



# Castle Point Borough Council Local Plan

Inspectors Matters Issues and Questions (MIQs)

**MATTER 6: ECONOMIC STRATEGY AND POLICIES**

(8<sup>th</sup> April 2021)

## Contents

<b>Issue: <i>Is the strategy and provision for employment development effective and justified?</i></b> .....	4
Strategic Policy EC1 Economic Strategy .....	4
Question 243.....	4
Question 244.....	6
Question 245.....	7
Question 246.....	10
Local Policy EC2 New Employment Land .....	10
Question 247.....	10
Question 248.....	13
Local Policy EC2 Extension to Manor Trading Estate .....	13
Question 249.....	13
Question 250.....	15
Question 251.....	15
Question 252.....	18
Question 253.....	19
Local Policy EC2 Extension to Charfleets Industrial Estate .....	19
Question 254.....	19
Local Policy EC2 South of Northwick Road .....	20
Question 255.....	20
Local Policy EC3 Canvey Seafront Entertainment Area .....	22
Question 256.....	22
Question 257.....	24
Question 258.....	25
Question 259.....	25
Local Policy EC4 Canvey Port Facilities .....	26
Question 260.....	26
Question 261.....	27
Question 262.....	28
Question 263.....	29

## **Matter 6: Economic Strategy and Policies**

Please note: Where the Council is proposing modifications to policies or reasoned justifications in the submitted plan these are detailed in the responses as follows:

- Additional and new text in Red and underlined
- Deleted text is shown by strike through

*Issue: Is the strategy and provision for employment development effective and justified?*

Strategic Policy EC1 Economic Strategy

**Question 243**

**On 1 September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. As a consequence, is the Policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

1. The purpose of policy EC1 is to secure land principally for employment development falling within Use Class B of the Use Classes Order. At the time the policy was prepared Class B comprised B1 Business which was further sub-divided into class B1(a) Offices, B1(b) Research and development of products or processes, and B1(c) Industrial processes. It also included Class B2 General Industrial and Class B8 Storage and Distribution.
2. In September 2020, however, the Use Classes Order was amended and Class B1 was revoked. Uses formerly falling within Class B1 were included within a new Class E. This new class provides for significant flexibility between uses. Buildings within Class E may be used for retail purposes as well as for financial and professional services and restaurants and cafes, indoor sport and recreation, medical and health services, day nurseries and daycentres and such office, research and industrial processes as could be carried out within a residential area without detriment to amenity.
3. The amendment to the Use Classes Order, which revokes part B1 mean that the policy as currently drafted implies that offices, research and development and industrial processes are no longer acceptable in these locations, when until September 2020 they were. This was not the intention of policy EC1. Therefore, as submitted the policy is not clearly written or unambiguous, as it does not deal effectively with these traditional employment area type uses. There is therefore a need to consider if it is appropriate to amend policy EC1 to ensure that it also covers Use Class E.
4. It is understood by the Council that Use Class E were principally proposed to address the impacts of COVID and a recession in the retail sector through diversification of town centres. However, there is also the potential for this change to the Use Classes Order to diversify Employment Areas such as those found in Castle Point. Whilst the Council is not opposed to the diversification of employment generators of these areas, they are intended to be locations where businesses can go about their activities without significant impacts on residential amenity or conflict with other more sensitive uses. Some Class E Uses such as nurseries and restaurants are more sensitive uses, particularly in respect of odour and noise. Paragraph 182 of the NPPF states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after their establishment. It may therefore be appropriate in some instances to limit the types of Class E Uses that are permitted in these areas.

## Matter 6: Economic Strategy and Policies

5. Use Class E also includes shops, restaurants and cafes, which are main town centre uses, as defined by the NPPF. In order to preserve the vitality of town centres, paragraph 86 of the NPPF states that local planning authorities should apply a sequential approach to applications for main town centre uses, where they are proposed in edge of centre or out of centre locations. Given the intended purpose of creating Use Class E, it is appropriate to seek to limit shops, restaurants and cafes in the employment areas also, in order to support high street recovery and longer-term vitality.
6. It is therefore important that if policy EC1 is amended to incorporate Use Class E, it is caveated to ensure that Class E uses are compatible with the industrial nature of the Employment Areas in Castle Point, and they the location of such activities within Employment Areas does not undermine town centre vitality.
7. To achieve this, modifications are required to policy EC1. Proposed modification M11.8 partly deals with the matter of allowing E Class developments though an amendment to part 1a of the policy. However, upon review it does not deal with it fully, as it does not specifically mention Use Class E. It is therefore proposed that modification M11.8 is superseded with the following:
  - a. *The protection of the existing employment land as shown on the policies map for uses principally falling within ~~the~~ Classes B2, B8 and E(g) ~~B-Use Classes of the Use Classes Order.~~*
8. Given the issues arising in respect of the different uses within Use Class E, it is also considered necessary to amend part 3 of the policy to clarify when Class E Uses and indeed other uses may be appropriate. Modification M11.11 partly dealt with this matter. However, upon review it does not deal with it fully as it does not deal with the agent of change principle set out in paragraph 182 of the NPPF. It is therefore proposed that modification M11.11 is superseded with the following:
  3. *Applications for uses falling outside Use Classes B or E(g) of the Use Classes Order will be permitted within the employment areas of this plan where they accord with all other relevant policies within this plan, and the following criteria:*
    - a. *It can be demonstrated that the use will provide an equivalent or greater number of jobs compared to an employment development falling within Use Classes B ~~of the Uses Classes Order~~ use of on the site;*
    - b. *It can be demonstrated that the ongoing operation of existing businesses nearby will not be adversely affected, and any amenity impacts on the proposals from those existing businesses can be suitably mitigated; and*
    - c. *It can be demonstrated that the location of the use within an employment area will not undermine the vitality or viability of local town centres or local shopping parades.*

## Matter 6: Economic Strategy and Policies

9. It is recognised that parts 1b and 1c of policy EC1 need reviewing in this regard also. However, this is dealt with in more detail in the response to question 245 which deals with the need for new employment provision.
10. The Council is satisfied, that with modifications M11.8 and M11.11 (and any amendments arising in respect of question 245), the amendments to the Use Classes Order are effectively incorporated into policy EC1, and the policy will as a result be clearly written and unambiguous in this regard.

### Question 244

**What is the justification for the protection of the identified employment land (Criterion 1a) as shown on the Policies Map and is this consistent with part 11 of the Framework, Making Effective Use of Land?**

11. Part 11 of the NPPF relates to making effective use of land. It states at paragraph 120 that planning policies need to reflect changes in the demand for land and should be informed by regular reviews. It advises that where there is no reasonable prospect of land being used for its intended purpose then the allocation should be updated, with the land reallocated for a more deliverable use that can help to address identified needs.
12. Existing employment sites were reviewed as part of the South Essex Economic Development Needs Assessment (EDNA) 2017 [\[ER-002\]](#). Each site was reviewed in terms of its quality, and advice was given based on occupancy and the market as to whether it should be protected, or not going forward. The outcomes of this assessment are set out in Table 29 commencing at page 79. It should be noted that these recommendations were informed by a commercial property review set out within section 4 of the EDNA which shows low vacancy rates of just 5% across the office and industrial property market in Castle Point over a five-year period.
13. The EDNA recommended that the sites identified as Employment Areas on the Policies Map should all be protected and maintained. The meaning of this advice is explained at page 67:

*This applies to sites which are suitable in their current form and are located in an appropriate location context where there is not likely to be significant long term change that affects their employment role or function. These sites should be protected. They will require some investment in stock and public realm to maintain their condition and quality over time, but should not require any significant investment or intervention.*

14. The Council is therefore satisfied that it is consistent with part 11 of the NPPF and justified by the evidence in the EDNA to protect the following sites for employment purposes:
  - Gas and oil receptor and storage facilities
  - Charfleets Industrial Estate
  - Manor Trading Estate
  - Stadium Way industrial Estate

**Matter 6: Economic Strategy and Policies**

15. It is noted that the gas and oil receptor and storage facilities are not shown on the Policies Map as Employment Areas and are not therefore protected in the same way as the other employment areas. This omission was highlighted by the Port of London Authority representation [447] and the Oikos Storage Limited representation [694]. Modification M11.9 is proposed to overcome this issue and improve consistency with the evidence base and its recommendations.

**Question 245**

**Is the proposed provision of land for new employment development above the baseline employment land requirement identified in the South Essex Economic Development Needs Assessment 2017 (ER-002) justified?**

16. The Council has reviewed the need for employment land identified in the Local Plan in light of this question and acknowledges that the EDNA 2017 [ER-002] whilst identifying a supply of 24ha of potential land for economic development purposes, identifies demand for around 9ha of land for this purpose. This is shown in Table 86 at page 209 and is repeated below for ease of reference.

*Figure 1: Table 86 extracted from the EDNA 2017, setting out the balance between total land supply and demand for employment in south Essex*

	Total Employment Land Supply – Potential Sites (ha)	Total Employment Land Demand (ha)- Combined scenario	Total Employment Land Demand (ha) - Combined scenario with supply side adjustment	Employment Land Demand as % of Supply in Respective Area	Employment Land Demand as % of Total South Essex Supply
<b>South Essex</b>	<b>941</b>	<b>272</b>	<b>345</b>	<b>29% or 37%</b>	<b>29% or 37%</b>
Basildon	72.5	28	50	39% or 69%	3% or 5%
Castle Point	24.3	1	9	4% or 37%	0% or 1%
Rochford	175.4	7	16	4% or 9%	1% or 2%
Thurrock	652	244	259	37% or 40%	26% or 28%
Southend-on-Sea	16.4	-8	11	-49% or 67%	-1% or 1%

17. The identified need was generated using the East of England Forecasting Model for economic growth. The need identified for Castle Point also takes account of a scenario which sees industrial development displaced from London, as proposed in the London Plan. It also includes supply side adjustments which account for windfall loss of employment land to other uses such as residential or retail. An allowance is also made for churn in the employment stock, which means a proportion of the employment stock will be vacant at any point in time. The Council is therefore satisfied that there is a need for around 9ha of land for employment provision, as a baseline position.

## Matter 6: Economic Strategy and Policies

18. The identified supply for Castle Point meanwhile comprises three sites with a total combined area of 24.3ha, as identified at Figure 32 of the EDNA at page 132, and as appraised in Table 39, also on page 132. These three sites are:
- Land west of Windmere Road (hereon in known as the extension to Manor Trading Estate). This site is 4.05ha in size and was determined to be suitable for B2/B8 uses reflective of the existing typology of the neighbouring Manor Trading Estate.
  - Land south of Roscommon Way (hereon in known as the extension to Charfleets Industrial Estate). This site is 10.47ha in size and was determined to be suitable for B2/B8 uses reflecting neighbouring Charfleets Industrial Estate. The site is identified as having the potential to accommodate B1 (now E(g)) uses but has poor accessibility to public transport provision.
  - Land at Northwick Road. This site is 9.72ha in size and was determined to be suitable for B2/B8 uses reflecting neighbouring Charfleets Industrial Estate. The site is identified as having the potential to accommodate B1 (now E(g)) uses but has poor accessibility to public transport provision.
19. The EDNA goes on to note at paragraph 7.25 that whilst there is 24.3ha of potential supply, this is skewed towards Canvey Island, with only 4.05ha located within the mainland part of the Borough. There are no potential sites identified in the A13 Cluster, and just a single site of 4.05ha identified in the Northern Cluster.
20. However, the mainland part of the borough is home to over 50% of the resident population of Castle Point (and over 50% of the planned growth), two industrial estates and around half of the boroughs existing businesses. It is therefore essential that around half of the borough's economic growth need is met in this part of the borough. It is not possible to extend the Rayleigh Weir employment zone due to adjoining ancient woodlands, nearby SSSIs and the east of Rayleigh Road housing development (the topography of that site is too undulating for modern employment premises). To this end, it is necessary to allocate the land identified as suitable through the EDNA for employment purposes as an extension to Manor Trading Estate.
21. It is considered that this allocation is consistent with national planning policy on building a strong, competitive economy set out at part 6 of the NPPF. Paragraph 80 expects planning policies to help create conditions in which businesses can invest, expand and adapt. It expects significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In the absence of this allocation there would be no employment land provision for existing businesses, or new businesses, to invest, expand or adapt in the mainland part of Castle Point, potentially forcing local businesses to look elsewhere for premises as they grow and change.
22. It is also considered to be an approach which is more generally compatible with the NPPF, including the part 8 of the NPPF which is focused on promoting healthy and safe communities. This chapter strongly advocates place making which promotes walking and cycling. Spreading economic opportunities out better enables this. This is reiterated in paragraph 104 of the NPPF which states that planning policies should support an appropriate mix of uses across an area to



## Matter 6: Economic Strategy and Policies

minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities.

23. Having regard to the above, it would be anticipated that the remaining need for 5ha of employment land supply would occur on Canvey Island, on either or both sites identified in the EDNA.
24. At the time the Local Plan was prepared, both these sites had planning consent, and consequently the Council has chosen to allocate them both within the Local Plan, as a necessity given their current planning status. This increases the overall supply of employment land above the identified need, both on their own, and again when considered alongside the allocation extending Manor Trading Estate.
25. The Council is however comfortable that this is justified given their planning status. It is also considered that this is consistent with the NPPF which states that paragraph 81d that planning policies should be flexible enough to accommodate needs not anticipated in the plan. The sites on Canvey are larger sites which may lend themselves to a variety of uses which we may not be able to envisage at this time. The over allocation also maximises opportunities for employment in the borough – which has net outflow of employment – supporting the economic recovery, relation of jobs into the borough and government policy.
26. Whilst the Council is satisfied that the level of employment provision is justified and consistent with national policy requirements, it acknowledges that there are amendments needed to policy EC1 and its reasoned justification to clarify the position in relation to need and supply.
27. With regard to the reasoned justification, modification M11.6 is currently proposed in the Schedule of Modifications. This sets out amendments to paragraph 11.9 which need superseding to read as follows:

~~11.9~~ 11.10 *It is necessary for this plan to protect both the existing **employment sites in Castle Point** and **to bring forward the** potential employment sites, since the EDNA 2017 ~~also found that~~ **concluded that there is a need for additional 9ha of employment land in Castle Point. The EDNA 2017 was informed by the emerging Local Plan and the proposed allocations at Canvey Island which are carried forward from the 1998 Local Plan, and also the proposed extension to Manor Trading Estate. By allocating all three proposed sites, there is new employment land provision across the borough amounting to around 4ha of supply in Benfleet and 20ha of supply on Canvey Island. Whilst this exceeds the need identified through the EDNA 2017, it ensures local business needs are catered for and sustainable access to jobs is secured. It provides a flexible supply of land for commercial purposes to respond to unidentified demands, ensuring that Castle Point provides opportunities for economic investment.** ~~there is an additional need of 1 hectare of employment land and 6,605 square metres of space to support employment growth of 462 jobs in Castle Point, including the re-location of industrial needs from London.~~*

## Matter 6: Economic Strategy and Policies

28. Amendments are also necessary to parts 1b and 1c of policy EC1. Reflecting on the response to question 243, these amendments also incorporate the need to reflect the changes to the Use Classes Order in September 2020. The Council proposes that parts 1b and 1c of policy EC1 should be amended to read as follows:

- b. The provision of ~~at least~~ an additional 24 hectares of land identified for employment development falling within the ~~B~~-Use Classes B1, B2 and E(g) of the Use Classes Order. ~~;~~ ~~and~~*
- c. ~~Support for the provision of at least an additional 1 hectare of land and 6,605 square metres of floorspace elsewhere in the borough for employment development falling within the B Use Classes of the Use Classes Order.~~*

29. Subject to the amendments above the Council is satisfied that policy EC1 is sound in respect of the level employment growth planned for. It is considered that the level of growth planned for is justified based on the requirements of the NPPF, and is consequently consistent with the requirements of the NPPF, particularly part 6, but also those requirements promoting sustainable travel and a mix of development that enables sustainable travel, especially paragraph 104.

### Question 246

#### **Are the proposed Modifications necessary for soundness?**

30. Modifications to policy EC1 are detailed in the responses to questions 243 to 245. For the reasons set out in the responses to those questions the modifications proposed are necessary to improve the effectiveness of policy EC1 and are therefore necessary to ensure soundness.

### Local Policy EC2 New Employment Land

#### Question 247

#### **With regard to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, is the Policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

31. The purpose of policy EC2 is to secure new land principally for employment development falling within Use Class B of the Use Classes Order. At the time the policy was prepared Class B comprised B1 Business which was further sub-divided into class B1(a) Offices, B1(b) Research and development of products or processes, and B1(c) Industrial processes. It also included Class B2 General Industrial and Class B8 Storage and Distribution.

32. In September 2020, however, the Use Classes Order was amended and Class B1 was revoked. Uses formerly falling within Class B1 were included within a new Class E. This new class provides for significant flexibility between uses. Buildings within Class E may be used for retail purposes as well as for financial and professional services and restaurants and cafes, indoor sport and recreation, medical and health services, day nurseries and daycentres and such office, research and industrial processes as could be carried out within a residential area without detriment to amenity.

## Matter 6: Economic Strategy and Policies

33. The amendment to the Use Classes Order, which revokes part B1 mean that the policy as currently drafted implies that offices, research and development and industrial processes are no longer acceptable in these locations, when until September 2020 they were. This was not the intention of policy EC2. Therefore, as submitted the policy is not clearly written or unambiguous, as it does not deal effectively with these traditional employment area type uses. There is therefore a need to consider if it is appropriate to amend policy EC2 to ensure that it also covers Use Class E.
34. It is understood by the Council that Use Class E were principally proposed to address the impacts of COVID and a recession in the retail sector through diversification of town centres. However, there is also the potential for this change to the Use Classes Order to also impact on the mix of uses that occurs on new employment land in Castle Point. Whilst the Council is not opposed to the diversification of employment generators of these areas, they are intended to be locations where businesses can go about their activities without significant impacts on residential amenity or conflict with other more sensitive uses. Some Class E Uses such as nurseries and restaurants are more sensitive uses, particularly in respect of odour and noise. Paragraph 182 of the NPPF states that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after their establishment. It may therefore be appropriate in some instances to limit the types of Class E Uses that are permitted in these areas.
35. Use Class E also includes shops, restaurants and cafes, which are main town centre uses, as defined by the NPPF. In order to preserve the vitality of town centres, paragraph 86 of the NPPF states that local planning authorities should apply a sequential approach to applications for main town centre uses, where they are proposed in edge of centre or out of centre locations. Given the intended purpose of creating Use Class E, it is appropriate to seek to limit shops, restaurants and cafes in the employment areas also, in order to support high street recovery and longer-term vitality.
36. It is therefore important that if policy EC2 is amended to incorporate Use Class E, it is caveated to ensure that Class E uses are compatible with intention of allocating Employment land in Castle Point, and that the location of such activities within these new Employment Areas does not undermine town centre vitality.
37. To achieve this, modifications are required to policy EC2. Proposed modification M11.21 partly deals with the matter of allowing E Class developments though an amendment to part 1 of the policy in respect of allocation EC2(1) Extension to Manor Trading Estate. However, upon review it does not deal with it fully, as it does not specifically mention Use Class E. It is therefore proposed that modification M11.21 is superseded with the following:
1. *With regards to the extension to Manor Trading Estate, the site is an extension to the east of Manor Trading Estate will be made available for employment development falling **principally** within Use Classes ~~B1b, B1c and B2, and B8~~ **and E(g)** of the Use Classes Order where it can be demonstrated that:*

## Matter 6: Economic Strategy and Policies

38. Proposed modification M11.23 partly deals with the matter of allowing E Class developments through an amendment to part 2 of the policy in respect of allocation EC2(2) Extension to Charfleets industrial Estate. However, upon review it does not deal with it fully, as it does not specifically mention Use Class E. It is therefore proposed that modification M11.23 is superseded with the following:

2. *The Extension to Charfleets Industrial Estate will be delivered in accordance with extant consents to supply at least 18,300sqm of B Class industrial floorspace, 6,400sqm of E(g) Class business use floorspace, and other commercial premises with a floorspace of up to 1,900sqm. to the south of Charfleets Industrial Estate will be made available for employment development falling within Use Classes B1b, B1c and B2 of the Use Classes Order, where it can be demonstrated that: a. Access suitable for commercial vehicles has been secured for the site via Roscommon Way; b. Sufficient and suitable compensatory provision has been made for the loss of wildlife in order to result in a net gain in biodiversity; c. Development proposals are resilient and resistant to flooding from tidal and surface water sources, and provide safe, on-site refuge facilities in the event that a flood does occur; d. Sustainable drainage measures will be implemented to ensure no increase in the risk of surface water flooding to the site or nearby properties; and e. Drainage capacity will be improved as necessary to accommodate additional foul water flows.*

39. Proposed modification M11.24 partly deals with the matter of allowing E Class developments through an amendment to part 3 of the policy in respect of allocation EC2(3) Land South of Northwick Road. However, upon review it does not deal with it fully, as it does not specifically mention Use Class E. It is therefore proposed that modification M11.24 is superseded with the following:

*Land to South of Northwick Road, the site will be delivered in accordance with extant consents to supply at least 14,537sqm of B Class industrial floorspace, 8,928sqm of E(g) Class business use floorspace, other commercial premises with a floorspace of up to 2,890sqm, and a hotel. Made available for employment development falling within the B Use Classes of the Use Class Order where it can be demonstrated that: a. An enterprise centre or similar facility will be delivered on this site, providing accommodation for start up businesses; b. Development proposals will ensure that there is no adverse harm to the Canvey Wick SSSI, and that any biodiversity loss on site is fully mitigated or compensated for, with the result in an environmental net gain; c. Development proposals are resilient and resistant to flooding from tidal and surface water sources, and provide safe, on-site refuge facilities in the event that a flood does occur; d. Sustainable drainage measures will be implemented to ensure no increase in the risk of surface water flooding to the site or nearby properties; e. Drainage capacity will be improved as necessary to accommodate additional foul water flows; and f. Development*

## Matter 6: Economic Strategy and Policies

*proposals are designed to reflect the prominent location of the site as the gateway to West Canvey.*

40. The Council is of the view that the above modifications are necessary as a consequence of the changes to the Use Classes Order in 2020 which introduced Use Class E. These modifications will ensure that the policy is clearly written and unambiguous, so it is evident how a decision maker should react to development proposals for these sites.

### Question 248

#### **Are the proposed Modifications necessary for soundness?**

41. As set out in the response to Question 247, the wording of policy EC2 as submitted would not permit for office and similar businesses which now fall within Use Class E of the Use Classes Order to be located within the new employment areas despite having previously been considered an acceptable use. It is therefore necessary to amend policy EC2 so that the decision maker understands whether development proposals of this nature should or should not be permitted in these areas. The Modifications M11.21, M11.23 and M11.24 are therefore necessary for soundness.

### Local Policy EC2 Extension to Manor Trading Estate

#### Question 249

#### **Is the proposed allocation of employment land justified?**

42. The EDNA 2017 [[ER-002](#)] identifies a need for around 9ha of land for employment developments. The identified need was generated using the East of England Forecasting Model for economic growth. The need identified for Castle Point also takes account of a scenario which sees industrial development displaced from London, as proposed in the London Plan. It also includes supply side adjustments which account for windfall loss of employment land to other uses such as residential or retail. An allowance is also made for churn in the employment stock, which means a proportion of the employment stock will be vacant at any point in time. The Council is therefore satisfied that there is a need for around 9ha of land for employment provision, as a baseline position.
43. The identified supply for Castle Point meanwhile comprises three sites with a total combined area of 24.3ha, as identified at Figure 32 of the EDNA at page 132, and as appraised in Table 39, also on page 132. These three sites are:
- Land west of Windmere Road (hereon in known as the extension to Manor Trading Estate). This site is 4.05ha in size and was determined to be suitable for B2/B8 uses reflective of the existing typology of the neighbouring Manor Trading Estate.
  - Land south of Roscommon Way (hereon in known as the extension to Charfleets Industrial Estate). This site is 10.47ha in size and was determined to be suitable for B2/B8 uses reflecting neighbouring Charfleets Industrial Estate. The site is identified as having the potential to accommodate B1 (now E(g)) uses but has poor accessibility to public transport provision.

## Matter 6: Economic Strategy and Policies

- Land at Northwick Road. This site is 9.72ha in size and was determined to be suitable for B2/B8 uses reflecting neighbouring Charfleets Industrial Estate. The site is identified as having the potential to accommodate B1 (now E(g)) uses but has poor accessibility to public transport provision.
44. The EDNA notes at paragraph 7.25 that whilst there is 24.3ha of potential supply, this is skewed towards Canvey Island, with only 4.05ha located within the mainland part of the Borough. There are no potential sites identified in the A13 Cluster, and just a single site of 4.05ha identified in the Northern Cluster – the extension to Manor Trading Estate.
45. However, the mainland part of the borough is home to over 50% of the resident population of Castle Point (and over 50% of the planned growth), two industrial estates and around half of the boroughs existing businesses. It is therefore essential that around half of the borough’s economic growth need is met in this part of the borough. It is not possible to extend the Rayleigh Weir employment zone due to adjoining ancient woodlands, nearby SSSIs and the east of Rayleigh Road housing development (the topography of that site is too undulating for modern employment premises). To this end, it is necessary to allocate the land identified as suitable through the EDNA for employment purposes as an extension to Manor Trading Estate.
46. It is considered that this allocation is consistent with national planning policy on building a strong, competitive economy set out at part 6 of the NPPF. Paragraph 80 expects planning policies to help create conditions in which businesses can invest, expand and adapt. It expects significant weight to be place on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In the absence of this allocation there would be no employment land provision for existing businesses, or new businesses, to invest, expand or adapt in the mainland part of Castle Point, potentially forcing local businesses to look elsewhere for premises as they grow and change.
47. It is also considered to be an approach which is more generally compatible with the NPPF, including the part 8 of the NPPF which is focused on promoting healthy and safe communities. This chapter strongly advocates place making which promotes walking and cycling. Spreading economic opportunities out better enables this. This is reiterated in paragraph 104 of the NPPF which states that planning policies should support an appropriate mix of uses across an area to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities.
48. The extension to the Manor Trading Estate for employment purposes has been assessed through the Sustainability Appraisal process. The outcomes of this assessment are set out page 54 of the SA Report [[SUS-007](#)]. This shows that where the policy requirements of the plan are applied to proposals for employment development on this site the outcomes should be broadly neutral to positive across the various objectives.
49. The Council is therefore satisfied that the level of employment provision is justified and consistent with national policy requirements.

## Matter 6: Economic Strategy and Policies

### Question 250

#### Is part 1.b. of the Policy consistent with paragraph 174 of the Framework in respect of biodiversity net gain?

50. The Council has reviewed part 1b of policy EC2 in respect of this question and is of the view that whilst the Council's intention was to be consistent with paragraph 174, as worded this is not achieved as the policy refers to an environmental net gain as opposed to a biodiversity net gain.
51. The Council also notes that the wording of this policy regarding net gain is not consistent with the wording used in the housing allocation policies.
52. For the purpose of consistency with the NPPF and also consistency within the document, the Council would propose that part 1b of policy EC2 is amended to read as follows:

~~Sufficient and suitable provision has been made for the loss of habitats in order to result in an environmental~~ **An approach to wildlife can be delivered that results in a measurable net gain in biodiversity.**

53. The Council is satisfied that through the incorporation of the above amendment to the policy wording, Policy EC2 Part 1 will be consistent with the NPPF in respect of securing a biodiversity net gain.

### Question 251

#### What are the exceptional circumstances for the release of the site from the Green Belt?

54. The Green Belt Topic Paper 2018 [GB-003] considers the exceptional circumstances that exist in Castle Point to justify the release of Green Belt land for development. In 2015 a Judicial Review was sought by Calverton Parish Council against Greater Nottingham Councils in relation to Green Belt release in the approved Local Plan. The Hon. Mr Justice Jay set out five matters that should be identified and dealt with in order to ascertain whether 'exceptional circumstances' exist to justify the releasing of land from the Green Belt.

#### Test 1: The acuteness/intensity of the objectively assessed need

55. The Green Belt Topic Paper 2018 [GB-003] concludes that an acute need for employment land does not exist due to the allocations on Canvey, and overall terms this is true. However, the EDNA 2017 [ER-002] notes at paragraph 7.25 that whilst there is 24.3ha of potential supply for employment purposes, this is skewed towards Canvey Island, with only 4.05ha located within the mainland part of the Borough. There are no potential sites identified in the A13 Cluster, and just a single site of 4.05ha identified in the Northern Cluster – the extension to Manor Trading Estate.
56. However, the mainland part of the borough is home to over 50% of the resident population of Castle Point (and over 50% of the planned growth), two industrial estates and around half of the boroughs existing businesses. It is therefore essential that around half of the borough's economic growth need is met in this part of the borough. To this end, it is necessary to allocate the land

## Matter 6: Economic Strategy and Policies

identified as suitable through the EDNA for employment purposes as an extension to Manor Trading Estate. In the absence of this allocation there would be no additional land for employment growth in the mainland part of Castle Point against a need for around 4.5ha of the total need.

Test 2: The inherent constraints on supply/availability of land prima facie suitable for sustainable development.

57. The existing supply of employment land in Castle Point is largely confined to the existing Employment Areas. The Commercial Property Market Review contained within the EDNA 017 [ER-002] identifies very little by way of vacant land in these Employment Areas, and vacancy rates on properties, both office and industrial of just 5% which is a level necessary to enable churn in the local market. To this end, there is clearly a limit on the supply of land for commercial development in Castle Point. The two allocations on Canvey do alleviate this to a degree. However, the Canvey Island market does operate separately to the mainland market to a significant degree. The Council is of the view that there is an inherent constraint on the supply of suitable land for economic development in the Benfleet area. It is not possible to extend the Rayleigh Weir employment zone due to adjoining ancient woodlands, nearby SSSIs and the east of Rayleigh Road housing development (the topography of that site is too undulating for modern employment premises), and in any event, to do so would also involve incursion into the Green Belt.

Test 3: The consequent difficulties in achieving sustainable development without impinging on the Green Belt

58. In relation to the economic component of sustainable development, paragraph 80 of the NPPF expects planning policies to help create conditions in which businesses can invest, expand and adapt. It expects significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In the absence of this allocation there would be no employment land provision for existing businesses, or new businesses, to invest, expand or adapt in the mainland part of Castle Point, potentially forcing local businesses to look elsewhere for premises as they grow and change. This potentially undermines the strength and robustness of the local economy.

59. Meanwhile, in relation to the social and environmental components of sustainable development, it is also considered that the allocation would be generally compatible with the NPPF, including the part 8 of the NPPF which is focused on promoting healthy and safe communities. This chapter strongly advocates place making which promotes walking and cycling. Spreading economic opportunities out better enables this. This is reiterated in paragraph 104 of the NPPF which states that planning policies should support an appropriate mix of uses across an area to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities. The Council believes that an allocation adjacent to Manor Trading Estate will support this sustainable development objective.

60. Furthermore, the extension to the Manor Trading Estate for employment purposes has been assessed through the Sustainability Appraisal process. The outcomes of this assessment are set out page 54 of the SA Report [SUS-007]. This shows that where the policy requirements of the plan are applied to proposals for employment development on this site the outcomes should be broadly neutral to positive across the various objectives.



## **Matter 6: Economic Strategy and Policies**

61. The Council is therefore satisfied that allocation of this site will contribute towards sustainable development. In the absence of this allocation there are risks in relation to the economic, social and environmental aspects of sustainable development, through an increased need to travel especially.

Test 4: The nature and extent of the harm to this Green Belt (or those parts of it which would be lost if the boundaries were reviewed); and

Test 5: The extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.

62. The Green Belt Review Part One 2018 [[GB-001](#)] assesses the contribution different parcels of Green Belt land across the borough make to the contributes to the fundamental aim, characteristics and purposes of the Green Belt. Allocation EC2(1) the Extension to Manor Trading Estate sits within Parcel 1.

63. The Review found four strategic areas that are locally important, Parcel 1 sits within the Central Corridor which serves to restrict the settlements of South Benfleet and Thundersley from merging, and also creates a connection between the northern Green Belt parcels within the borough and those in the south of the borough.

64. Under the three purposes of Green Belt assessed it was found to perform 'Very Strong' in terms of preventing towns from merging; a 'Strong' contribution to checking sprawl; and a 'Moderate' contribution to assisting in safeguarding the countryside from encroachment due to its semi-rural nature.

65. The Green Belt Review Part One 2018 [[GB-001](#)] found that the majority of the Green Belt in Castle Point contributed to at least one of the Green Belt purposes, there will therefore inevitably be harm arising from development. The Green Belt Review Part Two [[GB-002](#)] assessed the harm to the Green Belt arising from potential site allocations. The Green Belt Review Part Two Addendum 2021 [[GB-007](#)] specifically assesses the extent of the extension to Manor Trading Estate allocated in the submitted Local Plan.

66. In relation to the purpose of preventing towns from merging, the site was assessed to have a minor impact as it does not act to reduce the Green Belt gap when the prevalence of plot land development to the east of the site it taken into account.

67. In relation to safeguarding the countryside, the site is assessed as giving rise to a minor degree of harm, as it is surrounded to a degree by development and hidden from public view by the nearby school and day centre.

68. It is however assessed to give rise to moderate harm in respect of keeping check of unrestricted sprawl as it would introduce a denser form of development into the area and would not have a more robust Green Belt boundary than currently exists.

## **Matter 6: Economic Strategy and Policies**

69. Although there is likely to be harm arising from development in this location, the retention of currently undeveloped Green Belt to the east of the site between the proposed development and Keswick Road will provide a small break which limits the extent of harm.
70. The Council is therefore satisfied that the nature and extent of harm is limited to a moderate scale, and that harm is capable of mitigation through the retention of a strong Green Belt buffer between the development and Keswick Road.

### Conclusion

71. The Council is satisfied that exceptional circumstances exist for removing this site from the Green Belt for the purposes of economic development.

### Question 252

#### **Is the proposed Green Belt boundary justified and consistent with national policy as set out in paragraph 139 of the Framework?**

72. Paragraph 139 sets out the approach plans should take when defining Green Belt boundaries. In the first instance these boundaries should be consistent with the development plan's strategy for meeting identified requirements for development. It is considered that the extent of allocation EC2(1) is appropriate in this regard, making around 4ha available for economic development.
73. Paragraph 139 does however state that plans should use defined boundaries, clearly marked by physical features that are readily recognisable and likely to be permanent. As it stands, the allocation uses a field boundary, which is potentially not the strongest of physical boundaries. However, the land adjacent to the site comprises smaller plots fronting onto Windermere and Keswick Roads. These would remain within the extent of the Green Belt and consequently, land ownership patterns combined with the Green Belt designation would act to maintain the Green Belt boundary in a visually undeveloped/less developed form. Consideration was given to extending the Green Belt release to Windermere and Keswick Road, however, it was considered that in doing so, the opportunity to alleviate harm to the Green Belt would be lost, as set out in response to question 251 above. The Council is therefore satisfied that the strength of the boundary is appropriate having regard to paragraph 139's requirements for the demarcation of Green Belt boundaries.
74. Other considerations in paragraph 139 relate to the longer term need for land beyond the boundary for development purposes. The Council is clear that there is an evidenced need to protect the Green Belt beyond the allocation of site EC2(1) in this location to maintain the strategic purpose of the Central Corridor of Green Belt. Therefore, whilst there may be a need to review Green Belt boundaries in the future, it is not thought at this time that this would be a location where such a future release would occur.
75. The Council is therefore satisfied that the boundaries for the allocation site EC2(1) are justified by the evidence and consistent with paragraph 139. The Council would not be supportive of

## Matter 6: Economic Strategy and Policies

any change to the boundary that would increase the size of allocation site EC2(1) and consequently increase the extent of harm to the Green Belt.

### Question 253

#### **Are the proposed Modifications necessary for soundness?**

76. A modification to part 1b of policy EC2 is proposed in response to question 250. It is considered that modification is requirement to ensure that the policy is consistent with the requirements of paragraph 174 of the NPPF and is therefore necessary for soundness.

77. Separately, and in response to representation [\[380\]](#) by Essex County Council, the Highway Authority, modification M11.22 is proposed which amended part 1a of policy EC2 to require improvements to enable access to the site by active and sustainable transport modes. It is considered that this amendment would improve the consistency of the policy with part 9 of the NPPF regarding the promotion of sustainable transport. This amendment is therefore also necessary for soundness.

## Local Policy EC2 Extension to Charfleets Industrial Estate

### Question 254

#### **What is the planning status of the site, to what extent has the site been delivered and is part 2 of the Policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

78. The site is allocated for long term employment purposes (post 2001) in the adopted Local Plan.

79. Outline consent was granted in November 2016, under reference 14/0707/OUT, for the development of some 9.7ha of land for employment purposes comprising:

- 700 sqm A3 uses
- 1,200 sqm sui generis uses (Showroom)
- 6,400 sqm Class B1(b), B1(c) uses
- 12,000 sqm B2 uses
- 6,300 sqm B8 uses

80. The scheme essentially comprises 10 plots. Reserved matters applications have been approved in respect of nine of those plots. The tenth plot is now outside the window for the submission of reserved matters. A further application will therefore be required before this part of the wider site can be developed.

81. The proposal sought to provide some 26,600 sqm of floorspace. To date some 4,000 sqm, or some 15%, has been delivered on site.

## Matter 6: Economic Strategy and Policies

82. With regard to how the decision maker should respond to development proposals, as originally drafted, it is evident that Part 2 of the policy sought to achieve development within classes B1b, B1c and B2 of the Use Classes Order.
83. In September 2020, however, the Use Classes Order was amended and Class B1 was revoked. Uses formerly falling within Class B1 were included within a new Class E. This new class provides for significant flexibility between uses. Buildings within Class E maybe used for retail purposes as well as for financial and professional services and restaurants and cafes, indoor sport and recreation, medical and health services, day nurseries and daycentres and such office, research and industrial processes as could be carried out within a residential area without detriment to amenity.
84. The clear purpose of Part 2 of Policy EC2 in its submitted form was to secure facilities for the provision of employment opportunities in research and development and industrial processes. The amendment to the Use Classes Order, by revoking Class B1 and increasing the potential for other forms of employment opportunity in the area prejudices the achievement of this objective whilst the reliance of Part 2 on Use Classes which are no longer extant fails to provide any guidance on how these alternative uses should be considered. In its submitted form it is not therefore considered that Part 2 of the Policy is now clearly written or unambiguous.
85. It should however be noted that since this part of the policy was originally drafted works pursuant to the extant consents referred to above, have commenced on the site. Such works include the provision of an appropriate access, the provision of sustainable drainage measures and the incorporation of flood resilience within the buildings. In addition, a S106 agreement has secured the provision of appropriate biodiversity net gain.
86. In the light of this progress it is considered that modifications to the Policy are required. These are set out under M11.23 of the Castle Point Local Plan – Schedules of Proposed Modifications January 2021 [\[EXM-030\]](#). The modification seeks to delete the detailed policy requirements, to reflect the fact that detailed planning consents have been granted on most of the site.
87. Part 2 of the Policy is further proposed to be modified to seek to ensure that Class B uses (B2 and B8), predominate on the site to ensure enough supply of land for such purpose.

Local Policy EC2 South of Northwick Road

### Question 255

**What is the planning status of the site, to what extent has the site been delivered and is part 3 of the Policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

88. The site is allocated for employment purposes in the adopted Local Plan (1998).

## **Matter 6: Economic Strategy and Policies**

89. Outline planning permission was granted for the use of land for B1, B2, B8 employment purposes and for a hotel and motor dealership with access road, car parking and services areas, landscaping and sewage treatment plant and a surface water balancing pond, under reference CPT/678/97/OUT, on 27th March 2002. The application reserved all matters for later consideration but included, within the application documentation, an indicative site plan. The site plan indicated that the application related to a larger site including land to the south of the current allocated site. The land to the south land was subsequently identified as suitable for ecological mitigation associated with the proposed commercial development and subsequently designated as a SSSI.
90. The consent was subject to a S106 agreement inter alia required that any reserved matters application be prepared and submitted in accordance with an agreed design brief. Such reserved matters were to be submitted within 3 years of the date of the outline consent.
91. The land was subsequently acquired by the East of England development Agency.
92. On the 26th January 2004 a reserved matters application for the construction of highways, drainage infrastructure and landscaping as received. On the 27th August 2004 an application for the renewal of the outline consent was received under reference CPT/678/97/OUT/REN. Both applications were approved on the 20th April 2005. CPT/678/97/OUT/REN was approved subject to a condition which extended the period for the submission of reserved matters within ten years of the date of the outline renewal consent.
93. The land was then sold to Inner London Developments (Northwick) Ltd.
94. On the 13th April 2015 an application for reserved matters in respect of access, appearance, landscaping, layout and scale was received. This sought to provide some 26,355 sqm of floorspace comprising 8,928 sqm of B1 floorspace, 4,582 sqm of B2 floorspace, 9,955 sqm of B8 floorspace, a 60 bedroomed hotel and a car showroom/workshop of some 2890 sqm. The application was approved subject to conditions and a S106 agreement on the 31st March 2017.
95. Condition 2 required commencement site within 2 years. In March 2019, the access into the site was constructed. Work having commenced within the requisite 2-year period; the consent remains extant. However, other than the formation of the access into the site no other works have commenced.
96. With regard to how decision maker should respond to development proposals, as originally drafted, it is evident that Part 3 of the policy sought to achieve development within class B of the Use Classes Order.
97. In September 2020, as identified above, the Use Classes Order was amended and Class B1 was revoked. Uses formerly falling within Class B1 were included within a new Class E. This new class provides for significant flexibility between uses, buildings within Class E maybe used for retail purposes as well as for financial and professional services and restaurants and cafes,

## Matter 6: Economic Strategy and Policies

indoor sport and recreation, medical and health services, day nurseries and daycentres and such office, research and industrial processes as could be carried out within a residential area without detriment to amenity.

98. The clear purpose of Part 3 of Policy EC2 in its submitted form was to secure facilities for the provision of employment opportunities in the provision of office space, research and development, industrial processes and storage and distribution.
99. Read strictly within the context of the 2020 amendment to the Use Classes Order, however, uses within the former Class B1 could not be accommodated on the site as there is no reference in the Policy to the provisions of Class E. Development of the site, as far as Class B is concerned would be limited to uses within Classes B2 and B8 only and as such the policy could, as originally submitted, prejudice satisfaction of the employment needs of the Borough.
100. Furthermore, this part of the Policy fails to provide any guidance on how alternative uses should be considered. In its submitted form it is not therefore considered that Part 3 of the Policy is clearly written or unambiguous.
101. It should however be noted that since this part of the policy was originally drafted works pursuant to the extant consents referred to above, have commenced on the site.
102. In the light of this progress it is considered that modifications to the Policy are required. These are set out under M11.24 of the Castle Point Local Plan – Schedules of Proposed Modifications January 2021. The modification seeks to delete the detailed policy requirements, to reflect the fact that detailed planning consents have been granted.
103. Part 3 of the Policy is further proposed to be modified to ensure that Class B uses (B2 and B8, which remain extant), predominate on the site to ensure a sufficient supply of land for such purpose.

### Local Policy EC3 Canvey Seafront Entertainment Area

#### Question 256

**With regard to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, is the Policy clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

104. The intention of part 2 of policy EC3, as submitted, is to retain and grow a cluster of leisure and tourism related uses which are attractive to locals and visitors as a tourist destination. At present the area includes a mix of restaurants, a pub, takeaways and commercial leisure businesses which cater for this. The images which follow shows the existing cluster of businesses in this location.

## Matter 6: Economic Strategy and Policies

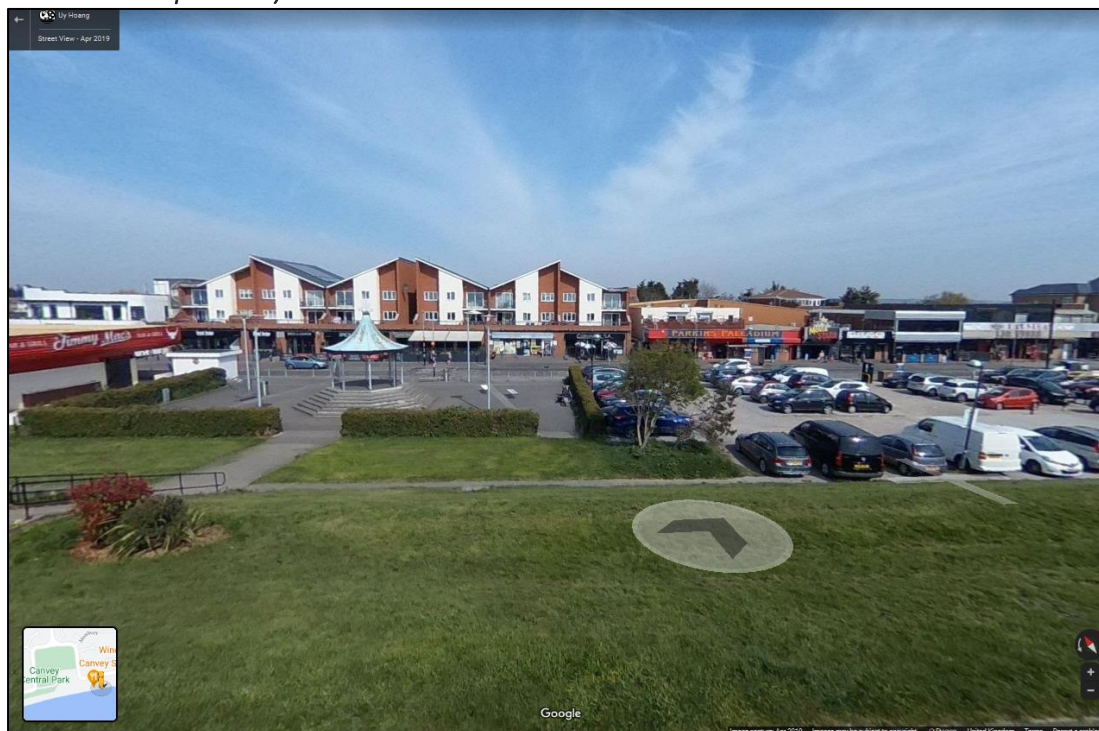
105. Until September 2020, it was possible to specify the mix of uses sought in this area through reference to the Use Classes Order, and part 2 was drafted to reflect this. However, the changes to the Use Classes Order in September 2020 combined many commercial uses into Class E, alongside offices, shops and a range of other uses which the Council would not be looking to encourage in this area, out of concern for undermining the tourism cluster.
106. However, due to the change to the Use Classes Order part 2 of policy EC3 is no longer clearly written and unambiguous as it refers to legally defined Use Classes that no longer exist.
107. It is therefore proposed that part 2 of policy EC3 is amended to reflect this change. However, whilst in town centre locations a mix of different commercial uses may be appropriate, this is not the case when seeking to retain and grow a cluster such as a tourism related cluster. To this end, whilst reference to Use Classes A3, A4, A5 and D2 should be removed, their direct replacement with reference to Class E instead is not appropriate.
108. Instead the policy would be improved to promote and support commercial and leisure proposals which can be demonstrated to support the tourism industry. This provides flexibility to allow a range of different proposals to be brought forward regardless to its Use Class now or in the future, whilst allowing the Council to retain and grow the tourism cluster. This is set out as modification M11.26 in the Schedule of Modifications [[EXM-030](#)].

*Figure 2: Seafront Entertainment Area looking at Amusements on Labworth Park (Extract from Google Street View – April 2019)*



## Matter 6: Economic Strategy and Policies

Figure 3: Seafront Entertainment Area looking at Amusements on Eastern Esplanade (Extract from Google Street View – April 2019)



### Question 257

**With particular regard to nearby Habitats sites, would the Policy be effective in protecting and enhancing biodiversity and is it consistent with the findings of the HRA?**

109. Policy EC3 is screened in by the Habitats Regulations Assessment 2020 [EQ-010] because there is the potential for the policy to cause likely significant adverse effects due to:

- Impacts on Features (species outside Habitats Sites)
- Water Quality and Quantity
- Air and Noise Pollution
- In-combination Effects

110. This is summarised in Table 7 at page 38 and detailed in Appendix 2 at page 139.

111. The Appropriate Assessment identifies the need for mitigation in respect of policy EC3 in order to prevent adverse effects on the integrity of Habitats Sites arising from impacts on water quality arising from any development arising (see paragraph 5.3.67 of the HRA 2020).

112. The mitigation recommended is the inclusion of additional text in policy EC3 to ensure that project level Habitats Regulations Assessments are carried out where there is the potential for effects on the integrity of the Benfleet and Southend Marshes SPA and Ramsar Site or Thames Estuary and Marshes SPA and Ramsar site, either alone or in-combination with other plans or projects to arise.



## Matter 6: Economic Strategy and Policies

113. The Local Plan, as submitted does not include this modification, and consequently there is a risk that policy EC3 could give rise to adverse effects on the integrity of Habitats Sites. This would be contrary to the Conservation of Habitats and Species Regulations 2017, and to the requirements of section 15 of the NPPF.

114. Modification M11.26 proposes the insertion of the following text into policy EC3 to overcome this issue:

**3. Any development will only be granted permission if it can be demonstrated that there would be no adverse effect on the integrity of Benfleet and Southend Marshes SPA or Ramsar Site or Thames Estuary and Marshes SPA and Ramsar site, either alone or in combination with other plans or projects. In order to achieve this, information to enable a project-level HRA should be provided for any relevant development.**

115. Appendix 3 of the HRA 2020 sets out the impacts of embedding the recommended mitigation. This shows at page 166 that there will be '*No adverse effects on site integrity with mitigation embedded*'. Modification M11.26 therefore makes policy EC3 effective in protecting and enhancing biodiversity, having regard to the evidence set out in the HRA 2020, and should be incorporated as a Main Modification for that reason.

### Question 258

#### Is the retail floorspace threshold justified?

116. The Council has reviewed the evidence base and cannot identify any justification for the retail floorspace threshold set out in part 2a of policy EC3 and provides an unreasonable restriction on uses within the area. To this end it is proposed by the Council that this threshold is removed in order to improve the soundness of the policy. This is proposed as part of modification M11.25, set out in the Schedule of Modifications [[EXM-030](#)].

### Question 259

#### Are the proposed Modifications necessary for soundness?

117. Proposed modifications M11.25 and M11.26 are necessary to make the plan sound for those reasons set out in response to questions 256, 257 and 258. The Council believes that these modifications are necessary due to:

- Changes to the Use Class Order in September 2020 which rendered part 2 of the policy ineffective; and
- The need to ensure that any development in the seafront entertainment area does not cause adverse effects to the integrity of habitat sites.

118. The Council is satisfied that the amendments proposed will improve the soundness of policy EC3.

## Matter 6: Economic Strategy and Policies

### Local Policy EC4 Canvey Port Facilities

#### Question 260

**With particular regard to nearby Habitats sites, would the Policy be effective in protecting and enhancing biodiversity and is it consistent with the findings of the HRA?**

119. Policy EC4 is screened in by the Habitats Regulations Assessment 2020 [EQ-010] because there is the potential for the policy to cause likely significant adverse effects because of:

- Impacts on Features (species outside Habitats Sites)
- Disturbance
- Water Quality and Quantity
- Air and Noise Pollution
- In-combination Effects

120. This is summarised in Table 7 at page 38 and detailed in Appendix 2 at page 140.

121. The Appropriate Assessment identifies the need for mitigation in respect of policy EC4 in order to prevent adverse effects on the integrity of Habitats Sites arising from:

- Impact of any expansion of the facilities into functionally linked land, although the HRA 2020 does recognise at paragraph 5.2.29 that this is not proposed. The recommended modification is at paragraph 5.2.46.
- Impact of port activities on water quality (see paragraph 5.2.64).
- Impact on Habitats or species because of disturbance (see paragraph 5.4.50)
- Impact of port activities or facilities on air quality (see paragraph 5.5.25)

122. The mitigation recommended is the inclusion of additional text in policy EC4 to ensure that project level Habitats Regulations Assessments are carried out where there is the potential for effects on the integrity of the Benfleet and Southend Marshes SPA and Ramsar Site or Thames Estuary and Marshes SPA and Ramsar site, either alone or in-combination with other plans or projects to arise.

123. The Local Plan, as submitted does not include this modification, and consequently there is a risk that policy EC4 could give rise to adverse effects on the integrity of Habitats Sites. This would be contrary to the Conservation of Habitats and Species Regulations 2017, and to the requirements of section 15 of the NPPF.

124. Modifications M11.29 and 11.31 proposes the insertion of the following text into policy EC4 to overcome this issue:

**Neither the development itself, nor the future operation of the site will result in adverse effects on the Integrity of Benfleet and Southend Marshes SPA and Ramsar site or the Thames Estuary and Marshes SPA and Ramsar site, either alone or in combination with other plans or projects. This must be demonstrated through a project level Habitats Regulations Assessment. Where appropriate proposals will be required to deliver a biodiversity net gain; and**

## Matter 6: Economic Strategy and Policies

125. Appendix 3 of the HRA 2020 sets out the impacts of embedding the recommended mitigation. This shows at page 166 that there will be *'No adverse effects on site integrity with mitigation embedded'*. Modifications M11.29 and 11.31 therefore makes policy EC4 effective in protecting and enhancing biodiversity, having regard to the evidence set out in the HRA 2020, and should be incorporated as Main Modifications for that reason.

### Question 261

**Would the Policy be effective in ensuring that the development would be safe for its lifetime without increasing flood risk elsewhere?**

126. The port facilities located on Canvey Island are in Flood Risk Zone 3. They are however protected from tidal flood risk as they are located behind the sea defences, with just their jetties extended to the seaward side of these.

127. Port facilities are by their very nature 'water compatible development'. However, the ports on Canvey receive hazardous materials in the form of Liquid Petroleum Gas and BioLPG (Calor) and oil derived products, including aviation fuel (Oikos). Hazardous installations are deemed to be highly vulnerable to flood risk but are deemed to be 'essential infrastructure' where located as part of port facility. This is set out in Paragraph 066 Reference ID: 7-066-20140306 of the Planning Practice Guidance on Flood Risk. It is necessary for the Exceptions Test to be met where 'essential infrastructure' development is proposed in Flood Risk Zone 3.

128. Policy CC2 of the Local Plan sets out the Council's general approach to managing tidal flood risk. In theory this policy would be applicable to developments at the port facilities, as well as in other locations within the borough. The Council believes that policy CC2 is sound and would offer the necessary protections in relation to flood risk arising from tidal sources.

129. However, representation [255] made by the Environment Agency, who are the statutory body for flood risk management, sought specific reference to the management of flood risk to be incorporated into policy EC4. They proposed specific wording in this respect, which is proposed as modifications M11.30 and M11.32 to the Local Plan. The modification reads as follows:

***The design of the proposed development will incorporate measures to manage current and future flood risk, ensuring development is resistance to all sources of flood risk, including careful consideration of emergency planning procedures and areas of refuge for site users.***

130. In the Statement of Common Ground with the Environment Agency [SCG-001] these modifications are agreed by the Environment Agency. This indicates that they are satisfied that policy EC4 will be effective in managing flood risk arising from this site.

**Question 262**

**Given the hazardous substances handled at the port facilities, would the Policy be effective in ensuring public safety through the prevention of major accidents and limiting their consequences, and is it justified? Conversely, would the Plan be effective (such as through Local Policy NE9) in ensuring that the existing businesses at the Port would not have unreasonable restrictions placed upon them as a result of new development proposed?**

131. The Planning Practice Guidance states the following at paragraph: 65 Reference ID: 39-065-20161209 regarding dealing with hazardous substances in plan-making:

*Local planning authorities should know the location of hazardous installations as they will have been informed of consultation zones by the COMAH competent authority. When taking public safety into account in planning decisions and formulating local plans they will need to take conscious account of the total number of people that will be present in these consultation zones.*

132. It is clear from this guidance that the consultation zones identified by the Health and Safety Executive (HSE) for the two COMAH sites on Canvey Island are a critical plan-making tool. The HSE Land Use Planning Methodology<sup>1</sup> set out the details of how the consultation zones are used as part of the decision-making process for land use planning.

133. For consistency with the NPPF, the Planning Practice Guidance, and the HSE Land Use Planning Methodology, the Council has sought to take an approach through its plan-making process which uses these consultation zones to define the extent of the population at risk.

134. It is noted that the Canvey Green Belt Campaign representation [654] suggests that the Council should have taken account of societal risk in the preparation of the Local Plan. This is not the approach to plan-making set out in the Planning Practice Guidance and is not a requirement of the HSE's land use planning methodology. Consideration was given by the HSE to incorporate considerations of societal risk into the land use planning process in 2009/2010<sup>2</sup>. However, this has not materialised, and the current process is as set out in the current Planning Practice Guidance and the HSE Land Use Planning Methodology.

135. In terms of policy EC4, this has been prepared in accordance with the current Guidance and Methodology in mind. Parts 1a and 2b of policy EC4 seek for there to be no increase in the level of hazard or risk posed by the facilities when new development on the sites occurs. The current consultation zones indicate the potential scale and extent of any risk posed by the installations at present. In theory, if Parts 1a and 2b were applied effectively, these zones would not grow in extent over the course of the plan period because of any new development. Assuming new development within the consultation zones is limited over the same period there would be no significant increase in the total number of people at risk.

---

<sup>1</sup> <https://www.hse.gov.uk/landuseplanning/methodology.pdf>

<sup>2</sup> <https://www.hse.gov.uk/societalrisk/>

## **Matter 6: Economic Strategy and Policies**

136. To ensure that new development within the consultation zones is limited, thereby limiting any increase in the number of people at risk policy NE9 is proposed. Policy NE9 acts to limit the extent to which new development can occur within the consultation zones surrounding the facilities, thereby acting to limit the total number of people exposed to risk from the facilities.
137. It should be noted that a cordon sanitaire has existed around these facilities for many years, and as it currently stands there is limited development within the extent of the current consultation zones. That being said, any increase in risk from these facilities might see these consultation zones extended to capture a larger number of existing residential properties and consequentially people, which the Council would not consider acceptable, and in the view of the Council would be inconsistent with national policy and guidance.
138. Combined policies EC4 and NE9 seek to maintain the status quo. This does not necessarily place unreasonable restrictions on the port facilities, as the HSE Land Use Planning Methodology, and the consequential consultation zones, are based on residual risk. This will enable the facilities to continue to change and potentially grow if new technologies and other mitigations can act to manage the risk arising to the levels currently posed, as measured by the extent of the consultation zones.
139. The Council is satisfied that this approach is consistent with national policy, both planning policy and the policies of the HSE. It is also considered to be an effective and justified approach, which uses a clear measure of risk as defined by the HSE, and the extent to which any change to risk is acceptable at a local level.

### **Question 263**

**Given the process for the consenting of Nationally Significant Infrastructure Projects (NSIP) and the designated National Policy Statements, is the Policy as worded clearly written and unambiguous, so it is evident how a decision maker should react to development proposals?**

140. The Council is aware that a Development Consent Order is to be submitted by Oikos for expansion of capacity within their site. This application will be considered in due course and the Planning Inspectorate will need to have regard to the policies in this plan. Therefore, the Council acknowledges the decision-making process for consenting NSIP schemes.
141. The Council has reviewed policy EC4 in respect of this question and is satisfied that parts 1a, 1b, 1c, 1d (as amended) and 1e (as proposed) are clearly written and unambiguous and could be effectively used by a decision maker to understand how they should react to development proposals.
142. Similarly, the Council is satisfied that parts 2b, 2c, 2d, 2e (as amended) and 2f (as proposed) are clearly written and unambiguous and could be effectively used by a decision maker to understand how they should react to development proposals.

## Matter 6: Economic Strategy and Policies

143. The Council has however identified an area where more clarity may be useful. This relates to the distinction between parts 1 and 2 of the policy, and consequently when the national interest criteria may apply.
144. The Planning Practice Guidance at paragraph 067 Reference ID: 39-067-20161209 states that if a hazardous substance consent is no longer used it may be appropriate for it to be revoked so as not to prevent development in the vicinity. Hazardous substance consents can be revoked in other situations, although this may result in compensation being payable.
145. To clarify, it is not the intention of the Council to revoke any extant hazardous substance consents. However, both facilities are involved in the importation of fossil fuel based substances. The Government has indicated that it wishes to reduce the UK's reliance on such products with the intention of achieving climate change goals and has begun to put policies and legal mechanisms in place to achieve this. This has implications for businesses involved in fossil fuels.
146. Therefore, whilst the facilities on Canvey may continue to operate under the existing hazardous substance consents for many years to come, there is also the possibility that at a point in time, they are not required for their current purpose. The Council believes that if that situation arises, it presents the opportunity to review of the function of those facilities, and potentially secure less hazardous uses (port related or otherwise). It is however recognised that wharfage with hazardous substance consent is at a premium, and therefore it may be the case that the demise of one need may create space for another need to be met. However, if that other need is hazardous, the Council believes it is appropriate that meeting the need is nationally important given the ongoing risk to the population on Canvey Island that would arise.
147. It is therefore the case that applications which would continue to see the facilities used for the same purpose would be assessed under part 1 of the policy. Meanwhile, applications which would see the facilities used for a different purpose, or for the importation and storage of a different hazardous product would be assessed under part 2. In respect of part 2, the national interest test would only apply in instances where a different hazardous substance was proposed.
148. Having regard to the above, it is recommended that the following amendment is made to part 1 of policy EC4:

*Applications for development at existing facilities located within the allocated Port Related Facilities Area shown on the Policies Map, ~~at the existing port facilities at South Canvey~~ where the hazardous material/s listed on the Hazardous Substances Consent is not changing will be permitted subject to compliance with the following criteria:...*

149. Additionally, it is proposed that the following amendment is made to part 2a of policy EC4:

**Matter 6: Economic Strategy and Policies**

*Where the proposal includes a change of materials handled, and those materials are classified as hazardous, it can be demonstrated that the proposal is in the national interest;*

150. It is considered that with the two modifications proposed above, policy EC4 would be sufficiently clear and unambiguous in totality to ensure that a decision maker would know how to react to development proposals for the port sites on Canvey Island.