to pay the requested developer contributions for these items and therefore subject to a S106 agreement securing these contributions, no objection is raised to the proposal on this basis.

LP policy H7 states that where appropriate the council will seek to negotiate a proportion of affordable housing as part of development schemes. This is consistent with paragraph 62 of the Framework which requires the housing needs of different groups in the community to be assessed and planned for, including those who require affordable housing.

The council's latest Developer Contributions Guidance was adopted on 22nd March 2023. It requires 35% of housing to be affordable on sites of 10 or more units. However, to encourage the use of brownfield land the NPPF also indicates that where vacant buildings are used, affordable housing provision can be reduced by a proportionate amount. None of the buildings on this site are considered to be vacant and no evidence has been put forward by the applicant to demonstrate this either, therefore a reduction of the 35% contribution rate is not applicable. Therefore, if the council's new Developer Contributions Guidance was followed with a 35% contribution required, this would require 15.4 units to be provided.

The Framework introduces a requirement for major developments (i.e. 10 or more units) to provide at least 10% of the total number of homes as affordable housing for home ownership. If

the Framework is followed with at least a 10% contribution, this would require at least 4.4 units to be provided.

In the case of this development, any affordable homes would be part of a larger development of flats for sale on the open market, which would be sold on a leasehold basis. The only type of affordable home ownership product that can be delivered on site under these circumstances is First Homes. Registered Providers of affordable housing, who would be involved with shared ownership, do not typically enter into arrangements whereby they would be leaseholders as it exposes those organisations to costs imposed by the freeholder over which they have no control. First Homes involve a direct transaction between purchaser and developer so can be used in leasehold situations. The planning agreement for the development would state that the First Home(s) must in perpetuity be sold at a discount of 30% below market value, or other locally set level. Castle Point has not set a different level so affordable homes delivered as part of this proposal would be offered for sale at a 30% discount below market value to those with local connections.

Officers' negotiations with the developer on this front have not been fruitful and the developer has instead continued to submit further material for the planning authority to review relating to land values and development viability. Without going into too much detail, discussion has centred on the planning status of unauthorised flats on the commercial part of the site, and how these ought to be valued. The lawful status of seven of the nine flats is in doubt and the applicant has not provided any proof or evidence of consent for these seven flats or applied for certificates of lawfulness to confirm their status. This has therefore been factored in when the applicant's viability assessment was independently reviewed, and the outcome of this review considered that four first homes could be provided and the scheme would still be viable. Whilst this is below the 35% contribution required by the council's Developer Contributions Guidance, this is justifiable insofar as the viability assessment shows that four first home units are the maximum that could be provided without making the development unviable.

Officers offered the applicant additional time to meet and discuss the proposal as well as have the opportunity to address officers' concerns with the proposal which they had been informed of. However, through the agent, the applicant advised that as the report was ready to be taken to the April DMC meeting, they would rather the application be presented at the April DMC meeting for consideration, despite officers' concerns with the proposal.

Therefore, negotiations are considered to have gone as far as they can between the council and the applicant, without agreement and the case is therefore presented to committee without the applicant agreeing to the provision of four First Homes.

In the view of officers, this represents a strong reason to refuse planning permission, as the development has been independently assessed to viably deliver some affordable housing, with a provision of four first homes being assessed as viable, and none has been agreed to be provided. This is contrary to national and local up to date policies and guidance and weighs heavily against the proposal.

Parking

Policy T8 of the LP seeks the provision of parking in accordance with adopted standards. The currently adopted standards are the 2009 county parking standards. These were prepared taking into account local circumstances, so their application is consistent with paragraph 107 of the Framework.

The adopted parking standards require the provision of a minimum of one off-street parking space for one-bedroom properties and a minimum of two spaces for properties with two or more bedrooms. Visitor parking should be provided at a rate of 0.25 spaces per property, rounded up.

Application of the parking standards to the development is as follows:

One-bedroom flats:	11	11 spaces
Two-bedroom flats:	25	50 spaces
Three-bedroom flats:	8	16 spaces
Visitor:	0.25 x 44	11 spaces
Total		88 spaces

Fifty-one car parking spaces are proposed for residents with six for visitors. As a whole, 57 out of the required 88 spaces are proposed, which is 65% of the requirement. This might be viewed as a low level of parking provision. However, the DM committee has historically approved flatted schemes with one space per flat and no visitor parking, known as one-for-one parking. This proposal is providing more than that, albeit not meeting the parking standard. The precise ratio is 1 to 1.3, or 1.3 parking spaces per flat.

The parking standards allow for a reduction of the vehicle standard to be considered if there is development within an urban area that has good links to sustainable transport. The site is close to local amenities and served by the number 21 bus. This is a location with good access to shops and services as well as sustainable transport. Officers are therefore of the view that a refusal on parking grounds would not be supported on appeal.

No details on whether the parking spaces are to be allocated has been provided, however at the very least the tandem spaces would need to be allocated. Allocating spaces as a whole would avoid conflict between occupants of the proposed development and in the interest of preventing this conflict a condition requiring a parking plan would be reasonable to ensure each flat is provided with access to guaranteed parking, as well as ensuring that the larger flats be provided access to the tandem spaces where appropriate.

The Framework requires development to be designed to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. The car park layout shows six charge points which appear to serve 12 spaces. In the planning authority's experience, the existing power grid cannot necessarily supply enough power to brownfield sites that are being redeveloped to serve the proposed development and to enable the installation of electric vehicle charge points. The application does not include evidence that the power grid has capacity for the proposed level of vehicle charging. Any revised application should include consideration of this.

Further, there is no rationale as to why all parking spaces cannot have access to charging. With the proposed ban on new combustion engines now only seven years away and bearing in mind that if approved this development would probably not come to market for a couple of years, it seems somewhat short-sighted that the majority of the car parking spaces would not have access to charging or that the infrastructure to the spaces and site itself in terms of an adequate electrical supply is not considered.

It would not be appropriate to grant planning permission subject to a condition that a particular number of charge points are provided, as the existing grid infrastructure may not be able to supply sufficient electrical power to the site to enable this and this may place the authority in a position where it cannot enforce the provision of adequate electric vehicle charging facilities at the site. Therefore, without adequate information regarding the power supply to the site and estimated power draw from the proposed development it is not considered that adequate information has

been provided to ensure that a suitable number of functioning electric vehicle charge points are capable of being provided onsite.

Cycle parking should be provided at a rate of one space per dwelling and one space per eight dwellings for visitors. Fifty cycle spaces are therefore needed (including six for visitors). Only 46 can be counted, which is still a reasonable provision. Extra cycle storage is therefore required. This could be secured by condition if permission was granted as there is ample space for additional storage in the communal amenity areas.

Drainage

The Framework states at paragraph 167 that local planning authorities should ensure that, when determining planning applications, flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

The Planning Practice Guidance sets out the following hierarchy of drainage options:

1. Into the ground (infiltration)
2. To a surface water body
3. To a surface water sewer, highway drain or another drainage system
4. To a combined sewer

The proposed drainage strategy identifies that the site has low suitability for infiltration. There is no surface water body in the vicinity of the site to which runoff water could be drained, therefore it is proposed to drain water to the surface water sewer. On-site storage and attenuation would be provided using a green roof, storage within permeable paving, a detention basin (landscaping feature) and an attenuation tank. In principle this is acceptable, but the Lead Local Flood Authority has identified some issues and raised a holding objection, one of which is that the QBar runoff rate has been used instead of the 1 in 1 year greenfield rate. The QBar rate is to do with mean annual maximum flow rates of rivers and is based on higher return periods and results in higher estimated values for final discharge from sites than the 1 in 1 greenfield runoff rates. There are also some other minor points to be addressed.

The proposal as it stands does not satisfactorily address drainage and could lead to an increase in the risk of surface water flooding. This matter would not be suitable to be addressed by condition as there is no guarantee that a system could be designed to suitable address this within the confines of the site where all storage features could half empty within 24 hours for the 1 in 30 plus 40% for climate change critical storm event, as required by the Lead Local Flood Authority. Without this information it is therefore considered necessary to object to the proposal on this basis as it is not appropriate to request this additional information by way of condition as it could result in permission being granted for a scheme that ultimately could not be built. An objection is therefore raised to the proposal on this basis.

Other matters

LP policy H10 states that in all proposals for residential development the council will expect the provision of an appropriate range of dwelling types in order to satisfy a range of housing requirements. This is consistent with paragraph 62 of the Framework which seeks to accommodate the housing needs of different groups in the community.

The proposed development includes one-, two- and three-bedroom flats which would serve a variety of housing needs. No single-family dwelling houses are proposed but it is recognised that

on a relatively constrained brownfield site it will not always be possible to provide every conceivable type of accommodation. No objection is therefore raised based on policy H10.

It has been identified that population growth in Essex is likely to significantly affect wildlife habitat sites on the coast through increased recreational pressure. To counter this, the council has, along with other districts in the county, adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) which sets out a tariff applied to all net new residential development within the zones of influence of the habitat sites. For 2022/23 this is £137.71 per dwelling, however this will increase from 1st April in line with inflation for the 2023/24 year and although not confirmed this is likely to be £156.76. Once collected this goes into a fund to avoid and mitigate adverse effects from increased recreational disturbance. Alternatively, the developer can commission their own Appropriate Assessment.

The proposal lies within two zones of influence: Benfleet and Southend Marshes, and the Blackwater estuary. The developer has indicated that they are happy to enter into a s106 agreement to pay a RAMS contribution. There is therefore no objection to this facet of the development.

Conclusion

The Framework sets out at paragraph 11 a presumption in favour of sustainable development, which for decision-taking, means:

- o approving proposals that accord with an up-to-date development plan without delay; or
- o where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The council's development plan is not up-to-date. Footnote 8 of the Framework explains that, for applications involving the provision of housing, policies most important for determining the application will be out-of-date where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Castle Point Borough Council is unable to demonstrate a five-year supply of deliverable housing sites, therefore the policies most important for determining the application are out-of-date and permission should be granted unless (i) or (ii) above apply.

The application site is not within or close to, nor does it consist of, an area or asset of particular importance (as listed at footnote 7 of the Framework). The tilted balance is therefore engaged, and permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal would provide a benefit in terms of a boost to housing supply (of 31 net additional dwellings), as well as utilising previously developed land identified on the Brownfield Land Register.

However, the proposal has been identified as having a negative effect on its surroundings, due to the mass and bulk of the building, as well as being likely to lead to overshadowing of a neighbouring dwelling, failing to provide any affordable housing contribution despite a viability assessment review confirming this to be affordable, potentially having an adverse effect on surface water runoff and a lack of confirmation regarding the capability of the development to provide sufficient electric vehicle charging points. These objections are consistent with the guidance set out in chapters 5, 9, 12 and 14 of the Framework, which respectively deal with the matters of delivering sufficient homes, promoting sustainable transport, achieving well-designed places and meeting the challenges of flooding and climate change.

The boost to housing supply on brownfield land carries weight in favour of the application, particularly given the chronic under-delivery of housing in previous years. However, the harm to the built environment and neighbouring residential amenity and lack of affordable housing contribution all weigh significantly against the proposal. In addition the lack of adequate sustainable drainage and electric vehicle charging points would also weigh against the development. These would be long-lasting adverse effects of the development that significantly and substantially outweigh the boost to housing supply, are contrary to national and local policies and guidance, and therefore the balance is tipped against allowing the application. Therefore, the application is recommended for refusal.

My **RECOMMENDATION** is **Refusal**

Refusal Reasons

- 1 The height of the proposed building combined with its lateral mass, lack of space around it and its proximity to highway boundaries would be obtrusive and dominant in the street scene, as well as resulting in the building lacking an adequate setting for its size, contrary to policy EC2 of the adopted Local Plan, RDG2 and RDG3 of the council's Residential Design Guidance and government guidance in the Framework requiring developments to add to the overall quality of the area and be sympathetic to local character.
- 2 The proposed building is considered, would result in undue overshadowing of the adjacent chalet bungalow to the north of the site, leading to a loss of residential amenity, contrary to policy EC2 of the adopted Local Plan, RDG3 of the council's Residential Design Guidance as well as government guidance in the Framework that seeks the creation of places with a high standard of amenity for existing and future users.
- 3 The proposed development fails to make any contribution towards the provision of affordable housing in the district, resulting in a lost opportunity to provide homes within the reach of those unable to afford housing on the open market, to the detriment of the supply of a sufficient variety of different tenures of housing, going against the advice in the Framework that the housing needs of different groups in the community need to be planned for, as well being contrary to policy H7 of the adopted Local Plan as well as the adopted supplementary Developers Contribution Guidance.
- 4 The proposed surface water drainage arrangements, due to the use of inappropriate discharge rates for modelling and the lack of suitable on-site storage and exceedance and conveyance routes for surface water, would increase the risk of surface water flooding to this and adjacent sites, contrary to advice in the Framework that development should not increase flood risk elsewhere.
- 5 The proposed development does not make adequate provision for electric vehicle charging or satisfactorily demonstrate that sufficient electrical power can be supplied to the site to

enable such provision. Approval of the proposal without such demonstration would potentially mean the development going ahead without adequate or any electric vehicle charging provision, contrary to advice in the Framework that development should be designed to enable such charging. This would be to the detriment of the ability of future occupants to use electric vehicles and contrary to the sustainable transport aspirations of the Framework.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and seeking to negotiate acceptable amendments to address those concerns. It has not been possible to negotiate a satisfactory way forward within the time available and for the reasons clearly identified on the decision notice, planning permission has been refused.

ITEM 3

Application Number:	22/0807/FULCLO
Address:	Hadleigh And Thundersley Cricket Club, Rectory Road, Hadleigh, Benfleet, SS7 2NQ (Victoria Ward)
Description of Development:	Remove existing enclosed caged area and net structure and replace with 2No. new caged areas with netting surrounding
Applicant:	Hadleigh & Thundersley Cricket Club
Case Officer:	Mr Keith Zammit
Expiry Date:	30.12.2022

Summary

The application seeks permission for replacement cricket practice nets for Hadleigh and Thundersley Cricket Club. No conflict with national or local policy has been identified and the scheme is therefore recommended for APPROVAL.

The application is presented to committee due to the proposed development being on council-owned land.

Site Visit

It is not considered necessary for members to visit the site in the company of a planning officer prior to the meeting. Should members wish to visit the site independently, there is plenty of parking in the council car park accessed from Rectory Road.

Introduction

The application relates to the John Burrows Recreation Ground at the junction of Rectory Road and New Road. The cricket club has a clubhouse building, a cricket square and some practice nets within the ground.

The Proposal

Permission is sought for the replacement of existing cricket practice nets. The existing single lane cricket practice net adjacent to the Rectory Road boundary is proposed to be replaced on broadly the same footprint but it would be longer than the existing 15m long enclosure. It would have a length of 27m and width of 3.65m. The height would be 4m. A security fence around the new net was originally proposed, but this had to be omitted due to encroachment upon the cricket outfield area. The existing single lane practice net already encroaches upon the outfield area, but the fence would have worsened this so removing it means that the encroachment is at least no worse than at present.

The proposed three-lane practice facility would be partly on the footprint of the existing nets and partly on the playing field area to the west. This would have a footprint of 33m by 10.95m. A security fence can be provided in this location, which increases the overall footprint of the works to 35m by 12.95m. The nets would be 4m high while the fencing would be 3m high. The style of fencing is weldmesh and the plans indicate a dark green finish.

The pitch area within the nets would be 'Total Play' synthetic turf, which has the approval of the England and Wales Cricket Board (ECB).

Supplementary Documentation

There is a planning statement accompanying the submission, which explains how the club membership has grown and the desire for improved facilities.

Planning History

In 2015 permission was granted for extensions to the clubhouse (14/0662/FUL)

Local Plan Allocation

Public open space

Relevant Policies and Government Guidance

NPPF National Planning Policy Framework (2021)

Local Plan (LP, 1998)

EC2 Design

T8 Parking standards

Consultation

Sport England – Initially objected to the proposal on the basis that the single lane setup would have encroached on the cricket outfield area, as well as single lane facilities not representing value for money. The three-lane facility was objected to due to its orientation – an east/west alignment compromises its usability due to the setting sun.

Following discussion and negotiation it was agreed to omit the security fence from the single lane net so as not to encroach further upon the cricket outfield area. The objection to the orientation of the three-lane facility was also dropped after Sport England accepted that there was not the scope to re-orientate this facility due to reduction of the run-off area of the adjacent football pitch. In summary, Sport England no longer objects to the proposal.

Legal Services – No observations

Public Consultation

No representations received

Comments on Consultation Responses

All material considerations raised during the consultation process will be discussed during this report.

Evaluation of Proposal

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 set out that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (paragraph 2 of the Framework).

The development plan for Castle Point is the policies of the 1998 Local Plan (LP) that were saved by direction under Article 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

Principle

Many policies within the 'Recreation' chapter of the LP were not saved and ceased to become part of the development plan on 27th September 2007. The most up-to-date policy advice on sport and recreational development is within the Framework at paragraph 98. This states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities.

The proposal would enhance and upgrade an existing sport facility which is consistent with the Framework objective of promoting healthy communities. The proposal has, following negotiations, been brought to a form to which Sport England raises no objection. Replacing the existing cricket nets would not conflict with the site's designation and function as public open space. The council's Legal Department offers no comment on the proposal but if permission was granted then the necessary permissions from the council as landlord would need to be sought separately to the planning process. From a planning perspective, officers' assessment is that the proposal is consistent with the Framework and no objection is raised.

Visual

Policy EC2 of the council's adopted Local Plan seeks a high standard of design in all developments. In particular, regard is to be given to the scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting, and which should not harm the character of its surroundings. This is consistent with paragraphs 128 and 130 of the NPPF.

In terms of aesthetics, the replacement single lane cricket net would not have a significant effect on the immediate area, compared to the existing net, despite being longer than the one it would replace, given that it would only be a net with no security fencing.

The three-lane facility would be larger than the existing facility. Its footprint including the security fence would be 35m by 12.95m. The existing structure is 19m by 12.5m. The new structure might be said to be slightly more visually intrusive, although its re-siting reduces conflict with the adjacent trees which is something to be welcomed. A cricket practice net too near the trees would lead to pressure on the council to remove or heavily prune its trees due to leaves and other detritus landing in the facility. Furthermore, the replacement facilities would be higher quality in visual terms than the existing structures which have become run-down. Overall, there is little in terms of design which could be improved on the proposal and still offer the functionality required by the cricket club. As a result, officers do not recommend that an objection is raised to the proposal in visual terms.

Parking

LP policy T8 requires the provision of parking in accordance with adopted standards. The currently adopted standards are the 2009 county parking standards. These have been set taking into account local circumstances, so their use is consistent with paragraph 107 of the Framework. Regard must also be had to paragraph 108 of the Framework which states that maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network or for optimising the density of development in city and town centres and other locations that are well served by public transport. Neither of these circumstances apply to this site, so the application of any maximum parking standard should be undertaken with caution.

The parking standards do not contain a standard for this type of use. Team sports (outdoor sports pitches) are mentioned as requiring a maximum of 20 spaces per pitch plus 1 space per 10 spectator seats, but this cricket club does not have pitches as such (there is a single cricket square) or any spectator seating. Seating is available at the clubhouse but there are no spectator stands. Parking therefore falls to be considered on merit.

The applicant's statement explains that the proposed facilities would enable more cricketers to use the practice nets simultaneously than is possible at present. Although the number of nets is not being increased, some of the existing ones are in such poor condition that they cannot be used to their original design potential, only being suitable for limited activity. The current setup

means cricketers must wait longer for their turn at using the practice nets, which this will alleviate. It is not envisaged that the proposal would result in more people using the site than do currently.

There is no dedicated parking provision for the cricket club however there is a public car park serving the recreation ground accessed from Rectory Road, which would continue to be available. The proposal is not considered to materially affect existing parking at the site so there is no objection on the basis of policy T8.

Conclusion

The council's local plan is not up to date therefore the 'tilted balance' at paragraph 11 of the Framework is engaged and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this instance, the proposal would provide a benefit in terms of upgrading a sports facility and providing opportunities for sport and physical activity to the local area. There are no adverse impacts that can be identified so it is recommended that the proposal is approved in accordance with the presumption in favour of sustainable development.

My **RECOMMENDATION** is **Approval**

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

REASON: For the avoidance of doubt and in order to achieve satisfactory development of the site.

- 3 The security fence hereby approved shall be finished in a dark green colour as depicted on Drawing No.01 Revision A dated 4th August 2022.

REASON: In the interest of visual amenity and to ensure the security fence blends in with its surroundings.

Informatives

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

ITEM 4

Application Number:	22/0695/FUL
Address:	316 London Road, Benfleet, Essex, SS7 5XR (Appleton Ward)
Description of Development:	Demolition of existing garden centre and associated buildings. Change of use of the first floor of the existing retained building from dwelling to day nursery. Expansion of existing day nursery including extensions, construction of new buildings, creation of basement parking and changes to vehicular access.
Applicant:	Queen Bee's Day Nursery
Case Officer:	Mrs Sophie Adams
Expiry Date:	17.11.2022

Summary

The applicant seeks planning permission to demolish the existing garden centre and associated buildings. The applicant also seeks to expand the existing day nursery with extensions, construction of new buildings, creation of basement parking and changes to vehicular access as well as change the use of the upper floor of the existing day nursery from residential to day nursery.

The residential use on site, granted by the implemented 2016 application, has not commenced. The occupancy of the flat would be restricted under Ofsted requirements as the rest of the building is used as a day nursery reducing the opportunity to create the upper floor flat. The site has historically been used for commercial purposes. Consequently, there is no loss of residential use.

The proposal would further develop the rest of the site for use as day nursery. The site has historically been used commercially. The proposal would provide additional childcare facilities to which there is a demonstrable need. The proposal would not result in loss of residential development and there is demand for early years childcare provision. A departure from the adopted Local Plan is therefore justified.

The design of the proposal is acceptable.

The proposal would mitigate the impact upon adjacent residents, and this can be ensured with the use of appropriate conditions.

The proposal is therefore recommended for APPROVAL subject to conditions.

The application is presented to committee as a departure from the Local Plan in force, as the site is allocated for residential development.

Site Visit

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

Introduction

The application site is located on the southern side of London Road, between the junctions with Kents Hill Road and Gifford Road. The site has a frontage onto London Road of some 35m and Kents Hill Road of 12m. The site is an unusual shape with a maximum width of 49m and maximum depth of 55m.

The site is occupied by a two-storey building containing Queen Bees day nursery and a vacant garden centre. The existing building provides childcare facilities for 0 – 5-year-olds and out of school provision. There are several single storey detached buildings on site, originally associated with the garden centre use of the site. Roughly in the middle of the site and to the eastern side is a car park. Access is achieved from London Road and Kents Hill Road.

To the south No.347 Kents Hill Road, a single storey building containing a shop and dwelling, adjoins the site. To the east, No.320 London Road, a single storey building containing a barber, adjoins the site. Further to the east is No.322 London Road a two-storey building occupied by a takeaway with flat above. This building sits on the junction where Kents Hill Road meets London Road, and its southern boundary adjoins the site. To the west sits the side boundary of No.310 London Road, a detached house, and the rear boundaries of Nos.7, 9, 11 and 15 Gifford Road, semi-detached houses.

Opposite the site sits a two-storey office building and houses.

The Proposal

The applicant seeks planning permission to demolish the existing garden centre and associated buildings. The applicant also seeks to expand the existing day nursery with extensions, construction of new buildings, creation of basement parking and changes to vehicular access as well as change the use of the upper floor of the existing day nursery from residential to day nursery.

The proposal would consolidate the day nursery/residential site and garden centre site into one single planning unit in use as a day nursery.

The existing nursery building (building A on the submitted plans) would contain the baby unit and would be enlarged with a first-floor rear balcony and first floor side extension linking this building with a proposed new building (building B). The first-floor side extension would be some 7.2m wide, 9.0m deep and a maximum of 8.6m high with a bell tower. These works along with the change of use of the upper floor would create an internal staircase with two infant unit rooms for 2–3-year-olds, a quiet classroom, toilets, two offices, a meeting room and staff room at first floor level.

Building B would be a part single storey part two storey building measuring some 12.1m wide, 22.0m deep and 8.0m high. This building sits to the west of the existing nursery building and replaces the main garden centre building. This building would provide an infant unit room for 3–4-year-olds, children's toilets, reception area, lift, lift services, disabled toilet, kitchen, junior unit room for 4–5-year-olds and first floor rear balcony.

Building C is a single storey building with a sloped roof and measures some 13.5m by 12.0m. This building would have a maximum height of 3.4m. This building contains one large room which would provide before and after school care for children in local schools, a store, kitchen and toilets. This building is in the far western part of the site and replaces one of the existing garden centre buildings.

Building D is a single storey building with sloping roof and measures some 12.0m by 12.0m. This building would have a maximum height of 3.4m. This building contains one large room which would provide for events at the nursery, a store, kitchen and toilets.

Basement and surface level parking would be provided. At basement level 15 parking spaces and a bike store would be provided. It is intended that the basement parking area would be provided for staff. Two stairwells and three smoke/air basement ventilation shafts would be provided into

the basement. The northern stairwell measures some 1.9m by 5.3m with a height of 2.5m. The southern stairwell measures some 2.0m by 7.4m with a height of 2.5m.

Ventilation shafts are proposed, with a raised shaft attached to the northern stairwell and a raised shaft attached to building D. All other shafts are a grill at ground level raised some 0.1m above ground to prevent vehicles driving onto the grill.

There are 15 parking spaces proposed to the surface level parking area and one minibus parking space. Remote control activated security barriers are proposed under the first floor link extension and to the entrance of the basement. A separate secure overnight gate is proposed also proposed under the first floor linking extension. Sliding gates are proposed to the Kents Hill Road access.

The drawings show areas for signage. This signage would be subject to a subsequent application for advertisement consent.

Supplementary Documentation

The following documents accompany the application and can be viewed on the Councils website:

- o Design and Access Statement
- o Photo montages
- o Transport Statement
- o Minibus vehicle tracking

Planning History:

Extensive history from 1957 until 1980s for use of the site for commercial purposes and advertisements. None of which is relevant to the proposal.

Various permissions were sought to change the use of the site for residential purposes and refused, as set out below:

- o CPT/1875/88/OUT, was for 21 flats in two blocks, to a height of three storeys. This was refused on the grounds of overdevelopment of the site, out of character with the area and flats in such close proximity to London Road would be unlikely to provide satisfactory levels of amenity for the occupiers.
- o CPT/324/89/OUT, was for 16 flats, in a part two-part three storey block fronting London Road and a two storey block at the rear. This was refused on the grounds that the building would have been an obtrusive and over dominant feature in the streetscene.
- o CPT/855/07/FUL, was for 14 flats in two blocks with associated parking. This was refused on the grounds that the application represented piecemeal development, the block facing London Road would be an obtrusive and over dominant feature and be an unattractive building. This application was dismissed at appeal based on the harm exhibited by the block facing London Road, but the inspector did not support the reason based on piecemeal development.

In 2015 planning permission was granted for front and side extensions, replacement roof, internal and external alterations including installation of new fencing, creation of garden area to rear and change of use to children's nursery (14/0723/FUL).

In 2016 planning permission was granted for construction of two storey building with children's nursery at ground floor and 1No. flat at first floor with associated parking and rear garden area for nursery (revised application) (16/0573/FUL). This is the original consent for the day nursery and has been partially implemented.

Local Plan Allocation

Residential

Relevant Policies and Government Guidance

NPPF National Planning Policy Framework (2021)

PPG Planning Practice Guidance

Adopted Local Plan (1998)

EC2 Design

EC3 Residential Amenity

EC4 Pollution

EC5 Crime Prevention

EC22 Retention of Trees, Woodland and Hedgerows

H2 Residential Land

T2 Intensification of Access Use

T8 Car Parking Standards

Residential Design Guidance (2013)

RDG3 Building Lines

RDG5 Privacy and Living Conditions

Essex County Parking Standards (2009)

Whilst it is noted that the Residential Design Guidance is aimed at residential development, which this application is not, it is considered that some of the guidance contained within provides a useful starting point for consideration of certain aspects of this proposal which is proposed within an area allocated for residential purposes.

Consultation

Anglian Water

- o There are assets on site/crossing through the site.
- o Available capacity within the foul drainage catchment of this development.
- o Anglian Water will need to plan effectively for the proposed development in respect of the used water network if granted. A full assessment cannot be made due to a lack of information, the applicant has not identified a discharge rate.
- o The surface water strategy/flood risk assessment is unacceptable. No evidence to show the surface water hierarchy has been followed and recommends the applicant consults with Anglian Water and the Environment Agency.

If mindful to grant planning permission no objection subject to conditions regarding a scheme for on-site foul water drainage and surface water management strategy. Recommends informative notes to the decision.

ECC Highways

Site visit undertaken and fully considered the submitted information. Access to the basement staff parking will be controlled within the development and ground level customer car park can be accessed and egressed from Kents Hill Road. The London Road access is barrier controlled, which will ensure that general traffic cannot 'cut through', and the proposed sliding gate at Kents Hill Road access will remain open during regular operational hours. Vehicle tracking drawings have been provided and all relevant vehicles can access the site and designated spaces therefore acceptable subject to conditions regarding implementation of approved construction plan and statement, no unbound materials, prior to occupation surface level and basement parking provided and cycle parking.

Environmental Health

31st January

Design proposals are reasonable in environmental health terms, and have no objections to the application and suggests the conditions regarding times of construction and demolition, no transmission of vibration during demolition to adjoining structures, compliance with Part E of the Building Regulations for standards for school buildings, notify surrounding occupiers of the works 21 days before commencement, no waste materials burnt on site, any unforeseen ground contamination to be investigated, no engines left running when vehicles are stationary and times of deliveries/collections/loading.

Further comments were sought after discussions with Building Control confirmed that the use of the site did not fall within Part E of the Building Regulations and to the submitted construction method phasing and methodology.

7th March

Confirms happy with the construction method phasing and methodology. As it is not in the schools classification suggests a condition for the submission of sound insulation prior to occupation.

Public Consultation

Five responses received from surrounding residents with the following objections:

- Walkway shown to the side of block C would compromise our privacy and security
- Effect of underground car park on water levels as the surrounding area is prone to flooding
- Overlooking from upper floor windows and balconies
- Forward and close to our property would diminish natural light
- Increase noise levels from increased cars and children
- Make existing drainage issues worse
- What is the height and construction of boundary walls to west and south?
- What is the change of distance between garden centre and proposal to west boundary?

The following responses made the following comments, neither objecting to nor supporting the application:

- Existing flooding issues and concerns regarding the excavation of the basement
- Effects of car park excavation on adjacent property
- Trees need to be retained and roots not disturbed
- Clarification on the construction length and how disruptive the noise pollution will be
- Cause a rat problem which have had previously
- Will it financially impact us?
- Will temporary fencing be added whilst works are done?

Comments on Consultation Responses

- Rats and financial implications are not a material consideration in the determination of a planning application.
- The Local Planning Authority is unable to enter into correspondence with neighbours to answer questions during the course of an application. The submitted plans are of sufficient detail to enable measurements to be taken and the relationship of the proposal with the existing built environment considered.
- Conditions recommended by the Highways Authority, Anglian Water and Environmental Health will be appended to any consent granted where reasonable, necessary, and enforceable.
- All other material planning considerations raised during the public consultation period will be considered in the evaluation of the proposal

Evaluation of Proposal

The starting point for determining a planning application is the National Planning Policy Framework (NPPF, 2021) and those saved policies within the council's Adopted Local Plan (1998), alongside supporting policy documents and supplementary planning documents (SPDs).

The main issues are the principle of development, design, impact upon neighbours, parking and access, and other matters.

Principle

The application site is allocated for residential development on the Proposals Map of the adopted Local Plan and Policy H2 is applicable.

Policy H2 of the adopted Local Plan states that land allocated for residential purposes within the Local Plan shall be retained primarily for that purpose. Development which would result in the loss of large sites allocated for residential purposes will be refused.

Planning permission was granted under application reference 16/0573/FUL to construct the nursery with a first floor flat. This consent has been implemented.

The submitted plans show a residential unit on the first floor of the existing building. The use of this part of this building would be changed to a day nursery use consistent with the rest of the building under the proposal and represents a departure from the adopted Local Plan.

At the site visit it was clear that whilst the consent has been implemented, it has not been fully executed, as the flat has not been completed. The framework for the internal works has been provided, but no services and plaster work has been undertaken. This was also the case in 2021 when the planning enforcement investigation officer visited the site. The applicant has subsequently confirmed that the flat has not been used. On this basis, while there is the potential for a residential use on site, no such use has commenced or occurred. Furthermore, the applicant verbally advised that only the manager/staff can occupy the flat because of Ofsted requirements for new nurseries. This reduces the chance of the upper floor being used residentially in the future.

Looking at the planning history, the site has historically been used commercially and a residential use has not been undertaken on site. The proposal will therefore not result in the loss of a residential use.

The proposal would develop the adjacent commercial use to enlarge the day nursery. This removes the potential for the adjacent site to be used residentially.

Paragraph 93 d) of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Discussions with the Essex County Council (ECC) Early Years Children's Community Development team has identified from their childcare sufficiency data collected in Summer 2022 that the Appleton ward, the ward for the development, has 7 providers collectively running at 90% full. The applicant has also undertaken discussions with ECC and advise that there are 26 vacancies, however ECC state that as 24 are with one provider this could potentially be due to opening/closing times not being suitable for families. They further state that they are aware from local intelligence that there is a need for additional provision within the area and all other settings are reporting waiting lists. ECC has difficulty in placing children into a childcare setting due to

capacity within the area therefore, based on the most recent data and that the setting continues to remain a Good or Outstanding Ofsted grading, the team would be in full support of the setting expanding.

The applicants advise that they have a long waiting list for all age groups (0-5 years) and their out of school care, with their next availability for all age groups being September 2023 (for the statement submitted in August 2022). This is a moving date, with the submitting statement providing clarity that this waiting list is between a year and 15 months.

They also state that in the last two years there has been a decline in childcare providers within the local area, which the closure of various settings, especially in the funded sector including St Peters Church Pre School, Wesley Pre School and Kidz Club Out of School. The Local Planning Authority has no reason to dispute this claim and it is possibly as a result of closure associated with the Covid-19 lockdowns.

Across the adjoining wards of St Georges, St Peters, Boyce and St Marys there are spaces available, according to 2018 data, but not to the extent that could be provided by this proposal. It is likely that the closed childcare providers are not included in this provision, and hence a greater demand is likely.

Furthermore, as part of the examination of the Community Infrastructure Levy the Council along with ECC set out the infrastructure requirements for the Borough based on undeveloped housing sites allocated under the adopted Local Plan and windfall sites. Based on this level of housing, ECC set out the demand from housing in Benfleet, Hadleigh and Thundersley as generating 17 places from allocated sites and 16 from windfall sites. This indicates a future demand, which the providers set out by the ECC Early Years Children's Community Development team cannot provide under the current level of provision.

Under the circumstances, whilst it is acknowledged that the proposal would result in an absolute reduction in the quantum of land available for residential purposes, there is a clear demand for early years facilities. Under these circumstances, the departure from adopted Policy is justified, and no objection is raised accordingly under Policy H2.

Design

Policy EC2 of the council's Adopted Local Plan seeks a high standard of design in all developments. In particular, regard is to be given to the scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting, and which should not harm the character of its surroundings. This is consistent with paragraphs 126 and 130 of the NPPF.

The proposal would provide a new building (building B) fronting London Road with a first-floor suspended link to the existing building (building A). Building B is consistent with the design of building A in terms of height, mass, and materials. The projecting first floor gable is proportionate to the size of the building, and whilst different to that shown to building A, it is considered to be an appropriate design feature. The building would have a projecting ground floor with low height glazing consistent with building A. All windows are aligned.

Building B is set back from London Road to provide a staggered building line between the forward position of building A and the setback position of No.310 London Road. This forward position has been reduced during the application to improve the stagger to the building line. Whilst building A will be forward of building B, it is consistent with the building line set by adjacent buildings.

Building C is a single storey building with the appearance of a modern flat roofed single storey building to the front, and a mono pitch sloping roof to the side. This building is deep within the site and would have a nominal visual impact on the surrounding area.

Building D has the appearance of a modern flat roofed single storey building, which is set deep within the site. Whilst glimpses will be visible from Kents Hill Road it is considered unlikely to appear intrusive or out of character with the surrounding area.

No objection is raised to the design of the proposal.

Impact upon neighbours

RDG3 of the Residential Design Guidance (2013) provides advice in respect of impacts of development upon adjacent residential properties, and considered relevant in this case, by reason of the proximity of the extensions to residential dwellings. It states that development should not result in excessive overshadowing or dominance to any elevations of an adjoining property.

The proposed building B would be located between 1.3 - 1.8m from the boundary with the western neighbour, No.310 London Road. This block would project some 6.1m and 2.3m further forward of this neighbour at single and two storey level respectively. This level of projection has been reducing during the application to improve its relationship with No.310. The two storey projection is unlikely to appear excessively dominant or overshadow the neighbours front windows. The single storey projection is deep and has a height of 3.2m. Whilst the isolation to the boundary is less than 2m, the works would be some 5.3m from the side wall of the neighbour. The boundary is also marked by high fencing, and therefore from this distance it is considered that by reason of the level of isolation, the limited height of the single storey element and the high boundary treatment that the proposal is unlikely to appear dominant and oppressive to the any elevation of the neighbour. There is a glass screen proposed to the roof of the single storey element which would increase its height, however, by reason of its translucent nature and low height it is considered unlikely to appear dominant or result in excessive overshadowing.

Building B would also project beyond the rear elevation of No.310, at a depth of 2.1m at two storey level, 3.7m at single storey level with balcony above and the balcony would project to a maximum of 6.1m with an open area below. This would replace an existing building which projects beyond this neighbour for the full depth of its garden and tight to the boundary at single storey level. The proposal would be at a greater height with the creation of a balcony, but less deep and with greater isolation. The screening of the balcony would be set an additional 1m away from the boundary increasing the isolation space to the nearest elevation to 6m. This level of depth, by reason of the level of isolation is considered unlikely to appear overly dominant and would not excessively overshadow or be dominant to the rear elevation of No.310.

Building C is located to the rear of No.310 London Road and Nos.5, 7 and 9 Gifford Road, and along part of the side boundary of No.11 Gifford Road. The proposed building would be tight to the western and southern side boundaries with an isolation of 0.9 – 1.5m from the boundary with No.310 London Road. It would have a maximum height of 3.5m towards the front of the building and 2.8m at the rear by the boundary with the properties fronting Gifford Road.

Building C would replace an existing building. Looking at the impact to No.310, the proposed building would be between 0.3m taller and 0.4m lower than the existing building but would provide a greater level of isolation to the boundary with No.310 London Road. Whilst the building would be deeper, covering a greater proportion of the rear boundary, it is considered under the circumstances to have a lesser impact under RDG3 to No.310 due to the increased isolation. To the properties fronting Gifford Road, the building at this point would have a height of 2.8m which is 0.4m lower than the existing building, again resulting in a lesser impact. Building C is therefore

unlikely to result in a greater level of overshadowing or dominance beyond the existing building. No objection can therefore be raised to Building C.

Building D is located to the rear of Nos.11 and 15 Gifford Road, and the side of No.347 Kents Hill Road. To these boundaries the building has a sloping roof with a maximum height of 2.8m and 3.4m.

The properties facing Gifford Road have deep rear gardens, a depth of at least 25m, therefore a building of this height is considered unlikely to appear excessive dominant or overshadow any of their elevations.

The residential portion of No.347 Kents Hill Road achieves all its natural light and ventilation from a roof light facing the application site and rear windows, as shown by the plans of No.347 (CPT/799/04/FUL). The building would run the entire length of their rear amenity area, a depth of 7.3m, and to this boundary at a maximum height of 2.8m. There would be no isolation. As the proposal is to the north of the neighbour overshadowing is unlikely to occur, however, it has the potential to appear dominant.

There is an existing building (building F) close to the boundary which covers most of the depth of No.347s rear garden area which the proposal would be replacing. The proposal would be of a greater height though, some 0.4m higher. This increase in height however is relatively nominal, and therefore the proposal is unlikely to appear excessively more dominant than the existing building on site. Consequently, an objection based on the scheme being excessively dominant to No.347 is considered to be unsustainable.

The proposal is consequently unlikely to result in excessive overshadowing or dominance to any elevation of an adjacent neighbour.

RDG5 provides guidance on privacy and living conditions. It states that for all development above ground floor level a distance of 9m shall be provided between the first floor opening and the boundary it directly faces.

The proposed upper floor rear windows and rear edge of balconies are beyond 9m from the boundaries they directly face. The side edges of the rear balconies however are significantly below 9m from the boundaries they directly face, the side of the balcony to building B faces No.310 London Road and the side of the balcony to building A faces No.320 London Road.

To No.310 this harm could be overcome with the use of screening. This would increase the dominance of the rear projection beyond No.310, however, it is considered that if such screening was an obscured screen to a height of 1.8m this dominance would be minimised. Furthermore, following discussions with the applicant the screen and edge of the balcony would be set back by a further 1.1m from the boundary. Subject to such a screen overlooking from the rear balcony to building B is unlikely to occur.

Balconies to the front of the building B are a design feature only and will have no access from inside. Consequently, they raise no loss of privacy concerns. However, the edge of this area is close to the boundary with No.310 and would be visible from the street, and therefore if used for a balcony in the future overlooking is possible alongside concerns that the area would be used to store outdoor items which would result in unnecessary clutter to the street scene. Subject to a condition to prevent the use of the front of building B as a balcony or terrace no concerns are raised to this aspect.

The existing upper eastern side terrace area to building A was conditioned under planning consent to have screening to its front and eastern sides. This was not present at the site visit and

is in breach of their consent. The proposal intends to alter the layout of this area and create a new upper floor rear balcony. This area is tight to the boundary with the residential property to the east, above the takeaway, and likely if used to overlook the adjacent property. Subject to the provision of adequate obscure glazing screening this harm would be prevented, and the screen would be unlikely to appear overly dominant.

Policy EC3 states that 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. This policy is considered consistent with paragraph 185 of the NPPF.

Policy EC4 states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air, or by reasons of noise dust, vibration, light or heat, will be refused. This policy is considered consistent with paragraph 174 e) of the NPPF.

Noise and disturbance during demolition and construction can be managed through a construction management plan, given the scale of development and the proximity to adjacent residents. Such a plan has been submitted as part of the design and access statement included phased plans. Environmental Health and Highways have seen these details and raise no objection subject to its implementation.

The site currently has capacity for 54 full time children, however, many of the children attend on a part time basis, and therefore they currently have 96 children on their registers. The maximum capacity of each existing/proposed block is as follows:

- o Building A = 42 spaces on the ground floor and 56 on the first floor. Operating between 7am and 7pm. Majority of the children are dropped off by 7.30am, and collected at various different times between 12:30pm and 7pm.
- o Building B = 64 spaces on the ground floor and 48 on the first floor. Operating 7.30am – 6.30pm. Primary drop off time 9.30am – 10.30am and collection between 3.15pm and 4pm.
- o Building C = 15-20 spaces. Operating 7.30am – 8.30am and between 3:15pm – 7pm. Available for older siblings of children in blocks A and B. Although may provide holiday club care during the holidays.
- o Building D = Operate between 9.30am – 4pm weekdays, and 9am – 6pm weekends and bank holidays.

The proposal would increase the number of children on site to a maximum of 230 (with 20 only for each mornings/evenings) and this is going to lead to an increase in potential noise and disturbance from children arriving and leaving the site, and while occupying the site.

The existing children are contained within building A, which is located away from the majority of residential occupiers, and in part shielded from those residential occupiers by the existing buildings associated with the vacant garden centre. The proposal would remove these building and construct new buildings for the additional children nearer to the boundaries with those residential occupiers currently shielded. Whilst occupants of the building, it is possible to provide additional sound proofing to prevent the spread of noise beyond the confines of the building. This is normally achieved within Part E of the Building Regulations and was originally requested by the Councils Environment Health officer. However, from discussions with Building Control, Part E only refers to school buildings, and would not be applicable in this case. Therefore, following discussions with Environmental Health, a condition is recommended for details of sound proofing to be submitted. This should mitigate any noise and disturbance occurring from the children whilst occupying the buildings, particularly those close to the boundaries with residential occupiers.

The site proposes external areas, such as balconies and outdoor areas to the rear of buildings A and B/C. All of these, except for the area to rear of building A, are new areas. These areas are unlikely to be able to accommodate the full number of children on site, and therefore likely to be used for smaller groups. Nevertheless, if all outdoor areas were occupied at the same time there is the potential for noise and disturbance to occur.

A school would result in a similar noise and disturbance, and this is found to be acceptable near residential occupiers and would result in all the children being outdoors at the same time. Whilst all children would be occupants of the outdoors at the same time, at a school these occurrences would be limited to break and lunchtimes, and to a smaller group during PE sessions. Whereas a nursery could have children outside throughout most of the day, with the children interchangeable through the day. This is likely to be only during daylight hours unless external lighting is added.

Neighbouring occupiers would be used to a certain amount of noise by reason of the historic use of the site for commercial purposes and the proximity to London Road. The most recent commercial use could have attracted customers through the week and weekends, whereas the nursery use would be outside the quieter times restricted to 'office working hours'.

It is unclear in the submission how many children could occupy the outdoor spaces at any one time, however, this is an aspect of the scheme which the nursery would manage. Therefore, subject to further details regarding the use of the outdoor areas and preventing of external lighting enabling outdoor play beyond day light hours it is considered that any adverse noise from children using the outdoor areas could be mitigated. Such a scheme could also include strengthening boundary treatment to reduce the spread of noise.

Pick up and drop off time, particularly in the winter, may occur beyond daylight hours, resulting in a need for external light to provide safe passage between the blocks and the car parking area. This has the potential to result in disturbance to surrounding residential occupiers. However, such lighting could if provided appropriately prevent undue disturbance to neighbouring occupiers. Therefore, subject to the details of any external lighting being submitted and approved no objection is raised.

Building D has the potential to provide occupation of the site during weekends, at quiet periods for residents. The site has been used for commercial purposes for many years, with a garden centre in recent years, which had the potential for multiple people to be occupants on site during the week and at weekends. The proposal however for parties in building D would result in multiple people on site at the same time for an intense and potentially noisier albeit shorter period. The harm arising from amplified noise could be mitigated by sound insulation to the building, and by ensuring that any windows/doors are kept closed when amplified music is used during celebrations and parties. Such measures are considered likely to mitigate any unneighbourly noise and disturbance during the use of the building. Disturbance from this kind of use, together with the use of the main building can also be controlled by an appropriately worded condition restricting the operating hours of the business and different buildings occupying the site.

Noise and disturbance arising from traffic and vehicles attending the site will be considered below in the traffic and parking section.

Concerns have been raised regarding security. The applicant proposes several measures to manage the security of the site, including a gated access from Kents Hill Road, which is only open when the site is operational, remote control secure barrier to the basement and remote control activated secure barrier to London Road, to be open when the site is operational. This along with 1.8m high boundary treatment to all relevant boundaries would ensure adequate security on site, and security to adjacent residential occupiers.

The applicant intends to provide a bell in the central tower, provided this is a visual feature, as confirmed by the applicant, and not used, this element of the proposal would not adversely harm the amenities of surrounding residents by way of noise emissions.

Subject to implementation of the method phasing construction plans and the construction plan contained within the design and access statement, submission and implementation of a noise insulation scheme, the bell is not used, restriction of operating hours and use of the buildings, boundary treatment details and a scheme to manage the use of the outdoor areas the proposal is considered unlikely to result in adverse noise and disturbance, or pollution to the surrounding area under Policies EC3 and EC4.

Parking and Access

Policy T2 requires proposals that result in intensification of the use of an existing access onto classified roads to be supported by a traffic impact study demonstrating the ability of the highway network to accommodate the proposed development. This policy is consistent with paragraph 110 d) of the NPPF which states that it should be any significant impacts from the development on the transport network can be cost effectively mitigated to an acceptable degree.

A transport statement has been submitted. The transport statement considers that for the extra 156 spaces this would generate 32 vehicle trips in the am peak hour (8am – 9am), 38 trips in the pm peak hour (5pm – 6pm) and a total of 160 trips over a 12 hour day (the maximum opening hours). On this basis, a maximum of 38 vehicles would visit the site over one hour. The statement clarifies that as most of these trips would be associated with continuation or return from a workplace, the majority of trips would already be taking place. Therefore, the number of new trips to the vicinity would be lower than suggested above, and the statement concludes that there would not be a significant or material impact on the operation of the road network.

It is the experience of the Local Planning Authority that visits to and from a nursery are generally combined with onward journeys rather than generating additional trips. The conclusion of the statement is therefore not surprising. Furthermore, the Highways Authority have seen the transport statement and require no further information and have not questioned the conclusions, and as such confirm that the proposal is acceptable from a traffic perspective. The proposal is therefore unlikely to result in adverse harm to the surrounding road network by reason of the number of trips associated with the use.

Policy T8 of the current Local Plan requires off-street parking to be provided in accordance with 2009 County Parking Standards, which requires for childcare (Class D1 use) a maximum of 1 vehicle space per full time equivalent staff and drop off/pick up facilities, with each space measuring 2.9m by 5.5m. A minimum of 1 cycle space per four staff plus 1 space per 10 child places. This information is consistent with paragraph 107 of the NPPF which requires local planning authorities to set such standards reflecting local circumstances.

The 2009 standards for childcare are set as maximum parking spaces. Paragraph 108 of the NPPF states that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations well served by public transport. The NPPF is more recent than the parking standards, and it is therefore necessary to consider whether the maximum parking requirement is justified in this case.

The application form states that staff would increase from 12 to 37 full time equivalent. The design and access statement indicates that this would increase from 11 full time and 3 part time to 35-40 staff on site. Considering the full time equivalent this would result in a need for 37 parking spaces

plus drop off/pick up facilities. There are 15 spaces proposed in the basement car park, and it is intended for this to provide staffing parking except for the minibus which is parked at surface level. An additional 15 spaces are provided in the surface level car park for visitors and clients, parents dropping off and picking up, making a total of 30 spaces.

The submission states that there are currently 54 full time spaces for children, but in reality, 96 children currently attend the nursery due to part time hours. The proposal would increase the number of children in all three areas, babies and infants, pre-school and school age. This totals to a maximum of 230 children, an increase of over 176 full time spaces, as specified in the submitted transport statement.

The design and access statement states that due to the nature of children attending, that they never run at 100%, and that accordingly to their software at any given week the average attendance of children is 78% as it is unlikely that you could find two separate children to cover the exact opposite and opposing hours. Furthermore, when you add in holidays and sickness there is a further reduction of 6%. This equates to full time 160 children.

Many of the pre-school children only attend during funded days, which equates to the same as a school year, 38 weeks a year. This equates to around 30% of their preschool children (building B children), children aged 3 -5 years old, results in a reduction in parking demand during the school holiday periods. Following the recent Government budget announcements regarding the extension of funded care, this may increase the number of children which only attend during school hours.

The nursery has undertaken a study with their current clientele and have identified the nature of the existing parking during non-school holiday periods, as the following:

- The average drop-off time from parents arriving in their car or walking to the nursery, to leaving the site is approximately 4 – 5 minutes
- Child collection times are normally around 6-7 minutes.
- There are a percentage of parents who live within walking distance to the setting and choose to walk rather than bring their car. Although there is a slight degree of weather dependency, the average throughout the year of walking parents has been calculated at 10-15% of pre-schoolers with around 5% of all our under 3 year olds parents walking.
- We currently have a percentage of parents at the nursery who have two children attending, within our current clients we have calculated 8% percent of multi-child parents, this does not include our Out of School parents with a child at nursery.

In the experience of the Local Planning Authority the results of the survey are reasonable for the operation of a day nursery.

Each room within the day nursery has different operating, drop off and pick up times. These are set as follows:

- Most infants and babies undertake a full day and tend to be dropped off between the times of 7am and 7.30am. Collection is through the afternoon, starting at 12.30pm until 7pm, broken into 1.30pm, 4pm, 5.30pm, 6pm and 6.30pm. It is likely that there may be a drop off around lunchtime for this room. Nevertheless, this room is relevant to some 68 of the remaining 160 children.
- For pre-school children drop off is either 7.30am, 9.30am or 1.30pm, with collection at either 12:30pm, 4pm, 5:30pm and 6pm. This room is relevant to some 78 of the remaining children. However, many of this age group receive funding, and as such would undertake the pre-school day running from 9:30-4pm.

- For school age children drop off would be between 7am and 8.30am with collection from 4pm until 7pm. This equates to 14 children of the remaining 160 children.

The transport statement considers that for the extra 156 spaces this would generate 32 vehicle trips in the am peak hour (8am – 9am), 38 trips in the pm peak hour (5pm – 6pm) and a total of 160 trips over a 12 hour day (the maximum opening hours). On this basis, a maximum of 38 vehicles would visit the site over one hour. Seeing as most of the trips would be a maximum of 7 minutes in length, it is likely that there would be adequate capacity within the car park to accommodate this number, provided all 38 didn't arrive at the same time.

The previously approved application (14/0723/FUL) established the number of spaces for the current day nursery. At this time 8 spaces were proposed for five full time employees and maximum of 25 children. At the time it was noted that the garden centre was under the same ownership, and therefore the nursery could also utilise the additional 12 spaces associated with the garden centre. Furthermore, the use of such spaces during a limited period of the day would not significantly adversely impact on the operation of the adjoining garden centre.

Since the nursery has been implemented, the numbers in staffing and children have increased, with 54 full time spaces and 12 equivalent full-time members of staff. These benefit from all the existing spaces on site, as the garden centre is now vacant, allowing 20 spaces for this number of staff and drop offs/pick ups. At the site visit, these spaces were underutilised with only 8 vehicles parked. Google imagery confirms that this is the case during the day, in fact shows a maximum of 5 vehicles parked, indicating the existing level of staff parking. However, this does not confirm the level of parking required at peak times by parents. Nevertheless, this supports the applicants verbal claim that most of their current staff do not arrive by car.

The proposal would increase the number of children and staff by up to 290% beyond existing. The number of parking spaces provided would not increase by that level, but it is considered that the number of staff spaces would be adequate looking at current levels. Peak time for drop off/pick up would increase significantly and be reliant on 15 spaces. There would be space on site, for additional vehicles to be stationary waiting for spaces to become available, and as drop off/collection times are so short, spaces are likely to be become available relatively quickly. This would be achieved by one way direction through the visitor car park, with vehicles arriving from London Road and exiting onto Kents Hill Road. Vehicles can also arrive on site from Kents Hill Road.

There is a possibility that Kents Hill Road or London Road could be used for parking on a short-term basis, while children are dropped off/collected. However, these both have double yellow lines in the vicinity of the development site, which would deter visitors to use such areas for drop off/pick up, preventing on street parking to the detriment of the flow of traffic on the highway.

The site is located on London Road and Kents Hill with bus stops being within 50m. These stops benefit from regular bus routes, as set out in the submitted transport statement. This shows that three regular bus routes, and a school service, pass the site every 15-30 minutes depending on the route Monday to Saturdays, and every 30-60 minutes on Sundays. These routes provide access to Southend, Canvey and Basildon.

Furthermore, parents are unlikely to keep their children at the nursery if parking becomes an issue.

The applicant has confirmed that the basement parking is viable, and subject to its implementation prior to occupation, it is considered that this would ensure it is a necessary requirement of the scheme.

The applicant intends to use building D for events that cannot be accommodated within the main building, along with parties at weekends. For events the applicant states that this would accommodate 15 children with a maximum of two parents per child attending. These shows would ideally be timed to not take place during peak drop off or pick up, and therefore the total number of cars expected would be 15 allowing for 1 vehicle per family. Beyond these events, there is a possibility that more children would attend but these activities may require less parents and would not produce more cars/parking requirements.

Events during the daytime are likely to involve children present within the nursery and would attract additional parents. However, this is likely to be away from peak hours, and hence there is likely to be adequate space on site for this parking need. Beyond these events, at parties, it is possible that more cars would attend the site, as whilst car sharing/walking to the venue may take place, parties for a certain age are likely to also attract parents, and these may attend by car. If undertaken, there is capacity on site to provide additional parking, as there would be less staff on site, access could be achieved to the basement car park. Since a solution is possible, it is considered that such scenario could be managed, and subject to conditions for details to be submitted, no objection is raised to the use of the building D.

The number of vehicles coming and going to the site gives rise to concerns regarding increased noise and disturbance. As indicated above, these are likely to peak in the mornings and evenings. The site is situated on London Road and Kents Hill Road, which are both busy roads, particularly during peak times, and as such the site and adjacent residents are likely to already be subjected to noise and disturbance associated with the main roads. Furthermore, all vehicles will be directed through the centre of the site with an entrance from both roadways and exit onto Kents Hill Road. As such, the movements will generally be away from boundaries with neighbours, except for No.347 Kents Hill Road. This residential property is located to the rear of a shop fronting Kents Hill Road which is likely to be subjected to greater noise and disturbance than that exhibited by vehicles coming and going on site. Consequently, by reason of the existing level of noise and disturbance from traffic and the arrangement of the site, the proposal is unlikely to result in a detrimental level of noise and disturbance from traffic noise.

Environmental Health recommends stationary traffic to keep their engines off to minimise disruption to adjacent residents. This is advisable but a condition would be difficult to enforce.

Overall, subject to the provision of parking in accordance with the submitted plans prior to occupation, no unbound materials, the submission and approval of a parking management plan for events to building D, the gate to Kents Hill Road to be open while the site is operational, the security gates to be in place while the site is operational and cycle parking to be provided no objection can be raised to the proposal on parking grounds.

Whilst it is acknowledged that the existing site is within Class E of the Use Classes Order, this permission if approved would facilitate the expansion and enlargement of buildings on the site. If approved, this could mean at some point in the future that the use of the buildings could change, without the need for consent, to any other use within Class E. With the enlargement and improvement of facilities on the site this has the potential to introduce additional traffic or noise not considered in this report or the supporting documents accompanying this application. It is therefore considered reasonable and necessary to implement a condition restricting the use of the buildings on the site to the care of children and ancillary activities in order to protect the residential amenities of neighbouring residents and the free flow of traffic on the adjacent highways.

Other matters

Policy EC22 states that existing trees, hedgerows and woods shall be retained wherever possible, and where development takes place, loss of existing tree cover and hedgerows shall be kept to a minimum. This policy is considered consistent with paragraph 180 of the NPPF.

There are no significant trees or hedgerows of note within the confines of the site. There are trees beyond the site, however, for example within the rear garden of dwellings fronting Gifford Road. The impact of the proposal upon this tree is unknown. The basement is located away from this tree; however, a single storey building is within close proximity. It is considered that the impacts to this tree could be mitigated with appropriate measures in place. Therefore, subject to the submission of further details regarding the impact and any potential mitigation measures, it is considered that this tree is unlikely to be adversely affected.

Anglian Water have raised concerns regarding surface water and foul water drainage, and subject to the submission of details this matter would be adequately managed and ensure that the creation of the basement would not result in increased surface water flooding to the area.

Conclusion

The application is presented to committee as a departure from the Local Plan in force, as the site is allocated for residential development. The residential use on site, granted by the implemented 2016 application, has not commenced. The occupancy of the flat would be restricted under Ofsted requirements as the rest of the building is used as a day nursery reducing the opportunity to create the upper floor flat. The site has historically been used for commercial purposes. Consequently, there is no loss of residential use.

The proposal would further develop the rest of the site for use as a day nursery but would not result in a loss of the potential residential site. The site has historically been used commercially. The proposal would provide additional childcare facilities to which there is a demonstrable need. The proposal would not result in loss of residential development and there is demand for early years childcare provision. A departure from the adopted Local Plan is therefore justified.

The design of the proposal is acceptable.

The proposal would mitigate the impact upon adjacent residents, and this can be ensured with the use of conditions.

The proposal is therefore recommended for approval subject to conditions.

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**

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

REASON: For the avoidance of doubt and in order to achieve satisfactory development of the site.

- 3 Prior to the commencement of construction above natural ground level details of a scheme of sound insulation shall be submitted to and approved by the Local Planning Authority. The scheme shall include measures to mitigate noise within all the buildings hereby approved and measures for minimising noise disturbance during parties in building D. Once approved the scheme shall be implemented in its entirety prior to occupation.

REASON: To minimise any noise and disturbance arising from the use of the buildings upon adjacent residential occupiers.

- 4 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), buildings A, B, C and D shall only be used for the care of children or related ancillary purposes, with the exception of building D which may also be used for hosting events and parties during prescribed operating times.

Reason: To protect the amenity of neighbouring residents and, in the interest of free flow of traffic and highway safety.

- 5 The development hereby permitted shall be demolished and constructed in accordance with the construction plan contained within the Planning Design and Access Statement dated Aug 2022 and proposed site construction plans drawing number 1686-CP-A received on 13th February 2023 to which there shall be no departure unless first agreed in writing by the Local Planning Authority.

REASON: To ensure the demolition and construction works on site are undertaken appropriately to mitigate the impact upon nearby residents and the highway.

- 6 The use of Buildings A, B, C and D shall only be permitted to operate for the care of children between the hours of 07:00-19:30 on weekdays and at no other times except for Building D, the use of which shall also be permitted between the hours of 09:00-18:00 on weekends and bank holidays. The buildings shall be used at no other times whatsoever without the prior consent in writing of the Local Planning Authority.

REASON: In order to protect the residential amenities afforded to occupants of nearby residential properties.

- 7 The external surfaces of the development hereby approved shall be treated in accordance with the details specified on the application form received on 8th December 2022 read in conjunction with the approved plan numbers 1686/A/004/H received on 14th February 2023, 1686/D/001/F received on 13th February 2023 and 1686/C/001/D received on 22nd September 2022, to which there shall be no departure without the approval of the Local Planning Authority.

REASON: In the interest of visual amenity.

- 8 The flat roofed single storey projection to building B as shown on approved plan number 1686-S3-H received on 14th March 2023 shall not at any time be used as a balcony or terrace without the approval of the Local Planning Authority and shall only be accessed for the purposes of maintenance.

REASON: In the interests of protecting the privacy of the adjacent residential occupier and preventing the accumulation of unattractive clutter to the detriment of visual amenity.

- 9 Prior to the first use of the rear balcony to building B hereby approved 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/terrace shall be erected to the entire western edge, a minimum of 1.1m from the western edge of the flat roof as shown on approved drawing numbers 1686-S3-H received on 14th March 2023 and 1686/A/002/F received on 13th February 2023. Once installed the screen shall be permanently retained as such thereafter.

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

- 10 Prior to the first use of the rear balcony to building A hereby approved 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 to the entire eastern edge along with the screening 1.8m high obscure glazed screening to at least level 3 on the Pilkington Scale in the positions shown on approved drawing 1686/A/002/F received on 13th February 2023 and 1686-S3-H received on 14th March 2023. Once installed the screens shall be permanently retained as such thereafter.

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

- 11 Prior to first occupation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. Once approved the external lighting shall be implemented in its entirety.

REASON: To ensure safe and convenient access to all buildings during non day light hours and minimise light disturbance to nearby residential occupiers.

- 12 Prior to the first occupation of the development hereby permitted a scheme shall be submitted to and approved by the local planning authority outlining the management of the use of the rear balconies and the outdoor play areas. Such details shall include limiting use of these areas to day light hours, the periods of time in use, the number of children using these areas at any one time and any appropriate measures to minimise noise. Once approved the details shall be implemented in their entirety prior to first occupation.

REASON: To minimise any noise and disturbance upon adjacent residential occupiers when the children are occupying the outdoor areas in the interests of protecting their amenity.

- 13 The bell contained within the bell tower shall be used as a decorative feature only and shall never be used as a noise producing bell.

REASON: To minimise any noise and disturbance upon adjacent residential occupiers in the interests of protecting their amenity.

- 14 Prior to the first occupation of the development hereby approved, a scheme of boundary treatment shall be submitted to and approved in writing by the Local Planning Authority. Once approved the treatment shall be installed prior to first occupation.

REASON: To safeguard the privacy, security and amenities of adjoining residential properties.

- 15 Prior to the first occupation of building D of the development hereby permitted for parties and other celebrations a scheme for the management of such events shall be submitted to and approved by the Local Planning Authority. This scheme shall include measures to

minimise the impact on adjacent residents and a scheme to manage the parking for such events. Once approved the scheme shall be implemented in its entirety during each and every event in building D.

REASON: To mitigate the impact of external events upon the amenity of adjacent residential occupiers.

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

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

- 17 Prior to first occupation of the development hereby approved, the surface level vehicle parking areas as shown on approved drawing number 1686-S2-J received on 14th March 2023, including the parking spaces for the mobility impaired, and the minibus space shall be hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning areas shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 18 Prior to first occupation of the development hereby approved, the basement level parking areas as shown on approved drawing number 1686-S1-G. received on 13th February 2023, shall be hard surfaced, sealed and marked out in parking bays. The vehicle parking areas and associated turning areas shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed in writing with the Local Planning Authority.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety.

- 19 Prior to first occupation of the development hereby permitted, the cycle parking shall be provided in its entirety in accordance with approved drawing number 1686-S1-G received on 13th February 2023, and retained for the parking cycles only.

REASON: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.

- 20 All vehicular access gates shall be permanently set a minimum distance of 6m from the highway boundary of London Road.

REASON: To ensure that any vehicle may be left standing clear of the highway whilst the gate is opened and closed, in the interests of highway safety.

- 21 Prior to occupation, secure gates, automatic or manual, shall be installed and permanently retained in order to prevent the site being used as a cut through from Kents Hill Road to London Road, and vice versa.

REASON: In the interests of the safety of occupants of the site and highway safety.

- 22 The sliding gate to the Kents Hill Road access as shown on approved drawing number 1686-S2-J received on 14th March 2023 shall be open at all times the site is open for business.

REASON: In order to ensure during operation that the sliding gate to Kents Hill Road is open to prevent vehicles overhanging and blocking the highway to Kents Hill Road in the interests of highway safety.

- 23 No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas are to be constructed until the works have been carried out in accordance with the surface water strategy hereby approved unless otherwise agreed in writing by the Local Planning Authority.

REASON To prevent environmental and amenity problems arising from flooding.

- 24 Prior to the construction above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

REASON: To prevent environmental and amenity problems arising from flooding.

- 25 Prior to first construction of building D hereby approved as shown on approved plans 1686-S2-J received on 14th March 2023, a tree assessment shall be undertaken and if necessary mitigation measures to minimise the impact of construction upon the tree to the rear of No.15 Gifford Road, both of which shall be submitted to and approved by the Local Planning Authority prior to first construction of building D. If mitigation measures are needed these shall be implemented in their entirety during the construction of building D.

REASON: To ensure the retention of the mature tree in the adjoining land during the construction of building D in the interests of visual amenity and maintaining habitat.

- 26 Any unforeseen ground contamination encountered during the demolition and construction of the development, shall be notified to the Local Planning Authority as soon as is practicable, and works stopped. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority as soon as possible as the ground contamination has been encountered. Once approved, the approved strategy shall be implemented in full prior to the continuation of works on site. Following remediation and prior to the occupation of any building, a completion/verification report, confirming the remediation has being carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and negotiating acceptable amendments to address those concerns. As a result, the Local Planning

Authority has been able to grant planning permission for a revised scheme, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 The following informatives have been requested by Anglian Water:

- Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
- Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
- The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

3 The following informatives have been requested by Essex County Highways:

- The proposals include a 'no stopping/keep clear' hatching on the carriageway, adjacent to the access on Kents Hill Road, this will require an application to the Highway Authority for a Traffic Regulation Order and there is no guarantee that the order will be successful.
- Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway.
- The applicant should be made aware of the potential relocation of the utility apparatus in the highway; any relocation shall be fully at the applicant's expense.
- Note - MUD / DEBRIS ON HIGHWAY Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway.
- All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works.
- The applicants should be advised to contact the Development Management Team by email at development.management@essexhighways.org

ITEM 5

Application Number:	22/0854/FUL
Address:	102 - 106 High Street, Canvey Island, Essex, SS8 7SH (Canvey Island South Ward)
Description of Development:	Change of use from Class E units to residential (Class C3) to create 2 No flats with first floor extension, landscaping works and material and fenestration alterations (part retrospective application)
Applicant:	GUTE Limited
Case Officer:	Mrs Sophie Adams
Expiry Date:	01.02.2023

Summary

The application seeks planning permission to change the use of the existing Class E units to 2 two bedroomed dwellings with first floor side extension.

The tilted balance under paragraph 11 of the NPPF is applicable as the Council is unable to demonstrate a five-year housing supply. The weight attached to the need for housing is considered to outweigh the harm arising from the loss of the commercial units. However, this does not outweigh the significant harm arising from the poor level of amenity likely for future occupants, inadequate parking provision, inadequate internal bedroom areas for unit 01 and poor design due to the detailing of the design. If approved, the proposal would be unlikely to meet the needs of the development, would fail to achieve high standards of amenity for the prospective occupiers and harm the appearance of the host building.

The proposal is therefore recommended for REFUSAL.

The application is presented to committee as the site is allocated for shopping and the proposal is a departure from the adopted local plan in force.

Site Visit

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

Introduction

The application site is located on the corner where May Avenue meets High Street. It has a frontage to High Street of some 27m, and a maximum depth of 27.5m, with a frontage of some 28m to May Avenue. The site is occupied by a detached building which comprises of single storey and two storey parts. At ground floor there are three vacant commercial units. Prior to vacancy Nos. 102 and No.104 were a haberdashery shop with No.106 an accountancy firm. The ground floor has a one and half storey height, allowing the rear of the building to provide a lower ground 'basement' and an upper ground one bedroomed flat. Three additional one bedroomed flats are provided at first floor level.

A further residential unit is provided to the rear, which has had extensive works, and is in the process of being replaced with a new dwelling. A separate application has been submitted for the works to this rear dwelling (22/0705/FUL). A parking area is provided to the rear of the site accessed from May Avenue.

To High Street there is a predominance of two storey buildings, with the odd single storey and three storey building. In the immediate vicinity many of these buildings provide commercial to ground floor level and residential to first/second floor levels.

May Avenue is a suburban residential street consisting of single storey and two storey detached and semi-detached dwellinghouses.

The Proposal

The applicant seeks planning permission for the construction of first floor side extension and change of use of the Class E units to residential (Class C3) to create two flats with landscaping works, material, and fenestration alterations. The application is part retrospective.

The first floor extension measures some 8.0m wide, 7.3m deep and 7.0m. The dwellings would be maisonettes spread across two floors, with open plan living/dining/kitchen, bedroom and bathroom at ground level and a second bedroom with ensuite at first floor level. The eastern unit (02) has an external area to the rear at ground floor level.

Hard and soft landscaping with boundary treatment is proposed to the corner of the site, and the front of the residential units. Cycle parking is proposed in the basement and to the side of the building. Refuse and recycling storage is proposed to the basement.

Supplementary Documentation

The following supporting documents have been submitted to support this planning application:

- o Design and Access Statement
- o Flood Risk Assessment and Flood Evacuation Plan
- o Structural Calculations

Planning History

In November 2011 an application for change of use from Class E units to residential (Class C3) to create 3 No. additional flats including internal changes to ground floor existing flat and renovation and landscaping works to the exterior of the existing building including material and fenestration alterations (21/0687/FUL) was withdrawn.

In November 2022 planning permission was sought to extend and alter the existing rear flat including raising of the roof to create a new two storey residential property (part retrospective) (22/0705/FUL). This application is currently pending consideration.

Local Plan Allocation

This site is allocated for shopping purposes as part of Canvey Island Town Centre on the proposals map to the adopted Local Plan (1998)

Relevant Policies and Government Guidance

NPPF National Planning Policy Framework (2021)

PPG Planning Practice Guidance

Housing: optional technical standards

Adopted Local Plan (1998)

EC2	Design
EC3	Amenity
EC4	Pollution
H9	Housing densities

H10	Mix of development
H11	Accessible and wheelchair housing
S4	Non-retail development
T8	Parking Standards

Residential Design Guidance (2013)

RDG2	Space around dwellings
RDG3	Building lines
RDG4	Corner plots
RDG5	Privacy and living conditions
RDG6	Amenity space
RDG7	Roof development
RDG8	Detailing
RDG10	Enclosure and boundary treatment
RDG12	Parking and access
RDG13	Refuse and recycling storage
RDG16	Liveable Homes

DCLG Technical Housing Standards (March 2015)

Essex Vehicle Parking Standards (2009)

Recreational Disturbance Avoidance and Mitigation Strategy (2020)

South Essex Economic Development Needs Assessment (2017)

South Essex Retail and Leisure Study (November 2017)

South Essex Strategic Flood Risk Assessment (April 2018)

South Essex Strategic Housing Market Assessment (SHMA, 2016)

Addendum to the South Essex Strategic Housing Market Assessment for Castle Point (June 2020)

Consultation

Canvey Island Town Council

No response received

Environment Agency

No objection

Essex Highways

A reduced car parking standard has been applied. In transport terms the site is considered to be in a sustainable location with good access to frequent and extensive public transport, as well as Canvey's facilities and car parks, therefore acceptable subject to conditions.

Legal Services

The submitted unilateral agreement will be acceptable.

Public Consultation

No response received to the neighbour notification letters, press notice and posted site notice.

Comments on Consultation Responses

The conditions recommended by Essex Highways will be discussed in the report.

Evaluation of Proposal

The starting point for determining a planning application is the National Planning Policy Framework (NPPF, 2021) and those saved policies within the council's Adopted Local Plan (1998), alongside supporting policy documents and supplementary planning documents (SPDs).

The policies and supplementary planning documents are set out in the Policy section above. The submitted design and access statement refers to additional policy documents, such as the Castle Point Council Local Development Framework, London Plan, Residential Extensions and Alterations SPD and the revised parking standards adopted in 2017. These policies and SPDs referred to by the applicant are not applicable to the proposal, as they do not relate to the area and/or have not been created and formally adopted by the Council.

The main issues for consideration are the principle of the proposed residential development, flood risk, the design and layout of the scheme, the impact on surrounding residential properties, impact upon future occupants, parking and whether the development complies with the recreational disturbance avoidance and mitigation strategy.

Principle

The site is allocated for shopping purposes in the adopted Local Plan and is located within the Canvey Island town centre outside of the primary shopping frontage.

Policy S4 of the adopted Local Plan refers to applications for non-retail development and seeks to retain town centre uses (Classes A2, A3, A4, A5, B1, D1 and D2 of the Town and Country Planning (Use Class) Order (The Order) 1987, or any subsequent amendment of that order, will be permitted within town centres, outside of primary shopping frontages, subject to any other relevant policies in the Local Plan. Whilst these use classes have been superseded by amendments to The Order, changing to Class E, the intent remains the same, that applications for development in town centres should include town centre appropriate uses.

This policy is considered generally consistent with paragraph 86 of the NPPF although section f) of this paragraph states that planning policies should recognise that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

Furthermore, paragraph 123 of the NPPF states that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

- ☐ use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework.

The proposal seeks to provide a purely residential development on the site which would, *prima facie*, appear inconsistent with the Local Plan allocation. This is, however, consistent with the NPPF, as there is a high housing demand, as according to the latest Annual Monitoring Report (1st April 2022) the five year housing supply position currently sits at 1.86 years, if it does not undermine key economic sectors or sites or the vitality and viability of town centres.

The commercial properties on site are vacant, and the design and access statement states these have been vacant since 2019. Prior to this date it was occupied by a haberdashery and small accountancy firm. It is understood that the valuation office is currently removing these premises

from business rating. No evidence has been submitted to confirm that the units are unviable for other small businesses.

The submitted Design and Access Statement states that it is on the edge of the Canvey Island Town Centre Masterplan 2010 and is not regarded as key commercial space due to its geographic location. It further states that the site is on the boundary of the masterplan outline extremity so sits more at home in the immediate residential scale and character of May Avenue. Change of use to residential is not seen to be detrimental to the commercial offerings along High Street, whilst the need for residential units is in high demand on Canvey Island.

The site is located on the edge of the Masterplan and the elements of focus of the Masterplan is on Furtherwick Road, Foksville Road and the beginning of the High Street to the west of the site. Since there are no elements of the Masterplan focused onto the site or its adjacent sites, it is considered that the proposal is unlikely to conflict with the Canvey Town Centre Masterplan.

The Retail and Leisure Study (2017) provides detail for the borough and shows that market indicators for Canvey Island suggest that there is limited operator demand for space in the centre and a number of poor quality retail units appear to have been vacant for a long period of time. There is no quantitative comparison need in Castle Point; this is due to limited growth in available spending because of the borough's low level of retention which is more than absorbed by the comparison commitment at Canvey Island. Similarly, there is no convenience need identified. However, if this changes and additional population growth is planned in the borough, there may be additional quantitative justification. While the centre is performing adequately and plays a role in meeting some of the convenience, comparison and service needs of borough residents, there is scope for improvement, particularly in qualitative terms if a greater proportion of expenditure is to be retained. In convenience terms, while there is no overall capacity identified, any enhancement to in-centre provision in Canvey Island should be supported in order to attract expenditure back into the town centre. While there is no need identified as part of the Study it does not justify the loss of the commercial units.

The policy also refers to B1 use, an office use. The most recent assessment is the South Essex Economic Development Needs Assessment (2017) and this relates to the boroughs needs for office development. The Assessment also specifies specific growth areas for economic development and does not include Canvey Island high street as a growth area for industrial or office accommodation. Considering the assessment, the loss of the ability of the site to provide small offices is not considered significant to the growth needs of the borough.

The proposal would result in the loss of commercial units. The site is located a significant distance from the primary shopping frontage and on the edge of the masterplan for Canvey Island Town Centre and has no specific proposals from that masterplan. There is no identified need for additional small offices, retail or leisure uses, however, this does not justify the loss of the units. Whilst vacant and applied to be removed from business rates, it is unclear whether such units have been marketed for commercial development. Whilst residential development would use nearby services and would in part add to the vitality of the Town Centre some harm could occur by creating a commercial gap in the town centre to the southern side of the High Street and therefore moderate weight is attached to the loss of the units.

The proposal would provide 2 two bedroomed properties, due to the scale of the development, the Local Planning Authority would not expect a mix in property size and the property size proposed would meet an identified need for two bedrooms as set out in the Strategic Housing Market Assessment (2016) and Addendum (2017). No objection is therefore raised to the proposal under Policy H10.

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 119 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.

Flood Risk

Government guidance as contained in the NPPF requires all proposals for new dwelling in areas at risk of flooding to be accompanied by a site-specific Flood Risk Assessment (FRA) in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood. The proposal is also required to pass the sequential and exception tests as set out in Paragraph 161 of the NPPF as well as the 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. It is an established principle that for dwellings to serve the community of Canvey Island they must be located within or near that settlement, which is located entirely within Flood Zone 3. It is not considered that there are any reasonably available alternative sites within the local area with a lower probability of flooding that could accommodate the proposed development and serve Canvey Island. Under these circumstances, the sequential test for this proposal is passed.

Having passed the sequential test, the proposal must then pass the exception test. Details regarding the exception test are detailed within paragraphs 163-165 of the NPPF. This has two elements which are detailed in paragraph 164, both of which need to be passed for the development to be permitted:

- The development would provide wider sustainability to the community that outweigh the flood risks; and
- The development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

In respect of the first criterion, it is considered that continued development is necessary in order to ensure the future vitality of the settlement of Canvey Island. This criterion is therefore considered to be passed.

In respect of the second criterion, this requires the submission of a site-specific FRA.

The supplied FRA dated July 2022 identifies the tidal flood risk at the site from the Thames Estuary as low, however in the event of a breach in the defences the risk is high. Looking at the breach modelling within the Strategic Flood Risk Assessment (2018) during a 1 in 1000-year event depths of up to 1m during a breach event, this is increased to 1.384m based on calculations completed to represent the latest climate change allowances. The Environment Agency has not objected to these figures and confirmed the key points for consideration.

The finished floor levels have been provided and show the first floor can provide safe refuge above the 1 in 1000 year plus climate change breach event. Provided that the response of occupiers to a flood warning being issued or flooding occurring is acceptably managed through a suitable flood warning and response plan, there is no objection to the proposal on tidal flood risk grounds.

There is low risk from pluvial flooding, reservoirs, groundwater and sewers. The risk of flood risk elsewhere is specified as negligible in the FRA.

Following the flooding that occurred on Canvey Island in July 2014, the Environment Agency, Anglian Water and Essex County Council jointly produced an Integrated Urban Drainage (IUD) model to establish a common understanding of the condition and ownership of the drainage infrastructure across Canvey Island.

Assuming a worst-case scenario, whereby modelled pluvial depths on the site were to exceed the height of the finished ground floor level, the first floor would be capable of providing a safe refuge from this flood water. Provided a robust flood response plan is in place, it is not considered that pluvial flood risk is an impediment to the development of this site.

The proposal is unlikely to increase the level of surface water flooding, as it would not create any additional impermeable surfaces, in fact it would increase the number of permeable areas with the creation of soft landscaped areas to the side and front of the building.

A flood risk evacuation plan is included in the FRA. This specifies items needed in a flood event and the potential route to the nearest emergency rest centre. Evacuation is only recommended if sufficient warning, such as flooding overtopping the defences. However, it does state that there are some instances where rapid inundation, such as during a defence breach, temporary safe refuge should be sought on site. Since the risk of flooding from a breach in defence is high and time to inundation is within 1 – 4 hours, it is considered that seeking refuge on the upper floor should be the focus of the flood response plan, with evacuation in these circumstances only at the request of emergency services. Whilst seeking refuge is mentioned, this is not clear enough in the flood risk evacuation plan, and on this basis, it is considered that the submitted plan would not be clear enough in a flood event for the prospective occupiers. However, despite this a further flood response plan could be provided via conditions to any approval granted.

The National Planning Practice Guidance states at paragraph: 005 Reference ID: 7-005-20220825 that when assessing the safety implications, the type and source of flooding and frequency, depth, velocity, speed of onset and duration, safety of people within a building, structure safety of buildings and impact on essential services.

Safety of people within the building would be covered by the flood response plan required by condition above. In respect of the structure safety of building and considering the velocity upon the building these are commonly known as hydrostatic and hydrodynamic pressures. It is imperative to ensure that the building is structurally sound and safe for occupants, were a flood to occur. Details have been provided for works to be undertaken to the existing and new cavity walls to ensure that the properties can withstand a 1.3m flood level. This level is marginally below the 1 in 1000 year plus climate change event, and it is unclear whether the buildings would be able to withstand the additional pressures of wave action, which would increase the height by a further ~0.3m. On this basis it is considered that the submitted information does not provide adequate assurances. However, a condition could require the additional details to be submitted to achieve those assurances on the structural safety of the building.

The applicant is encouraged to use flood resistant or resilient measures in the construction of the dwellings.

Subject to conditions for the submission of a clearer flood response plan and assurances that the measures to the building would be able to withstand the pressures, including wave action, during a 1 in 1000-year event plus climate change the proposal is considered to have passed the exception test.

Design and Layout

Policy EC2 of the council's Adopted Local Plan seeks a high standard of design in all developments. In particular, regard is to be given to the scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting, and which should not harm the character of its surroundings. This is consistent with paragraphs 126 and 130 of the NPPF.

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.

The proposal would not change the level of space around the building, but would increase the height, resulting in a two storey building tight to the eastern boundary. This is not an unusual feature of town centres, and can be found to one side, like the proposal to Nos.90C, 98 and 100 High Street, and the terrace opposite. In these cases, the two-storey unit is attached to another two storey property, with the exception of No.90C. This property forms part of a two storey block with No.90a, adjacent to a single storey detached building set off the boundary, and which to its other side provides generous isolation. The proposal sits next to a single storey structure which provides fencing to the car sales and repairs use where no isolation is provided, with generous isolation to the corner, the other side of the applicant building. As this relationship is not too dissimilar to others visible in this part of the town centre, it is considered that the level of visual harm arising from the increased height and lack of isolation would be minimal. Furthermore, the NPPF requires planning authorities to make the best use of available brownfield land, to minimise the need for releasing Green Belt land, where this can be achieved with no significant adverse consequences for the surrounding area.

No objection can therefore be raised under RDG2.

The proposal would not affect the building line to May Avenue or High Street, and no objection is raised from a building line perspective under RDG3. Furthermore, whilst the application site is located on a corner plot, the building works would be located away from the corner, and hence would not contravene RDG4.

RDG7 is concerned with roof design and requires the roof design of any development to be compatible primarily with the building it serves, but also the prevailing character of the area.

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

The proposal seeks to provide 2 two bedroomed maisonettes in the existing building and the proposed first floor extension. The works would be flat roofed and two storey, at a lower height to the main portion of the existing building. This provides some interest to the front elevation; however, the flat roof is an unattractive feature. Nevertheless, the roof design represents the design of the host building.

Whilst the host building is not the best example of design, the detailing of the existing design in respect of general window design and materials is acceptable as provides a good balance and rhythm to the window layout. The proposed window positions however do not align with the upper floor windows, and this provides an unsatisfactory appearance to the front elevation. Whilst there is a little misalignment between the existing first and ground floor windows to the front elevation, the design of the existing building achieves a satisfactory appearance by reason of the regular rhythm and placement of the upper floor windows. This is not achieved in the proposed front elevation, as the rhythm and regularity are not maintained at first floor level with the proposal. This

results in a building where the design is likely to be worsened by the proposal. The proposal would therefore fail to achieve the high standards of design required by Policy EC2, RDG8 and paragraph 126 of the NPPF.

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.

Refuse and recycling storage is proposed in the lower ground basement. Whilst part of this area would also be used for bicycle parking, there is adequate space to allow the refuse and recycling to be stored separately and removed independently of each other. No objection is therefore raised to the proposal under RDG13, subject to its provision in accordance with the submitted plans.

Impact on adjacent residents

The nearest adjacent site with residential occupiers is to the south of the site, and this is too remote to be adversely affected by overshadowing, dominance or overlooking, and no objection is raised to proposal under RDG3 and RDG5 in respect of those concerns.

Policy EC3 of the current Local Plan states that 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. This policy is considered consistent with paragraph 185 of the NPPF.

There is adequate space on site to accommodate construction vehicles and associated storage during construction, and as such there is considered no requirement for the submission of a construction management plan. Adverse harm is therefore unlikely to occur to adjacent residents under Policy EC3.

Impact internally

Turning to overlooking and privacy of the future occupants of the development under RDG5. RDG5 also considers that all new dwellings should be provided with windows to ensure adequate natural light and ventilation to the rooms they serve in the interests of achieving satisfactory living conditions for the occupants.

The proposed eastern maisonette (unit 02) would overlook the rear residential unit partly removed and under construction to be extended and altered under pending application 22/0705/FUL. This proposal includes a private amenity space to the rear, which is 6.7m from the proposed first floor rear windows to unit 02. Whilst below the required 9m, the proposed works to raise the roof of the rear unit, would obscure views of the amenity space. Therefore, the likelihood of overlooking occurring is reduced as the building would direct views away. Consequently, this is unlikely to result in a sustainable objection to the scheme.

The proposed western dwelling (unit 01) would be reliant on windows to the front elevation only. These are of adequate size to ensure that the rooms, a maximum of 6.4m deep, would achieve adequate natural light and ventilation. Unit 02 has front and rear windows. The rear ground floor window would be located a minimum of 1.5m from the boundary treatment, and this is likely to affect the natural light and outlook for this rear window. However, by reason of the front windows size and the depth of the room, the internal living spaces are living to achieve adequate natural light and ventilation.

RDG6 requires appropriate amounts of amenity space to be provided, in proportion with the size of the dwelling(s). For buildings containing flats, 8m² of amenity space should be provided per habitable room, or for dwellings 15m² per habitable room.

The properties have two floors and would be used in a similar manner to a single dwelling house, so a requirement of 60m² per maisonette. The proposal would provide landscaped areas to the front of both units, to the corner and the rear of unit 02.

The rear of unit 02 would be private, however provides only 8m² and between 1.2m and 1.8m deep, so it is unlikely to provide meaningful amenity space, particularly as this tight area would be surrounded by buildings or high level screening.

The other parts of the amenity space would face the highway of May Avenue or High Street and have a combined area of some 120m². The applicant proposes low level brickwork and planted screens to the highway boundary to achieve privacy. However, the planted screen is unlikely to provide the privacy required to make these areas useable as private amenity space. Furthermore, it would be difficult to ensure such screening was retained in perpetuity. Alternatively, high level impermeable boundary treatment could be provided, and this would achieve the required privacy to make these areas useable. However, such boundary treatment in this location would be overly dominant and visually detrimental to the open character of the application site contrary to the provisions of RDG10 which requires means of enclosure not to dominate the public realm and in case of the front areas would adversely affect the outlook and natural light to the proposed units under RDG5. It is therefore considered that there is no meaningful private amenity areas on site that can be used towards the amenity provision of RDG6.

A reduction in amenity space may be appropriate where safe and convenient access to high quality public open space. King George V Playing Field is located around 400m from the site. This could provide some outdoor needs. However, as the residential units would provide two bedrooms, which could accommodate a small family, it is unlikely to provide for the needs of such occupiers. For example, a family would require their private amenity space to provide a range of functions such as sitting out, drying washing, gardening, space for refuse and recycling storage, storage of bulky items, and space for children to play under the supervision of adults within the curtilage, among other needs. Such functions could not be undertaken within public open space, and therefore access to public open space does not justify no meaningful private amenity space. It is considered that the proposed space is inadequate to cater for the outdoor needs of the likely occupiers of the application site and quantum of habitable accommodation proposed. The properties therefore lack the space on site to provide a high standard of amenity for existing and future occupiers.

Such an approach has also been supported at appeal (APP/M1520/W/20/3257360 – 20/0185/FUL and APP/M1520/W/19/3220691 – 18/0921/FUL).

The proposal does not meet the guidance to provide sufficient private amenity space for the quantum of habitable accommodation provided on site resulting in a poor standard of amenity for future users. This stance is supported by paragraph 130 (f) of the NPPF which states that developments should create places with a high standard of amenity for existing and future users. Furthermore, it is considered that the significant shortfall in amenity space provision cannot be justified through safe and convenient access to high quality public open space. An objection to the proposal on this basis is raised accordingly.

Policy EC4 states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air, or by reason of noise, dust, vibration, light or heat, will be refused. This policy is considered consistent with paragraph 174 e) of the NPPF.

The proposed maisonettes are located adjacent to a car showroom which also undertakes repairs and MOTs to cars which is a potentially noisy use to the occupiers of the proposed dwellings. According to the times displayed online, this is open between 08:00 and 17:00 Monday to Friday,

08:00 to 12:00 on Saturdays, which does not tend to extend into the quiet periods expected by the dwellers of the units. Furthermore, there are no registered noise complaints from the existing occupiers of the site of the adjacent use causing disturbance. The adjacent use is therefore unlikely to adversely affect the residential amenity of future occupiers of the application.

RDG16 is concerned with the provision of 'Liveable Homes' and seeks to ensure the provision of appropriate internal and circulation space, reflecting best practice. It is stated that all new dwellings should meet the existing and future needs of occupiers over their lifetime without the need for extensive alteration or adaptation.

Paragraph 130 f) of the NPPF identifies that planning decisions should seek to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁹. Footnote 49 states that planning polices should make use of the Government's optional technical standards for accessible and adaptable housing, and national nationally described space standard, where the need for an internal space standard can be justified.

The Planning Practice Guidance (PPG) in paragraph 002 Reference ID: 56-002-20160519 states that the optional technical housing standards allow planning authorities to set additional technical requirements exceeding the minimum standards required by Building Regulations in respect of access and water, and an optional nationally described space standard.

The PPG states in paragraph 018 Reference ID: 56-018-20150327 that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan to the nationally described space standard.

The council has not set additional technical requirements beyond the Building Regulations. The local plan is out of date and does not refer to the nationally described space standard. However, these standards provide best practice, and is consistent with the NPPF, and therefore considered appropriate.

	Gross internal area (m ²)		Storage (m ²)		1 st bedroom		2 nd bedroom	
	Required	Provided	Required	Provided	Required	Provided	Required	Provided
01 2b 4p	79	79.5	2	5	11.5m ² 2.75m wide	11.1m ² 3.3m wide	11.5m ² 2.55m wide	10.8m ² 3.0m wide
02 2b 3p	70	71.2	2	2	11.5m ² 2.75m wide	18.9m ² 3.3m wide	7.5m ² 2.15m wide	7.6m ² 2.4m wide

The proposal would comply with all space standards except for the floor areas of the double bedrooms for unit 01 which is deficient by 0.4m² for the ground floor bedroom and 0.7m² from the first floor bedroom.

The technical housing standards represent a rigid national framework which should be abided by in the interests of high-quality standards of design and internal living conditions and is the minimum requirement where all attempts should be made to exceed this requirement. As such, this proposal fails to meet the requirements of RDG16, and this shortfall represents an objection to the proposal for failing to comply with these standards.

Parking

Policy T8 of the Local Plan requires the provision of car parking in accordance with adopted standards. This is consistent with paragraph 107 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 requires one vehicle space per one

bedroom dwelling and two vehicle spaces per dwelling with two or more bedrooms. Plus, a visitor space at a rate of 0.25 per dwelling.

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

The proposal would increase the number of residential units on site to seven;

- Four one-bedroom flats in the existing two storey building
- One flat to the rear (being extended and altered under the pending 2022 application). The existing layout shows one bedroom and a separate study, and hence could be used as two bedrooms
- The proposed two two-bedroom maisonettes.

This results in a need for 10 parking spaces for the residential units on site and two visitor parking spaces.

The proposal would reduce the number of parking spaces on site from six to five, and this equates to 1 space per existing flat and no spaces for the proposed maisonettes. This change is to accommodate the amenity area proposed in the other pending application for the rear residential unit (22/0705/FUL). Nevertheless even, if the parking on site was retained at six spaces, there would still be inadequate parking to achieve 1 space per existing as well as the proposed maisonettes.

Within Town Centres, with good access to public transport and local facilities, the Planning Authority has adopted a flexible approach to parking provision. The application site is within a main urban area with access to regular buses, and other facilities, and this stance is supported by the Highways Authority. Therefore, a reduction in parking spaces may be considered appropriate. However, this does not justify a provision of no parking for two units.

Cycling parking is proposed for seven bicycles however this does not justify the significant reduction in parking, particularly as this provides the bare minimum required for the site under the adopted parking standards and some of the spaces are not covered either.

Two motorbike spaces are proposed; however, it would be unreasonable to expect the occupiers to rely on motorbikes, and hence this does not justify the significant reduction in parking.

The proposal would change the use of the site. The site currently provides six parking spaces for five flats (requiring six spaces) and three commercial units (requiring seven parking spaces based on the most recent occupancy of the units). The existing parking requirement under the Standards is therefore 13 parking spaces and two visitor parking spaces. Parking for commercial units is expressed as maximums, as these are a destination, rather than the starting point. Furthermore, it is acknowledged that a lower provision may be appropriate in urban areas where is good access to alternative forms of transport and existing car parking facilities.

Layby parking is provided opposite the site, which would have provided for customers to the commercial units on site, alongside a large surface level public car park some 220m west of the site. Residential occupiers are unlikely park in public car parks or laybys, as would generally require a permanent space which they can rely on near their residence, and therefore the existing car park is likely to provide for the residential occupiers only. The increase in residential occupiers of the site is therefore likely to add to the parking pressure on site. Whilst visitors to the occupiers could park in the layby opposite or the public car park, this is unsuitable for the occupiers of the proposal. Parking is therefore likely to be displaced onto the street. Parking to the High Street is unlikely as this is the main access to the east of the island and has double yellow lines. To May Avenue there are parking restrictions with no stopping 8am – 8pm for the first 80m. Beyond here, any on street parking undertaken is likely to be at the annoyance of the residential occupiers of

May Avenue, and likely to be inconvenient for occupiers of the proposal. In any case, parking on street is likely to result in a detriment to highway safety and the amenity and convenience of residents in May Avenue.

The proposal is unable to provide one to one parking for each residential unit on site. An objection is therefore raised accordingly.

Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

Section 15 of the National Planning Policy Framework (NPPF) requires that when determining planning applications, local planning authorities should apply the principle that if significant harm to biodiversity resulting from development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Under the Conservation of Habitats and Species Regulations 2017, a Habitats Regulations Assessment (HRA) is required for land use plans and for planning applications which are likely to have significant effects on a Habitat Site. A number of these sites have been identified throughout Essex. Population growth in Essex is likely to have a significant effect on Habitat Sites through increased recreational disturbance and consequently in partnership with Natural England and other Local Authorities, Castle Point Borough Council has prepared a Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This identifies necessary measures to avoid and mitigate likely significant effects from recreational disturbance. The RAMS sets out a tariff which applies to all net new residential development within the Zone of Influence (ZOI).

The proposal site falls within 'zones of influence' identified by Natural England for likely significant effects to occur to European designated sites, in this case specifically the Benfleet and Southend Marshes ZOI, the Foulness ZOI and the Blackwater ZOI. Those likely significant effects will occur through increased recreational pressure when considered either alone or in combination with other residential development.

The applicant has provided a unilateral undertaking to pay a RAMS contribution at a future date, and Legal Services have confirmed that this agreement is acceptable. The proposal would therefore mitigate the impact upon the habitat sites.

Planning Balance and Conclusion

Paragraph 11 states plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:
 - o the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - o any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework (NPPF) taken as a whole.

⁷ The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as

Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68); and areas at risk of flooding or coastal change.

⁸ This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years

The policies most important in determining this proposal are out of date and according to the latest Annual Monitoring Report 1st April 2022 show a housing land supply position of 1.86 years. This is noticeably below the five year supply referred by footnote 8. Furthermore, the Council's Housing Delivery Test outcome for the same year was 48.3%, which is under 75%. Therefore, permission should be granted unless i. or ii. apply.

The proposal does not relate to a habitat site, designated Site of Special Scientific Interest, designated as Green Belt, an Area of Outstanding Natural Beauty, a National Park or defined as Heritage Coast. Furthermore, it does not relate to irreplaceable habitats or designated heritage assets. The site is designated as public open space, but not a local green space, and as discussed above would have no harm to a public open space. The site is within an area at risk of flooding, flood zone 3, but as specified above would not increase flood risk and has passed the sequential and exception tests required by the NPPF. The proposal should not therefore be refused based on the first criterion.

Turning to the second criterion, the benefit of the scheme would provide much needed housing for the borough given the shortfall established above to which significant weight is attached. Whilst moderate harm has been found when assessed against the policies with the NPPF with the loss of the commercial units, it has been established that this harm is not significant, and hence this harm is overcome by the need for housing. However, significant harm has been identified by way of poor standard of amenity for the occupiers from inadequate amenity space, inadequate parking provision, poor design and substandard levels of bedroom floor areas. This conflicts with the DCLG Technical housing standards and paragraphs 126, 130 and 107 of the NPPF. Therefore, when considering the NPPF as a whole it is the adverse harm identified that is not overcome by the benefit of providing new homes.

It is therefore recommended that the application be refused.

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

My **RECOMMENDATION** is **Refusal**

Refusal Reasons

- 1 The proposal would provide inadequate useable private amenity space for the proposal and this shortfall is not justified by safe and convenient access to public open space, and therefore would lead to the development being unable to meet the outdoor needs of its occupiers leading to a poor standard of amenity for said occupiers. The proposed amenity space to the front and side of the site could not be made useable with the use of boundary treatments without resulting in an over dominance of boundary treatments to May Avenue and High Street to the detriment of the open character and appearance of the area, or in the case of the front spaces without adversely harming the outlook and natural light to the proposed units. The proposal is therefore considered contrary to Policy EC2 of the council's adopted Local Plan (1998), RDG6 of the council's adopted Residential Design

Guidance (2013) and cannot be overcome without being contrary to RDG5 and RDG10 of the Residential Design Guidance (2013). In either scenario, the proposal would fail to provide a high standard of amenity for the occupiers of the development as expected by Government policy contained within the National Planning Policy Framework (2021).

- 2 The proposal would fail to provide parking for the proposed residential units and if granted would lead to encouraging on street parking in the wider area whilst there are parking restrictions in the immediate vicinity of the site, to the detriment of the flow of traffic, and the amenity and convenience of surrounding residents, and inconvenience to the occupiers of the proposal. The town centre location and the provision of motor bike and cycle parking does not justify such a reduction in the level of parking, and the proposal would be contrary to Policy T8 of the Adopted Local Plan (1998), the adopted Parking Standards (2010) and Government policy as set out in the National Planning Policy Framework (2021) which encourages local planning authorities to set such standards reflecting local circumstances.
- 3 The proposal, by reason of substandard levels of bedroom floor areas for unit 01 as specified within the DCLG Technical housing standards - nationally described space standard, fails to provide sufficient usable bedroom floor space to meet the needs of the number of intended future occupiers of the development, contrary to current best practice and guidance. As such it constitutes poor design contrary to Policy EC2 of the council's adopted Local Plan (1998), RDG16 of the council's Residential Design Guidance (2013) and Government guidance as contained within the National Planning Policy Framework (2021).
- 4 The proposal would worsen the design of the host building on site by failing to continue the regular rhythm of first floor windows, and this harm is exacerbated by the misalignment of windows between upper and ground floor levels, leading to a poor design which would harm the character and appearance of the host building contrary to Policy EC2 of the adopted Local Plan (1998) and RDG8 of the Residential Design Guidance (2013) and Government policy as contained within the National Planning Policy Framework (2021).

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal.
- 2 Please note that a site notice was displayed in a publicly visible location at the site. Castle Point Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

ITEM 6

Application Number:	22/0655/FUL
Address:	Land Adjacent To 45 Taranto Road, Canvey Island, Essex, SS8 7LQ (Canvey Island East)
Description of Development:	Change of use from open green space to private amenity area and public footpath with street lighting
Applicant:	Mr Kieran Hines
Case Officer:	Mr Robert Davis
Expiry Date:	07.12.2022

Summary

The application seeks permission for a change of use from open green space to private amenity area and public footpath with street lighting on land between Teramo Road and Taranto Road.

The proposal complies with all relevant national and local policy and residential design guidance and no adverse impacts that would provide a clear reason for refusing the development have been identified. The proposal is therefore recommended for APPROVAL.

The application has been 'called in' by Councillor Sach on the basis that the site is open green public space which residents use, there are utilities under it which should not be disturbed, it is needed to help with flooding, and do not need more alleyways as these are used for drug dealing.

Site Visit

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

Introduction

The application relates to a former road that is grassed with bollards at either end that is now closed to vehicular traffic. There is no hard surfaced public footpath crossing the land, but an informal footpath has been created. The land is flanked by high boundary fencing to both the north and south.

Immediately at the rear of the application site is the start of Teramo Road, which serves one property and provides access to the garage at the rear of No.40 Hope Road.

The Proposal

The proposal relates to a piece of land some 19.0m deep by 9.0m wide. The applicant seeks permission for the change of use of part of this land from open green space to private amenity area to enlarge their garden while retaining a strip of land to the east which is to serve as a paved public footpath. The footpath has a minimum width of 2.5m at the rear of the site increasing to some 2.8m at the front. The hard surfaced area of the footpath would vary from between 1.8m and 2.3m in width. Two street lights, one at either end of the footpath, and a 500mm verge is also to be provided. The footpath is to be laid with a gradient so that surface water runoff is directed onto the grass verge.

Planning History

None

Local Plan Allocation

Residential

Relevant Policies and Government Guidance

NPPF National Planning Policy Framework (2021)

Adopted Local Plan (1998)

EC2 Design

EC7 Natural and Semi-Natural Features in Urban Areas

Residential Design Guidance (2013)

RDG10 Enclosure and Boundary Treatment

Consultation

Canvey Island Town Council

Objects to the proposal for the following reasons:

- The application is in contravention of the National Planning Policy Framework regarding development on green belt.
- Loss of a well-used amenity space of an informal activity area for children and recreation.
- Have searches been done for utility mains under this green open space?
- Members felt that by losing this green open space it will leave a narrow alleyway which provides anti-social behaviour and fails to promote community safety and reduce vulnerability as set out in the National Planning Framework paragraph 92A and 95.
- Canvey Island has critical drainage issues and has been dedicated a flood zone 3 area. Such green spaces assist with existing drainage issues in a natural way without the need for expensive drainage systems
- Has permission been granted to remove a public right away from Essex County Council?
- The committee felt given the size of the plot there should be a condition for restricting permitted development rights for the future.

Highways

The area of land is subject to Highway Rights. Should the removal of Highway Rights be granted the proposed footway shall be fully provided at the applicant's expense.

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

- As shown in principle on planning drawing CAD/PP/22596/018, the public footway and lamp columns shall be provided to the south of the site and shall run from Taranto Road to Teramo Road. The footpath shall be a minimum of 2 metres wide with an additional 0.5 metre verge strip to the southern boundary. The new footway shall be dedicated as Highway and shall be provided fully at the applicant's expense. Full details to be agreed with the Highway Authority.

Reason: To ensure pedestrians can use the highway safely and in accordance with policy DM1

Police

The police were consulted following claims during the consultation process that the proposed footpath would promote anti-social behaviour. Following a consultation request, Essex Police responded with the following:

Antisocial behaviour and drug dealing takes place all over the island at different types of locations for different reasons. We have nothing specific regarding this location to comment on. The last drug related intelligence reported for Taranto Road was 2019.

Public Consultation

Two responses have been received which make the following comments and observations:

- Is public land
- Provides open and safe spaces for walking across the area
- Dog walkers, young mums, etc stop for a chat in the open space
- Maintained by the council
- Government has asked that footpaths are 2m in width, to allow for people to pass each other and feel safe
- If approved should be lighting at both ends of the path
- Public footpath leads to private garage and onto shared driveway in frequent use

Comments on Consultation Responses

The agent has confirmed that the applicant owns the land. If permission is granted the applicant will need to apply for the removal of highway rights. The council does not maintain the land but cuts the grass on behalf of Essex County Council because it has highway rights over it.

All other material issues raised are considered in the evaluation of the proposal.

Evaluation of Proposal

The starting point for determining a planning application is the National Planning Policy Framework (NPPF) and those saved policies within the council's Adopted Local Plan (1998), alongside supporting policy documents and supplementary planning documents (SPDs).

Effect on character of the area

The land is allocated for residential purposes in the council's Adopted Local Plan, not Green Belt, so there is no objection in principle to the use of this land as residential amenity space.

The site sits in the middle of a fairly densely developed residential area and is laid to grass, with bollards to the northern and southern ends. It is open at each end and provides access for pedestrians and cyclists between Taranto and Teramo Roads.

Section 12 of the NPPF emphasises the aim of achieving well designed places, which includes protecting existing amenities. Policy EC2 of the council's Adopted Local Plan also seeks to achieve a high standard of design. It also seeks to ensure that all modes of movement are made safe and convenient.

Policy EC7 seeks to retain and enhance open spaces within urban areas whenever possible in order to safeguard their physical, visual, recreational and wildlife value.

RDG10 is also of relevance and advises that a means of enclosure should be informed by the prevailing character of the area and surrounding forms of enclosure.

Unlike some other areas of the borough, such as Newlands, the application site does not link to other open spaces or provide long distant views. The only nearby similar such parcel of land used to lay to the west of the application site, on the opposite side of Taranto Road. However, this was granted permission at committee in September 2019 for a detached dwelling and footpath, which has now been built. The sense of openness the application site provides does not therefore materially contribute towards the character and appearance of the area.

Support for the above approach can be found in appeal decisions over recent years. The development of the grassed open spaces at Newlands were dismissed at appeal¹ on the basis that the long distant views they provided gave relief from the densely developed nature of the surrounding area, giving it a sense of openness.

The Inspectors for the appeals at 81 May Avenue² and 88 Holbek Road³ considered that the contribution these isolated sites made to the wider character and appearance of the streetscape and area was limited, they did not support their retention.

The land has not been identified as having any wildlife value and is not formally designated as public open space in the council's Adopted Local Plan. The council has cut the grass for many years but does this on behalf of Essex County Council because it has highway rights over it. This does not confer any right to use the land for recreational purposes.

The application proposes the erection of a 1.8m close boarded fence around the applicant's enlarged garden, dropping to 1.2m at the front of the site. Such boundary treatment would be consistent with other forms of enclosure in the area. The recently constructed footpath opposite on the other side of Taranto Road has been enclosed similarly.

Safety and accessibility

It has previously been argued that the combination of the existing and proposed boundary fences and the narrowness of such footpaths creates a relatively oppressive pedestrian environment. However, it should be noted that the current proposal has increased the width of the hard surfaced footpath to between 1.8m and 2.3m. In addition to this there is to be a narrow verge some 0.5m wide to the south of the footpath. The proposal also includes lighting at both ends.

To further mitigate such concerns, and ensure there is no conflict with highway safety, the agent has agreed to provide a 2m sight spay where the footpath meets Teramo Road.

Public safety would be maintained due to the relatively short length of the footpath and the proposed lighting at either end of the footpath would likewise help in this regard. There would also be a lower section of fencing approaching Taranto Road increasing visibility. The design of the proposal is considered to be consistent with paragraph 92 of the NPPF, which aims to achieve safe places so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Appeal decisions support this view, and it should be noted that the Highway Authority has not objected to the design of the footpath. Essex Police have also not made any specific observations about the proposal.

The provision of a paved footpath across the site will have the added benefit of improved accessibility for people with mobility problems.

Paragraph 95 in the NPPF has been referred to in the public consultation responses. This is not relevant as it talks about school places.

Subject to conditions that the public footpath and proposed lighting is installed at the applicants own expense prior to erecting the boundary treatment and enclosing the land, no objection to the proposal is raised on the basis of safety and accessibility.

¹ 19/0616/FUL – APP/M1520/W/19/3241445, 19/0617/FUL – APP/M1520/W/19/3241443 & 19/0618/FUL – APP/M1520/W/19/3241369

² 16/0336/FUL – APP/M1520/W/16/3161965

³ 20/0312/FUL – APP/M1520/W/20/3257435

Surface water runoff

The application site is located within Flood Zone 3A where it is important not to increase flood risk. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. However, as the proposal is for a change of use of land with no buildings proposed the application is exempt from the sequential and exceptions tests set out in the NPPF. The Environment Agency also does not wish to be consulted.

The land is currently undeveloped and therefore water compatible. The proposal would not materially change this as no buildings are being proposed. The provision of a paved footpath could result in surface water runoff being discharged elsewhere but the submitted drawings show that a grass verge some 0.5m deep is to be retained along side the footpath for this purpose. As such the proposal in its current form would not increase flood risk elsewhere, disposing of surface water within the site as is currently the case and is therefore not inappropriate.

It is acknowledged that should permission for this proposal be granted the applicant could in the future erect outbuildings, patios, or extend the dwellinghouse. Were this to happen this would have an impact on the land's ability to deal with heavy rainfall, particularly as such developments are not required to provide attenuated discharge into the public sewers.

However, this concern can be resolved by removing permitted development rights if permission is granted. This does not mean that development within the application site would never happen but does allow the planning authority to control the way in which it is undertaken, and where appropriate could impose drainage requirements which are not normally controlled.

Paragraph 54 of the NPPF advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Paragraph 56 states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects.

The removal of permitted development rights in order to control the loss of available open space for rainfall drainage purposes is considered reasonable to ensure any future householder developments would be subjected to scrutiny regarding surface water drainage.

Subject to the removal of householder development rights no objection to the proposal is raised on the basis of drainage.

Conclusion

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**

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

REASON: For the avoidance of doubt and in order to achieve satisfactory development of the site.

- 3 The footpath as shown on drawing CAD/PP/22596/018 REV A, prepared by Contour Architectural Designs dated 10 August 2022 and received by the Local Planning Authority 14 March 2023, shall be provided with a minimum width of 2 metres and an additional 0.5 metre wide verge together with operational street lighting in the locations shown, prior to erecting the boundary treatment and enclosing the land subject of this permission. The new footway shall be dedicated as Highway.

REASON: To ensure pedestrians can use the highway safely and that the footpath is provided in its entirety prior to the enclosure of the land hereby permitted.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, no new buildings or hard surfaces shall be constructed on the land without the prior formal consent of the Local Planning Authority.

REASON: In order to control surface water runoff from the site and avoid increasing flood risk elsewhere.

Informatives

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