



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



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

## **AGENDA**

**Committee: DEVELOPMENT CONTROL**

**Date and Time: Tuesday 1<sup>st</sup> November 2016 at 7.30 p.m.**

**Venue: Council Chamber**

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

**Membership: Councillors Hart (Chairman), Smith (Vice Chairman), Acott, Anderson, Blackwell, Mrs King, Mumford, Sharp, Sheldon, Varker, Mrs Wass, N. Watson and Wood.**

**Canvey Island Town Councillors : Greig and Tucker**

**Officers attending: Steve Rogers – Head of Regeneration and Neighbourhoods  
Fiona Wilson – Head of Legal Services  
Rob Davis – Planning Development and Enforcement Manager**

**Enquiries: Cheryl Salmon, ext. 2454**

### **PART I (Business to be taken in public)**

**1. Apologies**

**2. Members' Interests**

**3. Minutes**

A copy of the Minutes of the meeting held on 4<sup>th</sup> October 2016 is attached.

**4. Public Speakers**

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

## 5. Deposited Plans

Report of the Head of Regeneration and Neighbourhoods is attached.

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## **DEVELOPMENT CONTROL COMMITTEE**

**4<sup>TH</sup> OCTOBER 2016**

**PRESENT:** Councillors Hart (Chairman), Smith (Vice-Chairman), Acott, Mrs King, Mumford, Sharp, Wood and Canvey Island Town Councillor Greig.

Councillors Hurrell, Ladzrie, MacLean, Riley also attended.

Apologies for absence were received from Councillors Anderson, Blackwell, Sheldon, Varker, Mrs Wass and N. Watson.

### **13. MEMBERS' INTERESTS**

There were none.

### **14. MINUTES**

The Minutes of the meeting held on 6<sup>th</sup> September 2016 were taken as read and signed as correct.

### **15. DEPOSITED PLANS**

- (a) **15/0710/FUL – 242 HIGH ROAD, BENFLEET, ESSEX, SS7 5LA (BOYCE WARD) – CONSTRUCTION OF 18NO SELF CONTAINED FLATS WITH 1NO RETAIL SHOP AND 1NO DETACHED HOUSE WITH ATTACHED PARKING – HISTONWOOD LTD**

The proposal sought to develop a brownfield site in a sustainable location with a mixed retail/residential development comprising one, two bedroomed detached house with integral carport, fronting Grove Road and a three storey block comprising a retail unit fronting the High Road and 18 flats with amenity space and car parking, all accessed from Grove Road.

It was reported that, subject to the imposition of conditions, the proposal would satisfy national and local policy requirements and make a contribution towards the satisfaction of small and affordable housing needs as well as maintain the opportunity for retail activity on the site, consistent with its edge of town centre location.

The Planning Officer advised that if Members were minded to approve the application a condition should be added to any consent regarding the time limit for commencement of the works.

During discussion Members indicated their support for the proposal as it was considered that the development would be an improvement to the current site and welcomed the contribution to affordable housing in the borough.

Following discussion it was:-

**Resolved** – That subject to the completion of a satisfactory Section 106 Agreement regarding an affordable housing contribution, the Head of Regeneration and Neighbourhoods be authorised to approve the application subject to the conditions, as amended, set out in the Planning Officer's report.

**(b) 16/0592/FUL – 81 STANLEY ROAD, THUNDERSLEY, BENFLEET, ESSEX, SS7 3EN (ST PETER'S WARD) – OUTBUILDING TO REAR – ROY CASS**

The application sought permission for an outbuilding within the rear garden of this property. There were no conflicts with either national guidance or the Council's policies and design guidance that could be identified and as such the proposal was recommended for approval.

The application was presented to the Committee because the applicant was the spouse of a Council employee.

Following consideration of the report Members concurred with the Planning Officer's report that the application should be approved. It was therefore:-

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

Chairman

## ITEM 1

<b>Application Number:</b>	<b>16/0512/FUL</b>
<b>Address:</b>	<b>Concord Rangers Football Club Thames Road Canvey Island Essex SS8 0HP (Canvey Island West)</b>
<b>Description of Development:</b>	<b>The installation of a 17.5m monopole with 6 antennas, 2 microwave dishes and, 3 equipment cabinets, and ancillary development.</b>
<b>Applicant:</b>	<b>Telefonica UK Limited</b>
<b>Case Officer:</b>	<b>Mr Robert Davis</b>
<b>Expiry Date:</b>	<b>03.11.2016</b>

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### Summary

The application seeks permission to erect a telecommunications base station on part of the land occupied by the Concord Rangers Football Club.

The report prepared for September's meeting was withdrawn prior to the meeting taking place in order that officers could seek clarification on the applicant's use of the lattice mast at the Canvey Island Gas Terminal.

In the light of information to hand regarding this existing mast, it is considered that the need for a new mast has not been justified and it is therefore recommended that the proposal be REFUSED.

The application is presented to the Committee because the site is within the control or ownership of the Borough Council.

### Site Visit

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

### Introduction

The application relates to land forming part of the un-surfaced car park of the Concord Rangers Football Club. This area is separated from Thames Road by a wall with brick piers and railings together with some boundary trees and vegetation.

### The Proposal

Permission is sought for the erection of a 17.5m high monopole containing antennas and microwave dishes with associated ground level equipment. The installation would be enclosed by a 2.4m high palisade fence.

The proposal is part of a joint operation between Telefonica and Vodafone involving a pooling of their basic network infrastructure while maintaining independent networks.

The applicant states that there is a specific requirement for a radio base station at this location to improve coverage in the area to provide new 2G/3G and 4G coverage for Telefonica and

improved 2G/3G and new 4G coverage for Vodafone as part of their continued network improvement program.

### **Supplementary Documentation**

The following documents were submitted with the application and are available on the Council's website:

- Supplementary information sheet
- General background for telecommunications development
- Health and mobile phone base stations
- Existing/proposed coverage maps
- ICNIRP declaration

### **Planning History**

None of relevance to consideration of the current application.

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

National Planning Policy Framework  
Paragraphs 42 to 46

Current Local Plan  
Policy CF16 – Telecommunications

New Local Plan  
Policy T1 – Transport Strategy

### **Consultation**

#### Legal Services

The applicant holds a 30 year lease on the land from the Council. A condition on the lease states that the Tenant shall not install Service Media at the Property without the consent of the landlord. The applicant will need to make a separate application for such Consent.

Canvey Town Council  
No objection

### **Public Consultation**

No response to adjoining occupier notification.

### **Comments on Consultation Responses**

The conditions of the current lease are not a matter for the Development Control Committee to consider.

## Evaluation of Proposal

The main issues for consideration are the visual impact of the proposed installation and whether the need for a new mast has been justified.

Comment will also be made in respect of the health implications of the proposal.

### Visual impact

Paragraph 42 of the NPPF states that advanced, high quality communications infrastructure is essential for sustainable economic growth. The development of high speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services.

Paragraph 43 of the NPPF states that local planning authorities should aim to keep the number of radio and telecommunications masts and the sites for such installations to a minimum, consistent with the efficient operation of the network. Existing masts, buildings and other structures should be used, unless the need for a new site has been justified.

Paragraph 46 of the NPPF states that local planning authorities must determine applications on planning grounds. They should not seek to prevent competition between different operators, question the need for the telecommunications system or determine health safeguards if the proposal meets International Commission guidelines for public exposure.

Local Plan Policy CF16 states that in considering such proposals the Council will have regard to the visual impact of the structure on adjacent land uses, the impact on the landscape and the availability of alternative sites. Consideration will be given to the provision of large masts shared by several operators that would avoid the need for the erection of a multiplicity of smaller structures. This approach is considered to be consistent with the provisions of the NPPF.

A 17m high monopole would undoubtedly be visible in the landscape as the trees on site would not completely screen it. However, this area is characterised by utility infrastructure in the form of the Gas Terminal and also the nearby sewage works. There is a mast located towards the northern boundary of the Gas Terminal which is visible in the local area. In the context of this surrounding development, it is not felt that a monopole with antennas would look out of place.

This proposal would be less visually intrusive than the mast on the Gas Terminal as it would be a monopole rather than a lattice tower. The proposal is deemed to be sufficiently distant from residential properties that the visual amenity of occupiers would not be adversely affected. The ground level equipment is not considered to have a significant effect on the aesthetic qualities of the area. Overall, it is not considered that an objection to the proposal on the basis of visual impact would be supported on appeal.

With regard to the need for a new mast, the applicant currently uses the lattice mast at the Gas Terminal, Thames Road but has stated that after protected discussions this has been discounted on the basis that commercial terms cannot be reached with the site provider.

However, in early September the applicant advised that it appeared an agreement had been reached and the replacement site would not be required. In the light of this information the applicant was advised there was no further justification for recommending the application for

approval as to do so would be contrary to government guidance as contained in paragraph 43 of the NPPF.

The applicant responded by saying that negotiations between the operator and the land owner were still ongoing and nothing had yet been finalised or concluded.

The site provider has confirmed that agreement has been reached with Vodafone and Telefonica on more than one occasion and solicitors instructed but Vodafone has rescinded the agreement. Notwithstanding this, the site provider has stated that a new tenancy agreement will not be opposed.

In the light of the above information it would appear that the existing lattice mast at the Gas Terminal cannot yet be discounted and the need for a new site has not been justified. Accordingly, the proposal is considered to be contrary to paragraph 43 of the NPPF and Policy CF16 of the Council's Adopted Local Plan.

Consideration has been given to the possibility of requiring the applicant to remove the existing tower by condition or legal obligation should consent for the proposed mast be given. However, this will not be possible as there are other licensed operators on the lattice tower at the Gas Terminal and that the tower is owned by a third party.

#### Health

Paragraph 46 of the NPPF states that local planning authorities should not seek to determine health safeguards if the proposal meets International Commission on non-Ionising Radiation Protection (ICNIRP) guidelines. The application is accompanied by such certification and accordingly there can be no objection to the proposal on the basis of perceived health impacts.

#### Other matters

The proposed installation would occupy a 6m by 6m area of the un-surfaced car park. This would remove space for two cars; however such reduction in parking provision is not considered significant in the context of the parking area as a whole. No objection is therefore raised to the proposal on parking grounds.

The proposal falls just within an area identified as a transport improvement area in the Council's New Local Plan. Specifically the site includes land which would provide access to Phase 2 of the extension to Roscommon Way. However, this allocation is in indicative form only and the final alignment of the road improvements is likely to differ. Furthermore Members are advised that the New Local Plan is at an early stage of submission and Policy T1 can therefore only be given limited weight. Given these considerations a recommendation of refusal based upon Policy T1 is unlikely to be sustained on appeal.

#### **Conclusion**

The visual impact of the proposal is considered to be acceptable in this location and no other harm to public amenity that would justify withholding consent has been identified.

However, negotiations for the continuing use of the Gas Terminal mast by Vodafone and Telefonica are still on-going and therefore the need for a new mast adjacent to the Concord Rangers football Club has not been justified.



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

My Recommendation is **Refusal** for the following reason:

1 The applicant has failed to demonstrate that the existing telecommunications mast used for its network delivery is unavailable for continued use and should be discounted. If approved, the provision of a new mast would therefore result in the unnecessary proliferation of telecommunication masts contrary to Policy CF16 of the Council's Adopted Local Plan and government guidance as contained in the National Planning Policy Framework.

### **Informative**

1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

## ITEM 2

<b>Application Number:</b>	<b>16/0651/FUL</b>
<b>Address:</b>	<b>241 Thundersley Park Road Benfleet Essex SS7 1AJ (Boyce)</b>
<b>Description of Development:</b>	<b>Rear dormer and alterations to fenestration</b>
<b>Applicant:</b>	<b>Mr John Harrington</b>
<b>Case Officer:</b>	<b>Miss Emma Clay</b>
<b>Expiry Date:</b>	<b>04.11.2016</b>

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### Summary

The proposal is for the formation of a rear dormer and minor alterations to fenestration on the front and rear elevations.

The proposal is an improvement in design terms on the previously approved scheme and would not have any detrimental impact on the openness of the Green Belt.

Whilst it would be contrary to Green Belt policy in the Council's Adopted Local Plan it is considered that the proposal is acceptable under Green Belt Policy GB4 in the emerging New Local Plan. The proposal is recommended for APPROVAL.

The application is presented to Committee in order for Members to consider the potential harm of the development in respect of Green Belt Policy and the emerging New Local Plan.

### Site Visit

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

### Introduction

The application property is a detached chalet on the north side of the unmade Thundersley Park Road, some 65m east of its junction with Jarvis Road. It stands on a plot with frontage of some 12m and a maximum depth of some 27m. It currently has a detached garage to the front. The land rises to the north.

To the east is a detached bungalow at No.243. To the north is a dwelling at the Willows which is set on a large plot. To the west is a site that formerly contained a dwelling called White Lodge which has been demolished pending redevelopment of that site with a replacement dwelling.

### The Proposal

Planning permission is sought for the formation of a rear dormer and minor alterations to fenestration on the front and rear elevations.

The proposal would reconfigure the first floor layout of three bedrooms to provide independent access to each room and provide a further bathroom and en-suite.

The proposed dormer would have a width of some 7.1m and a height of some 2.2m. It is proposed to render the whole property in render, with the dormer walls to match.

### Relevant History

- 4<sup>th</sup> July 2012, planning permission granted for demolition of part of existing building and construction of rear dormer (CPT/303/12/FUL). Permission not implemented.
- 17<sup>th</sup> December 2010, planning permission refused for raising roof to form a four bed house with Mansard roof with front and rear dormers (CPT/515/10/FUL). The reason for refusal:

*The proposed development is situated within an area of Green Belt as defined in the Council's Adopted Local Plan, where development of this nature is allowed only in the most exceptional circumstances. The proposal, by reason of the increased height and bulk of the roof would substantially alter the scale and form of the building, increasing its dominance and prominence to the detriment of the character and appearance of the area and would result in an oversized inappropriate form of development, that if allowed would have an adverse impact on the openness, character and appearance and strategic function of the Green Belt. The applicant has failed to demonstrate any special circumstances why the proposal might exceptionally be allowed and the proposal is therefore contrary to National Planning Policy in PPG2 "Green Belts".*

- 28<sup>th</sup> February 1988, planning permission granted for a single storey pitched roof side extension and new roof incorporating three pitched roofed dormers and new double garage.

The original dwelling on this site was a detached bungalow which pre-dates planning records. The original bungalow was enlarged with a single storey side extension for a utility room and toilet (BR/413/87) and then a two storey side extension with dormers to provide a new lounge and first floor bedroom accommodation (CPT/1980/88).

### Local Plan Allocation

Green Belt

### Relevant Policies

#### National Planning Policy Framework (NPPF)

Paragraph 89 – exceptions to inappropriate development in Green Belt

#### The New Local Plan 2016 (Not adopted)

Policy GB 4 – Extensions and alterations to buildings in the Green Belt

Policy DES 1 – General Design Principles

#### Local Plan (Adopted November 1998)

Appendix 2 Development in the Green Belt

GB5 Extensions to Dwellings in the Green Belt

EC2 Design

H17 Housing Development – Design and Layout

Residential Design Guidance (Adopted January 2013)

RDG5	Privacy and Living Conditions
RDG7	Roof Development
RDG8	Detailing

**CONSULTATIONS:**

Notification letters were sent to four neighbouring properties. No responses have been received.

**Evaluation of Proposal**

The proposal is located within Green Belt where there is a presumption against development.

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

Paragraph 87 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 goes on to state that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The NPPF states that the construction of new buildings is inappropriate in Green Belt unless it falls into any of the exceptions listed under paragraph 89.

Paragraph 89 of the NPPF specifies that a Local Planning Authority should regard the construction of new buildings as inappropriate in Green Belt. It goes on to state that exceptions to this include the extension or alteration of a building providing that it does not result in disproportionate additions over and above the size of the original building.

Policy GB5 of the Adopted Local Plan states that within Green Belt extensions to dwellings should not adversely impact on the scale and character of the dwellinghouse or the Green Belt and its surroundings.

Supplementary guidance at Appendix 2 of the Adopted Local Plan clearly defines what the Planning Authority would consider to be an appropriate extension to a dwelling in the Green Belt.

The General Permitted Development Order, at the time of the preparation of Appendix 2 to the adopted Local Plan, allowed, subject to specific criteria, the extension of dwellings by up to 70 cubic metres (m<sup>3</sup>) or 15 per cent, whichever is the greater, to a maximum of 115 m<sup>3</sup>, without the need for specific planning permission.

Appendix 2 further allows an enlargement of 25m<sup>3</sup> in addition to any unimplemented permitted development rights available to the original dwelling as a reasonable enlargement of a dwelling in the Green Belt.

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

The NPPF clarifies that the original dwelling is the building as it existed on 1<sup>st</sup> July 1948 or, if constructed after 1<sup>st</sup> July 1948, as it was built originally.

The original consent for the dwelling provided a volume of approximately 183m<sup>3</sup>. It therefore benefits from a permitted development allowance of 70m<sup>3</sup> plus the reasonable room allowance of 25m<sup>3</sup>, making a total of 95m<sup>3</sup>. This level of addition represents the level of extension considered reasonable by the planning authority.

The dwelling has previously been extended on two occasions which have added approximately 347m<sup>3</sup> to the original volume; this has already exceeded the amount considered as reasonable by 69m<sup>3</sup>. This application proposes to construct a rear dormer with a volume of some 32m<sup>3</sup> and would cumulative represent a 107% enlargement of the original property.

The proposed extended dwelling would have a volume of 379m<sup>3</sup>, some 196m<sup>3</sup> greater than the original dwelling and some 101m<sup>3</sup> greater than what may be accepted as a proportionate enlargement of the dwelling.

An enlargement of this magnitude is considered to be a disproportionate enlargement of the dwelling and consequently constitutes inappropriate development which would cause harm to the Green Belt by unreasonably diminishing its openness, to the detriment of its strategic function, character and appearance. The proposal should therefore attract a recommendation of refusal under the provisions of the NPPF and Policy GB5 and Appendix 2 of the adopted Local Plan.

However, it is incumbent upon the Planning Authority to consider whether there are any very special circumstances that would justify a departure from Green Belt Policy. The Local Authority defines a special circumstance as something that is unique to the application site and not capable of repetition elsewhere.

No very special circumstances have been identified by the applicant to justify approving the proposal contrary to Green Belt policy.

However, it should be noted that a previous application for a similar development was approved in 2012. This proposal removed a portion of the original roof to create a gable feature and had a volume of some 34m<sup>3</sup>, which resulted in a marginal increase in volume of some 2m<sup>3</sup>.

When both proposals are compared it can be seen that the rear dormer is the most prominent feature in both cases. However, the current proposal is considered to be more sympathetic with the host dwelling as it would preserve the existing roof form and give a lesser impression of scale when compared with the previous approved gable wall feature.

Members' attention is drawn to Policy GB4 of the New Local Plan 2016, which does not continue the current policy approach of using volumetric calculation but suggests a criteria approach based on meeting the needs of owners and occupiers of buildings in the Green Belt, and the requirement of National Green Belt Policy. The criteria have been devised based on a review undertaken in 2005 (*Metropolitan Green Belt Review of Existing Supplementary Planning Guidance: Provision of Replacement Dwellings and Extension – December 2005*).

The criteria permit extensions and alterations to existing buildings in the Green Belt subject to the following criteria:

- There is no material impact on the character, appearance or openness of the Green Belt;
- The individual and cumulative size, scale, form, massing and height is proportionate to that of the original building and its plot;
- The design and siting ensures sufficient space around the building, between neighbouring buildings and between boundaries;
- The design, siting and materials is sympathetic to the existing building and its surrounding;
- The design and materials are of high quality;
- It will not result in an intensification of the existing use of the site, by means of the generation of traffic, noise, or other forms of disturbance;
- It only provides ancillary accommodation to the existing building; and
- The proposal is compliant with all other relevant policies in the plan.

In this context, it's not considered that the current proposal would have a materially impact on the character, appearance or openness of the Green Belt when compared with the previously approved scheme; however it would result in a better form of development. Furthermore, the development would be more consistent with the Council's adopted supplementary residential design guidance.

On balance, it is considered that more weight should be given to Policy GB4 of the emerging New Local Plan rather than the numerical threshold approach contained in Appendix 2 of the Council's Adopted local Plan as in this particular case the current proposal is of a better design than the previously approved scheme and would not have any materially greater impact on the openness of the Green Belt.

## Conclusion

The land is allocated for Green Belt purposes and under the current adopted Policy GB5 the proposal would result in a disproportionate enlargement of the property and would normally receive a recommendation for refusal on the basis of harm to Green Belt.

However, in the light of the criteria based approach of Policy GB4 of the Council's emerging New Local Plan, and the lack of any material harm that would arise from this proposal, it is considered that significant weight should be given to the criteria approach in determining this application. It is therefore recommended that planning permission be granted.

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

My Recommendation is **Approval** with the following conditions:

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

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

2 The proposed development shall be finished externally in materials to harmonise with the existing development.

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

**Informative**

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

### ITEM 3

<b>Application Number:</b>	<b>15/0293/RES</b>
<b>Address:</b>	<b>Land Opposite Morrisons Northwick Road Canvey Island Essex (Canvey Island West)</b>
<b>Description of Development:</b>	<b>Use of land for Class B1, B2 and B8 purposes, hotel and motor dealership with access road, car parking, servicing areas and landscaping (submission of reserved matters pursuant to outline planning permission CPT/678/97/OUT/REN granted 20th April 2005)</b>
<b>Applicant:</b>	<b>Inner London Developments (Northwick) Limited</b>
<b>Case Officer:</b>	<b>Ms Kim Fisher</b>
<b>Expiry Date:</b>	<b>31.12.2016</b>

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### Summary

The proposed development is consistent with the provisions of the adopted Local Plan and New Local Plan and secures employment opportunities in an area where there is a known demand for well serviced, modern employment units and where development of the site for such purposes has been long anticipated.

The scheme as submitted is not entirely consistent with the provisions of the original Design Brief; however, it must be acknowledged that the Brief was prepared some time ago and the circumstances surrounding this site have moved on. It is not considered that where the scheme diverges from the provisions of the original Design Brief, the harm caused by such divergence is so significant as to justify the refusal of planning consent.

Significant effort has been made to ensure that the proposed development has minimal impact on the biodiversity of the site and measures to secure biodiversity enhancement within the site are significant and robust.

The proposed access, appearance, layout, landscaping and scale are, subject to appropriate conditions, considered satisfactory.

The proposal is therefore recommended for APPROVAL subject to the applicant entering into a S106 agreement to secure the appropriate long term management of the landscaped areas and appropriate conditions.

### Site Visit

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

### The Site and its surroundings

The application site has an area of some 7.5 hectares and is located to the south of Northwick Road and immediately to the west of Roscommon Way and the adjoining Morrison's supermarket.



To the west the site abuts the Canvey Island Cemetery and to south-west, the Canvey Wick Site of Special Scientific Interest (SSSI), designated in 2005.

The site and land to the south-west was previously developed as the former Occidental Oil Refinery, the built form of which has now been largely removed.

The site levels across the site will be altered. At the present time levels vary between 1.75-2.75m AOD. The finished level of the site will be 2.50m AOD to relate to the levels of the Northwick Road Roundabout.

## **The Proposal**

The scheme comprises the provision of 43 employment units arranged in ten single and two storey buildings providing some 8,928 square metres (m<sup>2</sup>) of B1 use (Offices (other than those that fall within Class A2), research and development of products and processes and light industry appropriate in a residential area), 4,582 m<sup>2</sup> of B2 use (Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste)) and 9,955 m<sup>2</sup> of B8 (storage and distribution) floorspace, a two storey, 60 bedroomed hotel and a two storey car showroom and workshop providing some 2,890 m<sup>2</sup> of floorspace.

The mix of development is consistent with the outline consent.

The buildings would be served by associated parking and servicing areas and arranged in a rectilinear layout formed by a looped estate road accessed from Northwick Road.

Design details, including proposed materials, are provided on the application drawings and within the Design & Access Statement. Essentially the two storey industrial buildings will be traditional, gable ended structures with blockwork walls externally clad with insulated panels on a brickwork plinth, insulated roof cladding panels, uPVC gutters and downpipes and double glazed windows. The single storey buildings will be of portal frame construction clad externally in insulated panels and a brick plinth. These buildings carry the option of the provision of a mezzanine floor.

Some buildings will be provided with tall roller shutter doors, to meet client requirements.

The hotel would be two storeys in height with a hipped roof. The walls would comprise a brick lower floor with rendered panels at first floor.

The car showroom/workshop would exhibit a flat roof with parapet walls. This too would be a portal frame construction, clad externally with an insulated panel system, an optional internal mezzanine floor, roller door system and glazing to the entrance area.

It is also intended to provide a single storey, foul water pumping station. The applicant advises that there is an agreement between a past owner of the site (EEDA) and Morrison's for the application site to connect to the foul water pumping station to the rear of the Morrison's site. It is intended to discharge foul water via the proposed pumping station and a rising main to be positioned within the adopted highway network along Northwick Road, to the Morrison's pumping station.

In terms of the surface water drainage strategy, infiltration is not deemed to be possible due to the soil type and the relatively high groundwater levels. The site will therefore utilise a system

comprised of a series of drains. Whilst no details of this system have been submitted, the applicants advise that the system will connect into the outfall in the south west corner of the site and thus into Westwick Dyke which connects with the Thames Estuary and provides a positive outfall, albeit one that is subject to tidal lock scenarios. Surface water storage capacity will be provided by the detention pond permitted on land to the south of the proposed development under applications CPT/678/97/RES in 2005 and CPT/678/97/RES/CDN/A in 2011.

The application is accompanied by a landscaping scheme which would provide a landscaped screen along the outer boundaries of the developed site and structural landscaping within the developed layout.

### **Supplementary Documentation**

The application is accompanied by an Environmental Statement and the following documents:

Planning Statement  
Design and Access Statement  
Transport Assessment  
Flood Risk Assessment  
Green Roof Report

These documents may be viewed on the Council's website.

### **Relevant Planning History**

#### CPT/678/97/OUT

Outline planning permission 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, 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 indicates that the consent related to a larger site including land to the south of the current reserved matters scheme. This land was subsequently identified as suitable for ecological mitigation associated with the proposed commercial development and subsequently designated as a SSSI.

The consent was subject to a S106 agreement between the Council and Safeway Stores PLC (the owner of the site at that time) which, in summary, included the following obligations:

*The preparation and submission of the reserved matters application in accordance with the 'General Principles and the Detailed Design and Layout Criteria of the Design Brief (as detailed in Schedule 2 of the agreement).*

*Not to commence any authorised development works before the completion of*

- (i) an ecological survey,*
- (ii) the preparation and production of a scheme to retain, protect and enhance the areas of nature conservation value and protected species of flora and fauna; and*
- (iii) the submission of the (nature conservation) scheme to the Council for its written approval.*
- (iv) save for those parts of the site not affected by the recommendations of the ecological survey and set out in the related scheme, not to commence the authorised development before completion of all works recommended to be carried out by the survey and set out in the related scheme.*

- (v) *not to commence the authorised development before*
- (i) *the completion of a Traffic Impact Assessment (TIA) which was required to consider and address the accessibility of the application site and its proper integration into the existing highway network,*
  - (ii) *the submission and written approval of the Transport Impact Assessment (TIA) by the Council in consultation with the County, and the preparation and production of a phased programme of works or other measures required by the TIA, and the submission of the programme and other measures to the Council for its written approval, and the receipt of such approval.*
  - (iii) *the carrying out of the works recommended by the TIA in accordance with the approved phased programme and other measures.*
  - (iv) *not to commence any authorised development (other than works of site investigation and preparation) before the design of adequate systems for the disposal of foul and surface water drainage to either the public sewer or an independent on-site treatment plant, and the submission of the drainage systems to the Council for its written approval.*
  - (v) *the satisfactory installation of the approved drainage systems and other reasonably required service provision prior to the first occupation of any premises or other structures.*
  - (vi) *the carrying out of an archaeological watching brief during the development works; and*
  - (vii) *the provision on the site, or on adjacent land under the control of the owner, of a work place crèche. The size and siting shall be agreed with the Council on the basis of evidence of need.*

#### CPT/678/97/OUT/REN

Renewal of the above outline planning consent was approved on 20th April 2005. A deed of variation of the same date between the Council and the new owner, the East of England Development Agency (EEDA), applied the terms of the original S106 agreement to the renewal consent.

Condition 2 of the consent required an application for the approval of the Reserved matters to be made within ten years of the date of the renewal consent, i.e. by 20th April 2015. Other conditions on the consent required specific details to be provided at reserved matters stage.

#### CPT/678/97/RES

Submission of Reserved Matters for the construction of highways and drainage infrastructure, & landscaping. Approved, 20th April 2005.

The matters for which approval was sought included highway access into the site, roads within the site including access to four former tank bases in the southern part of the site, structural landscaping, and foul and surface water drainage including a 'holding' lagoon, based on SUDS principles.

The consent was subject to a number of conditions including pre-commencement conditions 3 (SUDS), 6 (drainage measures to protect habitats), 7 (Wildlife Protection Plan), and 9 (details of route & design of north-south pathways).

#### CPT/678/97/RES/VAR/A

Application for variation of condition 2 imposed on reserved matters approval for the site. The condition originally stated:

*Prior to the first occupation of any unit on the site provision shall be made for covered cycle parking facilities, details of which shall be submitted to, and approved in writing by the Castle Point Borough Council, prior to the commencement of development on the site.*

*REASON: To ensure the availability of safe and secure cycle parking facilities on the site.*

As such the original condition required the submission and approval of cycle parking details prior to the commencement of any development on the site. The applicant wished to commence some parts of the development without having to first submit details of all the proposed cycle parking facilities and debarring themselves from discharging this condition in the future. Accordingly, the applicant requested that the words "work on that unit" be added to the end of the condition.

The effect of this was to allow other parts of the development to commence without preventing future discharge of the condition, provided that no work on the units took place.

Approval of the variation was granted on 4<sup>th</sup> August 2011.

#### CPT/678/97/RES/CDN/A

Discharge of Conditions 3, (Surface Water Drainage), 6, (Surface Water Drainage), 7 'Wildlife Protection Plan for Construction' & 9 (route and design of the pathway) attached to CPT/678/97/RES.

Part Discharge granted 28.10.2011

#### 678/97/0UT/REN/VAR/A

Application for the variation of conditions 2, 3, 4, 5, 13 and 17 of outline renewal CPT/678/97/0UT/REN.

This application sought to permit drainage works to commence on site before other details of the development permitted by the outline approval were submitted.

In addition, the application sought to allow phased implementation under condition 2, and to correct various drafting errors in the original conditions.

Consent was granted on the 1<sup>st</sup> September 2011 to vary the conditions as requested, with the exception of condition 13.

### **Local Plan Allocation**

The site is allocated for employment purposes in the 1998 Adopted Local Plan.

This allocation is maintained, as it applies to the application site, within the New Local Plan (2016).

### **Relevant Policies and Government Guidance**

#### National Planning Policy Framework

Paragraphs 18 – 20, 32, 56, 99, 100 – 103, 109, 118

#### National Planning Practice Guidance

Adopted Local Plan, 1998

- EC2: Design
- EC4: Pollution
- EC5: Crime Prevention
- EC6: Energy Efficiency
- EC7: Natural and Semi-Natural Features in Urban Areas
- EC12: Sites of Special Scientific Interest
- EC13: Protection of Wildlife and their Habitats
- EC14: Creation of New Wildlife Habitats
- EC16: Protection of Landscape
- EC22: Retention of Trees, Woodlands and Hedgerows
- EC38: Archaeological Sites and Monuments
- ED1: Provision of Employment Land to the South of Northwick Road.
- T8: Car Parking Standards

Developer Contribution Guidance 2009

Essex Parking Standards

New Local Plan

- SD1: Presumption in favour of sustainable development
- E1: Economic Strategy
- E5: Land for Employment, South of Northwick Road
- E6: Locations for Economic Development
- E7: Protecting Employment Land
- E8: Promoting Higher Skilled Jobs
- E11: Supporting the Local Construction Industry
- T6: Congestion
- T7: Safe and Sustainable Access
- T8: Parking provision
- T9: Access for Servicing
- CC1: Responding to Climate Change
- CC6: Non-tidal Flood Risk management
- CC7: Sustainable Buildings (New Builds)
- NE8: Determining Applications affecting Ecologically Sensitive Sites
- NE9: Protecting and Enhancing the Landscape and Landscape Features
- DES1: General Design Principles
- DES3: Landscaping
- DES5: The Appearance of Business Premises
- HE4: Precautionary Approach to Archaeology

**Consultation**

Several of the statutory consultees engaged in extensive exchanges of correspondence with the Local Planning Authority (LPA) and engagement with the applicant during the processing of the application which resulted in several revisions to the proposed development and subsequent revised comments. In order to maintain the clarity of this report, details of those exchanges are contained in Appendix 3 to this report. The following paragraphs only identify the final comments of the various consultees on the proposal currently before Members for consideration.

Secretary of State

No response

CPBC Environmental Health

Objects to the principle of development

CPBC Legal Services

Request that a restriction be imposed on construction work on Sundays to provide a peaceful environment for those people wishing to mourn at the adjoining Willows Cemetery site

CPBC Street Scene Refuse and Recycling

No objection. Additional information required on provision of refuse stores

CPBC Emergency Planning Officer

No response received

CPBC Planning Policy Officer

No objection

Detailed comments on policy provision, the need for employment opportunities and design and layout

Canvey Island Town Council

Objects to the proposal

\*

Natural England

No objection subject to conditions

Buglife

No objection subject to conditions

RSPB

No objection subject to conditions

Essex Field Club

Objects to the proposal

\*

Anglian Water

No response

Environment Agency

No objection subject to condition

Lead Local Flood Authority

No objection subject to conditions

Essex Police Headquarters

No response

Essex Police Contingency Planning

No response

ECC – School Organisation and Planning (Infrastructure Planning)

No objection

ECC Fire and Rescue Service

No objection

ECC Highways

No objection subject to conditions

East of England Ambulance Service

No response

Essex Badger Protection Group

Concern for potential loss of wildlife

Email from the Land Trust dated 24.09.2016

The Trust will provide a suitable receptor site for the translocation of Great Crested Newts as per the requirement in the original land transfer from the Homes and Communities Agency

**Public Consultation**

Letters were sent to the following addresses:

McDonalds, Northwick Road.

Long Lane Kennels, Northwick Road,

Morrison's Supermarket, Northwick Road.

Willows Cemetery, Northwick Road.

In addition Notices were posted on the Site and published in the Press.

No responses were received in respect of such consultation.

**Comments on Consultation Responses**

It should be noted that outline consent for the development of the site for B1, B2 and B8 employment purposes and for a hotel and motor dealership with access road, car parking and service areas, landscaping and sewage treatment plant and surface water balancing pond was granted on the 27th March 2002. Various reserved matters applications have been submitted in respect of this application and works have undertaken. The 2002 application therefore remains extant.

As a consequence no objection may now be sustained in respect of the principle of such development. Consideration and determination of the current application must be undertaken solely on the basis of consideration of the information submitted in discharge of the reserved matters.

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



## **Evaluation of Proposal**

The Environmental Impact of proposals for large scale developments are usually considered at the earliest stage of determination, usually at the full application, or more usually the outline application stage. Such consideration is currently governed by the provisions of the Environmental Impact Assessment Regulations (EIA), 2011, further details of which can be found at Appendix 1 to this report.

The current application is unusual in that the outline application predates the introduction of the legislative requirement to consider environmental impact, although Government guidance is clear that regardless of the nature of the application, consideration of the likely significant impacts must be given to all aspects of the proposal which have not previously been so considered.

In this case the principle of the development of the site for employment purposes has already been considered and approved. Consideration of the likely significant environmental impact may not therefore be applied to the principle of development. It must however be applied in the consideration of the reserved matters.

The LPA determined at an early stage (see Appendix 1), that the most likely significant effects of the proposed development would, in view of the proximity of the site to areas of national and international ecological sensitivity, be on the ecology of the area and it is for this reason the LPA has encouraged and facilitated discussions between the applicants, Natural England, Buglife and the RSPB in order to identify and appropriately mitigate such impacts. These discussions have extended over many months and have resulted in various iterations of the proposed access, appearance, layout, landscaping and scale of the development.

It is the view of Officers, following such discussion, that the scheme currently presented represents an appropriate response to the ecological sensitivity of the site and adjoining land and that all likely significant effects have been identified and appropriate mitigation has either been incorporated into the scheme, or is capable of being incorporated into the scheme though the imposition of conditions on the grant of any consent.

Subject to appropriate conditions and mitigation, the proposed development is not considered likely to have a significant adverse impact on the environment and is therefore satisfactory in the context of the 2011 Regulations.

Furthermore, as set out in Appendix 2 to this report, it is the view of the LPA as Competent Authority that the proposal would not have a significant adverse impact on a designated site. Appropriate assessment under the Habitat Regulations is not therefore required.

### The Reserved Matters

The reserved matters application seeks approval for the access, appearance, landscaping, layout and scale of the proposed development. No other matters may be considered in the context of this application and conditions unrelated to the development under consideration may not be imposed on the grant of any consent.

Each aspect of the application will now be considered in the context of national and local planning policy and guidance.



## Access

The proposed development seeks to take access from Northwick Road, at a point some 100m west of the junction with the Northwick Road Roundabout. This will provide access to a grid of access and service roads serving the proposed commercial units and hotel. The provision of a single access point from Northwick Road is consistent with the provisions of the Design Brief attached to the outline consent.

The layout supports the future introduction of public transport on to the site. This provision is consistent with the requirements of the Design Brief for the site which sought the provision of a bus stop and lay-by in the vicinity of Northwick Road in order to enable the future extension of the public transport system to the site. The provision of a bus lay-by adjacent to Block 1 would meet the objectives of the Design Brief and as such this provision is considered acceptable. A condition requiring the provision of the bus stop and associated features prior to occupation of the site can be attached to the grant of any consent.

The applicant has submitted a Transport Assessment (TA) which demonstrates that the local highway network has sufficient capacity to accommodate the traffic generated by the proposed development, and that the increase in trips as a result of the development is unlikely to have any significant impact on highway conditions. This finding is confirmed by the Highway Authority which has raised no objection to the proposed access.

Under the circumstances, subject to the conditions suggested by the Highway Authority, no objection is raised to the proposed vehicular access arrangements.

In terms of pedestrian access the Design Brief required the provision of a 2m wide footpath system linking the industrial area to the existing pedestrian access to the adjacent foodstore and the existing and proposed bus stops.

No such provision is made within the submissions; however the site is served by a pedestrian footpath which links the site, via a pedestrian crossing, the development to the east. It is considered that this provision satisfies the requirements of the Design Brief.

A network of 2m wide footways is provided within the site and achieves satisfactory internal pedestrian circulation.

Within the site the applicant has advised that a levelled or gently sloping access will be provided from the site boundary to the buildings and for all pedestrian routes crossing vehicular access routes, a dropped kerb will be provided. This is considered acceptable and appropriate.

The main entrance of all buildings will be served by a footpath continuous along the full front of each building. This too is considered acceptable and appropriate.

Access to two footpaths entering the designated land to the south was originally proposed. These are absent from the current scheme, although provision for a single footpath adjacent to Unit 4 leading southwards into the adjoining SSSI site and a further footpath entering the SSSI from the west would be provided. This level of access is considered acceptable but it is considered that such access should be restricted to pedestrian access only and protected against entry by vehicles.

The applicant states that car parking spaces designated for disabled people are situated as near as feasible to the adjoining principal entrance. Such arrangements appear reasonable however, no such provision is shown in the submitted plans.

The scheme attracts a maximum requirement of 590 car parking spaces. Some 565 spaces will be provided which represents a minor shortfall; however, the adopted parking standards are a maximum requirement and it is unlikely that an objection to the proposal based on such a deficiency would be supported on appeal, particularly as it is intended that a Travel Plan will be submitted which will seek to raise awareness of travel choices and the benefits of alternative travel modes to the private car and to reduce single occupancy travel. To date no such Travel Plan has been submitted and the consultants have stated that a full Travel Plan will not be submitted until after the base travel survey has been completed. No indication of when this might be has been submitted. However a condition requiring the submission and approval of such a document prior to first occupation may be attached to the grant of any consent.

Subject to such a condition, no objection is raised to the proposal on the basis of car parking provision.

The submitted scheme demonstrates an absence of cycle parking facilities, despite the fact that the applicants advise that the site is intended to provide employment opportunities for local people, thus facilitating travel to the site by bicycle. The submitted Transport Assessment (TA) states that some 244 spaces will be provided across the site; however no indication of the form or location of such spaces is provided.

The applicant has suggested that the provision of cycle parking facilities may be the subject of a condition attached to the grant of any consent. The provision of this level of cycle parking facility across the site however, could have significant implications for the appearance and layout of the site and it is therefore considered that such details should be submitted to and approved by the LPA on a phased basis, prior to the commencement of development on the site in order to ensure that no adverse consequences arise from such provision.

Subject to such a condition no objection is raised to the proposal on the basis of cycle parking provision.

The Design Brief associated with the outline consent for the development requires the extension of the current cycleway provided from Northwick Corner to the adjacent Foodstore. The precise route of the cycleway was not established within the Design Brief, but it was noted that it should reflect the need to provide the most direct and safe means of ensuring that cyclists could access all parts of the employment area. No reference to the provision or extension of the cycleway is provided within the submissions and to this extent the proposal would appear to be inconsistent with the Design Brief.

However, access to the adjoining development and Northwick Corner by bicycle is available on the highway network. It is not considered that an extension to the current cycleway would achieve a more direct or safer route and it is no longer therefore considered reasonable for this provision to be required. No objection is therefore raised to the proposal on the basis of the lack of an overt connection to the cycle route network.

Access arrangements within the buildings will be controlled under the Building Regulations.

## Appearance

Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should ensure that that developments function well, establish a strong sense of place, optimise the potential of the site, respond to local character while not preventing appropriate innovation, create safe and accessible environments, and are visually attractive as a result of good architecture and appropriate landscaping. Design policies should avoid unnecessary prescription of detail but should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access for new development in relation to the local area. Paragraph 60 explains that planning policies and decisions should not attempt to impose architectural styles or tastes, nor should they stifle innovation, originality or initiative. It is, however, proper to seek to promote or reinforce local distinctiveness.

The Design Brief attached to the outline consent for the development (CPT/678/97/OUT), stated that the proposed development should primarily be single storey and should share a common theme and materials.

The proposed development is comprised of a limited number of replicated forms with all but the car showroom and workshop exhibiting pitched roofs. With the exception of the hotel and pumping station all of the buildings on the site will be finished in goose wing grey cladding above Ibstock Staffordshire Blue bricks with Merlin Grey roof panels, slate grey doors and aluminium doors and window frames.

The Hotel and pumping station will be finished in white render with Leicester Cream Multi Stock bricks and grey doors. The hotel would exhibit a slate roof.

The palette of materials is limited, as identified by the Policy Planning Officer, but the limitation creates a uniformity which is considered suitable for the proposed context. The materials will serve to create a unified and distinct sense of place and character to the area which will be enhanced by the use of a simple grid system for circulation through the estate, supplemented by appropriate planting and views through to the open spaces beyond the confines of the site, and which is only marginally marred by the need for 2m high palisade fencing around the western edge of the development area.

Whilst it is acknowledged that greater variety in materials and elevational treatments could be provided, it is not considered that their absence results in such a poor form of development that a reason for refusal may be justified on this basis. In terms of materials therefore, the proposal is considered consistent with the provisions of the Design Brief and no objection is raised to the proposal on this basis.

One unusual element of the appearance of the buildings is the provision of bio-diverse roofs on buildings 2A, 2B (a and b), 2C and 4.

These roofs have been introduced following extensive discussions with Buglife and are intended to offer mitigation for the loss of flower rich habitat on the site by providing specific forage plants required by the invertebrates that inhabit the area.

The roofs will be designed in accordance with the general principles outlined in the Buglife Green Roof Guidance and installed and maintained in accordance with the recommendations of the UK

Green Roof Code. A condition may be imposed on the grant of any consent to ensure this outcome.

In terms of the relationship that the proposed development shares with the surrounding area, as the Policy Officer again identifies, much of the eastern frontage of the site, adjacent to Roscommon Way is characterised by parking areas.

Such provision is inconsistent with the requirements of the Design Brief which states at para 5.2.1:

*“The layout of the development will provide wide landscaped buffer areas abutting all the boundaries of the site which shall incorporate the retention of existing vegetation. The landscaped edge of the development shall be abutted by the building structures or walls enclosing open areas and shall not be abutted by the open service areas or car parking areas for each unit.”*

The submitted layout clearly provides car parking areas immediately adjacent to the landscaped areas and as such the proposed layout is inconsistent with the provisions of the design brief.

However, the character of the surrounding area is significantly different from that present when the original Design Brief was agreed in 2005. The land to the east is now dominated by the parking area serving the Morrison’s Store and in the current context, and in a situation where it is intended to provide substantial areas of open space between the proposed development and the highway, it is not considered that a reason for refusal based on the setting of the buildings and associated car parking areas could be sustained on appeal.

No objection is therefore raised the proposal on this basis.

The Policy Officer has also identified that the proposed buildings share a poor relationship with the surrounding area, with the rear and side elevations of several buildings facing the Roscommon Way and the public realm.

With regard to the location of the peripheral parking areas, this has been the subject of an exchange between the applicants and the Authority which has resulted in a reduction in the extent of the peripheral parking, although not its complete removal as required by the Design Brief. Whilst it is acknowledged that the Design Brief sought to achieve an enclosed and attractive appearance to the development when viewed from beyond the confines of the site, it must be recognised that the development to the east, the Morrison’s supermarket site, exhibits significant areas of car park between the building and the highway. In this context it would be difficult to sustain an objection to the layout, notwithstanding the provisions of the Design Brief and the comments of the Planning Policy Officer.

Detailed consideration of the elevations of the buildings on the eastern part of the site clearly shows that the elevations are heavily perforated by windows and doors. This is particularly evident in Block 1, which appears to have its main entrance facing Roscommon Way and the proposed car show room which has its main display window facing the major route. It is clear therefore that this element does not turn its back on the adjoining development and as a consequence it is considered that the relationship that this development shares with the land to the east is acceptable.

Buildings on the western boundary have a more limited relationship with the land to the west, with the western elevations being relatively imperforate. However, the land to the west comprises the

Willows Cemetery site and it is considered that the lack of opportunity provided to overlook this site represents a sensitive approach to the adjoining land use, visitors to which may prefer to feel relatively un-overlooked and private whilst on the site.

The restricted views may also be of benefit to future occupiers of the site who may not wish to view activity at the cemetery site.

Under the circumstances it is not considered that the proposed relationship is unreasonable.

Buildings on the southern part of the site back onto the SSSI and could be afforded access to or views across, the area. However, the land on the southern side of the site has been identified as being ecologically sensitive and it is therefore appropriate that the opportunity for access to this land is limited in order to ensure that sensitivity is not eroded.

Furthermore, it must be remembered that the proposal seeks to provide employment units on the site, some of significant size. The character of the proposed development is entirely different from that of the SSSI and the relationship would in any case be somewhat strained. Under the circumstances, the relationship achieved is considered acceptable.

On the northern boundary of the site, Block 8 focuses its attention on the road into the estate, as is appropriate, but has a heavily perforated side elevation which will provide an active frontage to Northwick Road, as will the side elevation to Block 1. The only disappointing element of the scheme is Block 7 at the western edge of the frontage which would provide a relatively blank elevation to Northwick Road, some 55m long and 8.4m high. It is considered however that this may be mitigated with appropriate landscaping.

The provision of bird boxes and insect hotels on buildings on the eastern side of the site and within the northern landscaped area is noted and welcomed. The provision of bird boxes and insect hotels on buildings on the eastern side of the site and within the northern landscaped area is noted and welcomed. Provision and retention can be secured by the imposition of a condition on the grant of any consent.

### Landscaping

The Design Brief for the site states that the development of the site shall incorporate the provision of structural landscaping to its boundaries and off site, if necessary in order to satisfactorily assimilate the development into the open landscape. Such landscaping shall include the use of earth mounding and indigenous tree, shrub and hedgerow species. Such landscaping as is provided will be permanently retained and maintained by the applicant or their successor in title, including the future care and maintenance of any surface water balancing pond proposed and the present balancing pond for surface water on the eastern side of the Relief Road.

Landscaping within the scheme appears to be of two types, that provided to create an enhanced setting for the proposed development and that required to mitigate the impact of the proposed development on interests of ecological importance.

The landscaping provided within the envelope provided by the proposed buildings takes the form of 'boulevard planting' with trees, primarily, wild cherry, apple and rowan, provided along the main access routes and at junctions, under-planted by mixed herbaceous and ornamental annuals, perennials and shrubs.

A key feature of the 'internal' planting scheme is the use of plants such as sea aster, cat mint and allium, which are particularly attractive to bees.

The proposed 'internal' planting scheme is constrained to some degree by its urban setting; however, the level and scale of planting, together with the choice of plants, provides an attractive, environmentally friendly and acceptable landscape for the proposed development.

The landscaping scheme proposed to the periphery the site is less formal in appearance and in part designed to mitigate the impact of the proposed development on a site with interests of ecological importance.

The scheme may also be seen to comprise two parts: that to the northern boundary of the site, the purpose of which is to screen the proposed development from Northwick Road, and that provided to the eastern, southern and western boundaries which is more ecological in intent.

The northern landscaping scheme is dominated by the retained hedge which will be supplemented and enhanced with native species. No details of the specific planting regime for this area is provided, which is inconsistent with condition 4 attached to planning permission CPT/678/97/REN.

The northern scheme also includes the provision of a number of wild cherry, apple and rowan trees. Such provision is consistent with the more formal planting provided within the site and sufficient details are provided to identify the proposed size and location of the plants to be installed. However no details of the planting regime or the aftercare and management of the planting are provided. This is contrary to Condition 17 attached to planning permission CPT/678/97/REN.

The remainder of the landscaping is much sparser in nature, being characterised by bare ground, scrapes, grassland and wildflower areas, designed to provide habitat for indigenous species present on the site.

The scheme does include some mounding and the creation of a saline influenced habitat, which has been identified by Buglife and the RSPB as essential, and by shrub planting, including elder, hawthorn and willow.

The provision of particular tree species within the planting scheme (essentially birch and willow).was originally a cause of concern for Buglife; however a significantly revised landscaping scheme was submitted in June 2016, and this appears to have overcome many of the original objections, although concern over the use of willow remains.

Some brief mention is made within the submitted papers of the management of the landscaped areas; however this does not manifest itself in a robust landscape management plan. This is inconsistent with the requirements of condition 19 attached the planning permission CPT/678/97/REN.

Following the receipt of revised plans in September 2016, an area of the site which was previously proposed for use as car parking has been released to the landscaped area; however this revision has not been accompanied by a revised landscaping scheme for this part of the site.

As a consequence of this amendment and the deficiencies identified in the submitted landscaping scheme identified above, it is considered that the applicant should be required to submit a revised



landscaping scheme and enter into a S106 agreement in respect of the maintenance of the landscaping of the site, (including the proposed bio-diverse roofs).

Further details of the proposed landscaping should be submitted prior to the commencement of development on the site.

It should be noted that Natural England and the associated ecological consultees have expressed concern that development of the site should not proceed in such a manner that the landscaping lags behind construction of the built form resulting in loss of habitat and detriment to interests of ecological importance.

The applicant has submitted a phased construction plan which indicates that landscaping will proceed in advance of the development of adjoining units. As such mitigation measures incorporated into the landscaping scheme should be provided on site in advance of habitat loss arising from provision of the built form. This requirement may form part of the proposed S106 Agreement.

### Layout

The layout of the scheme, particularly along the southern and eastern edges, has been heavily influenced by the need to mitigate the impact of the proposed development on interests of ecological sensitivity.

This has resulted in the provision of a relatively substantial buffer along the southern and eastern edges of the site, ranging between 3m and 50m in width. Conversely, the proposed buildings are provided relatively close to the northern boundary, being some 5m – 12m from that boundary of the site; however, this is the least ecologically sensitive area of the site and any compromise in the setting of the buildings relative to Northwick is considered to be outweighed by the ecological benefit derived to the south and east.

As previously indicated, a disappointing element of the layout is the provision of large car parks close to the eastern boundary of the site, which would detract from the setting of the buildings and the opportunity for the landscape to 'wrap around' the development.

It should be noted that the Design Brief prepared for this site and attached to the S106 agreement to the renewed outline consent stated that 'the landscaped edge of the development shall be abutted by the building structures and walls enclosing open areas, and shall not be abutted by open service areas or car parking areas for each unit'.

The proposed layout is inconsistent with this requirement; however the presence of these car parks reflects the situation on the eastern side of Roscommon Way and under the circumstances it is not considered that an objection to the proposal on the basis of this element of the layout would be supported on appeal.

In order to limit access to the proposed car parks from the adjoining landscaped areas, and to limit the opportunity for surface water runoff onto these areas from the hard surfaced areas, it is considered that a kerb or bund should be provided around the hard surfaced areas. This may be achieved by the imposition of a condition on the grant of any consent.

In terms of the general layout of the site, the roads are generally provided on the basis of a looped grid which will facilitate ease of access through and around the site.

The provision of a loop road is consistent with the Design Brief prepared for the site.

Whilst the layout is dominated by car parking, this is a natural consequence of the level of accommodation provided and the application of the adopted car parking standards. Whilst a reduction in parking could limit the impact of this element of the proposal, it would inevitably result in greater on-street parking, to the detriment of access through the site and potentially to adjoining land users. Any reduction in car parking is not therefore recommended.

The site exhibits a strong north south alignment with several roofs facing due south. It is noted that photovoltaic panels are to be provided on such roofs to assist in the reduction of energy consumption across the site. The proposed panels would not appear unduly obtrusive and the measure is welcomed in the interests of the green credentials of the site. No objection is raised to this aspect of the proposal.

The original consent of the development was subject to a requirement for the provision of a workplace crèche. The applicant has identified that part of Block 2B will be used for such purposes and that a play area will be provided to the south of that building. Such provision satisfactorily discharges this requirement.

An issue which is closely associated with consideration of appearance, layout and landscaping is that of flood risk as the necessity to mitigate the impact of a flood event can influence building design and appearance, the arrangement of buildings and the provision of mitigating features around buildings as part of the landscaping of the site.

The proposal provides a mix of 'less vulnerable' and 'more vulnerable' development as classified in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change.

Section 2.1 of the submitted Flood Risk Assessment (FRA) states that the proposed development is to be located in an area which has a maximum level of approximately 2.71mAOD in the north west corner and a low point of approximately 1.42mAOD in the north east corner.

The Strategic Flood Risk Assessment (SFRA) identifies that existing flood defences afford a level of protection which prevents flooding in the 1 in 200 year (including climate change) tidal flood event.

The SFRA identifies the site as at risk from a breach in the defences in one of the seven locations modelled as part of the SFRA. The breach results in a maximum depth of water of 1 m at the site. It is predicted that water ingress arising from such a breach would take between 8-12 hours to reach the site and would equate to 'danger for most'.

Within the 1 in 1000 year tidal flood event, including climate change, the site is vulnerable to the defences being overtopped (assuming that no further works are undertaken). A depth of 1m is provided by the FRA, which is considered to be a 'danger for most'. In the 1 in 1000 year tidal flood event breach scenario, the site is vulnerable to a number of the breach locations modelled, with the worst case presenting a maximum depth of water of 2m on the site, presenting a 'danger for all'. This could reach the site within one hour and therefore safe refuge is considered to be a critical factor within the FRA.

The following measures have been identified in the FRA to mitigate the flood risk:



- All ground floor levels will be set at or above 2.87mAOD, providing 300mm freeboard above the 1 in 200 year tidal breach level. External levels will fall away from the entrances to the buildings.

(This provision has obvious potential implications for the design of the buildings, in that they will be required to be provided on raised ground or with raised floor levels; however, it is not considered that this represents a significant adverse consequence for the development of the site due to its isolated nature and limited local context).

- Occupiers of the buildings will be encouraged to sign up to the EA flood warning system which can provide information regarding imminent flooding.
- A Flood Response Plan (FRP) will be prepared advising occupiers of the appropriate actions to take in the event of a flood.

It should be noted that the submitted FRA places considerable reliance on the possibility of evacuation in the event of a flood; such action is not the recommended response to a flood. Instead it is considered that occupiers should be advised to 'go in, tune in, stay in' under flood conditions in order to avoid prejudicing wider formal evacuation exercises. The provision of a revised Flood Response Plan can be the subject of a condition attached to the grant of any consent.

In the absence of the opportunity for evacuation it is essential that safe refuge is provided within the buildings and this is achieved through the provision of first floor accommodation in all units.

A key feature of the sustainability of the site is the ability of the development to recover quickly from a flood event. The submitted FRA adopts a flood resilience response accepting that in the event of a flood water will enter the buildings which will be constructed and finished in a manner capable of minimising disruption to operations. Such a response is appropriate in an employment context and implementation of such a scheme can be required by condition.

The development has been designed to provide refuge above the predicted flood levels. Given that refuge is identified as a fall back mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and hydrodynamic pressures) associated with flood water. The LPA will expect the developer to demonstrate that the buildings provided on the site are structurally resilient and a condition to this effect can be imposed on the grant of any consent.

In terms of the management of surface water on the site, the applicant has chosen not to submit the details of the required runoff treatment at this stage. While it would have been preferable for these details to be submitted at the current reserved matters stage in order for the drainage design not to be restricted by the development layout, the Lead Local Flood Authority (LLFA) is content that provided the applicant is confident the requirement for treatment can be accommodated within the proposed layout, the current submissions may be considered acceptable. The LLFA has however requested the imposition of a number of conditions on the grant of any consent in order to ensure the appropriate treatment and management of surface water on the site.

## Scale

The submitted drawings indicate that all of the B1 buildings, comprising six of the 11 employment buildings provided on the site, would be two storeys in form with maximum heights ranging from 9.4m to 10m.

Five of the buildings would have partial mezzanines at first floor level and maximum heights of 7.5m – 9.2m.

The proposed hotel would be two storeys in form with a maximum height of some 9m.

The Design Brief attached to application no CPT/678/97/OUT and carried forward with CPT/678/97/OUT/REN and supplemented by condition 9 attached to that consent, requires that the proposed development be primarily of single storey height with low pitched roofs, reflective of the scale of the adjoining development. As stated above, the proposed development exhibits single and two storey forms and as such is somewhat inconsistent with the parameters of the original Design Brief.

However, the original Brief was prepared when the application site extended to some 27ha and included the land now designated as a Site of Special Scientific Interest. The significant reduction in the site area, to some 7.5ha, has necessitated a reassessment of the development and the aspiration to achieve 43,500 m<sup>2</sup> of employment floorspace, as approved under the outline consent. The current proposal achieves some 33,385 m<sup>2</sup> of floorspace and therefore represents a significant reduction in floorspace when compared to the original approved outline.

The achievement of the reduced level of floor space has necessitated an increase in the scale of the development through the provision of accommodation above ground floor level. (Such first floor accommodation also provides benefit in the context of flood risk).

At the present time the application site is devoid of substantial structures which could be used to gauge the scale of the proposed development. However, Condition 22 attached to planning permission CPT/678/97/OUT/REN required details of the finished floor levels of the structures, together with any changes to ground levels on the plot, in relation to the existing site levels and to the levels of the roads fronting the site and to the finished floor levels, eaves height and ridge height of any dwelling, public, commercial or industrial building adjoining the site. These details have not been provided. Nevertheless, some consideration to this aspect of the proposal may be given.

The nearest substantial structures are those associated with the Northwick Poultry Farm some 60m north east of the site, which are primarily single storey in character, the disused Jetty located some 450m to the south of the site, which is clearly visible above the seawall, and the Morrison store located some 125m to the east of the application site. This building has a maximum height of some 9.4m reducing to 7m.

Because of the location of the site and the prominence of the disused Occidental jetty and the Morrison store it is considered that these structures will be the most significant influence on the context of the proposed development. In this context it is considered that buildings of some 9m in height would not appear unduly prominent or dominant of the landscape. In terms of height therefore, the proposed development is considered acceptable, notwithstanding the provisions of the Design Brief and condition 22 of CPT/678/97/OUT/REN.

In terms of site coverage, the proposed buildings and associated infrastructure will cover the majority of the site, with open areas retained primarily on the edges of the development. However the character of development achieved is typical of modern Industrial sites and would not appear unduly cramped or constrained by the boundaries of the site.

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

## **Other Matters**

### The imposition of conditions

Paragraph: 025 (Reference ID: 21a-025-20140306) of the National Planning Guidance states that when considering the imposition of conditions on an application for the approval of reserved matters, only conditions which directly relate to those reserved matters may be imposed. Conditions relating to anything other than the matters reserved can only be imposed when outline planning permission is granted.

In the context of the current application, the proposal seeks approval of access, appearance, landscaping, layout and scale. Only conditions which are directly related to these matters may therefore be attached to the grant of any consent.

The various statutory consultees have suggested conditions to be attached to the grant of consent. In several cases however, these conditions are not directly related to the matters under consideration and cannot therefore be imposed.

As an example it may be noted that Natural England has stated that a wildlife protection plan should be produced for the overall development scheme, and each separate phase of development and that such a plan should be secured with a suitably worded planning condition.

The protection of wildlife on the site is a matter of principle and not one of the matters reserved for later consideration. A condition seeking to achieve wildlife protection in the manner now proposed cannot therefore be achieved within the confines of the current application. However, Condition 7 attached to planning permission CPT/678/97/RES states:

*'A 'Wildlife Protection Plan for Construction' shall be submitted to, and approved in writing by the Castle Point Borough Council, prior to the commencement of development on the site. This plan shall identify areas of core habitat for key invertebrates within Wildlife Protection Zones and any works that require excavation, undertaken within, or immediately adjacent to those zones shall be undertaken in such a manner that nutrient enriched substrate is not spread over impoverished species rich and/or bare ground substrate; or that species rich areas are backfilled with inappropriate substrate.*

*REASON: In order to protect the biodiversity of the site'*

A wildlife protection plan for construction was submitted in August 2004 and the condition was formally discharged in 2005.

This plan provides for the preparation of a series of 'Working Wildlife Construction Plans' (WWCP) prior to construction work being undertaken. Each WWCP is to be produced in writing and appropriate to the location of the particular works and their timing.

Each WWPC is required to include a method statement/plan of how the works will proceed and incorporate details of protective measures including both physical measures and sensitive working practices to avoid impacts to wildlife during construction. Also each plan is required to show where construction activities are restricted and where protective measures will be installed or implemented. Regular inspection and maintenance of physical protection measures and monitoring working practices is to be undertaken by the ecological supervisor during construction.

Prior to the commencement of excavations, the working plan for each construction contract is to be signed up by the contractor and agreed with the local office of Natural England. No excavation works is to take place until the plan has been submitted and approved in writing by English Nature, such approval to be achieved within 10 working days of its submission.

In addition to the consideration of the invertebrate interest the working plan will address protected species.

Natural England was consulted on the arrangements when they were initially proposed and raised no objection.

It is considered that this arrangement, which has been agreed by the LPA, directly involves Natural England in the achievement of appropriate working practices on the site and has already been successfully implemented in the case of the provision of the detention pond, adequately protects the ecological interests of the site.

## **Conclusion**

The proposed development is consistent with the provisions of the adopted Local Plan and New Local Plan and secures employment opportunities in an area where there is a known demand for well serviced, modern employment units and where development of the site for such purposes has been long anticipated and consented.

The scheme as submitted is not entirely consistent with the provisions of the original Development Brief, however, it must be acknowledged that the Brief was prepared some time ago and the circumstances surrounding this site have moved on. It is not considered that where the scheme diverges from the provisions of the original brief, the harm caused by such divergence is so significant as to justify the refusal of planning consent.

Significant effort has been made to ensure that the proposed development has minimal impact on the biodiversity of the site and measures to secure biodiversity enhancement within the site are significant and robust.

The proposed access, appearance, layout, landscaping and scale are, subject to appropriate conditions, considered satisfactory.

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 that subject to the completion of a satisfactory S106 Agreement covering the long term management of the landscaped areas, the Head of Regeneration and Neighbourhoods be authorised to **GRANT PERMISSION**, subject to the conditions as set out in this report.

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

REASON: In order to ensure the provision of an appropriate long term management plan for the landscaped areas and biodiverse roofs to Blocks 2A, 2B, 2C (a and b) and Block 4 as shown on drawing Nos. I.0150-01-1-H, and I.0150-01-2-H, dated November 2015 and received by the Planning Authority on 18th January 2016 and 5997\_04 Rev H dated April 2015 and received by the Planning Authority on 19th September 2016.

2 The development hereby permitted shall be begun on or before the expiration of two years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: Pursuant to Section 92 of the Town and Country Planning Act 1990.

3 No development shall take place on any phase of the proposed development, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

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 securing the provision and retention of appropriate landscaping and in the light of the ecological sensitivity of the site 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.

4 The proposed development shall be laid out in accordance with the provisions of submitted Plan 5997\_02 Rev P, dated April 2015, from which there shall be no departure without the prior formal consent of the Local Planning Authority.

REASON: To ensure the provision of an appropriate layout for the site.

5 The proposed development, including the provision of appropriate landscaping, shall be undertaken in accordance with the phasing identified on drawing No. 5997\_04 Rev H dated April 2015 and received by the Planning Authority on 19th September 2016.

REASON: In order to ensure an orderly and planned development of the site, consistent with the access and service requirements of the proposed units and to ensure that habitat provision is made within the proposed landscaped areas, prior to the loss of habitat as a consequence of the development of the site.

6 No phase of the proposed development shall be occupied until such time as the vehicle parking areas indicated on the approved plans for that phase, including any parking spaces for the mobility impaired, have been 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 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.

7 Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy T8 of the adopted Local Plan.

8 Prior to the commencement of development on any phase, details of the requisite cycle parking facilities for that phase shall be submitted to and approved by the Local Planning Authority. All Cycle/Powered Two wheeler 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/powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy T8 of the adopted Local Plan.

9 The proposed pedestrian access points provided to the southern and western boundaries of the site as depicted on submitted drawing No.5997\_02 rev P, dated April 2015, and providing access to the adjoining SSSI shall be provided prior to the first occupation of the site and thereafter permanently retained as such. Details of the means of precluding vehicular access to the adjoining Site of Special Scientific Interest, via these pedestrian access points shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the proposed development. Any such mechanism approved to prevent vehicular access shall thereafter be installed prior to the occupation of any phase of the proposed development and thereafter permanently retained as such.

REASON: In order to protect the interests of the adjoining ecologically sensitive land.

10 Within the confines of the site, there shall be no obstruction to visibility, above a height of 0.6m within the area of a 1.5m x 1.5m sight splay to be provided at the junction of any vehicular access and the adjoining highway. Such sight splays to be provided prior to first occupation of the development hereby approved.

REASON: To obtain maximum visibility in the interests of highway safety.

11 Prior to commencement of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the west and 2.4 metres to the roundabout to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times. The junction as shown in principle on drawing number 5997\_02 rev P, dated April 2014 and received by the planning authority on 19th September 2016 shall be provided at right angles to the existing carriageway with 15m radii kerbs to accommodate all vehicles regularly visiting the site to enter and exit in a safe and efficient manner.



REASON: To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with Policy EC2 of the adopted Local Plan.

12 Prior to occupation of the proposed development, the Developer shall provide and implement a Travel Plan including a Travel Plan Monitoring fee to Essex County Council.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

13 Prior to the first occupation of any phase of the proposed units the proposed bus stop shall be installed and arrangements made with the appropriate bus company operator to secure the provision of a bus route to and from the site.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

14 No industrial unit or site on any phase of the proposed development shall be first occupied or used until adequate means of vehicular, cycle and pedestrian access has been provided to serve that phase of the site. The provision of internal access roads to serve the site shall be provided in accordance with the phased programme of construction, details of which are provided on drawing 5997\_04 Rev H dated April 2014 and received by the Planning Authority on 19th September 2016. No change shall be made to the phased programme of works without the prior written approval of the Council.

REASON: In order to ensure satisfactory access of all forms is provided to and throughout the site in the interests of highway safety.

15 The external surfaces of the development hereby approved shall be treated in accordance with the submitted details from which there shall be no departure without the prior formal consent of the Local Planning Authority.

REASON: To ensure a satisfactory form of development.

16 Prior to the first occupation of any phase of the proposed development, details of the proposed refuse and recycling storage facilities for each unit within that phase shall be submitted to and approved by the Local Planning Authority. Any approved facilities shall be provided on site and capable of use prior to first occupation of the units served.

REASON: In order to ensure the provision of appropriate on site refuse and recycling storage facilities.

17 Prior to the commencement of the development (including any site clearance works) all trees and shrubs (including hedges) to be retained, as identified on drawing no. 5997\_02 Rev P; must be protected by fencing in accordance with the provisions of BS5837:2012. No materials are to be stored or temporary buildings erected inside this fence. No changes in ground levels may be made within the crown spread of any tree 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.

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

18 Details of any lighting of any phase shall be submitted to and approved in writing by the local planning authority prior to the commencement of development of that phase. Development shall be carried out in accordance with the approved details.

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

19 Finished ground floor levels shall be set no lower than 2.87m above Ordnance Datum (AOD).

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

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

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

21 The development shall be constructed in accordance with the scheme(s) submitted under condition 20 above, by a qualified structural engineer.

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

22 Prior to commencement of any phase of development, a scheme of flood resilient construction for the approved units within that phase shall be submitted to and formally approved by the Local Planning Authority. Any submitted flood resilience measures shall be in accordance with the Department for Communities and Local Government document, 'Improving the Flood Performance of New Buildings: flood resilient construction' (2007).

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

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

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

24 Details of the proposed bird and bat boxes to be provided on Block 2B and 2C and within the retained trees to the north of Block 7 as shown on the landscape proposals drawing, I.0150-01-1-K dated 01.06.2016 and received by the Planning Authority on 03.06.2016, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved. Any such boxes provided shall thereafter be appropriately maintained and retained in perpetuity.



REASON: In the interests of maintaining the ecological value and interest of the site.

25 The biodiverse roofs to Blocks 2A, 2B, 2C (a and b) and Block 4, shall be installed and maintained in accordance with the recommendations of the UK Green Roof Code, prior to the first occupation of these buildings and shall thereafter be permanently retained and maintained to provide wildflower forage with a focus on Bombus forage.

REASON: In order to limit the impact of the proposed development on interests of ecological importance.

26 Prior to the first occupation of the development hereby approved, a revised landscaping scheme, including the area of land to the east of Unit 3 and providing improved details of the proposed planting along the northern boundary of the site, the provision of mounds, the limitation of willow trees and the provision of saline influenced habitat, shall be submitted to and approved by the Local Planning Authority. Such 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.

Details of the long term management arrangements for such areas will form the subject of the S106 Agreement previously referred.

REASON: In order to ensure the provision of appropriate landscaping for the site, in the interests of the ecology and amenity of the site.

27 The landscaped areas shall not be used for any other purpose without the express consent of the Local Planning Authority.

REASON: In order to ensure the satisfactory assimilation of the development in the landscape and to provide a suitable edge to the development in the interests of the amenity and character of the area and the ecological sensitivity of the site.

28 The proposed crèche provided within Block 2B(b) shall not be occupied until the area shown on the plan as a play area, located to the south of the building has been laid out in accordance with submitted Plan 5997\_02 Rev P, dated April 2015 and that area shall not thereafter be used for any purpose other than as a play area serving the crèche.

REASON: To ensure the provision and retention of appropriate play facilities to serve the crèche.

29 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from lorry parks and/or car parking spaces should be passed through an oil interceptor. Roof water shall not be required to pass through the interceptor.

REASON: In order to ensure satisfactory means of the disposal of surface water drainage for the site and to protect the water environment from pollution.

30 All foul sewage or trade effluent, including cooling water containing chemical additives or vehicle washing water, including steam cleaning effluent shall be discharged to the foul sewer.

REASON: In order to ensure satisfactory means of the disposal of surface water drainage for the site and to protect the water environment from pollution.

31 Vehicle loading or unloading bays and storage areas involving chemicals, refuse or other polluting matter shall not be connected to the surface water drainage system.

REASON: In order to ensure satisfactory means of the disposal of surface water drainage for the site and to protect the water environment from pollution.

32 No works shall take place until details of the SuDS treatment train have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation.

REASON: To provide mitigation of any environmental harm which may be caused to the local water environment

**Informative:**

Failure to provide the above required information before commencement of works may result in a system being installed that may lead to increased pollution hazard from the site.

33 Prior to the first occupation of any phase of the development hereby approved, a revised Flood Response Plan for that phase 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.

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

REASON: Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

35 No works shall take place on any phase of the proposed development until a Maintenance Plan detailing maintenance arrangements, including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies on that phase, 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.

**Informative:**

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

36 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.

37 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 to ensure accordance with Policy EC2 of the adopted Local Plan.

38 The proposed car parking areas and paths around units shall be defined by the provision of a kerb or similar barrier. Details of such barriers shall be submitted to and approved by the Local Planning Authority prior to the commencement of development on that phase of the site and shall be installed concurrently with the construction of the adjoining development and thereafter permanently maintained.

REASON: In order to contain the water within the development footprint and prevent additional surface water runoff at the site perimeter and across sensitive buffer areas, in the interests of protecting the ecology of the site.

39 The proposed palisade fenced to be provided to the west of Units 3 and 5 shall be provided prior to first occupation of those units and thereafter permanently retained as such.

REASON: In order to provide an appropriate means of enclosure to the site.

40 No storage of goods or materials shall take place on the land located to the south and east of Blocks 5, 4 and 3 as shown on drawing number 5997\_02 rev P. dated April 2014 and received by the Planning Authority on 19th September 2016.

REASON: In order to protect and maintain the ecological value of this part of the site.

41 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, no development of the type specified in Classes F G, H I or J; of Part 7 of the Second Schedule to that Order (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order) shall be carried out to Units 2A, 2B, 2C (a and b), 3, 4, 5 or 6, as identified on drawing no.5997\_02 Rev P, without the formal consent of the Local Planning Authority.

REASON: In order to regulate and control further development in the interest of preserving the ecological value of the land adjoining the development hereby approved.

## General Informatives

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

2 Attention is drawn to the provisions of condition 6 attached to planning permission CPT/678/97/RES which requires the monitoring of key habitat areas south of the development site in consultation with English Nature on an annual basis for a period of five years as follows:

*Measures shall be incorporated into the drainage system, details of which shall be submitted to, and approved in writing by the Castle Point Borough Council, to ensure that the new drainage system does not cause de-watering of key habitat areas south of the development site. Monitoring of these areas shall be undertaken, in consultation with English Nature on an annual basis for a period of five years.*

*REASON: To protect the biodiversity of the site and to assess whether additional mitigation work is required to ensure the maintenance of the existing ecosystems.*

3 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](mailto: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 attached standing advice note. The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise. We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information. Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time. Due to size and nature of the development, and the excessive distance of the nearest fire hydrant No.54/633, shown on the enclosed plan, additional fire hydrants will be required within the curtilage of the new site, on a mains size acceptable to this Fire Authority and at positions to be decided, subject to any mains scheme the Water Authority may wish to implement. It should be noted that the cost of these additional fire hydrants will need to be

absorbed by the developer. A newly installed fire hydrant must be on a water main which is capable of providing the required 25 litres/sec (1,500 litres/min) for the purpose of fire-fighting.

4 Due to size and nature of the development, and the excessive distance of the nearest fire hydrant No.54/633, shown on the enclosed plan, additional fire hydrants will be required within the curtilage of the new site, on a mains size acceptable to this Fire Authority and at positions to be decided, subject to any mains scheme the Water Authority may wish to implement. It should be noted that the cost of these additional fire hydrants will need to be absorbed by the developer. A newly installed fire hydrant must be on a water main which is capable of providing the required 25 litres/sec (1,500 litres/min) for the purpose of fire-fighting.

5 All works affecting the highway shall be carried out by prior arrangement with, and to the requirements and satisfaction of and at no cost to the Highway Authority. Application for the necessary works should be made to Essex Highways, Unit 36, Childerditch Industrial Estate, Childerditch Hall Drive, Brentwood, CM13 3HD

e-mail: [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies February 2011.

## **REVIEW OF ENVIRONMENTAL STATEMENT**

**Land south of Northwick Road, Canvey Island, Essex.**

### **INTRODUCTION**

The Environmental Statement (ES) accompanying application 15/0293/RES was submitted, following a request by the Local Planning Authority, as part of an application for the approval of reserved matters.

The National Planning Practice Guidance states at para 056 (Reference ID: 4-056 20140306) that where a consent procedure involves more than one stage (termed a 'multi-stage consent'), for example, a first stage involving a principal decision (such as an outline planning permission) and the other an implementing decision (such as reserved matters), the likely significant effects of a project on the environment should be identified and assessed at the time of the procedure relating to the principal decision. However, if those effects are not identified or identifiable at the time of the principle decision, an assessment must be undertaken at the subsequent stage. For the purposes of the current proposal, this subsequent stage constitutes the application for the approval of reserved matters.

The Guidance makes it clear that in those cases where an environmental impact assessment is required, even after outline planning permission has been granted, account will have to be taken of all the aspects of the project which have not yet been assessed, or which have been identified for the first time as requiring assessment.

### **PURPOSE OF THE REVIEW**

The purpose of this review is to advise Members as to the potential environmental impacts of the proposed development, prior to the determination of the application. It is not intended to refute any of the findings of the ES or to draw any contradictory conclusions. It is merely a tool to enable assessment of the adequacy of information contained in the ES.

The NPPG states that in reviewing a submitted ES the local planning authority should check that it contains all the information specified in Part II of Schedule 4 to the Regulations (The Town and Country Planning (Environmental Impact Assessment) Regulations, 2011 (as amended)). Regulation 2 states that the Statement should also include such of the information referred to in Part I of Schedule 4 as is reasonably required to assess the environmental effects of the development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile.

Part II of Schedule 4 identifies the following matters:

- 1.** A description of the development comprising information on the site, design and size of the development.
- 2.** A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.

3. The data required to identify and assess the main effects which the development is likely to have on the environment.
4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
5. A non-technical summary of the information provided under paragraphs 1 to 4 of this Part.

Part I of the Schedule sets out the following matters:

1. Description of the development, including in particular—
  - (a) a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;
  - (b) a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
  - (c) an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.
2. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.
3. A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
4. A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from—
  - (a) the existence of the development;
  - (b) the use of natural resources;
  - (c) the emission of pollutants, the creation of nuisances and the elimination of waste,and the description by the applicant or appellant of the forecasting methods used to assess the effects on the environment.
5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
6. A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.
7. An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information.

## **METHODOLOGY**

A review of the ES has been undertaken by the Case Officer, in order to determine whether the relevant information had been submitted.



## **SCOPING THE ENVIRONMENTAL STATEMENT**

In order to determine the matters that might be considered within an ES (its scope); an applicant may apply to the Planning Authority for an opinion as to the information to be provided within an ES.

The applicants submitted a formal request for a scoping opinion on 30<sup>th</sup> July 2015, (reference 15/0645/SCOPE).

In considering the request, the Authority formed the view that the key consideration in the determination of any future application would be the impact of the proposed development on ecology. The applicant was therefore advised that the scope of the ES could therefore be restricted to consideration of this issue.

Notwithstanding this advice, the applicants have undertaken a wider assessment of the proposal and have scoped out consideration of archaeology and cultural heritage, landscape and visual amenity, socio-economic considerations, transport and traffic considerations, flood risk and drainage, noise, air quality, ground conditions and contaminated land use and public amenity and safety.

The Planning Authority has identified that it would expect the ES to include the following:

- A description of the development - including physical characteristics and the full land use requirements of the site during construction and operational phases.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development, in so far as they would impact on ecological interests.
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air and climatic factors and the interrelationship between the above factors.
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects. Effects should relate to the existence of the development, the use of natural resources and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on ecology.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on ecology.
- A non-technical summary of the information.
- An indication of any difficulties encountered by the applicant in compiling the required information.
- An assessment of the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement.



- An assessment of the potential for the proposal to affect designated sites. European sites (e.g. designated Special Areas of Conservation and Special Protection Areas) that fall within the scope of the Conservation of Habitats and Species Regulations 2010. It should be noted that under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 an appropriate assessment needs to be undertaken in respect of any plan or project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and (b) not directly connected with or necessary to the management of the site. Should a Likely Significant Effect on a European/Internationally designated site be identified or be uncertain, the Local Planning Authority may need to prepare an Appropriate Assessment, in addition to consideration of impacts through the EIA process.
- An assessment of the direct and indirect effects of the development on the features of special interest within Canvey Wick SSSI and Holehaven Creek SSSI and the RSPB nature reserve to the north of the site should also identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects.

## **CONSIDERATION OF THE ENVIRONMENTAL STATEMENT**

### 1. A description of the development comprising information on the site, design and size of the development.

The first requirement of Part 2 of Schedule 4 of the Regulations is that the ES provide a description of the development comprising information on the site, design and size of the development.

The initial chapter of the ES identifies the nature and location of the proposed development, the latter of which is elaborated upon in greater detail in Chapter 3. Chapter 4 provides greater detail on the specific uses to be accommodated, the gross floorspace and scale of the proposed buildings, the land use zoning to be implemented across the site and means of access and infrastructure provision.

In addition Chapter 4 identifies the proposed flood risk management and drainage strategies which will have implications for design and siting.

The ES identifies the construction methodology and that it is anticipated that the construction period will last approximately 2.5 years.

The submitted ES is considered to satisfy the requirements of para 1 of Part II of Schedule 4 of the Regulations and the first expectation of the Planning Authority.

### 2. A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects.

Chapter 4 of the submitted ES identifies a number of measures which it is proposed to implement in order to avoid, reduce and remedy the impact of the proposed development during the constructional phase. Many of the proposed measures represent good working practice and would not be required by the Planning Authority in order to mitigate significant adverse effects, although their provision is welcomed and will be considered in detail in the determination of the planning application.

Chapter 5 gives consideration to the impact of the proposed development on ecology and nature conservation, which has previously been identified as the issue likely to be most sensitive to the consequences of the proposed development.

The applicant has identified that following the grant of outline consent for the proposed development, works undertaken in discharge of several conditions attached to the outline consent, such as the creation of new habitat and relocation of herpetofauna to land to the south of the site has already mitigated to some degree, the impact of the proposed development on the application site.

The ES identifies further mitigation works that will be undertaken to create greater habitat for displaced fauna and flora within the application site.

3. The data required to identify and assess the main effects which the development is likely to have on the environment.

Chapter 5 includes the results of the desk top and habitat surveys undertaken in the preparation of the ES. This records the presence of Great Crested Newts, Water Voles, Common Lizard, Grass Snake and Adder. In addition some 275 species of invertebrate was recorded (199 terrestrial), including 4 Red Data Book Species, 28 Nationally Notable species and 55 with local distribution. Birds are also identified as being present on the site.

The ES identifies the impact of the proposal on each faunal group and the mitigation proposed to remedy such impact.

4. An outline of the main alternatives studied by the applicant or appellant and an indication of the main reasons for the choice made, taking into account the environmental effects.

It should be noted that in responding to the request for a scoping opinion, the Planning Authority advised the applicant that in view of the presence of an extant outline consent for development of the description proposed within the reserved matters application, an assessment of alternative sites would not be required. The submitted ES therefore contains no analysis of alternative sites.

The ES does refer to alternative designs, however these appear to be limited to adjustments to accommodate the designation of part of the original site as a SSSI in 2005 and minor alterations within the reduced site to provide improved circulation and landscaping areas, rather than alternative building design.

A non-technical summary of the information provided under paragraphs 1 to 4 of Part 2 of Schedule 4 has been submitted and satisfies this requirement of the Regulations.

## **CONCLUSION**

Following discussions with the applicants and correspondence from statutory consultees, it is concluded that the ES does consider all the potential significant environmental impacts of the proposed development and also addresses the key concerns raised by the scoping exercise.

It is considered that the submitted ES provides sufficient information to allow appropriate consideration of the reserved matters application.

**Appendix 2 to Report****Land south of Northwick Road, Canvey Island, Essex.****Habitats Assessment****Introduction**

The European Union (EU) Habitats Directive protects certain species of plants and animals which are particularly vulnerable. The Directive specifically relates to Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Ramsar sites known as Natura 2000 sites. The UK Habitats Regulations are used to implement the EU Directive and require a Habitats Regulations Assessment (HRA). The process of HRA involves an initial 'Screening' stage followed by an Appropriate Assessment (AA) if proposals are likely to have a significant (adverse) impact on a Natura 2000 site. The formal assessment of these two tests is undertaken by the 'competent authority' which is normally the planning authority

The need for Habitats Regulations Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats & Species (Amendment) Regulations 2011.

**What is Habitat Regulations Assessment?**

Paragraph 61 of the Conservation of Habitats & Species (Amendment) Regulations 2011 states that:

A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which—

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives

There are 4 stages to the HRA process set out in the European Commission guidance "*Assessment of plans and projects significantly affecting Natura 2000 sites – Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC*" (November 2001). Article 6(3) of the Habitats Directive relates to Stages 1 to 3 and Article 6(4) to Stage 4, as follows:

**First stage – Screening**

The identification of the likely impacts of the proposed development on a Natura 2000 or Ramsar site, either alone or in combination with other projects or plans, and consideration of whether these impacts are likely to be significant.

If it is concluded at the screening stage that there will be no significant impacts, there is no need to carry out subsequent stages.

### Second stage - Appropriate Assessment

Consideration of the impact on the integrity of the Natura 2000 or Ramsar site either alone or in combination with other projects or plans, with respect to the site's structure and function and its conservation objectives.

Such consideration would require an assessment, where there are adverse impacts, of the potential mitigation of those impacts.

### Third stage – Assessment of alternative solutions

Examination of alternative ways of achieving the objectives of the project or plan that avoid adverse impacts on the integrity of the Natura 2000 or Ramsar site.

### Fourth stage – Compensatory measures

Assessment of compensatory measures where, in the light of an assessment of imperative reasons of overriding public interest, it is deemed that the plan should proceed.

## **What is a significant impact on a Natura 2000 Site?**

A judgement of the significance of effects on a Natura 2000 site should be undertaken in relation to the designated interest features and conservation objectives of the Natura 2000 site using sound judgement, and with a scientific basis where available. If insufficient information is available to make a clear judgement, it should be assumed that a significant effect is possible in line with the precautionary principle. The Precautionary Principle is - '*Prudent action that avoids the possibility of irreversible environmental damage in situations where the scientific evidence is inconclusive but the potential damage could be significant.*'

## **The Assessment**

The application site is located to the east of Holehaven Creek Site of Scientific Interest.

Natural England regards this site as having functional linkages with the wider Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site (Natura 2000 sites) and as such is deemed to warrant consideration under the Habitat Regulations.

The proposal comprises the development of some 7.5ha of land, principally for employment purposes and is not directly connected with, or necessary to, the management of the SPA. As such it requires assessment under the Habitat regulations.

In determining whether the proposal would have a significant (adverse) impact on the designated site, consideration must be given to the conservation objective of the designated area. In this case, the land within the wider Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site has been designated primarily because of its value to overwintering birds.

The assessment must therefore consider the likely impact of the proposed development, during both the construction and operational phases, on such birds.

The application site is located some 2.5km – 3km from the Benfleet and Southend Marshes SPA. At this distance, noise, lighting and air quality surveys undertaken by the applicant strongly suggest that the proposal would have no adverse impact on the conservation objectives of the land.

Holehaven Creek is located only 0.4km from the application site, however the submitted survey data again supports the view that the designated site would not be significantly adversely affected.

Consideration has also been given to the potential for surface water runoff and foul drainage to have an adverse impact on the designated areas.

Surface water is to be drained from the site, via a consented flood detention basin, to Westwick Dyke to the south of the application site. The dyke will ultimately discharge into Holehaven Creek.

The applicants have advised that given the limited extent of surface water runoff that might potentially enter the Creek, any pollution impact is not likely to be significant because of the volume of water already present in the Creek.

In terms of the potential for a foul sewer pollution event, the applicants have advised that the foul sewer will connect, via Northwick Road, to the existing foul pumping station near Morrison's, off Roscommon Way. Subject to appropriate availability of capacity within the system, which can be controlled under other legislation, it is not considered that any potential contamination of the Creek would be limited and unlikely to have a significant adverse impact on the consideration objectives of the area.

In the light of the above considerations, it is the view of the Planning Authority as Competent Authority that the proposal would not have a significant adverse impact on a designated site. Appropriate assessment is not therefore required.

This assessment is supported by Natural England in a letter dated 24<sup>th</sup> February 2016.

## Appendix 3 to Report

### Statutory Consultee Responses

#### Secretary of State

No response

#### CPBC Environmental Health

Service currently objects to this application on the grounds of 'increase of traffic', and the effects which this would have upon air quality, a topic which is of Public Health significance.

One of our diffusion tubes (CP02 - approximately 500m from the proposed development), deployed for the purpose of measuring ambient nitrogen dioxide (NO<sub>2</sub>) concentrations, has consecutively recorded higher than average levels of the pollutant, a pollutant which is produced as a result of road traffic and other fossil fuel combustion processes.

The degradation of the air quality in this area has arisen as a result of elevated levels of congestion and has been of increasing concern to this Service. If this pollutant should exceed an annual mean of 40µg/m<sup>3</sup>, as set by the European directives, this Council shall be required to submit a detailed assessment to the department for environment food and rural affairs (DEFRA). If it is identified that the directives are not being complied with, this Council may be required to implement an air quality management area (AQMA).

It is the opinion of this Service that if the proposed development was permitted at the current time there would be an adverse impact upon the local air quality, with initial impacts during the construction phase. It is believed that the air quality would deteriorate further following occupation by new businesses, regular delivery vehicles and visitors to the site.

This Service agrees with the design and access statement that this particular area is well connected for business, boasting "*direct usage of the A130, which heads north to the A13 and west towards the M25 and London*", however the current road infrastructure, particularly those leading onto and off of the island cannot facilitate traffic movements which would not have a detrimental impact on the local air quality.

#### CPBC Legal Services

The planned development will not encroach on Council land but concern is raised with regard to any noise that may cause undue distress to those families visiting their relatives in the cemetery and would request that a restriction is in place during construction work on Sundays to provide a peaceful environment for those people wishing to mourn.

#### CPBC Street Scene Refuse and Recycling

No objection. Additional information required on provision of refuse stores.

#### CPBC Emergency Planning Officer

No response received.

#### CPBC Planning Policy Officer

Application 15/0293/RES is of interest from a planning policy perspective as it is a proposal for a significant amount of employment floorspace on a site which is identified for employment in both the current 1998 Adopted Local Plan and the draft of the New Local Plan.

Section 1 of the NPPF sets out the Government's policies in relation to planning for a strong and competitive economy. Paragraphs 18 and 19 are clear that the Government is committed to

securing economic growth in order to create jobs and prosperity, and to ensuring that the planning system does everything it can to support sustainable economic growth. Paragraph 20 is clear that local planning authorities have a key role in planning proactively to meet the development needs of business and support an economy fit for the 21st century.

Paragraph 21 of the NPPF sets out the specific requirements for local planning authorities in terms of planning for economic growth. It expects policies to address potential barriers to investment and do not over burden businesses through excessive requirements. Local Plans should set out a clear economic vision and strategy for their area, which supports existing and emerging business sectors, identifies priorities for regeneration, infrastructure provision and environmental enhancement and promotes the development of clusters and the knowledge economy.

#### The Principle of Employment on this Site

The outline consent established the principle of the currently proposed development.

The current planning application is a reserved matters application pursuant to an extant outline consent for Use For B1, B2 and B8 employment purposes and a hotel and motor dealership with access roads, car parking and landscaping. The 1998 Adopted Local Plan allocates the site for employment purposes, subject to the provisions of a development brief. The policy is clear that no development shall take place on site prior to the completion of a relief road linking Canvey Road with Northwick Road.

The road links in the form of Roscommon Way and Extension are now completed. A Design Brief forms part of the S106 Agreement for the outline consent, and the Agreement requires the reserved matters applications to be prepared in accordance with the general principles and detailed design and layout criteria of the Design Brief.

The NPPF is quite clear that the presumption in favour of sustainable development does not apply in certain instances as set out in footnote 9. This includes sites in locations at risk of flooding. The 1998 Adopted Local Plan is silent on matters of flood risk. As such regard should be had to paragraphs 100 to 103 of the NPPF.

The South Essex Surface Water Management Plan 2012 identifies Canvey Island as Critical Drainage Area. Given its low lying nature, land on Canvey is subject to surface water flooding and any development proposals at this site need to be designed to achieve resilience and resistance to flood risk. They also need to be designed to manage surface water drainage issues on or adjacent to the site and prevent an increased risk of flooding by surface water to other properties nearby.

The site is immediately adjacent to the Canvey Wick SSSI. The development must limit its impact on the SSSI and provide mitigation and compensation for any biodiversity that is present on the site. Regard should be had to paragraphs 109 and 118 of the NPPF.

#### The Need for Employment in Castle Point

The Castle Point Employment & Retail Needs Assessment 2012 identifies that the Borough has less employment space overall than all neighbouring boroughs and it comprises predominantly of industrial provision, with a relatively small level of office provision.

The Assessment identifies that there is good demand for industrial space in Castle Point generally, but little available supply. Much of the stock is identified as old and unsuited to current



needs, with few larger units and little modern stock. There are indications that local firms may find it hard to expand or upgrade premises without moving out of the Borough.

Demand for office space is low, predominantly for small units by local firms. Supply is also very low, predominantly small older premises above shops and with very few new premises being built. The Borough is also identified as having very limited provision for small, start-up businesses compared with adjoining boroughs.

The application site is considered reasonably suited to meet future needs, although its proximity to the Thames estuary, relative remoteness and potential drainage issues are highlighted as potential matters to deter development.

The application site is considered one of the best performing allocated undeveloped sites in terms of strategic accessibility, and benefits from good local access via Roscommon Way and its Extension, but it is still considered relatively isolated from public transport. Potential flood risk issues are highlighted, given the site's location in Flood Zone 3. The Assessment also indicates that despite a prominent position on Roscommon Way close to Morrison's retail development and Charfleets Industrial Estate, its relatively remote location could act as a deterrent for some non-local occupiers. It concludes by considering the site as an average quality employment site, but which is available in the short term, and could accommodate B1c, B2 & B8 uses.

The Assessment states that comparing future requirements with the current supply of employment land in the Borough, which includes the application site, suggests that there is adequate quantitative supply of industrial space to meet future needs to 2031, under different estimates of future demand.

The Draft New Local Plan allocates the site for employment purposes and identifies that work already carried out for the site, by the HCA (Housing and Communities Agency) and the Castle Point Regeneration Partnership, supports employment provision on the site, including the provision of an enterprise centre to support indigenous business growth.

#### Design and Layout

The application site is strategically located at the junction of Roscommon Way with Northwick Road on Canvey Island and is visually prominent in this part of Canvey Island. It is therefore essential that a high standard of design in relation to this site is achieved in order to meet the requirements of policy EC2 – Design of the 1998 Adopted Local Plan, and also the requirements of Section 7 of the NPPF. The proposed layout does not appear to address this important gateway to West Canvey, with the buildings orientated so as to present their side and rear elevations to the principle boundaries of the site, which does not present an appropriate frontage to the public realm in this location.

Furthermore some of the associated parking has been provided immediately adjacent to the principle boundaries of the site; this is particularly evident at the north eastern corner of the site, which is highly prominent when approaching the entrance to the site.

All of the buildings comprising the B uses are proposed of the same design. These have limited built form articulation to any of their elevations, restricted to windows and doors, and are treated with a limited palette of materials and colours. This is considered to result in bland, unimaginative facades, which is considered of particular concern given the site's prominent location.

Whilst it is acknowledged that the development comprises buildings proposed to accommodate industrial & office type uses, it is considered that there is still scope to be more creative with the design and palette of materials, and to introduce elements of diversity across the site, whilst still maintaining a common design theme. It is considered that the scheme in its current form has failed to take the opportunity to provide a high quality form of development, which could act as a landmark gateway for Canvey Island.

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### Canvey Island Town Council

#### Letter dated 21<sup>st</sup> May 2015

Following a meeting of the Planning Committee on the 18th May 2015, the Town Council objects to the above proposed development for the following reasons:

- The impact on air quality
- The effect on the infrastructure at the west of the island due to the increased number of vehicle movement proposed within the development
- Overdevelopment of the site
- An up to date surface water management plan is required as the application only refers to tidal flooding
- The Integrated Urban Drainage Study is still not complete and findings reported.
- Further attention is required to the consideration of adequate fencing to the whole site due to the level of crime on the island
- The reports provided are now out of date and due to the changes and issues encountered on the island since 2005 it is recommended that the whole report is reviewed
- The lack of information provided in relation to disabled access and employment
- The impact to the adjacent SSSI site and the requirement for an up to date and adequate biodiversity report
- Parts of the application have limited readability due to the size of the fonts which are not adequate and not in line with government policy.

#### Letter dated 14<sup>th</sup> June 2016

Following a meeting of the Planning Committee on the 13th June 2016, the Town Council unanimously **RESOLVED** to uphold its objections submitted following a meeting of the planning committee held on 18th May 2015.

Members also wished to raise concerns over the effects which this would have upon air quality, a topic which is of Public Health significance.

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### Natural England

#### Letter of 8<sup>th</sup> June 2015

Natural England accepts the principle of development in this location consistent with the extant renewed Outline planning permission, and associated Legal Agreements, however in our view further information is required in order to demonstrate that the proposed development is consistent with the principles of sustainable development set out within those Agreements, and the Canvey Wick Vision leaflet (attached). Further information requirements are described below, along with suggested planning conditions to secure essential elements of the proposal.

### Advice regarding Holehaven Creek SSSI-

#### Further Information Required

The site consists of Holehaven Creek and part of the connecting Vange Creek and East Haven Creek. The tidal creek system acts as the principal drain for the surrounding grazing marshes and forms a confluence at Holehaven with the River Thames. The site is linked geographically and functionally with the wider Thames Estuary.

The intertidal mudflats and saltmarsh habitats of Holehaven Creek support a nationally important number of black-tailed godwit *Limosa limosa islandica*. This species also regularly occurs in numbers of international importance. The creek provides suitable conditions for black-tailed godwit, including an abundance of food in the mudflats (polychaete worms and bivalve molluscs), large areas of saltmarsh (e.g. Lower Horse) for high tide roosts and minimal levels of disturbance. These sheltered inner estuary conditions are rare within the Thames Estuary. In addition to this, there are a number of features that are important within the context of the Thames Estuary. For example, the site regularly supports an assemblage of over 8,000 waterfowl during the winter, with curlew *Numenius arquata* and dunlin *Calidris alpina* occasionally occurring in nationally important numbers. Furthermore, Holehaven Creek supports two of the three basic saltmarsh communities characteristic of south east and east England. These are formerly grazed saltmarshes with saltmarsh grass *Puccinellia maritima* and sea aster *Aster tripolium* often in extensive pioneer mid marsh zones, and ungrazed or lightly grazed saltmarshes, typically with sea purslane *Atriplex portulacoides* being dominant.

Natural England advises that Holehaven Creek SSSI is functionally linked with the Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar (internationally important wetland) site. As such, it is considered within the framework of the Habitats Regulations. The development shares hydrological connectivity with the Holehaven Creek SSSI. We note that foul drainage arrangements have yet to be identified, and as such we cannot yet advise the planning authority whether the project is likely to have a significant effect on the SSSI and subsequently the SPA / Ramsar site.

### Advice regarding Canvey Wick SSSI

#### Further Information Required

This application is in close proximity to the Canvey Wick Site of Special Scientific Interest (SSSI).

Canvey Wick SSSI is a post-industrial site that supports nationally important assemblages of invertebrates, chiefly associated with free-draining grassland (herb-rich areas, disturbed bare ground, open sward and scrub edge) and brackish (coastal wetland) habitats. This assemblage includes nationally important populations of the nationally scarce shrill carder bee (*Bombus sylvarum*).

Natural England is not yet satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out as currently submitted. We therefore advise your authority that further information is required in order to advise whether the SSSI represents a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

## Planning History

The planning authority will be aware of lengthy planning history of proposed development at this location, spanning several years. We understand that following an outline planning application (CPT/678/97/OUT) and an associated s106 Legal Agreement, a reserved matters planning application (your reference CPT/678/97/RES) was submitted, and obtained permission in April 2005. Natural England's final consultation response letter, withdrawing our earlier objection, is dated 11th March 2004. In reaching that position, two further legal agreements were signed by Natural England's predecessor body English Nature (EN), and the then East of England Development Agency (EEDA), as the former landowner. We also note that the outline permission was renewed in April 2005, with condition 2 requiring submission of a reserved matters application within 10 years. This current application fulfils that condition. The legal agreements between EN and EEDA, dated January 2004, set out the framework. And principles of the sustainable development of part of the former EEDA site (another plot north of the east-west Spine Road), in recognition of the nationally important nature conservation interest (principally invertebrates) of much of the remainder of the site (identified through surveys undertaken as directed by the 2002 s106 agreement). We refer you to these documents for the background to this letter and the context of the current application, but in particular highlight the following key elements:

The proposed development "will make use of sustainable construction, design and landscaping principles which complement and enhance the special wildlife interest of the neighbouring area... with the aim of achieving an exemplar development.- The subsequent bullets 2.1 to 2.8 set out these principles.

To mitigate the impacts of the proposed development on the special invertebrate interest of the area (now centred around Canvey Wick SSSI), particular attention was to be paid to: the layout and design; the establishment of offsite mitigation areas; the creation of suitable replacement habitat to offset that lost to development (and long-term management).

### Subsequent notification of remaining areas within the now Canvey Wick SSSI.

Whilst the proposed development site has changed hands since these agreements were signed, the sustainable development principles agreed at that time remain, and we have assessed the current application against the principles of paragraph 2 of the Agreement Number One. It is our understanding that paragraph 6.4 - the creation of suitable replacement habitat to offset that lost through development north of the spine road - has been satisfactorily delivered.

In addition, Natural England understands that, following the grant of reserved matters permission, and the discharge of associated planning conditions, that additional works have progressed on the site of the employment land, including surface water drainage ponds. We refer you to our consultation response letters dated 6th July 2011 in particular (but also the previous letter dated 5<sup>th</sup> December 2008).

Natural England notes that as part of each successive phase of development, a Wildlife Protection Plan has been produced in order to safeguard discrete areas of interest from construction damage, particularly areas contributing towards the overall resource of impoverished substrate. Natural England notes for instance 'hatched areas' and those marked Y, X, and V, on the original August 2004 Wildlife Protection Zones (drawing reference 371/15).

More recent versions of the Wildlife Protection Plan (e.g. dated December 2010, linked to the construction of detention pond) illustrate changes to the impoverished substrate resource in the area of the proposed development (e.g. area Y is no longer shown). It is not immediately clear how and why the Wildlife Protection Plan has evolved since 2004, and what resource currently remains on the site of the proposed development. In view of the uncertainties over the current habitat resource, and by inference any current associated invertebrate interest, Natural England suggests that further information is provided, the scope of which is set out below.

In view of the above, it would be beneficial for all parties that survey information is provided which indicates the current baseline of habitats on the site. Natural England suggest that this takes the form of a habitat mapping exercise, to identify and map the current areas of likely elevated invertebrate interest, in view of the habitat associations with important assemblages already known from previous surveys.

The findings of this survey should inform an updated Wildlife Protection Plan, and identify habitats which can be integrated within the landscaping of the development.

Natural England recognises the baseline invertebrate surveys undertaken as required by the original s106 agreement for outline planning permission, and submitted as part of the 2004 reserved matters application. Clearly several years have elapsed since that time, and the baseline is reported to have changed (vegetation has re-colonised), due to the lapsed site management works (including vegetation spraying). The purpose of further surveys to inform this application is therefore to establish what, if any, preferred invertebrate habitat has re-colonised over and above that which was identified, and mitigated, in 2004 and subsequent years. This will help to ensure that the landscaping strategy for the site appropriately retains, or where this is not possible, utilises the most significant areas of e.g. species-rich grassland for turf translocations or other appropriate mitigation techniques. Furthermore, the following additional impact pathways have yet to be fully addressed in the planning submission. Further information is required which sets out how the Canvey Wick SSSI will be conserved and enhanced from development in immediate proximity.

### Landscaping

The on-site landscaping of the proposed development was an important component of the original (and renewed) reserved matters application, and associated Agreement Number One. Natural England note that the Catherine Bickmore Associates Ltd report sets out general principles for the landscape strategy, however we note that these are "being prepared- (paragraph 1.1) and will defer comments until the strategy is completed. We refer the developer to the landscaping principles in section 2 of Agreement Number One, and invite the applicant to provide a commentary setting out how the development has been designed to respect these principles. For avoidance of doubt, these are set out below:-

- green/brown roofs and other built features;
- brownfield design of car parking and other 'hard' areas;
- soft landscaping targeted to provide resources to support meta-populations of key invertebrates (e.g. nectar sources etc);

- additional green/brown landscaping to enhance grassland areas (e.g. sowing/soil manipulation etc.) and re-establishment of significant plant species known to be associated with key indicator invertebrates on the site;
- a sustainable urban drainage system;
- management integrated with the nature reserve to the south;
- retained and enhanced buffer strips to the south and west margins;
- provision of public access to the land to the south of the spine road.

### Wildlife Protection Plan

Consistent with the approach taken to date to safeguard important wildlife on the development site (and on the adjacent SSSI), a wildlife protection plan should be produced for the overall development scheme, and each separate phase of development. The Plan should be secured with a suitably worded planning condition.

### Hydrology

Natural England notes the findings of the submitted Flood Risk Assessment (FRA) which sets out that surface water drainage will leave the site via an outfall in the south-west corner, via a consented off-site retention pond, to enter the Westwick Dyke, and discharge into the Holehaven Creek, and finally enter the tidal River Thames system. Whilst site discharge is regulated by a discharge consent issued by the Environment Agency, Natural England wishes to make the following comments.

Natural England note that the use of on-site SuDS is limited by the soil type and relatively high groundwater levels, nevertheless Natural England supports the intention to discharge surface water offsite - entering the Canvey Wick SSSI at this point - at the greenfield runoff rate (ie. the development is designed to present a no net increase in water egress from the site (e.g. caused by increasing impermeable surfaces etc).

Natural England supports the proposal to use oil/petrol interceptors consistent with best practise.

Natural England also notes the context of the consented surface water retention pond under application CPT/678/97/RES/CDN/A

Natural England refers the LPA to its consultation response letter dated 6th July 2011, in which it provided comments on the discharge of conditions 3, 6, 7 and 9 of the reserved matters application.

Condition 3 limited the flow to the greenfield/agricultural runoff rate - this is proposed in the FRA.

Condition 6 required measures to ensure that de-watering of key habitats (now within the SSSI) was prevented. Condition 6 required monitoring for a period of five years - this monitoring should be built into the strategy for the development.

Condition 7 required a Wildlife Protection Plan, which we were satisfied with at that time.



Condition 9 (route of N-S pathways) to be agreed prior to commencement of development.

Natural England notes however from paragraph 6.5.3 that the offsite storage basin 'can be constructed as part of the development rights'. [emphasis added], and assume from this that these permissions have not yet been implemented. As such, it would be appropriate in our view to include the area of the offsite storage basin to be included within the habitat mapping update to ensure it remains fit for purpose.

Further information should therefore be provided to indicate clearly which actions remain to be implemented as part of the 2011 permission.

Assuming appropriate pollution protection is implemented (in accordance with the Environment Agency's Pollution Prevention Guidelines), we are satisfied in principle with the proposed discharge of surface water to the Holehaven Creek SSSI.

Natural England notes however from the Design and Access Statement that foul drainage –'will be contained within the existing site and treated by a proprietary system. This will in turn discharge into a water course at an agreed site with the Environment Agency'. . As no location is apparently yet identified for the discharge of foul drainage, Natural England cannot yet advise whether this will impact on Canvey Wick or Holehaven Creek SSSIs. Further information should be provided.

#### Lighting

Natural England cannot locate details of the lighting proposals in the current submission, and therefore a suitably worded planning condition should be used to secure a lighting strategy for the development, which seeks to respect the adjacent SSSI designation in its design.

#### Construction

A range of construction related impacts have the potential to impact upon the Canvey Wick SSSI, and potentially also the Holehaven Creek SSSI. A Construction Environmental Management Plan (CEMP) should be produced to avoid or mitigate these impacts. A suitably worded planning condition should secure the production of the CEMP.

In addition to the further information requested as described above, these conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Canvey Wick and Holehaven Creek SSSIs are notified.

#### Protected Species

Natural England has not assessed this application and associated documents for impacts on protected species.

Natural England has published Standing Advice on protected species.

The LPA should apply Natural England Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.



The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence is needed (which is the developer's responsibility) or may be granted.

#### Additional Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that 'Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'. Section 40(3) of the same Act also states that 'conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

#### Email dated 24<sup>th</sup> February 2016

(Please note that in the interests of brevity repeated comments have not been reproduced.

Natural England does not object to the proposed development, subject to a range of suitably worded planning conditions securing the necessary further details to safeguard the SSSI and protection of other sensitive wildlife. We also anticipate complexities with licensing for great crested newts, and encourage early dialogue with our licensing team through our Pre-Submission Screening Service.

#### Advice to Date

The LPA is referred to a previous consultation response, dated 8th June 2015, which sets out the historic planning context for this reserved matters application. In particular, that letter sets out the mutual expectations concerning the development of the current application site, and the associated agreements covering the principles of development design, and the notification of Canvey Wick Site of Special Scientific Interest (SSSI).

#### Nationally Designated Sites - Canvey Wick SSSI

Given the nature and scale of this proposal, and subject to suitably worded planning conditions, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. Natural England therefore advises your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Canvey Wick SSSI is notified.

## Environmental Statement, chapter 5 Ecology

Natural England notes that since the cessation of habitat management (spraying) on the site, some habitat has re-colonised, and offers some interest to wildlife, in particular to invertebrates associated with the Canvey Wick SSSI. The ES describes this interest as: "relative to the habitats in the adjacent Canvey Wick SSSI, the habitats on the Application Site are of minor importance to invertebrates and that they do not form a key "external" component contributing to maintaining the overall invertebrate interest of the SSSI. From the survey work it is concluded that the habitats on the Application Site form a useful foraging resource as an adjunct to the adjacent SSSI, but do not form a core habitat area for the key invertebrate populations. "

Notwithstanding this conclusion, Natural England notes the invertebrate survey found (in particular) the s41 bumblebees *Bombus humilis* and *B. sylvarum*:

*"...on every visit to the site, with queens being found in spring, and workers and males being recorded on later visits, but no nests were recorded. B. humilis and B. sylvarum were found to be spread across the site, but large numbers of Bombus sylvarum were noted in particular during the September visit, the majority of which were visiting sea aster in the reedbed and ephemeral pool S-15".*

Further:

*"In terms of the amount of flower available, the site would appear to be particularly valuable in mid-late summer, when large amounts of fleabane, sea aster, and various yellow Composite species and small amounts of wild carrot are in flower and a number of the uncommon bee and wasp species are on the wing."*

These selected extracts highlight the importance of the application site in support of the special invertebrate interest of the adjacent SSSI, and the need to secure appropriate landscaping design, and construction practice. A more detailed analysis of the invertebrate survey results, including importantly a comparison with the 2002 survey baseline, is set out within the attached Appendix.

## Mitigation Proposals

With reference to Table 5.33 and the Mitigation Proposals set out in sections 5.11.16 - 5.11.30 Natural England can confirm that it is broadly supportive of the measures that have been proposed for the notable species that have been listed above (albeit with a few further comments about the Landscape Proposals and the Conservation Management Plan and in recognition that further opportunities will be available for refinements through necessary consultation as part of the discharge of planning conditions).

## Landscape Proposals - Appendix 12A

Natural England's main comment about the tree planting scheme is that it is not clear that it adequately avoids introducing invasive species - for example, Birch colonisation within the SSSI is a management problem, so it is recommended that the Birch species chosen for planting should be a species that does not produce fertile seeds. Similarly, some thought may be afforded to the location and type of willow tree species to minimise the risk of willow species invading adjacent wetland areas.

Section 5.4.9 indicates that the nationally scarce plant Golden Samphire (*Inula crithmoides*) is present to the east of Target Note C on Figure 5.4 and therefore likely to be impacted by the development. Noting its botanical significance and contribution as an invertebrate forage flower, it would make sense to include appropriate conservation of this species as part of mitigation (ie, seed collection and cuttings) to introduce plugs and seeds into appropriate 'wetter' areas such as those identified for Sea Aster plugs (including the Detention Pond).

The access bridge to the SSSI from the car park may require suitable site furniture to manage access, with agreement from the SSSI landowners and managers to avoid undesirable access from vehicles and motorcycles.

### Conservation Management Plan

Section 5.11.62 indicates this Plan is for ten year duration and Section 5.11.71 suggests it should be covered by a planning condition. This does not align with the ES regular reference to Long Term Management particularly when considering the recognition in section 5.8.20 of the effect of a lack of management on the habitats for notable invertebrates. The overarching principles of the EEDA/EN agreement (referenced in our earlier letter), included point 2:

*'The development... will make use of sustainable construction, design and landscaping principles which complement and enhance the special wildlife interest of the neighbouring area and minimise the development's environmental footprint... with the aim of achieving an exemplar development', and delivering 'management integrated with the nature reserve to the south'.*

In seeking to achieve this, the management of the landscaped areas should be part of the ongoing scheduled grounds maintenance responsibility of the responsible party (clearly established via a cascaded legal arrangement from developer, tenant, sub tenant etc.) in perpetuity. This would need to be enforceable as part of any planning permission granted.

### Required Planning Conditions

Natural England generally welcomes the recognition of the design principles of the historic agreement, set out in paragraph 5.11.2, notwithstanding some work required to achieve their aspirations (described above). For example, Natural England welcomes the inclusion of three brown roofs, along the eastern side of the site. In order to ensure the development fully incorporate and refines these principles, Natural England suggests that suitably worded planning conditions are included within any planning permission, which seek to achieve the following:-

A Construction Environmental Management Plan (or equivalent) to ensure that construction practices fully respect the sensitive surroundings, incorporating appropriate Environment Agency pollution prevention guidelines. The CEMP should also include a Wildlife Protection Plan, to update earlier versions.

A detailed Landscape Strategy, to include the brown roofs, to target appropriate species (with a focus on *Bombus* forage).

A detailed Conservation Management Plan, which we note is to cover an initial 10 year period, but should also include arrangements for long-term (in perpetuity) site habitat management (as described above).

A detailed Lighting Strategy, to ensure light spill is minimised, especially in areas close to the SSSI and ecologically designed landscaping zones (in particular adjacent to the Roscommon Way Extension).

A Phasing Strategy - which seeks to demonstrate that there is no net loss of the Bombus forage at all stages of construction. Mitigation should be delivered in-step (or ahead of step) With development, accounting for habitat maturation time.

Natural England also notes that the existing attenuation pond is to be used, to ensure that no surface water is channelled to adjacent ecologically sensitive ditches. Natural England notes and supports the proposed use of oil/petrol interceptors. Natural England further notes that the landscaping plan respects the habitat mitigation area adjacent to the Roscommon Way Extension.

If your Authority is minded to grant consent for this application without the conditions recommended above, Natural England refers the LPA to Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended), specifically the duty placed upon the authority, requiring that it:

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice; and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

#### Internationally Designated Sites - Holehaven Creek

Natural England has consistently regarded Holehaven Creek SSSI as having functional linkage with the wider Thames Estuary and Marshes Special Protection Area (SPA) and Ramsar site. The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, ie. the consultation does not include a Habitats Regulations Assessment.

In advising the LPA on the requirements relating to Habitats Regulations Assessment, and to assist in screening for the likelihood of significant effects, based on the information provided, Natural England offers the following advice:

- . the proposal is not necessary for the management of the European site
- . that the proposal is unlikely to have a significant effect on any European site, and can therefore be screened out from any requirement for further assessment.

When recording the HRA Natural England recommends the LPA refer to the following information to justify the conclusions regarding the likelihood of significant effects.

#### HRA Rationale

Natural England agrees with the assessment of the Environmental Statement, that with respect to both noise, lighting, air and water borne pollution, and hydrological impact pathways, no likely significant effects are predicted. Natural England agrees with the conclusion of the Information for HRA conclusion (paragraph 5.10.32) that no Appropriate Assessment is required.

Natural England notes that the ES describes how that "foul drainage would connect, via Northwick Road, to the existing foul pumping station near Morrisons, off Roscommon Way" (paragraph 5.10.3). In order to agree with this statement. Natural England has assumed that existing facilities are adequate for the additional foul drainage with effective regulation to avoid impacts to nearby protected sites, such as Holehaven Creek and Benfleet and Southend Marshes SSSIs, and the Thames Estuary and Marshes SPA. If this assumption is incorrect, Natural England reserves the right to amend its position accordingly, and request additional information and impact assessment if necessary.

### Protected Species

Natural England understands that mitigation for impacts to great crested newts may be particularly challenging, and invite the developer and their ecologist to discuss this with it at an early stage.

### Other advice

Natural England would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- . local sites (biodiversity and geodiversity);
- . local landscape character; and
- . local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and Natural England recommends that the LPA seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geo-conservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at [Wildlife and Countryside link](#).

### Biodiversity enhancements

Within the attached Appendix to the submission, Natural England confirmed that the Application Site is an important area for invertebrates, in particular forming an important area of late season forage for *B. humilis* and *B. sylvarum* and that the majority of the aquatic habitats sampled could be classed as "good". It further confirmed that the site could be identified as "unshaded early successional mosaic" and "permanent wet mire" and the Specific Assemblage Type of "rich flower resource" as being in "favourable condition".

In terms of the amount of flower available, the site would appear to be particularly valuable in mid-late summer, when large amounts of fleabane, sea aster, and various yellow Composite species and small amounts of wild carrot are in flower and a number of the uncommon bee and wasp species are on the wing"

These assemblages are consistent with the adjacent SSSI assemblages, so any significant loss of supporting habitat within the application could be viewed as a potentially significant impact on these SSSI interest features. With this in mind, Natural England confirmed that the scale of loss needed to be considered in the context of interest that is over and above historic levels (i.e.,

working on the basis that the package of mitigation and compensation associated with the Outline permission is regarded as effectively compensating for the expected losses at that time).

The 2002 invertebrate Survey recorded 149 species, 1 Notable A species, 9 Notable B species and 3 Notable species on the site. In addition to this, Ditch 10 recorded RDB2 *Lestes dryas* and RDB2 *Dolichopus signifier*.

The most recent survey (2015) recorded 275 species (including 199 terrestrial & 53 aquatic. Clearly the application site has a much larger recorded number of notable invertebrate species in the current 2015 submission compared with the 2002 ES at Outline application stage, but Natural England consider that this difference is primarily due to an increased sampling effort for the latter and therefore the data are not directly comparable.

The sampling method is reasonably comparable, although it appears the areas searched and number of traps is more comprehensive and widespread over the (current) application site.

What is notable is that there is very little overlap in the notable species recorded in 2002 and 2015 which is interesting and possibly a reflection of the dynamic nature of the Canvey Wick area and the role it has to play as an invertebrate hub within the Greater Thames Estuary and Marshes.

Also, whilst there does not appear to be specific survey records of the notable SSSI & BAP (Biodiversity Action Plan) in the 2002 survey, it should be noted the linked ES (2004) states:

*'Workers of Bombus sylvarum and B. humilis foraging on Lotus glaber were the only species of conservation concern recorded in this area. A short section of ditch10 alongside the spine road retained water most of the year and supported Lestes dryas and Dolichopus signifier'.*

This suggests that, in the time that has elapsed between Outline submission and this recent planning application for Full Permission, the application site has either acquired or assumed greater significance for some or all of these notable SSSI, SAP (Species Action Plan) species.

On this basis, the Chapter 5 of the Environmental Statement is correct to highlight:

- the need for retained and enhanced buffer strips to the south and west margins - in particular, this should seek to include as much as possible of the south-east corner area that historically has provided the core areas of *Lotus glaber* forage for *Bombus sylvarum* and *B. humilis* between 2000 – 2003 and
- the anticipated loss of the Sea Aster forage in key areas such as 'reed bed' and S15.

Natural England acknowledges that retention and suitable aftercare of the buffer strips would not be sufficient alone to offset the loss of forage for these notable SSSI, s41 (UK BAP) species and welcomes the intention to address this through appropriate seeding and plug planting to include Sea Aster.

Natural England also advises that the additional provision of forage within green/brown roofs and appropriate landscaping is also necessary.

Natural England is aware of other planting schemes where Sea aster has not colonised new areas successfully and it is suggested that adequate care, monitoring and delivery processes are in place to ensure mitigation is 'in step' and 'in credit' with the phased scale of habitat loss.



In addition to this, any areas enhanced or retained for wildlife mitigation (including green/brown roofs) require appropriate management in perpetuity to ensure the mitigation, compensation and sustainability targets are met.

Email dated 1<sup>st</sup> April 2016

Consistent with Natural England's involvement to date with various regeneration projects around Canvey Wick SSSI, it confirms its support for the aspiration to achieve an exemplar sustainable development solution at this location. It therefore welcomes further consultation and working towards these aims would be happy to attend a follow-up meeting with all parties (as suggested at the recent Council Office meeting) to consider the landscape-layout plans and the detailed points raised in the respective consultation letters.

In the brief time available, noting the end March 2016 request, the initial thoughts are offered:

i) Natural England would support an increased buffer width along the southern boundary and south-east corner recognising the valuable function buffer land has for the conservation benefit of SSSI interest features.

ii) Based on current understanding, Natural England can confirm that the buffer zone areas 1-4 are likely to have lesser SSSI-linked value compared to areas A-H, and believe it would be worth exploring whether areas 1-4 could be used as part of the development footprint to enable areas A-G to be retained as existing habitat.

iii) Furthermore, Natural England can confirm that the buffer land at the northern boundary of the application site is not likely to have significant SSSI-linked value and would encourage the applicant to explore whether the built development could be repositioned closer to Northwick Road and the roundabout.

iv) Natural England notes the reference to the RDB3 & S41 beetle *Anisodactylus poeciloides* and its lack of presence within the submitted invertebrate reports. Natural England can confirm that this species has previously been recorded in Canvey Wick SSSI, the margins of the Roscommon Way road extension adjacent to the application site (Jacobs 2013) and the nearby West Canvey Marshes (Jacobs 2013). On this basis, noting that suitable habitat does exist on the site as described, it is a fair assumption that this SSSI listed beetle may be utilising the application site.

v) With respect to the establishment of Sea Aster and Golden Samphire Natural England refers the applicants to its previous consultation letter and the need for further consultation with Natural England.

vi) Natural England is happy, in principle, to accept a landscape solution that does not create a new ditch at the southern boundary and instead creates shallow scrapes and enhances the existing adjoining ditch sections through targeted management. We recognise conservation in situ of ephemeral pools within an enhanced southern buffer strip may be beneficial, but respectfully request input into the scheme proposals to account for SSSI interest.

vii) Based on experience of the Canvey Wick SSSI habitats, Natural England supports the advice provided in the section 'Tree Planting and Seeding'

viii) Natural England is happy to be involved in discussions around Drainage, recognising our case history involvement and requirements for safeguarding SSSI interest.



ix) Consistent with the sustainable development principles of the planning context, Natural England supports the integration of biodiversity features into the built development and welcomes the examples. We encourage the applicant to design-in appropriate habitat into car park surfaces, roofs and walls, where it is most effective from a sustainability perspective (including nature conservation provision) to meet mitigation requirements.

In the absence of any further detail, refer to Natural England's consultation letter dated 24 February 2016, with particular reference to the potential complications around Great Crested Newts.

Following the receipt of additional information the following comments were received:

Email dated 13<sup>th</sup> June 2016

Natural England does not object to the proposed development, subject to a range of suitably worded planning conditions securing the necessary further details to safeguard the SSSI and protection of other sensitive wildlife. We also anticipate complexities with licensing for Great Crested Newts.

Advice to Date

The LPA is referred to previous consultation responses, dated 8 June 2015 and 24 February 2016, which sets out the historic planning context for this reserved matters application. In particular, that letter sets out the mutual expectations concerning the development of the current application site, and the associated agreements covering the principles of development design, and the notification of Canvey Wick Site of Special Scientific Interest (SSSI).

Landscape Proposals – Appendix 12A

Natural England's main comment about the tree planting scheme is that it still does not adequately avoid introducing species that may cause a conservation management problem for the buffer areas and nearby SSSI – for example, the willow species are likely to disperse significant quantities of seed into adjacent wetland areas. Natural England notes the value of willow for invertebrates but respectfully questions whether this is the appropriate location to include them within a planting scheme.

Conservation Management Plan

Section 5.11.62 indicates this Plan is for ten year duration and Section 5.11.71 suggests it should be covered by a planning condition. This does not align with the ES regular reference to Long Term Management particularly when considering the recognition in section 5.8.20 of the effect of a lack of management on the habitats for notable invertebrates. The overarching principles of the EEDA/EN agreement (referenced in our earlier letter), included point 2: *'The development ... will make use of sustainable construction, design and landscaping principles which complement and enhance the special wildlife interest of the neighbouring area and minimise the development's environmental footprint... with the aim of achieving an exemplar development'*, and delivering *'management*

### Required Planning Conditions

Natural England generally welcomes the recognition of the design principles of the historic agreement, set out in paragraph 5.11.2, notwithstanding some work required to achieve their aspirations (described above). For example, Natural England welcomes the inclusion of four 'biodiverse' roofs, along the southern and eastern side of the site. In order to ensure the development fully incorporate and refines these principles, we suggest that suitably worded planning conditions are included within any planning permission, (See letter dated 24/02/2016).

Whilst Natural England welcomes the applicant's proposals in the revised plans (June 2016) to offset the loss of seasonal wetland habitat by increasing the width of the retained southern buffer and revising the buffer treatment to include scrapes and ditch management, we advise that additional habitat for notable SSSI-listed wetland invertebrates will still need to be secured through a considered design of the detention pond.

The opportunity to ensure the design of the detention pond delivers for key invertebrates affected by the loss of seasonal pools associated with this development (ref: 15/0293/RES) is when the Wildlife Protection Plan (December 2010 version linked to CPT678/97/RES) is updated by the CEMP, as required by the local planning authority in consultation with Natural England, Buglife & RSPB and Environment Agency, as necessary.

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### Essex Field Club

Objects, initially on the following basis:

The Environmental Statement (5.2.2) states that biological records were requested from EECOS and Essex Field Club (who act on behalf of the Essex Recorders partnership) in June 2015 for a 2km radius around the site, but fails to provide the Essex Recorders partnership data search report, breaking the Terms of Service under which the data search is provided. The Essex Recorders partnership Terms of Service quite clearly state that "When information from this report is provided to a planning authority or as part of a desk study to support an Environmental Statement or planning application, then the report must be given in full and not changed or redacted". This is prominently displayed on the front and inside pages of the datasearch report, as well as in the Terms of Reference, Terms which must be agreed before a datasearch request can be made. Until this datasearch report is made transparently available to all consultees and the public, in accordance with the Terms of Service under which it is provided, transparent consultation cannot begin, and we request 21 days from provision of this report in line with Open Governance. Until this happens the local authority has also not been provided with this background information, and so does not have the necessary information on which to come to a conclusion on this planning application or to provide the Planning Committee with informed recommendations.

The Environmental Statement fails to provide the original survey reports and with the invertebrate survey for example we are not even given the name of the persons who undertook the survey. This is a complete lack of transparency and does not follow in good practice and Natural England Standing Advice. We request provision of these original survey reports before consultation can begin.

Please keep us informed of progress on the application and notify us when the additional documentation which needs to be provided by the applicant has been made available.

\*

Anglian Water

No response

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Environment Agency

Letter dated 14<sup>th</sup> June 2015

The site lies in Flood Zone 3, the high probability zone. The proposals include a mix of 'less vulnerable' and 'more vulnerable' development as classified in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change. Therefore the Sequential and Exception Tests need to be passed and a site specific Flood Risk Assessment (FRA) submitted that demonstrates that the development will be safe for the lifetime of the development.

An FRA by Canham Consulting, referenced 205528 and dated April 2015, has been submitted in support of the application.

Flood Risk Assessment

The FRA submitted with this application does not comply with the requirements set out in the Planning Practice Guidance. The submitted FRA does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- provide sufficient information on the flood risk to the proposed development in the event of an overtopping flood event and breach flood event, both now and at the end of the development lifetime, in terms of the flood depths, flood hazards and time to inundation. It also does not make reference to the Castle Point Strategic Flood Risk Assessment (SFRA) which contains this information
- Follow the Northwick Road site-specific assessment in Appendix G of the SFRA, regarding specific development requirements for the site.

Provide finished floor levels for each of the proposed buildings and provide information on the potential flood depths within the buildings in overtopping and/or breach flood events, to enable the LPA to determine whether the proposed mitigation measures are adequate.

Provide information on whether each building contains refuge above the overtopping/breach flood levels.

Provide information on Flood Resilient Construction measures.

Consider surface water flood risk, as shown on the Environment Agency's Risk of Flooding from Surface Water maps.

Overcoming the EA Objection

The EA advises that the holding objection can be resolved by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk

elsewhere and where possible reduces flood risk overall. If this cannot be achieved the EA is likely to maintain its objection to the application.

### Sequential and Exception Tests

The first part of the Exception Test requires the LPA to be satisfied that the development provides wider sustainability benefits to the community that outweigh flood risk.

The second part of the Exception Test requires the submission of a FRA which demonstrates the development will be safe for its lifetime, without increasing flood risk elsewhere, and will reduce the overall flood risk where possible.

As stated above, having reviewed the submitted FRA, the EA is not currently satisfied that it provides sufficient information to inform the LPA decision.

### Technical Explanation. Flood Risk Assessment

An FRA prepared by Canham Consulting, referenced 205528 Rev P4 and dated 9 April 2015, has been submitted. This is inadequate for the following reasons:

The site is protected, by the Canvey Island flood defences, from tidal flooding in the current day 1 in 200 year tidal event. In the future, with climate change added to the flood levels, the current defences would be at risk of overtopping in some locations.

The site would also be at risk in a breach of the flood defences.

The FRA has undertaken a simplistic assessment of the flood hazard rating that might be expected in a breach flood event and an overtopping flood event, using the tables in FD2320.

However this is not the best information in this location. The Castle Point SFRA provides information on the potential flood depths, flood hazards, and time to inundation for the development in a variety of modelled overtopping and breach flood events, so the FRA should reference this information when detailing the flood risk to the proposed development.

Appendix G of the SFRA also includes a site specific assessment for the EEDA Land at Northwick Road site, which includes all this information along with details of the required floor levels for the proposed commercial development. The FRA should include this information and should follow the requirements of the SFRA.

The FRA has included information on the proposed management measures of Flood Warning and Evacuation and recommends the development of a Flood Response Plan. However, the FRA has not included any details of the proposed finished floor levels, so the potential flood depths within the building are not known. The FRA has also not provided information on whether each building will contain a first floor, the level of the first floor, and therefore whether there will be safe refuge in an extreme overtopping or breach flood event. The FRA has also not provided any information on potential flood resilience measures, which could be used to reduce the impacts on the building in the event of a flood. Further information can be found in Improving the Flood Performance of New Buildings: Flood Resilient Construction. This document can be downloaded for free from [http://www.planningportal.gov.uk/uploads/br/flood\\_performance.pdf](http://www.planningportal.gov.uk/uploads/br/flood_performance.pdf).

## Surface Water Flood Risk

The EA Surface Water Flood Map shows that parts of the site are at risk of flooding from surface water by up to 300mm. The FRA does not reference these surface water flood maps. The FRA should consider whether the surface water flood risk is an actual risk to the development and develop a management strategy to prevent the development and inhabitants from being at risk in a surface water flood. The FRA does state that the site levels will slope away from the entrances to the buildings to mitigate the flood risk from any drainage or groundwater sources. It should also be detailed whether the floor levels will be raised, and whether the buildings would remain at risk of flooding.

## Letter dated 14<sup>th</sup> July 2015

EA refer to the revised Flood Risk Assessment (FRA), received by email from b3 Architects on 29 June 2015 and states that the information submitted is sufficient to allow **removal of previous holding objection** on flood risk grounds, provided the condition below is appended to any planning permission granted.

## Condition

Finished floor levels are set no lower than 2.87m above Ordnance Datum (AOD).

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

## Technical Explanation.

The proposals include a mix of 'less vulnerable' and 'more vulnerable' development as classified in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance: Flood Risk and Coastal Change.

Section 2.1 of the FRA states that the proposed development is to be located in an area which has a maximum level of approximately 2.71mAOD in the north west corner and a low point of approximately 1.42mAOD in the north east corner. The FRA has utilised the Castle Point Strategic Flood Risk Assessment (SFRA) Appendix G which provides specific development requirements for the site. Information from the FRA and SFRA regarding flood risk at the site is produced below, to help you with your decision:

The SFRA identifies that flood defences do afford protection to the site which are part of the flood defences for Canvey Island. These are deemed to offer a level of protection which prevents flooding in the 1 in 200 year (including climate change to 2110 (within the lifespan of the development) tidal flood event.

The SFRA identifies the site as at risk from a breach in the defences in one of the seven locations modelled as part of the SFRA. The breach results in a maximum depth of water of 1 m at the site and a composite water depth of 300mm which is equivalent to a flood level of 2.57mAOD. It is predicted that this breach would take between 8-12 hours to reach the site. A flood depth of 300mm to 1 m equates to 'danger for most' under the danger for people classification as set out in Table 13.1 of R&D document FD2320.

Within the 1 in 1000 year tidal flood event, including climate change to 2110, the site is vulnerable to the defences being overtopped (assuming that no further works are undertaken). A depth of 1m

is provided by the FRA, which is considered to be a 'danger for most'. In the 1 in 1000 year tidal flood event breach scenario, the site is vulnerable to number of the breach locations modelled, with the worst case presenting a maximum depth of water of 2m, presenting a 'danger for all'. This could reach the site within one hour and therefore safe refuge considered to be a critical factor by the FRA.

### Proposed Mitigation

The following measures have been identified in the FRA to mitigate for the flood risk outlined above.

All ground floor levels will be set at or above 2.87mAOD, providing 300mm freeboard above the 1 in 200 year tidal breach level. External levels will fall away from the entrances to the buildings.

Section 6.3 of the FRA provides information regarding flood warning.

Section 6.4 of the FRA states 'With regards to the 1 in 1000 year event (inc Climate Change), the site will be evacuated upon notice of the flood warning. In the event that the site is not evacuated each building contains a second floor which would provide an emergency safe refuge'.

Section 6.5 provides information regarding a 'Flood Plan', Appendix F also contains a template for this document.

Flood resilient construction is proposed within Section 6.6 of the FRA.

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

### Flood Risk Responsibilities for your Council:

Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements).

You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in making their decisions. We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users covered by our flood warning network.

### Safety of the building

The development has been designed to provide refuge above the predicted flood levels. Given that refuge is identified as a fall back mitigation measure it is important that the building is structurally resilient to withstand the pressures and forces (hydrostatic and hydrodynamic pressures) associated with flood water. We advise that supporting information and calculations are submitted to you to provide certainty that the buildings will be constructed to withstand these water pressures.



Flood recovery measures (including flood proofing and other building level resistance and resilience measures).

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework confirms that resilient construction is favoured as it can be achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications 'Preparing for Floods' and 'Improving the flood performance of new buildings'.

Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

Letter dated 20<sup>th</sup> January 2016

We have reviewed the ES by Pegasus Group, dated 15 December 2015, and confirm that we have no further comments to make. The submitted information makes no changes to the comments we have previously made on this application.

\*

Lead Local Flood Authority

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission subject to the following:

We have not reviewed the proposed runoff rate or storage arrangements as it is understood that these have been previously approved under CPT/678/97/RES/CON/A.

The applicant has chosen not to submit full details of the required runoff treatment at this stage. While it would be preferable for these details to be submitted at the current Reserved Matters stage in order for the drainage design not to be restricted by the development layout, if the applicant is confident the requirement for treatment can be accommodated within the proposed layout, we would recommend the following conditions:



**Condition 1**

No works shall take place until details of the SuDS treatment train have been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation.

**Reason:** To provide mitigation of any environmental harm which may be caused to the local water environment

Failure to provide the above required information before commencement of works may result in a system being installed that may lead to increased pollution hazard from the site.

**Condition 2**

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

**Reason:** The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

**Condition 3**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

Should any part be maintainable by a Maintenance Company, details of long term funding arrangements should be provided.

**Reason:** To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

**Condition 4**

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

**Reason** To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

### Summary of Flood Risk Responsibilities for your Council

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

### Informatives

- 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](mailto: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 attached standing advice note.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise. We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available

information. Whilst we have no further specific comments to make at this stage, attached is a standing advice note explaining the implications of the Flood and Water Management Act (2010) which could be enclosed as an informative along with your response issued at this time.

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Essex Police Headquarters

No response.

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Essex Police Contingency Planning

No response.

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ECC – School Organisation and Planning (Infrastructure Planning)

The application submitted is a reserved matters application further to outline planning permission CPT/678/9710UT/REN and thereby Essex County Council would be unable to request a section 106 education contribution at this stage.

If the application submitted was a new outline planning application, ECC would have requested for an early years and childcare (EY&C) contribution as there is a need for additional EY&C places in the ward.

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ECC Fire and Rescue Service

Due to size and nature of the development, and the excessive distance of the nearest fire hydrant No.54/633, shown on the enclosed plan, additional fire hydrants will be required within the curtilage of the new site, on a mains size acceptable to this Fire Authority and at positions to be decided, subject to any mains scheme the Water Authority may wish to implement. It should be noted that the cost of these additional fire hydrants will need to be absorbed by the developer.

A newly installed fire hydrant must be on a water main which is capable of providing the required 25 litres/sec (1,500 litres/min) for the purpose of fire-fighting.

\*

ECC Highways

No objection subject to the following conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the

interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. Prior to commencement of the development, the road junction at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 90 metres to the west and 2.4 metres to the roundabout to the east, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times. The junction as shown in principle on b3 architects dwg 5997\_02 rev A, shall be provided at right angles to the existing carriageway with 15m radii kerbs to accommodate all vehicles regularly visiting the site to enter and exit in a safe and efficient manner.

REASON: To provide adequate inter-visibility between vehicles using the road junction and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. 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 to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area 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 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 DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Note: Phasing of provision is appropriate in this larger development scheme.

5. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

REASON: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

6. The Cycle / Powered Two wheeler 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 / powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

7. Prior to occupation of the proposed development, the Developer shall provide and implement a Travel Plan including payment of a £3000 Travel Plan Monitoring fee to ECC.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

NOTES:

Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of and at no cost to the Highway Authority. Application for the necessary works should be made to Essex Highways, Unit 36, Childerditch Industrial Estate, Childerditch Hall Drive, Brentwood, CM13 3HD

e-mail: [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies February 2011.

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East of England Ambulance Service

No response.

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Buglife

Letter of the 22<sup>nd</sup> May 2015

Buglife objects to planning permission being granted for this application and has the following comments. We understand that the history behind this planning application led to the separation and subsequent designation of Canvey Wick SSSI from the development site. At this time it was envisaged that the development would be an exemplar of sustainable development, with ecological mitigation measure to complement the surrounding high quality habitat. After reviewing the information submitted with the planning application so far we have concerns that this aspiration will not be met. We agree that a full Environmental Impact Assessment is required and are pleased that one is in preparation. We will review our comments once this information has been received.

Site quality and invertebrate assessment

The ecological circumstances surrounding the development site have changed significantly over the last 15 years. Originally this was the area of lower value and was set aside for development accordingly. The site was meant to be kept 'sterile' so that vegetation, herpetofauna, invertebrate and bird populations did not develop. This was not maintained, the irregular disturbance of the site and scraping off materials has created a brownfield site of 'high environmental value'. The site now supports the open mosaic habitat on previously developed land (OMHPDL) which is

protected under Natural Environment and Rural Communities Act, as well as a number of rare and endangered invertebrates. So much so that during the 2014 summer it was clear from the perimeter of the development site that significant numbers of Shrilc carder bees and Brown banded carder bees were foraging on patches of flowers and that these areas supported higher densities of bees than on Canvey Wick itself.

The up keep of the reptile fencing has been poor. As a result the numbers of reptiles and amphibians on the site is likely to be exceptionally high. The current plan for amphibian and reptile translocation is to use Canvey Wick SSSI as a receptor site. Such a high number would seriously affect the management of the site.

It would make it extremely difficult to meet the needs of the translocated species and retain the open mosaic habitat and early successional habitat which are the notifiable features of the SSSI. This means that Canvey Wick SSSI may no longer be a suitable receptor site and that this part of the mitigation plan needs to be reassessed once accurate information on the amphibian and reptile population is collated.

We have concerns that the invertebrate surveys used as a basis for the development are out of date; in turn this will affect the mitigation and landscaping plan for the site. The ecological report references surveys from 2002 and 2003 which is over 10 years ago. We recommend that these are refreshed to enable an effective landscaping and mitigation plan to be drawn up. Any surveys should be carried out following Natural England invertebrate survey guidance. The habitat onsite should be assessed using the Defra funded standard assessment guidelines for OMHPDL

#### Landscaping and mitigation plan

Landscape proposals have been submitted with the above planning application (boundary planting sheets 1 and 2). It is important that the number of trees in the current landscaping plan is reduced, particularly the *Betula* spp which can colonise areas quickly. This year habitat works at Canvey Wick have included an extensive birch clearance plan to maintain the open areas of habitat on the site. Introducing more birch to the development site would make it very difficult to maintain the open characteristics of it and these are crucial to the invertebrate interest onsite.

A more 'brownfield approach' to landscaping would be beneficial. Avoiding top soil and re-using materials to create low nutrient landscape areas to maintain the open, flowery habitat with saline pools that is present on the development site. Whilst the exact mitigation plan needs to be informed by an up to date assessment of the habitat and invertebrate interest onsite, increasing areas of sparsely vegetated ground, bee banks, permeable plastic grid paving filled with low nutrient substrate which is able to vegetate naturally or seeded with low growing species such as Bird's foot trefoil, would significantly improve the plan. The landscape plan should also look to retain and/or enhance the wildflower resource. If there needs to be tree planting for screening purposes we recommend using flowering scrub species such as hawthorn, blackthorn, willow and rose along with native fruit trees instead. This would provide any necessary screening as well as spring and summer food sources for invertebrates. Birch is not suitable.

The use of green and brown roofs would be of considerable benefit to this development, but this must be alongside a wider, on the ground mitigation strategy to deliver biodiversity returns. Further information is available in the Buglife publication 'Creating green roofs/or invertebrates.' The mitigation strategy should have a detailed management and monitoring plan to ensure it delivers for biodiversity. Any mitigation should be secured as a planning obligation with legal agreement that is binding on successors.



## Drainage

In 2011 a drainage plan relating to the development of the site was signed off - this will need reviewing in light of the current plans and ecological situation. Alterations to the ditches within Canvey Wick (e.g. widening or deepening to accommodate increased water flow) are likely to have a negative impact on the ditch wildlife which is sensitive to water volume and quality as well as relying on the marginal vegetation of the ditches.

## Letter dated 18<sup>th</sup> February 2016

Buglife would like to maintain its objection to this development on the grounds of:

- 1) The loss of the Priority habitat 'Open mosaic habitat on previously developed land' (OMH) and inadequate assessment of the habitats present and their value
- 2) Inadequate invertebrate assessment and potential impact on a nationally important invertebrate assemblage, including Priority species
- 3) Potential impact on the Canvey Wick Site of Special Scientific Interest (SSSI)
- 4) Inadequate mitigation and layout.

## The loss of the Priority habitat 'Open mosaic habitat on previously developed land' (OMH) and inadequate assessment of the habitats present and their value.

The Environmental Statement (ES) submitted is not fit for purpose, failing to correctly assess that the entirety of the c.7.5ha site qualifies as 'Open mosaic habitat on previously developed land' (OMH), a Habitat of Principle Importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The ES does consider the issue of OMH in Paragraph 5.3.42, incorrectly suggesting that only two small areas within the application site are considered to be OMH but that they are below the area threshold to qualify as OMH. It is important to note that the entire site meets the criteria to qualify as OMH.

The ES fails to acknowledge that the entire site is a mosaic of habitats which has developed on previously developed land and fully meets the criteria of the OMH assessment. The site itself being a rich mosaic of flower-rich grassland, tall ruderals, ephemeral pools, reed bed, bare ground, scattered scrub, rubble piles.

The ES has instead assessed these habitats individually, hence its failure to correctly identify the resource of Priority OMH.

Paragraph 5.3.42 also states that

"The application was neither shown as including a BAP priority habitat on Magic map (Natural England, 2015), nor as Open Mosaic Habitat on previously developed land on the Habitat Surveys website (Natural England, 2015b)".

However, it is important to note that the Magic website currently doesn't host a BAP priority habitat layer for OMH. In addition the Habitat Surveys website does not claim to be a complete inventory, so the absence of the site from the dataset is not indicative of any low value of failure to meet the OMH criteria in any way.



As a result of this failure to assess the site's value correctly in the Phase 1 habitat assessments, the related sections of the ES do not address the site's real value and significantly underestimate its contribution to local invertebrate populations.

The ES also attempts to play down the value of the flower-rich habitats on site by presenting a "do nothing scenario" where without management "it is likely that it would be outcompeted by coarse grassland and scrub in the future". Succession does of course happen in all terrestrial habitats, but sites with nutrient poor, dry, soils and often with contamination and raised salinity such as the application site can remain as open habitats for decades. All terrestrial habitats require management at some point in their future to avoid developing to woodland, so to suggest the site's perceived value should be reduce because of a "do nothing scenario" is absurd.

#### Inadequate invertebrate assessment and potential impact on a nationally important invertebrate assemblage, including Priority species

It is essential that the invertebrate survey report which is described in the application's ES is provided in full. At present the report and some of the methodology is referenced in the main ES and the final species list provided as an appendix. For transparency it is essential that the original entomologist's report is made available, to enable an informed decision on the site's interest to be made. It is also surprising to see the very low number of terrestrial invertebrate species recorded considering the range of habitats found on site, their location in the Thames Gateway, the size of the site and its proximity to the SSSI. It seems likely that the invertebrate surveys undertaken very much underestimates the value of the site.

Despite the apparently low number of species records, the site still supports Species of Principle Importance under Section 41 of the NERC Act. The Shrill carder bee (*Bombus sylvarum*), Brown-banded carder bee (*Bombus humilis*), Red-shanked carder bee (*Bombus ruderarius*) and the Sea aster mining bee (*Colletes halophilus*) were all recorded, alongside 4 Red Data Book species, 15 Nationally notable and 45 species with local distributions. This suggests a significant proportion of the 199 terrestrial species recorded are of conservation concern and the overall invertebrate populations of the site are much more significant than the ES suggests. Despite the presence of nationally scarce bee species, the ES suggests the site is "assessed as being of short-term, county/district importance of medium sensitivity for invertebrates". Buglife strongly disputes this suggestion, which relies heavily on the recent colonisation of the site after previous site clearances aimed at preventing wildlife interest from establishing.

The value of the assemblage is highlighted by the ISIS analysis, which despite the questionable survey results, still indicates favourable condition for the "flower-rich resource" specific assemblage types, and "permanent wet mire" and "unshaded early successional mosaic" broad assemblage types.

It is important to note that the application site also includes resources which are now in short supply on the neighbouring SSSI, highlighting the site's value. The Sea aster mining bee for example requires saline habitats which have been lost from much of the SSSI. These areas are likely to be of exceptionally high value to a range of nationally rare and scarce species.

#### Potential impact on the Canvey Wick Site of Special Scientific Interest (SSSI)

The application site borders the nationally important Canvey Wick SSSI which supports an outstanding assemblage of invertebrates. The application site makes a valuable contribution to the SSSI, being a functional part of the landscape and helping to support many of the scarce

species which feature in the site's designation. However, there is only a very narrow buffer between the application site and the SSSI, suggesting significant potential for disturbance.

The ES suggests in Paragraph 5.8.23 that the "application site is also somewhat different in character to the adjacent SSSI to the south which forms the core habitat for important invertebrate populations". While the habitats may differ from the SSSI, they are more likely to strongly complement the adjoining SSSI, by diversifying the habitats available, particularly the provision of saline and forage-rich areas, including flowering species which are now much less common on the SSSI itself.

The application also pays little attention to the potential impact of light pollution on the site's invertebrates. Paragraph 5.11.22 does state that "The lighting would be low level and directional to avoid attracting night flying invertebrates", however, it is essential that a full lighting impact assessment is made to ensure that any impacts on the SSSI's invertebrate populations are minimised. This information needs to be made available prior to any decision being made to ensure that the impact of the development on the SSSI's invertebrate assemblage can be minimised successfully.

#### Inadequate mitigation and layout plans

The proposed mitigation plan fails to provide sufficient mitigation for the loss of 7.5ha of OMH. Much of the mitigation proposed is landscaped and tree planted, while it will also be vulnerable to edge effects and frequent disturbance as the proposals are long, linear features. Many of the areas earmarked for "species- rich grassland", "pollen and nectar mixes" and "legume mixes" are under scattered trees, which will significantly overshadow the flowering areas. It is also clear that insufficient attention has been paid to meeting the needs of the invertebrate species currently recorded, many of which are associated with ruderal wildflower species not found in commercial seed mixes. With the low nutrient substrates found on site and proximity of wildlife-rich habitats, any mitigation plan should focus on natural regeneration of the seed bank. The idea of introducing wildflower seed to a site bordering a SSSI is also highly questionable, with new species potentially moving on to the SSSI and establishing.

Other areas of the mitigation plan also pose a threat to the SSSI. The plans include planting a range of tree species, including birches and willows which are already a significant problem on the SSSI as they invade the open and early successional habitats. Introducing more trees could potentially worsen the seedling situation and threaten the long-term future of the open habitats of the SSSI.

The lack of invertebrate expertise is highlighted by claims that the mitigation land is already supporting valuable foraging resources for invertebrates such as "ox-eye daisy, wild carrot and goat's rue". Goat's rue invades open habitats and dominates swards, significantly reducing the site's interest so should not be viewed as beneficial for invertebrates on the site. Goat's rue is used by Brown-banded carder bees for forage, but is largely avoided by most other invertebrates and its dominance allows it to outcompete the flower resources used by other invertebrates.

Buglife would also like to see the extent of forage for the Shril and Brown-banded carder bees quantified as these species rely on a landscape scale resource of forage.

### Planning policy

As a result of the above points, it is likely that the invertebrate interest would be lost from the site, causing a significant loss of biodiversity

Paragraph 109 of the National Planning Policy Framework (NPPF) states that "the planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity where possible". The proposed development does little to attempt to minimise its significant impacts or likely biodiversity losses, while clearly having negative impacts on the ecological resilience of the area and the associated SSSI.

Paragraph 118 of the NPPF states that when considering conserving and enhancing biodiversity, that if "significant harm resulting from a development cannot be avoided, mitigated, or, as a last resort, compensated for, then planning permission should be refused".

At present this application does not meet the requirements of the NPPF due to the expected significant losses of invertebrate habitat with insufficient mitigation.

Buglife strongly urge Castle Point Borough Council to refuse permission for this application due to the serious potential impacts on the region's biodiversity and failure to meet the requirements of the NPPF.

### Letter of 20<sup>th</sup> June 2016

Thank you for consulting Buglife on the above dated 14 January 2016 and the follow-up submissions including various plans received on 7 June 2016 as follows:

- 5997\_02 - Proposed Site Plan - A2
- 5997\_03 - Development Parameters Plan - A2
- 5997\_04 - Phased Construction Plan - A2
- I.0150-01-1 K Landscape Proposals Plan Sheet 1
- I.0150-01-1 K Landscape Proposals Plan Sheet 2
- Northwick - Green Infrastructure Report 19-5-16

### Site value

It is important to reiterate that this site contains valuable habitat for a range of invertebrate species including Sc41 the Shrill carder bee (*Bombus sylvarum*), Brown-banded carder bee (*Bombus humilis*), Red-shanked carder bee (*Bombus ruderarius*), Sea aster mining bee (*Colletes halophilus*) and it is highly likely the site also supports Saltmarsh short spur beetle (*Anisodactylus poeciloides*). The southeast corner of the site supports 0.5ha area of Open Mosaic (OMH) Priority Habitat, and across the site there are pockets of habitat with ephemeral and saline character that area especially valuable. The application site borders the nationally important Canvey Wick SSSI which supports an outstanding assemblage of invertebrates. The application site makes a valuable contribution to the SSSI, being a functional part of the landscape and helping to support many of the scarce species which feature in the site's designation.

### Policy considerations

It is useful to provide a reminder of the objectives of NPPF and specifically the aspiration for the Northwick Road site stated in the forthcoming Local plan:

### National Planning Policy Framework (NPPF)

The NPPF sets clear guidance on conserving and enhancing the natural environment. Paragraph 109 states that *“The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity”*

Furthermore, paragraph 110 requires that *“In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment”*

### Castle Point Draft New Local Plan

Currently out for consultation, policy E5(b) [Land for Employment south of Northwick Road] of this Plan which relates to this development sites states:

*“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 of a net gain in biodiversity”*

### **Revised position**

This response follows our earlier comments dated 22/05/15; 18/02/16 and 30/03/16 and detailed discussion with the developer, Castle Point Council and Natural England regarding the mitigation measures and landscape plan. The site has planning permission (granted 20th April 2005), therefore the focus of the discussions was to secure a robust mitigation plan alongside the permitted area of development, both on and off site measures were discussed. We welcome the alterations made to the landscape plan including the provision of well designed biodiverse roofs to provide wildflower forage; reduced tree planting; increased SSSI buffer; retention and enhancement of OMH (through adjustment of parking areas) and measures to retain and enhance the ephemeral saline habitat and Sea aster forage.

**Buglife is broadly supportive of the revised plans and mitigation principles.** We welcome the developer’s commitment to delivering high quality ecologically functional habitat, secured through long term monitoring and management. We are content to **withdraw our objection** on the following basis:

- Saline habitat – we recommended that mounds of sand blended with salt are placed next to newly created scrapes to increase salinity locally. Currently this is not detailed on the landscape plans. This should be incorporated into the scheme, without it saline habitat will be lost and it will be difficult to maintain Sea aster resource.
- Sea aster plug planting – reiterating comments in Natural England’s letter dated 17/06/16 *‘plug planting is not always successful therefore this needs to be carefully monitored. In addition to this, any areas enhanced or retained for wildlife mitigation (including biodiverse roofs) require appropriate management in perpetuity to ensure the mitigation, compensation and sustainability targets are met.’*
- Saline habitat off site measures – currently the onsite measures to retain saline habitat are not sufficient to mitigate impact on key species. As discussed with the developer and highlighted by Natural England, the design of the detention pond on the SSSI provides opportunity to create saline habitat and Sea aster forage. We are happy to provide input into the design of this in due course

- The biodiverse roofs – these have been designed to mitigate for the loss of flower-rich habitat, they are not able to provide significant amounts of bare ground. Therefore, it is essential that bare and sandy ground is retained/incorporated into the on the ground mitigation measures
- OMH- part of the southeast corner of the site containing OMH is going to be maintained. The note on the Landscape plan says '*Mounds to be formed from rubble materials and sands (subject to availability) to form freely draining substrate [...]*'. Rubble and sand mounds **must** be formed, substrate should be brought onto the site and the cost of this factored into the mitigation plan
- Ongoing consultation – the developer should continue to engage with Buglife regarding the Wildlife Protection Plan and Construction Plan, this is where the detail of the mitigation, monitoring and long term management will be tied down

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#### Essex Badger Protection Group

My concern for the development of this land is the various types of wildlife that will be on the site, some of which could probably be protected by law. In all the documents for this application I cannot find any regarding the flora and fauna.

British wildlife is continuously being pushed into smaller areas of the countryside by development, at some point this has to stop or our British wildlife will be lost for ever.

#### Legislative context

Section 40(1) of the Natural Environment and Rural Communities (NERC) (2006) Act places a direct statutory duty to conserve biodiversity on all public authorities. Planning authorities therefore have a legal duty to take action to protect and enhance Biodiversity Action Plan habitat and species populations when determining planning applications.

Legally protected species in England include those covered by the Wildlife and Countryside Act (1981) (as amended) and the Conservation of Habitats and Species Regulations 2010. The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should take steps to secure the long-term protection of the species populations concerned with planning conditions and/or obligations as appropriate.

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#### RSPB

##### Letter of the 27th May 2015.

The RSPB currently objects to this application for the following reasons:

1. No current ecological assessment has been presented to understand the impacts of the proposed development on Canvey Wick Site of Special Scientific Interest (SSSI) designated in 2005 and the very high number of European Protected Species (Great Crested Newts) on and around the site.

2. The Flood Risk Assessment (FRA) is poorly defined and misses important details. In particular, how drainage will be accommodated across the SSSI and link to the Westwick Dyke; the functional integrity of the Westwick Dyke and the SuDS element of the FRA needs to better reflect more recent guidance.

### Nature Conservation Interest

#### a) Canvey Wick Site of Special Scientific Interest

This site has been designated as an SSSI because it supports an outstanding assemblage of rare invertebrates which thrive on the poor soil and variable ground water conditions.

#### b) RSPB management

The RSPB manage part of the Canvey Wick SSSI on behalf of the owner, The Land Trust.

### Environmental Impact Assessment

Paragraph 57 of the National Planning Policy Framework: Planning Policy Guidance indicates that competent authorities identify thresholds and criteria of Schedule 2 developments that require an EIA. This site falls under Section 10: Infrastructure Projects.

We are not aware of a scoping exercise to confirm the need for EIA to be undertaken, however, given the scale of the proposal and the potential environmental impact on a sensitive site, the RSPB recommends that Castle Point Borough Council, as the competent authority, request that an EIA is undertaken.

Canvey Wick SSSI was designated by Natural England in 2005 and is immediately adjacent to the development location. The site features could be impacted by noise, lighting or air pollution. The RSPB notes that the original planning application was submitted in 1997, eight years before the SSSI was designated. Given the significant ecological changes on the site since the original application and the recognition of the site as being of national importance, a full assessment of the ecological impact of the proposed development is essential, irrespective of whether the Council deems a full EIA necessary.

In addition, the RSPB understands that due to inadequate fence maintenance around the development site great crested newts have re-colonised. Given their protected status under Regulation 39 of The Conservation of Habitats and Species Regulations 2010 (as amended), this will need appropriate consideration and action.

### Flood Risk Assessment

Having reviewed the FRA, the RSPB has a number of concerns regarding this document

- a). Drawing number 205528.200.P3, the Indicative Drainage Layout shows an agreed outfall. This enters the north-west corner of Canvey Wick SSSI at the point where a concrete road runs across it. There are no plans indicating how drainage will be accommodated across the SSSI or link to the Westwick Dyke. This does not accord with the statement in paragraph 6.5.2. that the site catchment is considered to discharge to a high quality watercourse".

- b). The Drainage Ditch Network (figure 2. page 10) shows the Westwick Dyke to the south of the SSSI. Between the dyke and SSSI is a number of great crested newt receptor ponds dug in



mitigation for previous development. The FRA does not address any potential impact on these ponds.

c). The eastern end of the Westwick Dyke as indicated on the map does not exist.

d). We are concerned about the integrity of the structure illustrated in figure 3, page 11 - Landward Westwick Dyke Outfall and its ability to accommodate the identified flood risk.

e). On the 18 December 2014, the Secretary of State for Communities and Local Government produced a written statement (HCWS161) in relation to Sustainable Drainage Systems (SuDS). The changes outlined were to take effect from the 6 April 2015. Consequently, the RSPB recommends that the SuDS element of the FRA be updated in accordance with this statement and in conjunction with Essex County Council's SuDS Design and Adoption Guide. The issues raised above demonstrate fundamental issues with the scheme as currently proposed. Unless they are addressed inadequate drainage could damage the integrity of the Canvey Wick SSSI or habitat used by European Protected Species. Greater information is required to alleviate our concerns and demonstrate that this proposal will not compromise the conservation objectives of the adjacent SSSI.

### Conclusion

The RSPB currently objects to this application until such time as an EIA is conducted and suitable revisions to the Flood Risk Assessment are made to demonstrate that this proposal will not compromise the conservation objectives of the adjacent SSSI.

The RSPB is happy to discuss our concerns with you or the applicant. As land managers of the site, we would welcome updates on the progress of this application or any further consultations.

### Letter dated 12<sup>th</sup> February 2016

#### 1. RSPB position

The RSPB maintains its objection as there are a number of un-resolved issues that the Council, as the competent authority, needs to address before they can consider making a decision on this application. The RSPB over-arching concern is that the site is functionally-linked to Canvey Wick Site of Special Scientific Interest (SSSI).

a). As managers of the adjacent section of the SSSI, and in accordance with Natural England's Standing Advice<sup>1</sup>, The RSPB no longer wish to be a receptor site for great crested newts.

b). The invertebrate survey within the Environmental Statement (ES) has not been submitted to the Council in its entirety. To enable the council to make an informed decision, the content of the ES must be complete and made available for scrutiny. Specialist comment on the ES cannot be made by consultees without full submission of this information.

c). The RSPB raised concerns previously about shortcomings in the Flood Risk Assessment (FRA) and note that the original FRA still stands. The RSPB seeks clarification that the proposed attenuation pond within the Canvey Wick SSSI will not impact upon the features of the SSSI.

d). The RSPB disagree with the applicant's assessment of the extent of Open Mosaic Habitat (OMH), a priority habitat listed under the Natural Environment and Rural Communities Act



(NERC) 2006 within the application site. The RSPB consider that the entire site supports features consistent with this priority habitat.

The RSPB have expanded on these points in section 4 below. The RSPB would welcome the opportunity to work constructively with the Council and all other parties to explore these matters.

## 2. Nature conservation interests

### Canvey Wick SSSI

This site, immediately adjacent to the application site, has been designated as a SSSI because it supports an outstanding assemblage of rare invertebrates which thrive on poor soil and variable ground water conditions. The RSPB manage part of the Canvey Wick SSSI on behalf of the owner, The Land Trust.

### Holehaven Creek SSSI

Holehaven Creek SSSI supports internationally important numbers of black-tailed godwits which are functionally-linked to the Thames Estuary and Marshes Special Protection Area (SPA).

### The application site

It is the RSPB view that this land is functionally-linked to the adjacent Canvey Wick SSSI and the nationally important invertebrate assemblage which it supports. The extent of OMH has been under-represented by the applicant.

## 3. Planning Policy

### a). National Planning Policy Framework (NPPF)

Paragraph 110 states that “*Plans should allocate land with the least environmental or amenity value*”, whereas paragraph 111 adds, “*Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.*”

Paragraph 117 states that planning policies should, “*promote the preservation, restoration and re-creation of priority habitats*”.

Paragraph 118 states that “*proposed development on land within or outside a SSSI likely to have an adverse effect on a SSSI (either individually or in combination with other developments) should not normally be permitted.*”

### b). Castle Point Core Strategy

This document details important policies highlighting the Council’s commitment to biodiversity:

Policy CP2 states that “*the Council will work with partner organisations to...conserve and enhance nature conservation*”.

Policy DC15 states that “*development proposals must not have an adverse impact on sites of wildlife importance,...Detailed ecological information must be submitted with development*

*proposals in or adjacent to these sites” and goes on to say “ The Council will expect as part of the planning application that the developer will submit a landscaping scheme that retains and improves, where possible, existing natural features and comprises the use of native species appropriate to the surrounding natural environment and their location within the townscape”.*

c). The Conservation of Habitats and Species Regulations 2010 (as amended)

Regulation 39 of the ‘Habitat Regulations’ affords great crested newts strict protection.

d). The NERC Act (2006)

Section 40 contains the general biodiversity duty:

“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”

Section 41 lists priority species and habitats which are of principle importance for the conservation of biodiversity, which includes OMH and a number of species found on the application site.

4. Detailed comments

a). Great Crested Newts

The RSPB has serious reservations about the licensing and potential translocation of Protected Species from the application site. Appendix 5.6 of the ES shows that 644 great crested newts have been translocated to the receptor sites on the SSSI from a number of locations since 2005. Of these, between 100-250 were moved following the creation of the access track and car park to the west of the site in 2013/14, an area of less than 0.5 hectare.

The RSPB notes that the exclusion fencing around the application site has not been maintained for four years (paragraph 5.3.53).

The RSPB no longer wishes to receive Protected Species from the application site. It notes that paragraph 5.11.36 says that translocation of great crested newts requires permission of the current owners (the Land Trust) and SSSI consent [from Natural England].

It is important that the Council understands what effect on the features of the SSSI the management works for great crested newt mitigation (scrub removal/ditch deepening) would have as described in paragraphs 5.11.37 to 5.11.39. This has not been assessed by the applicant.

b). Invertebrate survey

Whilst the RSPB welcomes the species list from the invertebrate survey presented in the appendix and the summary in Chapter 5 of the ES, it is unable to provide full and objective comment on this critical point without sight of the full Entomological Report. Given the quality of the habitats on the proposed site, the time of surveys, methods used and its position next to the SSSI, the RSPB consider that the range of terrestrial invertebrates recorded is an underestimate of the site’s value. For example, only three species of Weevil (Curculionidae) were recorded.

The ES captures the importance of the site well in paragraph 5.3.61 which states the “overall level of biodiversity will almost certainly be regionally important, and possibly nationally important”.

Paragraph 5.8.11 describing the scoring system for site quality gives application site a Species Quality Score (SQS) of 3.4, when 2.0 represents a good site. With our observations about the terrestrial invertebrate assemblage above, it could be argued that the SQS may be considerably higher.

Giving further weight to this, the RSPB notes that 64 of the 199 terrestrial invertebrates which were recorded (paragraph 5.8.7) were of conservation concern. This is a significant proportion.

#### c). Flood Risk Assessment

Within Chapter 4 of the ES, paragraph 4.2.24 (1.6) states that “*attenuation storage will be provided in the southern part of the EEDA site*”. The RSPB urgently seeks confirmation as to how this work will be conducted without impacting on the features of the SSSI.

#### d). OHM habitat on the application site

Paragraph 5.4.32 states that “*The application site was neither shown as including a BAP priority habitat on Magic map, nor as Open Mosaic Habitat on previously developed land on the Habitat Surveys website (both Natural England publications).*” This is misleading, as the Magic website does not include Open Mosaic Habitat on previously developed land and the Habitats survey website says “*As with all habitat inventories the OMH maps is not definitive*”.

The Phase 1 habitat survey, whilst detailed, does not take in to account the site-wide mosaic of habitats that create OMH and instead focused on two small areas. These are part of the wider site mosaic, which includes areas of loose, unvegetated substrate, evidence of introduction of materials, spatial variation in habitats and early successional stages. Effectively the site is 7.5 hectares of high value OMH. Given this, we wish to remind the Council of their duties under Section 41 of the NERC Act (2006) referenced in paragraph 3b.

#### Letter of the 20<sup>th</sup> June 2016

As managers of part of the adjacent Canvey Wick Site of Special Scientific Interest (SSSI), the RSPB welcomes the additional information provided by the Inner London Group which enables us to respond accordingly.

#### RSPB position

We **withdraw our objection** subject to the Council adopting suitably worded planning conditions which accord with the advice provided by Natural England and Buglife in their responses to this consultation. The RSPB respectfully requests that we are consulted on further iterations of any plan documents which relate to the conservation of the development site or SSSI.

#### Policy considerations

##### National Planning Policy Framework (NPPF)

The NPPF sets clear guidance on conserving and enhancing the natural environment. Paragraph 109 states that “*The planning system should contribute to and enhance the natural and local environment by...minimising impacts on biodiversity and providing net gains in biodiversity*”

Furthermore, paragraph 110 requires that *“In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment”*

### Castle Point Draft New Local Plan

Currently out for consultation, policy E5(b) [Land for Employment south of Northwick Road] of this Plan which relates to this development sites states:

*“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 of a net gain in biodiversity”*

### Planning conditions

In order to meet the policy considerations above, with particular reference to Policy E5 of the draft New Local Plan, the RSPB would respectfully ask the Council includes the conditions laid out by Natural England in their response to this consultation, such that the habitat for key bumblebee (*Bombus*) and other species for which the site is important is managed appropriately and in perpetuity. For clarity, these are included here:

- A Construction Environmental Management Plan (or equivalent) to ensure that construction practices fully respects the sensitive surroundings, incorporating appropriate Environment Agency pollution prevention guidelines. The CEMP should also include a Wildlife Protection Plan, to update earlier versions, including for the Detention Pond.
- A detailed Landscape Strategy, to include the ‘biodiverse’ roofs, to target appropriate species (with a focus on *Bombus* forage).
- A detailed Conservation Management Plan (CMP), which we note is to cover an initial 10 year period, but should also include arrangements for long-term (in perpetuity) site habitat management (as described above).
- A detailed Lighting Strategy, to ensure light spill is minimised, especially in areas close to the SSSI and ecologically designed landscaping zones (in particular adjacent to the Roscommon Way Extension).
- A Phasing Strategy – which seeks to demonstrate that there is no net loss of the *Bombus* forage at all stages of construction. mitigation should be delivered in-step (or ahead of step) with development, accounting for habitat maturation time.
- Furthermore, we support the points raised by Buglife in their response and would ask that these adjustments are incorporated in to future management planning of the development site as part of the CMP and in off-site mitigation around the detention pond in the SSSI. Again, for the sake of ease, these are repeated below:
- Saline habitat- we recommended that small mounds of sand and salt are placed next to newly created scrapes to increase salinity locally. Currently this is not detailed on the Landscape plans. This should be incorporated into the scheme, without it saline habitat will be lost and it will be difficult to maintain Sea aster resource.
- Sea aster plug planting – as highlighted in Natural England’s letter dated 17/06/16 *‘plug planting is not always successful therefore this needs to be carefully monitored. In addition*

*to this, any areas enhanced or retained for wildlife mitigation (including biodiverse roofs) require appropriate management in perpetuity to ensure the mitigation, compensation and sustainability targets are met.'*

Currently the onsite measures to retain saline habitat are not sufficient to mitigate impact on key species. As discussed with the developer and highlighted by Natural England, the design of the detention pond on the SSSI provides opportunity to create saline habitat and Sea aster forage. We are happy to provide input into the design of this in due course.

The biodiverse roofs- these have been designed to mitigate for the loss of flower-rich habitat, they are not able to provide significant amounts of bare ground. Therefore it is essential that bare and sandy ground is retained/incorporated into the on the ground mitigation measures.

Open Mosaic Habitat (OMH) - part of the southeast corner of the site containing OMH is going to be maintained. The note on the Landscape plan says '*Mounds to be formed from rubble materials and sands (subject to availability) to form freely draining substrate [...]*'. Rubble and sand mounds must be formed, substrate should be brought onto the site and the cost of this factored into the mitigation plan.

Finally, the RSPB wishes to be consulted on and be satisfied with the final versions of the CEMP and CMP.

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#### Joint Response from RSPB and Buglife dated 1<sup>st</sup> April 2016

Thank you for hosting the meeting on 9 March 2016 between Inner London Group, Catherine Bickmore Associates, Castle Point Council, Natural England, RSPB and Buglife to discuss the submitted application ref: 15/0293/RES.

At the meeting, we identified the need for the Appendix 5.7 invertebrate report to be circulated to enable Buglife and RSPB to consider its content and agreed that the respective nature conservation bodies should seek to provide updated consultation advice by end March 2016.

In seeking to enable your authority to achieve a sustainable development solution at this location (consistent with the overarching objectives of the Canvey Wick SSSI) and address outstanding concerns raised in our consultation letters, we have reviewed the proposed masterplan and mitigation package. In addition, we have carried out our own site survey using the Open Mosaic Habitat (OMH) criteria, and conducted a site visit to identify the position of valuable invertebrate habitat. This has enabled us to propose targeted amendments to the location and type of mitigation habitat to ensure the impact of this development on the SSSI interest (and important species including Section 41 invertebrates) is adequately minimised. We welcome the developer's initial indication at the meeting that there may be some flexibility over the scale of the built development footprint, and we have suggested amendments to the mitigation that does not decrease the total development footprint (Figure 1 and 2). We recognise that a revised masterplan will require some adjustments such as the repositioning of blocks 3, 2a, 2b and 2c.

#### Mitigation

Revised mitigation habitat- size and location

The SSSI boundary is the northern edge of the ditch on the development site; therefore any buffer should be measured from this point.

Rather than having narrow strips of habitat all around the site, a larger block of habitat along the southern boundary and south-eastern corner of the site is required. This will provide a more effective buffer to the adjacent SSSI and retain valuable OMH and ephemeral habitat with a saline character. In addition, a larger block of habitat will function better and provide more efficient foraging habitat for the bumblebee species particularly *Bombus humilis*, *B. sylvarum* and *B. ruderrorius*. The area of mitigation land around the north and west boundary can be decreased significantly (Figure2).

### Open Mosaic Habitat

The results of our OMH survey indicate that the site supports a 0.5ha area of OMH (Figure 3 and Appendix 1). This 0.5ha area must be retained, incorporated into the mitigation plan and enhanced. We understand there may be concerns from the developer over the aesthetics of the rubble, and suggest the piles of concrete can largely be removed and replaced with a mix of sand and/or dredgings, shingle, cockle and rubble along with logs and/or root plates. This will create varied topography and drainage and can be designed in such a way as to look aesthetically acceptable. The edges of the H shaped base are of high value due to the sparsely vegetated gravel and more diverse grassland features and should be enhanced through managed disturbance and promotion of natural regeneration rather than seeding. In addition, the south-east corner has been considered important for invertebrates for a number of years dating back to the original surveys in the early 2000's (see Harvey 2001), serving as a key area for *Lotus glaber*. The retention of this habitat in-situ, enhancement and on-going management will secure high ecological value at a low cost.

### Mosaic of inundation grassland, ephemeral habitat with saline character

The current mitigation package does not adequately address the importance of the ephemeral pools and ditches with saline character and floral species (i.e Sea aster, Golden samphire and possibly Glasswort) for invertebrates. This is an important habitat for several species listed on the SSSI citation including *Anisodactylus poeciloides* (RDB3 & 541), *Lestes dryas* (ROB21, *Graptodytes bilineatus* (RDB3) as well as *Colletes halophilus* (Na & 541).

*Anisodactylus poeciloides* is a species of transitional habitat- upper salt marsh or dry grassland to bare edges of brackish (but not exclusively) ephemeral pools and ditches.

*Colletes halophilus* nests in bare sandy soil and south-facing sunny slopes and needs ample Sea aster to forage in close proximity to its nesting site. The habitat on the SSSI for these two species is currently lacking due to reduced salinity. The Northwick Road site is playing an important role in supporting these species and the mitigation package must ensure that the site continues to provide suitable habitat for these species.

Although *Anisodactylus poeciloides* was not recorded during the 2015 survey, it should be noted that it is highly likely that the site supports this 541 beetle. The pitfall trapping regime was not extensive enough and little hand searching was carried out, it should also be noted that this species can often be mistaken for *Harpalus affinis* or *Pterastichus cupreus* in the field. Based on our knowledge of this species the site certainly contains suitable habitat, and we strongly advise that given there are no plans for further survey and urgency to progress this development that the applicant proceeds on the basis that this species is on the site. On the southern boundary, the plans currently show the creation of a new ditch- we suggest that the existing habitat is retained and scrapes are created amongst the grassland and reed, and managed as inundation grassland that is allowed to dry out in the summer. We believe this will reduce costs and retain high value habitat. The existing southern boundary ditch would benefit from targeted vegetation clearance



and re-profiling to extend margins to provide habitat for *Lestes dryas* and the aquatic beetle assemblage. Opportunities to enhance the ditches on the SSSI should be maximised as part of the associated wildlife protection plan.

The wedge of habitat on the south-east boundary above the area of OMH contains inundation grassland with reed, ephemeral pools with Sea aster- this should be retained and enhanced through the creation of shallow scrapes. The establishment of an abundant source of Sea aster in this area and the southern area is essential. Sea aster (and Golden samphire plugs) can be planted to bolster the forage resource for *C. halophilus* but it should be noted that experience elsewhere indicates this may not be successful. Monitoring should be put in place to check establishment success (against % cover targets to be agreed with Natural England) and soil salinity levels. If establishment of these plants species is significantly below agreed targets and/or salinity reduces then appropriate remediation measures will be necessary, such as re-stocking and soil manipulation (ie, adding dredgings and sand blended with salt) should be undertaken, if agreed to Natural England's satisfaction.

We understand the development footprint will be raised to the highest level on the site. We are keen to ensure water does not run off onto the mitigation habitat, reducing salinity, decreasing water quality or wetting open dry habitat. A kerb or small bund should be installed to prevent undesirable run off from the development onto the mitigation land (Figure 4).

#### Tree planting and seeding

The mitigation plan currently contains a significant amount of tree planting. There are two issues with this:

- 1) planting is proposed in areas earmarked for "species rich grassland", "pollen and nectar mixes" and "legume mixes", but trees will significantly overshadow the flowering areas reducing their sustainability and value
- 2) birches and willows are already a significant problem on the SSSI as they invade the open and early successional habitats. Introducing more trees could potentially worsen the seedling situation and threaten the long-term future of the open habitats created as part of the onsite mitigation and existing habitat on the SSSI.

We advise that no trees should be planted in the proposed south and south-eastern block of mitigation habitat. The focus should be to provide sufficient open habitat; a small amount of scattered scrub can be established comprising thorn species, but there must be regular management to ensure encroachment is minimalised.

If tree planting is required for screening purposes, it would be acceptable to plant native trees (excluding birches) along the northern boundary. We would favour the establishment of scrub species and non-invasive fruit trees. . Many of the invertebrates recorded on this site and the wider SSSI are associated with ruderal wildflower species not found in commercial seed mixes. With the low nutrient substrates found on site and proximity of wildlife-rich habitats, the mitigation plan should focus on natural regeneration of the seed bank. It should be noted that Goat's rue should not be seen as a beneficial species, it invades open habitats and dominates swards, significantly reducing the site's interest. Goat's rue is used by Brown-banded carder bees for forage, but is largely avoided by most other invertebrates and its dominance allows it to outcompete the flower resources used by other invertebrates.



### Roofs and permeable paving

We welcome the addition of living roofs incorporating low nutrient substrate to encourage the development of additional open flower-rich habitat. Currently there are three proposed buildings with living roofs on the eastern side of the application site. We believe the buildings with roofs (currently 2a, 2b, 2c) should be re-positioned to the southern boundary adjacent to the large block of mitigation habitat. This will increase their value and likelihood of becoming ecologically functional. For further information on living roofs, see <https://www.buglife.org.uk/sites/default/files/Creating%20Green%20Roofs%20for%20Invertebrates%20Best%20practice%20guidance.pdf>.

We would encourage additional provision of living roofs within the development footprint should further consultation indicate there is a mitigation need and where the opportunity exists.

We acknowledge the role of tarmac on the bases within Canvey Wick SSSI for the benefit of the tarmac edge habitat but suggest that a more varied substrate type across the development site would be more beneficial and in keeping with the aspiration to integrate biodiversity into the built development. The use of grasscrete or permeable paving should be adopted instead of tarmac where possible. We understand that this may not be possible throughout the development but this should be implemented where possible. Permeable plastic grid paving can be filled with low nutrient substrate; this can be allowed to vegetate naturally or can be seeded with low growing species such as Bird's foot trefoil.

Area H, which is currently part of the retained green space, should continue to be retained in current form as mitigation habitat. There should not be any planting of this area.

Areas 1-4 are currently proposed as buffer zone green space within the application area. However, after careful consideration and site visits, we feel these have lesser value compared to areas A-H, and therefore areas 1-4 should be used as part of the development footprint in order to retain areas A-G as existing habitat.

Through reshaping the development footprint, it should be possible to ensure better ecological outcomes for the site which allow the business park to progress and deliver the best possible outcome for nature on this site and adjacent to the SSSI.

We also feel that there is additional area to be gained for the development footprint by repositioning the built development closer to Northwick Road and the roundabout. We have not been able to calculate this accurately and therefore this area is not represented above.) We feel that there will be no net loss to the development footprint by rearranging the development plan and that this can also offer cost savings through reduced ditch digging and planting strategies.

### Drainage

We have reviewed the drawings from the original application CPT/678/97/CDN/A and the Wildlife Construction Plan. Point 1.3 in this Plan assumes that the work commenced in 2011 and any changes to it will require revision.

There are a number of queries regarding the detail of the proposed development with particular regard to drainage.

### Land levels and drainage

As a point of clarity, can the developer confirm that by raising the land level to 2.72m (Chapter 4 of the Environmental Statement), some barrier, such as a kerb, will be installed around the development footprint at the highest crest level in order to contain the water within the development footprint and not cause additional surface water runoff at the site perimeter and across sensitive buffer areas? The development drawings illustrate the internal site drainage through a new pipe network, however it is difficult to understand the arrangements at this watershed area between the development footprint and the buffer zones.

### Drainage through the Canvey Wick SSSI

Plan 8 'Surface water outfall' will need revision in conjunction with the site managers, RSPB and Buglife. The width of the concrete track is marked at 5m, with an 8m working area with space to stockpile excavated material and tracking. We would like to work with you to amend these plans as the edge habitats here are sensitive, and we feel we could offer a more environmentally beneficial area for stockpiling which should not affect the construction operation.

The 2011 plans require revision to better show the arrangement within the SSSI for the attenuation of water in ponds yet to be constructed and the means by which this will exit the site. The 2011 plans show reptile fencing which no longer exists on site, and the plans additionally indicate an exit from the attenuation pond directly under the sea wall with an outflow at an existing tidal flap adjacent to the concrete jetty. This tidal flap does not exist. The 2011 plans appear to be different to those outlined in the 2015/16 outline planning application.

Since the construction and form of the attenuation basins and the route of water exit impacts on the functionality of the SSSI, we would welcome the opportunity to see and comment upon the revised drawings for the drainage through the site.

### Plan 10

We assume that plan 10 is no longer current, as the current 2015/16 plans are to retain the ditch on the southern boundary of the development site.

### Construction

The contractor hut locations outlined in plan 9 will need to be relocated to another area of hardstanding, given this is adjacent to part of the development site which will need to be retained as part of the buffer zone, and is also part of a circular route used by visitors to the nature reserve, and access for site wardens. There may be potential to locate this on the adjacent land to the west of the current nature reserve (owned by Morrisons at time of writing).

The wildlife construction plan itself will require revision and we welcome early conversations to be able to input into this. This will save everyone time through a coordinated approach that is acceptable to all. The construction through the SSSI occurs across land that the Land Trust own and RSPB and BugLife manage. As such, there are a number of things that would be necessary to include in the plan in order to ensure environmental protection as well as the continued smooth operational running of the site. It should not be assumed that work or enabling works can occur at any time of the year, and advance notice will be required for any habitat management or modification that may be required as part of enabling work.

## Great crested newts

Simon Pile (Land Trust) is still extracting the final agreement between EEDA and the Land Trust from the land Trust solicitors (who hold the document) regarding great crested newt translocation, which we will review when we have sight of it.

For matters concerning great crested newts we refer you to our previous consultation responses at present.

## Summary

The development footprint should be repositioned in order to retain high quality habitat.

Buildings with living roofs should be placed nearest the SSSI within the development footprint.

The southern boundary between the SSSI and the development should be widened to retain a good quality buffer habitat which enhances existing habitat.

The south-east corner of the application site should be retained as important OMH and saline-influenced habitat.

No trees should be planted in the southern or south-eastern buffer habitats.

If tree planting is required as screening in the northern and western boundaries of the site, we recommend scrub and non-invasive fruit trees.

We would encourage additional provision of living roofs within the development footprint should further consultation indicate there is a mitigation need and where the opportunity exists.

The use of grasscrete or permeable paving should be adopted instead of Tarmac where possible.

A kerb or small bund should be installed to prevent undesirable run off from the development onto the mitigation land.

The 2011 documents relating to drainage through the SSSI require revision in conjunction with the site managers, RSPB and Buglife.

The 2011 Wildlife Construction Plan requires revision in conjunction with the site managers, RSPB and Buglife.

The agreement regarding great crested newts and relocation onto the Canvey Wick SSSI still requires further investigation, and for matters concerning this we refer you to our previous consultation responses.

Note: this letter does not replace the RSPB and Buglife consultation responses, however should be considered as steps taken towards finding a suitable resolution for both developer and the ecological interest of the site and adjacent SSSI.

## Appendix 1: notes on OMH assessment

The Northwick Road application site contains a valuable mosaic of wet and dry, unmanaged grasslands due to the variation in site topography and underlying material which has resulted from historic disturbance. Although not overly species rich, the site supports an extensive resource of valuable nectar-rich flower such as Sea aster, thistles, hawkweeds, thistles, clover, umbellifers, buttercups, etc. Within this wider mosaic are occasional small areas of raised species richness, with abundant ruderals and key species such as bird's-foot trefoil, ragworts, weld and vetches. This is reflected in the very high number of queen bumblebees which were observed during the site visits.

Despite the site's history of disturbance, it does appear that at the time of the site visit, the extent of bare ground and more open, early successional habitats is restricted to only small, isolated pockets within the wider complex of grasslands and ephemeral pools. The ephemeral pools are themselves of great value for invertebrates, particularly where there is damp, muddy margins. However, it is important to note that the site is currently extremely wet and it is likely that many of these ephemeral pools would in fact be bare ground with sparse vegetation for much of the year. This was suggested by the client's ecologist when talking about Great crested newts 'GCN are not breeding on the site because pools completely dry up in summer'. If this is the case the site would support a much greater amount of OMH. The damp influence of much of the site has allowed a widely scattered resource of Sea aster to develop, which is key to the persistence of the 541 *Colletes halophilus* (Sea aster mining bee) which was recorded on the site and must be integrated into any proposed mitigation plans. Its presence also indicates substrate salinity. We would have expected 541 *Anisodactylus poeciloides* (Saltmarsh short-spur beetle) to have been recorded on this site.

The bulk of the application site does not 'appear' to qualify as OMH during the time of the visit (possibly due to inundation) due to the extensive dominance of grassland areas with little bare ground, although there is a small, clearly qualifying area in the south-east corner. This area consists of the mounded habitat, the H shaped concrete base and associated mounds, together with the surrounding sparsely vegetated habitats. The current phase 1 survey submitted with the application appears to have not included the surrounding habitat which are clearly different from the wider site character. The grassland areas nearer these bases are more species- rich and have clearly developed over thinner soils and been subject to disturbance. This small area includes the greatest concentration of bare ground and early successional vegetation, including loose substrate. These areas need to be considered alongside the H shaped base and south east mound containing brick rubble material, altogether covering an extent of c. 0.5 ha, meeting the criteria of the OMH assessment. This area is significantly smaller than that originally expected to be found, but nonetheless needs to be considered in the site's mitigation plans.

The mound itself included sparsely vegetated slopes and more drought stressed, nutrient poor areas (within a matrix of sometimes species poor, tussocky grassland) with concentrations of valuable vetches, Ox eye daisy, Red dead nettle, Speedwells, Ribwort plantain, Cinquefoils, Wild carrot, Purple toadflax, Hawkweeds, etc.

### Email from the Land Trust dated 24.09.2016

The trust will provide a suitable receptor site for the translocation of GCNs as per the requirement in the original land transfer from the HCA.

#### ITEM 4

<b>Application Number:</b>	<b>16/0419/FUL</b>
<b>Address:</b>	<b>Roscommon Way Canvey Island Essex (Canvey Island West)</b>
<b>Description of Development:</b>	<b>Construct 5 No. non-food retail units (Class A1) and 1 No. drive thru unit (Class A3) including parking, landscaping and other associated works</b>
<b>Applicant:</b>	<b>NewRiver Retail (Ramsey Developments) Ltd</b>
<b>Case Officer:</b>	<b>Ms Kim Fisher</b>
<b>Expiry Date:</b>	<b>31.12.2016</b>

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#### Summary

The proposal seeks to provide 8,086.5m<sup>2</sup> of retail floorspace on land to the south of the Morrison's Store on Northwick Road.

No suitable sites for development of this type and scale are currently available within the Town Centre, or on the edge of the Town Centre and under the circumstances the proposed site, which is allocated for shopping purposes in the Adopted and New Local Plans and already benefits from consent for 5,378m<sup>2</sup> of retail floorspace, is considered an acceptable location.

Analysis of the impact of the proposed development identifies that it would not result in a significant adverse impact on the vitality and viability of the Town Centre.

The site is located in close proximity to the Canvey Wick Site of Special Scientific Interest (SSSI) and has previously been identified as having some ecological value. Following the implementation of the extant consent for retail development on this land, however, the site has been stripped under ecological supervision and species of ecological value have been translocated the compensation suite located to the east of the Morrison's store, which was provided in mitigation of the wider scheme of which the current application forms part. The current proposal has no adverse impact on ecology.

Natural England, the Environment Agency, the Lead Local Flood Authority and the Highway Authority have raised no objection to the proposed development subject to conditions, whilst the Education Authority has requested a contribution towards the provision of Early Years and Childcare (EYC) provision, all of which can be accommodated, within reason, within the grant of any consent.

The application is recommended for **APPROVAL**.

#### Site Visit

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

#### Introduction

The site comprises an area of land, located on the eastern side of Roscommon Way, immediately to the south of the Morrison's Store and some 180m south of the junction of Roscommon Way

with Northwick Road. It is an irregular shaped site having a maximum width of some 156m and a maximum depth of some 220m.

The site forms part of a larger area of land which was the subject of outline consent for 11,613 m<sup>2</sup> of gross retail floor space, carriageway and accesses. The wider site has so far been developed with a food retail superstore and single retail unit, a petrol filling station and a McDonalds Takeaway.

The part of the site subject to the current application is an expanse of undeveloped land, consisting of scrub and grassland and a balancing pond.

To the south of the application site is the Canvey Wick SSSI.

### **The Proposal**

The proposal in effect seeks to revise an existing consent for retail development on the site. The current proposal comprises the provision of a parade of 5, flat roofed, two storey, A1 retail units, one of which would have a garden centre to the rear and a standalone A5 drive through restaurant unit (operated by Costa) with associated car parking for 250 vehicles and landscaping.

The main building would be located immediately to the south of the existing Morrison's supermarket, located on the eastern side of Roscommon Way and would be serviced via a dedicated service yard to the rear of the building, on the eastern side of the site. The service yard would be accessed via the existing access at the rear of the Morrison's store.

The main structure would be L shaped with a maximum width of some 123m and a maximum depth of 65m. The proposed garden centre would extend a further 16m beyond the rear wall of the largest unit.

The applicants have advised that Unit 1 would be occupied by B+M and would provide a gross floor space of some 2,323m<sup>2</sup> together with a garden centre of some 464.5m<sup>2</sup>.

Unit 2 would be occupied by Sports Direct and would provide a gross floor space of some 1,394m<sup>2</sup>.

Occupiers for Units 3 and 4 have yet to be identified, but each unit would provide a gross floor space of some 1,045 m<sup>2</sup>.

Unit 5 is proposed to be occupied by a high end food retailer such as Waitrose or Marks & Spencer and would provide a gross floor space of some 1,602 m<sup>2</sup>.

In combination these units would provide some 7,919.5m<sup>2</sup> of gross internal retail floor space.

The Costa Coffee drive through unit would be some 16m wide and a maximum of 12m deep. It would have a gross floor space of some 167m<sup>2</sup> and would be sited on the western edge of the site between the car park and the existing balancing pond.

### **Supplementary Documentation**

The submitted application was accompanied by the following documents:

- Design and Access Statement



- Planning and Retail Statement
- Sustainability Statement
- Ecological Assessment Report
- Flood Risk Assessment
- Utilities Statement
- Drainage Strategy
- Transport Statement
- Geo-environmental Report

These can be viewed on the Council's website.

### **Relevant Planning History**

The site has a relatively complicated history which is primarily concerned with the extension of the time period within which the applicants have to submit the reserved matters applications associated with the outline consent granted in 1996.

Outline permission was granted under reference CPT/56/96/OUT for development of a retail park of 11,613m<sup>2</sup> of gross retail floorspace and a new carriageway and accesses from Canvey Road to the site.

Consent was granted subject to the applicant entering into an agreement under S106 of the Act to secure the removal of structures associated with the former oil refinery.

Condition 14 attached to the consent stated that no part of the site was to be used for the sale or display of motor vehicles and that any repairs to motor vehicles should only be undertaken within a building, in the interests of amenity.

Condition 24 required that no part of the non food retail premises should be used for the sale of food for consumption on or off the premises other than that incidental to the requirements of the customers of the non food premises such as confectionary, soft drinks, tea, coffee or cold snacks or staff facilities.

It should be noted that the subdivision between food and non food retail floorspace is not specified within the consent, the decision notice referring only to the development of a retail park and no restrictive conditions were imposed on the grant of consent limiting the extent of non food items or identifying the type of items which might be sold from the non food units.

This consent was subsequently protected by the submission, approval and implementation of reserved matters under application CPT/56/96/RES, which was granted on the 18<sup>th</sup> December 1996. This consent provided for a food store with a gross floor area of 4,715m<sup>2</sup>; a petrol filling station, new carriageway, car parking and accesses.

CPT/603/96/FUL for the provision of a Surface Water Pumping Main and Outlet to the River Thames from the Retail Park and was also approved on the 18<sup>th</sup> December 1996.

A further reserved matters application was approved on the 16<sup>th</sup> April 2007, under reference CPT/56/96/RES/D for an extension to the foodstore of some 1,520m<sup>2</sup>, which has been completed.

A reserved matters application (reference CPT/56/96/RES/E) for 5,378m<sup>2</sup> of non food retail warehouse development parking and servicing area, landscaping and ecological mitigation area

was submitted in January 2008, but was later withdrawn in order to resolve outstanding flood risk issues. A resubmission of these reserved matters was approved under reference CPT/56/96/RES/F in December 2008.

This application sought to impose the following condition:

*4 The development hereby approved shall only be for non-food retail warehouse uses as defined in Table 3 of Annex A of PPS6 and for no other uses whatsoever without the formal consent in writing of the Castle Point Borough Council.*

*REASON: In order to protect the viability and vitality of the existing Town Centre.*

The applicants challenged the Planning Authority's actions in seeking to impose this condition, arguing that the condition did not specifically relate to any of the matters identified as submitted for approval and as such was *ultra vires*. Following the receipt of legal advice this point was acknowledged and consent was thereafter granted under reference CPT/56/96/RES/G without this condition imposed.

An application for the discharge of condition 10 attached to CPT/56/96/RES/F which concerned the submission and approval of an Ecological Mitigation Plan (EMP) was approved in April 2009 under reference CPT/56/96/RES/F/CDNA.

Application CPT/56/96/RES/F/VAR to vary condition 11 attached to planning permission CPT/56/96/RES/F was approved in June 2009

Application CPT/56/96/RES/F/CDN/A for the discharge of condition 10 (Ecological Mitigation Plan) of CPT/56/96/RES/F was approved in April 2009.

Application CPT/56/96/RES/G/CDNA for the discharge of condition 6 (details of flood resistant construction) of CPT/56/96/RES/G was approved in November 2010.

Application CPT/56/96/RES/G/CDN/C for the discharge of condition 7 (surface water drainage) of CPT/56/96/RES/G was approved in June 2011.

Application CPT/56/96/RES/G/CDN/D for the discharge of conditions 5 (flood warning notices) & 8 (flood evacuation plan) of CPT/56/96/RES/G was approved in October 2011.

In October 2015, a request for pre application advice was received in respect of a mixed use development comprising retail development incorporating a garden centre, a drive through, a gymnasium and hotel. The meeting was attended by Councillors Mrs J. King and R. Howard. The current scheme has been developed from the advice offered at that meeting.

### **Local Plan Allocation**

The site is allocated for shopping purposes on the adopted Local Plan (1998). This has not been amended in the New Local Plan (2016).

### **Relevant Policies and Government Guidance**

#### National Planning Policy Framework

Paragraphs 23 – 27 Ensuring the vitality of Town Centres

Paragraph 100 Sequential testing  
Paragraph 7 Sustainable Development

National Planning Policy Guidance

Reference ID: 2b-001-20140306 Ensuring the vitality of town centres

Adopted Local Plan

Policy S1 Location of Retail Development  
Policy S10 Supermarket and Retail Warehouse Development  
Policy EC2 Design  
Policy EC4 Pollution Control  
Policy EC5 Crime Prevention  
Policy EC6 Energy Efficiency  
Policy EC13 Protection of Wildlife and Their Habitats  
Policy EC16 Protection of Landscape  
Policy EC23 Tree and Shrub Planting  
Policy EC30 Shopfront Design  
Policy T8 Car Parking Standards

New Local Plan

Whilst this document has not yet been adopted by the Planning Authority it nevertheless represents the Council's aspirations for the proper development of the Borough and provides a direction of travel for development proposals. Whilst of limited weight, the following policies are considered to be relevant to consideration of this application.

Policy R1 Town Centre Retail Strategy  
Policy R2 Canvey Town Centre Regeneration  
Policy R7 Out of Centre Shopping Areas  
Policy R9 Locations for Retail Development  
Policy T6 Congestion  
Policy T7 Safe and Sustainable Access  
Policy T8 Parking Provision  
Policy T9 Access for Servicing  
Policy DES1 General Design Principles  
Policy NE1 Green Infrastructure and the Undeveloped Coast  
Policy NE8 Determining applications affecting Ecologically Sensitive and Designated Sites.

Employment and Retail Needs Assessment. Castle Point Borough Council

Employment Density Matrix (2015) Homes and Communities Agency

**Consultation**

A summary of the submitted comments are provided below. Full details are available in Appendix 1 to this report

CPBC Emergency Planning Officer

No objection

CPBC Environmental Health Officer

No objections to the application, subject to the implementation of the conclusions of the 'pollution' statements within the Sustainability Statement.

CPBC Refuse and Recycling Officer

No objection

CPBC Legal Services

No objection

Anglian Water

No objection subject to conditions and an informative attached to the grant of any consent.

Canvey Island Town Council

No objection

Environment Agency

No objection providing the LPA is satisfied that the development would be safe for its lifetime and that the acceptability of the issues within the LPA remit is properly considered.

Advisory comments offered.

Natural England

No objection subject to condition.

ECC Highways

Confirms that proposed revised car park layout showing spaces 2.5m by 5m is acceptable.

No objection subject to conditions.

ECC Education

No objection subject to the provision of a developer contribution is sought to mitigate the proposed developments impact on local EYC provision.

ECC – Lead Local Flood Authority

No objection subject to conditions.

**Public Consultation**

Given the isolation of the site from adjoining residential development, no consultation of local residents was undertaken. Nevertheless, three responses to the application have been received, which make the following comments:

- There would be an impact on planned investment in regenerating the town centre that on its own would be sufficient to breach the first part of the NPPF Paragraph 26 test. The test should take into account the local context of both the proposal and the investment that may be affected.
- Will encourage the use of cars rather than deter them as there are no public transport links to this area, this in turn will increase air pollution from vehicle emissions which is in this area already above safe limits and exceeds government guidelines.

- Do not want another Costa Coffee outlet. Private coffee shops should be encouraged.

### **Comments on Consultation Responses**

Paragraph 26 of the NPPF states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup>). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

An analysis of the impact of the proposed development in the vitality and viability of the Town Centre is contained in the evaluation of the proposal.

The Planning Authority is unable to influence the leasing of units to particular occupiers.

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

### **Evaluation of Proposal**

The evaluation of the proposal will consider the following factors:

- (i) The need for additional retail floorspace.
- (ii) The principle of retail development on the site, the sequential test and impact assessment
- (iii) Design
- (iv) Sustainability
- (v) Ecology
- (vi) Landscaping
- (vii) Drainage
- (viii) Flood risk

- (ix) Access
- (x) Parking
- (xi) Other material considerations

**(i) The need for additional retail floorspace.**

Consent for some 5,378m<sup>2</sup> of retail floor space is extant within the application site.

In 2012, as part of the preparation of the supporting evidence for the Local Plan, the Council commissioned an Employment and Retail Needs Assessment. This document was prepared after the 1996 grant of consent for the proposed retail development on the current application site and was prepared on the assumption that this development would come forward.

The Assessment identified that at 2012 convenience goods retail sales floorspace within Castle Point amounted to some 13,746m<sup>2</sup> net, most of which was concentrated in Canvey Town Centre and Stadium Way.

Comparison goods retail sales floorspace within Castle Point Borough was in the region of some 33,000m<sup>2</sup> net, most of which was provided at the Stadium Way Retail Park (18,320m<sup>2</sup>) with some 9,130m<sup>2</sup> provided on Canvey.

The Assessment further identified that within Castle Point there was a surplus of convenience expenditure which, following the redevelopment of the Focus Store in Benfleet, could support some 1,200m<sup>2</sup> net of additional convenience goods sales floorspace in 2021, which would increase to 2,267m<sup>2</sup> by 2031.

In terms of comparison expenditure the Assessment identified that there was a high level (69%) of comparison expenditure leakage from the Borough, with expenditure primarily taking place in the large centres at Basildon, Southend and Lakeside and that improvements to comparison retail provision within Castle Point could help to claw back some additional expenditure leakage. Based on increased market shares, the Assessment identified that surplus expenditure at 2021 could support 3,414 sqm<sup>2</sup> net of comparison sales floorspace (4,552m<sup>2</sup> gross). The floorspace projection up to 2031 was 8,353m<sup>2</sup>.

It should be noted that this level of additional provision was over and above that provided within the extant retail warehouse scheme, the impact of which had already been absorbed into the assessment.

The Assessment stated that in the period to 2021 some 1,199m<sup>2</sup> (net) of convenience floorspace and 961m<sup>2</sup> (net) of comparison floorspace could be accommodated on Canvey Island. It should be noted however that the Assessment promoted the satisfaction of at least some of this demand within the Canvey Town Centre.

In the absence of such provision existing units would over-trade, particularly in the convenience market, or increasing levels of expenditure would be lost to other areas.



**(ii) The principle of retail development on the application site**

The site is allocated for retail purposes in the adopted Local Plan and in the New Local Plan. The use of the site for retail purposes would therefore be consistent with the allocation of the adopted and emerging local plans.

Planning permission for a retail park of some 11,613m<sup>2</sup> was granted in 1996 and partially implemented. The consent therefore remains extant and the residue of the approved development, comprising some 5,378m<sup>2</sup> of retail floor space consent could be provided at any time.

The current proposal, seeks to provide retail development within an area allocated for such purposes and on an allocated site which already benefits from consent for retail development.

Under the circumstances there can be no objection to the principle of the provision of retail development on this site.

Consideration must however be given to the type and extent of such development.

The development of the site for a food superstore and retail warehouse development was a specific objective of the adopted Local Plan, which had the following policy provision:

*Policy S11: Land is allocated to the south of Northwick Road, Canvey Island, as shown on the Proposals Map, for a food superstore and retail warehouse development with a combined gross retail floor space of approximately 11612.5sqm.(125,000sq ft).*

Following the grant of consent for the retail park, as described above and its partial implementation, this policy was not saved.

In terms of the type of development provided, it is clear that the application form submitted in respect of the outline application sought consent for a retail park of 11,613m<sup>2</sup>, with associated infrastructure.

The decision notice issued pursuant to determination of the application similarly described the development.

The Courts have held that, regardless of the description of development cited in any application or any planning permission, the grant of consent only indicates what is permitted. It does not indicate what is not permitted (unless what is proposed constitutes a material change of use). Restrictions on what is permitted are the remit of conditions.

In this case, the outline consent granted permission for the use of the land for the provision of a retail park of 11,613m<sup>2</sup>. The consent does not restrict the level of food/non food floorspace provision within this gross figure and does not seek to identify specific areas of the site for foodstore and retail warehouse provision, which would have been consistent with the policy provision for the site. The restrictive conditions only seek to exclude car sales from the site and identify that no part of the unspecified non food premises should be used for the sale of food for consumption on or off the premises, subject to a limited number of caveats.

Under the circumstances therefore it is considered that the Courts would find that an A1 retail consent with some limited restrictions had been granted on the site.

Given the content of the submitted outline application and relevant decision notice, and notwithstanding the description of development provided under application CPT/56/96/RES/G as “5378m<sup>2</sup> of non food retail warehousing”, it is considered unlikely that the Courts would find that restricted consent had been granted for a supermarket and retail warehouse development, consistent with the now defunct policy provision or that the unimplemented element of the consent was limited to a particular range or type of goods, other than as specified in conditions 4 and 24 to the original consent.

It should further be noted that as Policy S11 has not been saved it cannot be relied upon in the determination of the current application.

Policy R7 within the New Local Plan, whilst of limited weight, indicates that unrestricted Class A1 development would be acceptable on the site, subject to the satisfaction of a sequential test and impact assessment.

### The Sequential Test

Paragraph 24 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

Paragraph 26 of the NPPF states that when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup>). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Paragraph 27 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

It is clear however, from recent appeal decisions that this paragraph does not provide an automatic direction that applications which fail to satisfy the sequential or impact tests have to be refused. It is still incumbent on the local planning authority to determine whether the presumption of refusal is outweighed by other material considerations.

The New Local Plan identifies a local threshold of 1,500m<sup>2</sup>; however this Plan has not been formally adopted and it would be unwise to place reliance on this criteria. A more robust approach would be to rely on the default provision of the NPPF at 2,500m<sup>2</sup>).

In this case consent already exists of the provision of 5,378m<sup>2</sup> of retail floor space. This floorspace can be provided without the further approval of the planning authority and has already been taken into account in the determination of the retail floorspace capacity of the Centre. As such it would be inappropriate to seek to apply sequential and impact tests to any proposals which would seek to provide this level of floorspace.

However, the current proposal seeks to provide some 8,086.5m<sup>2</sup> of gross internal retail floorspace, approximately 2,708.5m<sup>2</sup> more than is currently permitted and some 167m<sup>2</sup> of 'leisure' floorspace within the proposed drive through.

This level of provision exceeds the threshold, even taking account of the extant consent. Sequential testing is therefore required.

In Paragraph 011 of the National Planning Policy Guidance (NPPG) the Government sets out how the sequential test should be applied. Specifically, it confirms how locational requirements should be considered stating:

*“Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations.”*

If an impact assessment is required then the impact upon existing, committed and planned public and private investment in a centre or centres in the catchment area and the impact upon town centre vitality and viability should be examined.

Application of the sequential test favours the provision of retail development within identified Town Centres.

It is therefore necessary, in the first stages of the application of the sequential test for the planning authority to consider the opportunities available to accommodate the development proposed within the confines of the Town Centre. The NPPF makes it clear that only if sites are not available should consideration be given to edge of centre and out of centre sites.

Secretary of State statements and recent appeal decisions have also made it clear that an available site needs to be currently available and needs to be capable of accommodating the proposed development its proposed form and scale. The applicant cannot be required to disaggregate the scheme or significantly alter the proposal to make it fit a site or sites currently available.

Nor can a scheme be rejected because sites may become available in the future.

The Canvey Town Centre Master Plan was produced in 2010 in recognition of the declining fortune of the area. This document was intended to provide the framework for the redevelopment and regeneration the Town Centre and provide guidance and clear design principles which could be used to create a vibrant and exciting retail experience, however, the achievement of its objectives relies on significant redevelopment of sites already in retail and associated use and commitment to such redevelopment by operators has been limited.

In considering the Master Plan and the current opportunities available within the Town Centre, it is clear that a site capable of accommodating the proposed development, extending up to some 2.3ha in area, is not currently available.

Similarly it is not considered that any sites capable of accommodating the scale of development proposed are currently available on the edge of Canvey Town Centre.

Under the circumstances it is considered that the only opportunities available for the proposed development would be out of town locations.

Given that the applicant seeks to meet the retail needs of Canvey Island it is appropriate that such development be located on the Island.

The application site already benefits from extant consent for retail development and is within an area allocated for such purposes. Within the context of the sequential test it is therefore the preferred site for such development.

### The Impact Test

Notwithstanding the identification of the site as the preferred site for retail development of the scale proposed in the context of the sequential test, it is a fundamental requirement of the planning system that such development does not have a significant adverse impact on the economic vitality or viability of the Town Centre.

As stated previously, the site already benefits from consent for some 5,378m<sup>2</sup> of retail floorspace. The current scheme seeks to provide a further 2,708.5m<sup>2</sup> of floor space, providing some 8,086.5m<sup>2</sup> of floor space in total.

National guidance states the impact of development on the Town Centre and wider area should be assessed over five year period from the time that the application is made. The assessment submitted by the applicant therefore considers the period to 2021.

The proposed development will derive its turnover from two potential sources, an increase in available expenditure due to population increases or increased affluence and by diverting trade away from existing retailers.

The retail assessment undertaken by the applicants identifies that at present there is some £239.49m of available comparison goods expenditure within the Catchment Area of the development (Canvey Island and the western part of the mainland area of the Borough).

By 2018 it is estimated that this will increase to £251.75m and that by 2020 it will be £274.98m. That equates to growth of available comparison goods expenditure over the study period of some £35.5m. This is considered to exceed the level of expenditure required to support the proposed comparison goods floorspace.

This finding would be consistent with the findings of the Council's assessment of retail needs undertaken in 2012.

In terms of convenience retail, the Council's 2012 Assessment stated that in the period to 2021 some 1,199m<sup>2</sup> (net) of convenience floorspace could be accommodated on Canvey Island. The report went further to state that Borough-wide, and following the redevelopment of the Focus

Store in Benfleet, some 1,200m<sup>2</sup> net of convenience goods floorspace could be supported, increasing to 2,267m<sup>2</sup> in 2031.

The current scheme seeks to provide up to 2,121m<sup>2</sup> (gross) of convenience retail floorspace on the site. This exceeds the projections for Canvey provided in the 2012 Assessment to 2021, but is below that expected to be required Borough-wide by 2031.

The applicants predict that there will be some £4.81m of growth in available convenience goods expenditure in the period to 2021 and acknowledge that the predicted combined turnover of the food element of the proposed development is more than the amount of predicted growth. This means that the proposed development would need to derive its turnover for the food and drink element from a combination of growth in available expenditure and diverting trade from existing floorspace.

The applicants have considered where this diverted expenditure will be derived and in accordance with best practice, have assumed that “like will impact like” and that the proposed development will divert trade away from other stores that are of a similar scale and format.

The assumption has also been made that more trade would be diverted from stores close to the application site than those several miles away if their trading format is similar.

As a consequence the applicants have assumed that some 20% of the new stores’ turnover will be derived from trade diverted from the adjacent Morrison’s store and 15% of the turnover of the new stores would be diverted from stores within Canvey Town Centre.

The applicant has assumed that some 20% of the new stores’ turnover will be derived from trade diverted from the Stadium Way Retail Park because it is the closest existing retail park to Canvey Island and that 40% of the new stores’ turnover will be derived from claw back from the retail parks in Basildon and Southend on Sea.

To establish whether such impact would be significantly adverse, as required by the NPPF and NPPG, the applicants have undertaken two strands of analysis.

The first is a health check of Canvey Town Centre which was carried out in January 2016 and updated the health check undertaken by NLP within the Castle Point Borough Council Study.

The second is a comparison of the benchmark turnover levels of stores against the household survey results from the Castle Point Retail Needs Assessment. To make sure that like was being compared to like the figures from the Castle Point Retail Needs Assessment were projected to a 2014 price base.

Within the Castle Point Retail Needs Assessment (2012), 13.7% of units within the Town Centre were found to be vacant. This figure was almost 4% higher than the national average.

Since 2012 the national average vacancy rate has increased to 12.4%, but the vacancy rate in Canvey Town Centre has reduced to only 6%, half of the national average level. This is an indication of the improved state of the Town Centre in trading terms.

The occupation of formerly vacant units by such recognised brands as ‘Poundland’ and ‘Store 21’, again attests to the vitality of the Centre.

The applicant's health check has identified that in the period since 2012, the level of comparison retailers and service providers within the Town Centre has remained stable.

With regard to convenience stores, the 2012 assessment identified 9 units comprising 5.5% of the total units (which was some 3% less than the national average level at that time); however the 2016 assessment identified 12 convenience goods units which represent 8% of the total. However, the national average has risen to 9% so whilst provision of convenience retailers has improved it remains marginally below the national average.

What the assessment demonstrates is that there is a good mix of retail types within the centre, with good and maintained representation by national multiple retailers and a good level of investor confidence in the town. The Town Centre therefore appears to be reasonably healthy.

In terms of trading performance the applicants have carried out an assessment of how stores and centres are trading against benchmark levels.

This analysis has identified that all convenience stores and centres within the catchment area are likely to be trading above benchmark level. This view was also expressed within the Council's Retail Needs Assessment and as such the applicants suggest that they may be considered healthy and robust enough to withstand a reasonable level of impact.

In relation to comparison goods Canvey Town Centre is shown to be under-trading. However, the applicants draw attention to the fact that the centre has changed between 2012 and 2016 and now has fewer empty units and increased national multiple retailer presence which suggests greater vitality than the figures suggest.

Furthermore it must be remembered that consent already exists for the comparison floorspace and as such the impact of this element of the proposed development has already been acknowledged and accepted.

From the analysis undertaken the applicants have concluded that Canvey Town Centre is a healthy, vital and viable centre which would be capable of withstanding a reduction in turnover of 8% without experiencing any significant adverse impact on its viability or vitality. An impact of 8% would be equivalent to the value of turnover which would be diverted to the new stores.

Other centres within the catchment area are predicted to be capable of withstanding an impact of 2%. Such low levels of impact on centres which are also known to be trading well would not be classed as significantly adverse.

There are no planned or committed developments within existing centres in the catchment area of the proposed development. Therefore, it is concluded that the proposed development would be unlikely to have a significant adverse impact upon investment.

The analysis undertaken by the applicants appears robust and largely consistent with the findings of the Council's own Retail Needs Assessment. The projections of estimated growth and capacity to absorb impact are dependent on a number of assumptions and are by their nature difficult to predict with certainty; however the general conclusion of both the applicants' assessment and that carried out for the Local Authority, is that there is capacity for growth within both the comparison and convenience sectors and that whilst the policy preferred location for such growth would be the Town Centre, sites to accommodate such growth are not currently available and there can be no certainty that such sites would come forward in the foreseeable future.



As such it is not considered that an objection to the proposal based on adverse impact on the vitality or viability of the Town Centre, or other centres within the Borough or beyond, could be sustained on appeal.

**(iii) Design**

The applicants state that the proposed development has been designed to harmonise with the adjacent Morrison's store and respect the scale and precedent of this building.

The units will be aligned with the existing Morrison's store, facing west and will exhibit a low pitched hipped roof set behind a parapet wall. The front elevation would be dominated by glazed areas with timber louvres provided to provide shade and prevent afternoon solar overheating. The building would be finished in London Stock brickwork with silver metal and dark grey profile sheet cladding and aluminium shop fronts, presenting a clean and modern elevation.

The proposed retail building is typical of the type found in many local retail parks but elements of the scheme, such as the curved roof to the coffee shop and the use of yellow bricks, do reflect that of the Morrison's store. The hipped roof to the main terrace is considered somewhat inconsequential and lacking the visual impact of the 'wave' roof provided to the existing store, and a wall height 9.2m rising to approximately 10.8m, would be inconsistent with the height of the existing building which has a maximum height of some 9m. It should be noted however that the height of the new units is influenced by the design requirement of potential occupiers and industry standards for out of town retail development. Retailers require a minimum of 7m internal clear height and this in turn has an influence on the external treatment of the retail units. The internal clear height allows the installation of mezzanines as applied for within Units 2-5 as part of this application.

Under the circumstances, and in light of the absence of harm caused to the character of this area, it is not considered that the height of the building or its roof treatment provides a robust objection to the proposal.

The side and rear elevations of the main building are designed to be subservient to the primary elevation and the colour of cladding has been chosen to minimise the building's impact when viewed against the open space in accordance with Policy EC16 of the Adopted Local Plan.

The service yard would be located to the rear of the units, extending from the existing Morrison's service yard and would not be visible from the main road. The land in front of the proposed terrace would extend the existing car park area and would contain the proposed drive through coffee shop 'pod'. This building has been designed to directly reflect the brand identity of the incoming occupier, but would also reflect the curves found in the Morrison's building and as such would complement that feature of the site. The pod would have a dark grey aluminium standing seam from the walls across to the roof area, with a small canopy and a square clad box housing the drive through window. Curtain walling would define the main face of the building and along the side elevations, exposing the activity inside to key views. The rear elevation would be clad with tenant coloured metal cladding and timber cladding. Whilst the colour palette reflects the Costa brand, the use of grey will also complement the main retail terrace and the adjacent Morrison's store.

The proposed car park will be of tarmac with the areas of newly created public realm consisting of textured paving set out in a barcode fashion and set with seating units. Precise details of these materials have not been provided but can be required by condition.

In general the proposed scheme is considered appropriate in its context and user friendly. No objection is therefore raised to the proposal on the basis of its design or appearance.

**(iv) Sustainability**

Policy CC7 of the New Local Plan states that the design of all new development should incorporate measures for achieving high levels of energy efficiency, and the use of decentralised energy sources. Development is expected to demonstrate how its design, siting and layout has maximised the opportunities for solar gain, daylight penetration and the use of decentralised energy sources. As a minimum, non-residential developments should achieve at least 50% of the credits available for reduction in carbon dioxide (CO<sup>2</sup>) emissions and water consumption.

In addition space should be made available within the site to enable segregated waste storage for that waste arising from the proposed use of the development.

Materials, including aggregates, used in the construction of all new buildings should be sustainable in terms of the energy that has been expended in their production and transportation to the site. The waste resulting from the construction of all new buildings should be managed in a way that maximises the re-use and recycling of materials, including aggregates, on-site where possible.

Policy CC7 also requires that sustainability measures installed, and the sustainable materials used, be consistent with the overall architectural approach of the development.

As can be deduced from the above, the design process is a key part of sustainable practice and there is a need to ensure that, on completion, the quality of the environment supports and reflects the principles of sustainability.

The applicants have advised that the proposed scheme has been initially tested at the design stage and will achieve a BREEAM (Building Research Establishment Environmental Assessment Method) rating of 'Very Good'. This will continue to be assessed throughout construction and during its operation.

During the construction of the new building the applicants advise that materials will be sourced locally where practicable and appropriate. This approach will help to reduce CO<sup>2</sup> emissions created by excessive travel distances needed to transport materials and would be consistent with the provisions of CC7.

The applicants advise that energy efficiency has been reviewed with regard to the 'Energy Hierarchy', improving the efficiency of the fabric and passive servicing methods before the application of energy reducing/low carbon technologies during tenant fit-out.

The shape/layout of the site and adjacent store necessitated an orientation with glazed facades to the front elevation, facing west. As such, the windows have been recessed from the façade, with solar shading provided to protect from high level sun in the height of summer. Solar control glass will be employed to help to minimise overheating in the afternoons.

U-values for thermal elements such as external walls, windows, the roof and the ground floor will improve on the requirements of Building Regulations, as will air-tightness values. This ensures a controlled internal environment in terms of heat loss to the exterior. Details will also be reviewed to ensure that thermal bridging is avoided, with a focus on continuity of insulation. As part of the

BREEAM requirements, the development may be subject to thermographic testing pre-completion to identify any problem areas in this respect, for remediation.

External lighting will employ a variety of control methods including presence and daylight control, while also benefitting from energy efficient luminaires.

As the servicing of the units will largely fall under the remit of the tenant fit-out, an energy efficiency guide will be prepared for them, based on the BREEAM criteria. This will suggest measures such as the use of Air-Source Heat Pumps for heating and cooling; heat recovery units to mechanical ventilation systems; low energy lighting featuring dedicated energy efficient fittings and automatic lighting control layouts and systems to circulation spaces.

It is considered that the implementation of these measures will ensure the energy efficiency of the site.

With regard to water efficiency the applicant has advised that the development is classed as 'shell only' and consequently water efficiency does not form a part of the BREEAM Assessment. As a consequence, whilst the shell design of the building will incorporate water metering per unit, responsibility for ensuring the responsible use of water would fall to future tenants. To address this issue, the applicants state that an information pack will be prepared for future tenants with guidance as to the use of low-water consuming sanitary ware, dual flush WCs, low flush and waterless urinals, flow restricted taps and showers, water efficient white goods, and water efficient kitchen equipment.

It is considered that this approach satisfactorily discharges the requirements of Policy CC7.

In line with current construction best practice, a Site Waste Management Plan will be implemented during the construction stage to manage site waste, reclaim and re-use demolition materials on site where possible and dispose of others in the correct and safe manner.

Sufficient space will also be provided for tenants to control and store their own waste produced by their activities.

The provision of a Site Waste Management Plan and sufficient waste storage facilities for operational use would satisfy the requirements of CC7.

#### **(v) Landscaping**

The landscaping scheme submitted is somewhat limited in extent but identifies the need to achieve a number of objectives.

On the northern and eastern edges of the site the long term landscape objectives are the establishment of an attractive landscape setting for the new retail park appropriate to the surrounding area.

Internally the scheme seeks to define parking areas and access routes.

The NPPF advises that new developments should incorporate biodiversity enhancement measures. Although there is relatively little room within this site for landscaping, the applicants have suggested that areas of bare ground ('brownfield') be formed on the western and southern sides of the site to provide habitats for invertebrates. These could be constructed from crushed

concrete with the objective of them becoming colonised by a sparse vegetation cover including nectar- and pollen-rich species that are valuable to insects. Such habitat would be consistent with that found on the adjacent SSSI.

In addition it is suggested that planting of hedgerows and blocks of shrubs composed of appropriate native tree/shrub species be undertaken. This is essentially confined to the edges of the site and could enhance habitat provision on the site if appropriate species are used.

Where ornamental planting is more appropriate, such as within the car park, it is recommended that species that provide nectar and pollen sources for insects should be favoured.

Finally it is considered that bat roosting and bird nesting boxes could be provided in the site, either within the walls of the buildings, or mounted on them, subject to suitable sites being identified.

The principles outlined in the submitted landscaping plan appear appropriate; however, the scheme lacks specific detail in respect of planting regimes, plant species, sizes of plants or densities of planting or maintenance and as such fails to provide a robust landscaping scheme for the site. This matter can however be addressed by the imposition of a condition on the grant of any consent.

#### **(vi) Ecology**

The site benefits from an extant consent which has been implemented.

Prior to commencement, a package of ecological mitigation works were undertaken in accordance with Ecological Mitigation Plan (PAA 2009), which was submitted to and approved by the Planning Authority in 2009.

In summary the works undertaken included the removal of all protected species from the site and the maintenance of a robust animal fence around the site to prevent re-colonisation. An Ecological Compensation Area was established on adjacent land to receive the displaced animals and new compensatory habitats were created prior to translocation. Great crested newts, water voles, common lizard, grass snake, adder and slow worm were transferred to the Compensation Area and flower-rich grassland habitats were constructed in recognition of the area's general importance for insects and other invertebrate species.

Further preparatory ground works were undertaken in November/December 2015 including a topsoil and vegetation strip and the filling in and culverting of existing ditches. With the exception of narrow belts of grassland around the boundary fence, the site is now completely stripped of vegetation. The animal fence around the perimeter of the site has been maintained to prevent re-colonisation.

It is understood that the owners of the ecological compensation area (who are not the applicants), have entered into an agreement with the Land Trust in order to ensure the management of the compensation land in perpetuity, for ecological purposes.

The applicant recognises that the original surveys undertaken in respect of this site are now somewhat dated and that the works undertaken to date on the site may have created new habitats suitable for colonisation by other animals.

As a consequence further reviews of the current status of habitats and flora on the site via a Phase 1 habitat site survey and reviews of the statutory and non-statutory nature conservation sites within 500m of the site boundary and of other species of conservation concern in the vicinity have been undertaken.

The Ecological Assessment (PAA 2009a) prepared for a previously submitted reserved matters planning application, included detailed information on the important species that occurred on and in the vicinity of the site at that time. These included water vole, grass snake, common lizard, adder, slow worm and great crested newts (GCN). Ecological monitoring undertaken over the past few years has confirmed that the ecology Compensation Area provided to the east of the site supports populations of all these species but none are present on the application site as a result of the previous animal removal works and the boundary exclusion fencing which has prevented re-colonisation.

Canvey Wick SSSI to the south of the site is recognised within the application as supporting a diverse invertebrate fauna including many rare and uncommon species. Although some of these species are associated with sparsely vegetated ground it is unlikely that the completely bare ground conditions currently on the site would support them. If vegetation colonises, however, then the invertebrate life is likely to follow rapidly.

GCN have been recorded in large numbers in the water bodies around the site and particularly in the detention pond located adjacent to Roscommon Way. These bodies lie outside the site; however controls will need to be put in place in the event of consent being granted to prevent/limit newt access to the application site.

The creation of bare ground conditions on the site has established potential nesting habitat for little ringed plover, and as a consequence the site was surveyed for this species in April and May 2016, however no sightings were made. Although not present at the time, it should be noted that the site is still assessed to be suitable for breeding by this species while it remains in an essentially bare condition.

It should further be noted that in its current bare condition it is very unlikely that the site would provide nesting habitat for any other bird species.

Based on consideration of the above, it is considered that there is no ecological impediment to the principle of the development of the site.

There is however a need to consider the impact of the construction and operational phases on local ecology.

Cetti's warbler, which is listed on Schedule 1 of the Wildlife and Countryside Act 1981 (WCA), are known to nest in reeds and scrub on land to the east and south of the site. There is a risk that noise generated during construction, and/or the presence of construction personnel, could lead to adverse disturbance effects on this species while nesting and this could result in an offence under the WCA. Precautionary measures such as rescheduling works that need to take place near nests, or the establishment of exclusion zones are recommended.

Furthermore, although the site boundary does not overlap with the Canvey Wick SSS or the compensation area, construction activities have the potential, in the absence of appropriate precautionary mitigation measures, to cause disturbance to the adjacent habitats. To prevent such impact it is considered that existing animal exclusion fencing that surrounds the site needs to

be maintained during the construction period and the number of access points for contractors should be kept to a minimum (ideally to one). Measures should be taken to prevent amphibians from gaining access through the contractors' entrance(s), for example by installing a 'newt gate', which should be closed at night during the amphibian active season (February to October, inclusive).

The new access to the development, and also the connection with the existing supermarket car park, will require construction works outside the exclusion fence to the north and north west of the site. The full extent and scope of these works is not currently known but they have the potential to have adverse impacts on GCN, especially in view of the proximity of the detention pond. The likely impact of these works and any necessary mitigation measures will need to be confirmed once the scale and programme of the works is known. These works will require a statutory newt licence.

A robust fence, 'Heras' or similar, should be installed inside the animal exclusion fencing to protect it from accidental damage by contractors, during the construction phase and all contractors should be briefed about the presence of GCN and the other protected species that occur in the area, and instructed on the appropriate response should individuals be found during the works.

These requirements can be achieved by the imposition of appropriate conditions and the addition of informatives on the grant of any consent.

The provision of a large building on the site will introduce an obstacle to GCN dispersal and interchange between the Compensation Area to the east, and the land to the west of the development including the detention pond. This is likely to be a relatively low level impact, however, because the obstruction will be partial and newt dispersal will continue along and outside the southern edge of the development, along the Spine Road and through the SSSI.

The proposed service yard, car parking areas, roads, other hard surfaces and potentially the surface drainage system will introduce a hazard to dispersing GCN. Road traffic would be likely to directly result in newt casualties, especially during the spring and summer when amphibians are migrating to and from their breeding sites. In order to mitigate this impact the applicant has advised that the use of open grates and gully pots within the scheme will be avoided where possible. Where it is not possible open grates should be installed 100mm (minimum) from kerbing, to provide a 'newt gap' to facilitate the safe passage of amphibians behind the grate. In addition, where possible the use of high kerbs, especially in combination with open grates/gully pots should be avoided and permanent amphibian fencing should be installed around the south, east and west site boundaries of the development, and along the new access road, to reduce access to the development by amphibians.

Other (unprotected) amphibian species, and to a lesser degree the four reptile species identified above, would also be vulnerable to similar effects caused by the surface water drainage infrastructure and traffic and would benefit from the introduction of these mitigation measures.

Water voles are typically restricted to water-bodies, so they are unlikely to enter the development or be affected by its operation.

As far as the Canvey Wick SSSI, is concerned the types of activity associated with the operational retail development are unlikely to result in significant ecological effects on the designated site. There is a risk that materials could spread from the site, or that access routes could be developed



onto these high value areas, so robust boundary fencing is will be required to define the extent of the development site. This should prevent any accidental encroachment.

It may be noted that Natural England has asked that this consent be linked to the provision, retention and management of the mitigation land to the north.

This land has already been prepared for ecological mitigation purposes and it is understood that the owners (who are not the applicants in this case) have entered into an agreement with the Land Trust to secure the sensitive long term management of the site. Under the circumstances it is not considered reasonable or necessary to link this proposal to that agreement.

#### **(vii) Drainage**

Within the existing retail development surface water drainage is effected by a private drainage system that discharges to a surface water sewer located at the rear of the existing superstore which enters a surface water pumping station located adjacent the site access/egress at Roscommon Way on the western boundary. The pumping station discharges surface water directly to a sea outfall via a rising main that terminates at the sea defence wall to the south of the site.

A balancing pond is provided adjacent to the pumping station which provides additional surface water attenuation for higher rainfall events.

Foul water from the existing retail development is collected via a gravity drainage system and discharges to a foul pumping station located to the rear of the existing superstore. This is pumped offsite via a rising main to the existing Anglian Water foul water sewer network for treatment.

The proposed development is intended to utilise the existing surface water drainage system via the previously installed drainage connections on the existing surface water sewer in line with current guidelines, the surface water runoff from this development is to be restricted to greenfield runoff rates via attenuation methods that have yet to be finalised.

The Lead Local Flood Authority (LLFA) has requested that conditions be imposed on the grant of any consent requiring the submission of details of the surface water drainage system based on sustainable drainage principles, together with details of the implementation and long term management of such a scheme. It is considered that this is a reasonable request and that appropriate conditions may be attached the grant of any consent.

Foul water discharge from the new development is to be connected to the previously installed foul connection to the existing retail park foul drainage system. Anglian Water (AW) has advised that the foul drainage from this development is in the catchment of Canvey Island Water Recycling Centre which does have available capacity for these flows. However AW also advises that the development may lead to an unacceptable risk of flooding downstream and states that a drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures.

This requirement can be the subject of a condition attached the grant of any consent.

### **(viii) Flood Risk**

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.

The NNPF states that when determining planning applications for development in areas of flood risk, local planning authorities should ensure such risk is not increased elsewhere as a consequence of such development and only consider development appropriate where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and it gives priority to the use of sustainable drainage systems.

The applicant has submitted a FRA.

With regard to the sequential test, it has been demonstrated above that there are no other suitable sites for the provision of the proposed development on Canvey Island. As such the proposal is considered to have satisfied the sequential test requirement.

As the proposal represents a less vulnerable form of development as categorise by Table 2 of the 'Flood Risk Vulnerability Classification' of the Planning Practice Guidance, the applicant is not required to satisfy the requirements of the exception test.

Both the Environment Agency and the Lead Local Flood Authority have been consulted on the application and neither body seeks to object to the proposal in principle. The Environment Agency has identified however that the site is located within an area at risk of flooding and that whilst the site is protected by sea defences there is a residual risk of a failure of the defences, the impact of which would be significant.

The Castle Point Strategic Flood Risk Assessment (SFRA) indicates that during a 1 in 200 (0.5%) annual probability event, including allowances for climate change, the site would not flood as a consequence of overtopping. However should a breach of the seawall occur, depth of water on the site would be 0 to 0.5m. The time to inundation would be 1 to 4 hours in this event.

In a 1 in 1000 (0.1%) annual probability event, including allowances for climate change the depth of water on site due to overtopping or as a consequence of a breach of the seawall would be 1 to 2m. The time to inundation would be less than 1 hour during this scenario.

The buildings would therefore be at risk from water entry and the EA recommends that finished floor levels for the proposed development be set as high as is practically possible, ideally 300millimetres above the 1 in 200 (0.5%) chance in any year, including an allowance for climate change breach flood level, or, where this is not practical, flood resilience/resistance measures are incorporated up to the 1 in 200 (0.5%) chance in any year, including an allowance for climate change breach flood level.

In addition it is recommended that safe refuge be provided within the buildings in the event that people are unable to leave the site under safe conditions.

The applicants have indicated that finished floor levels within the development would be set at a minimum of 150mm to 300mm above adjacent ground levels and that flood resistance and resilience measures would be implemented to no less than 1.0m above adjacent ground levels.

The achievement of these flood mitigation measures can be achieved by imposing appropriate conditions on the grant of any consent.

In addition the FRA states that the proposed mezzanines should be at a minimum elevation of 4.41m AOD. Provision at this height will ensure safe refuge in a 1 in 1000 (0.1%) probability event and a condition requiring such provision, with an associated Flood Response Plan can be attached the grant of any consent.

The submitted FRA also considers the risk of flooding posed by fluvial and pluvial sources and from groundwater and considers the risks to be low. Nevertheless it must be acknowledged that the proposed development seeks to hard-surface a large area of land which is currently undeveloped and that as a consequence the capacity of the site to absorb surface water is diminished. This can pose a risk not only to the proposed development, but also that on adjoining land and it is imperative therefore, in accordance with the provisions of the NPPF, that measures be put in place to mitigate this impact. To this end the Lead Local Flood Authority (LLFA) has requested that conditions be imposed on the grant of any consent requiring the submission of details of a surface water drainage system based on sustainable drainage principles, together with details of the implementation and long term management of such a scheme. It is considered that this is a reasonable request and that appropriate conditions may be attached the grant of any consent, such conditions being relevant to the design and appearance of the proposal.

Subject to appropriate conditions no objection is raised to the proposal on the basis of flood risk.

**(ix) Access**

Policy T7 of the New Local Plan requires the provision of safe access to the highway network, safe access for cyclists and pedestrians including the approach to the site from the nearest public transport node, and access to public transport services within 800 metres of the site.

Currently the site is accessed via the Morrison's car park, which is served from a junction on Roscommon Way. The proposed development seeks to reconfigure this junction and provide joint access to both the existing and proposed stores with priority given to the new retail park.

The car park serving the proposed development has been designed as an extension of the existing Morrison's car park, allowing users to flow freely between both sites and signage, street furniture, and landscaping elements will be used to identify pedestrian access routes and building entrances within the site. It is intended to maintain routes between the proposed development and the adjacent Morrison's unit in order to encourage and facilitate shared trips.

As part of the car park improvement works the main pedestrian route from Roscommon Way will be improved to create a safer, wider route through the car park area to the proposed retail terrace. Such improvements will also facilitate shopper accessing the site via public transport.

The proposed access arrangements are consistent with the provisions of the New Local Plan and the Highway Authority has considered this layout and has raised no objection to the proposal.

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

**(x) Parking**

The proposal seeks to provide 240 parking spaces of which 16 would be for persons with a disability and 4 would be 'parent and child' spaces.

The car parking spaces would be 2.5m wide and 5m deep. As such they would be inconsistent with the provisions of the adopted parking standards and should attract a recommendation of refusal; however, the proposed car park would, in effect, operate as an extension to that attached to the Morrison's foodstore. This car park has spaces which are 2.4m wide and 4.8m deep, in accordance with the earlier standard. Under the circumstances it is not considered that an objection to the proposal based on the limited size of the car parking spaces would be supported on appeal.

No objection is therefore raised to the proposal on the basis of the size of the car parking bays.

It should be noted that the Highway Authority has confirmed the acceptability of the parking bay sizes, given the specific circumstances of this case.

The proposal seeks to provide some 8,138.5m<sup>2</sup> of floor space of which 1,602m<sup>2</sup> will be used as a food retail store, 480m<sup>2</sup> will provide a garden centre and 167m<sup>2</sup> will be used as a drive through coffee shop.

Car parking attracted for each use is as follows:

Food retail – one space per 14m <sup>2</sup> =	115 spaces
Non food retail - one space per 20m <sup>2</sup> =	295 spaces
Coffee shop – one space per 5m <sup>2</sup> =	34 spaces
Garden Centre – one space per 40m <sup>2</sup> =	12 spaces

In total therefore the proposal attracts a requirement for 456 spaces. Only 240, or approximately 53% of that required, are provided. The proposal is therefore significantly deficient in terms of parking provision.

It should be noted that under current standards the Morrison's store would attract a requirement for 456 spaces which are provided within the confines of its site. There is therefore no theoretical capacity within the adjoining site to accommodate the proposed development.

This deficiency would appear to represent a significant objection to the proposal. However, the parking standard is a maximum level and it is therefore appropriate to provide a level below that given by the standard, provided the provision made is suitable for the development it serves.

Consultants employed by the applicant carried out a car park accumulation assessment for the scheme which showed that the car park would operate within capacity even during a Saturday peak period (Section 3.5 of the Transport Statement). As such the applicant has demonstrated that the car park is sufficient to cater for the proposed development.

It should further be noted that the level of provision has not attracted an objection from the Highway Authority. On this basis and in the face of a lack of evidence to demonstrate that the parking level provided would result in significant harm, it is not considered that an objection to the proposal based on parking provision could be sustained on appeal.

The proposal also attracts a requirement for the provision of some 44 cycle parking spaces. The proposal seeks to provide 46 covered and secure cycle spaces (23 cycle hoops) close to the main entrances of buildings, adjacent to the drive-through unit and within the service yard area for staff.

Such provision is consistent with the policy requirement and subject to appropriate provision, which can be secured by condition; no objection is raised to the proposal on the basis of inadequate cycle parking provision.

## **(xii) Other material considerations**

### Education

High quality local childcare is often on the 'shopping list' of young families looking for a new home. Demand for early years and childcare provision in an area is also generated by levels of local employment. People often prefer to arrange care for their pre-school age children close to where they work so that they can respond quickly in an emergency.

Essex County Council as the Education Authority therefore seeks developer contributions for EY&C from both residential and employment led development.

The Childcare Act 2006 places a range of duties on local authorities regarding the provision of sufficient, sustainable and flexible childcare that is responsive to parents' needs. Local authorities are required to play a lead role in facilitating the childcare market within the broader framework of shaping children's services in partnership with the private, voluntary and independent sector.

Section 6 of the Act defines 'sufficient childcare' as sufficient to meet the requirements of parents in the area who require childcare in order to enable them to take up, or remain in, work or undertake education or training which could reasonably be expected to assist them to obtain work.

Section 7 sets out a duty to secure free early years provision for preschool children. The current regulations prescribe that every child aged three or four is entitled to 15 hours per week free early years provision for 38 weeks of the year. This provision must also be provided for two year olds from less well-off families (currently around 40% of children).

Early Years and Childcare provision includes full day care, pre-schools, crèches, child minders, breakfast, after-school and holiday clubs and nursery classes in schools.

When estimating the number of Early Years & Childcare places that a new employment proposal will require, the County Council applies a factor of four places per one hundred employees. In the case of outline applications or where the number of employees is not stated, an estimate based on floor space is made, based on the latest guidance on employment densities in different types of business, currently this is the Homes and Communities' Agency document 'Employment Densities', which was published in 2015.

Essex County Council has advised that in the context of the current scheme a contribution towards EY&C provision is necessary to ensure that persons entering the area for work purposes have adequate opportunity to place their children in child care locally, in accordance with the adopted Essex County Council policy as set out above and that failure to provide such a contribution should constitute a reason for refusal.

The request is not unusual locally within the context of an application for employment development, the most recent example being the development of land to the east of this site, also on Roscommon Way, where a request for such a contribution has been met by the applicant.

Applying the above policy to the submitted scheme the County has determined that the current proposal will generate requirement for a contribution towards early years and child care services. The County has advised that the cost of expansion of existing facilities has in the past cost around £13,930 per place and that the level of contribution would be dependent on the number of full time equivalent posts generated. Based on current assessments the latest County estimate is that the contribution required for the proposed development could range between £50,386 and £222,880. This figure would be refined on confirmation of final employee figures with any final figure derived from a formulaic basis.

The applicants however are reluctant to make such a contribution in the absence of what they perceive as a robust justification for the request and have questioned the narrow focus of the County on the determination of the availability of EY&C places, arguing that whilst places may not be available within the ward of the proposed development, such places are available elsewhere on the Island which could meet the needs of the proposal.

Ultimately determination of whether the applicant should be required to contribute to EY&C places rests with the Planning Authority.

The NPPF states that the Government is committed to the securing social, economic and environmental sustainability and economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future. Planning should operate to encourage, and not act as an impediment to, sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Paragraph 21 states that investment in business should not be over-burdened by the combined requirements of planning policy expectations. Planning policies should recognise and seek to address potential barriers to investment, including a poor environment or any lack of infrastructure, services or housing.

Policy CF1 of the adopted Local Plan states that the infrastructure requirements generated by development cannot be met by the existing provision, the Council will require developers to provide, prior to occupation of the development approved:

- (i) appropriate highway and drainage infrastructure , and
- (ii) appropriate improvements to social infrastructure to serve the needs of the new development.

The preamble to the policy specifically identifies the provision of educational facilities as a form of social infrastructure.



It is clear therefore that the relationship between the provision of appropriate social infrastructure and development is recognised at all policy levels and that developers should meet the needs generated by their development where that need cannot be met from existing resources.

It is also clear however that in order to encourage investment, in this case the creation of jobs, developers should not be overburdened by the by the combined requirements of planning policy expectations.

Paragraph 203 of NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 204 states that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

It is the view of the County Council that the request for a contribution to EY&C places is necessary because existing capacity within West Ward is inadequate to meet the needs of the developer, that the request is directly related to the proposed development and that it is fairly and reasonably related in scale and kind to the development.

Whilst it is acknowledged that the request is directly related to the proposed development, being required to meet the childcare needs of future employees of the development, further consideration needs to be given to whether the request is necessary to make the development acceptable in *planning terms* and whether it is fairly and reasonably related in scale and kind to the development

(i) Is the request is necessary to make the development acceptable in *planning terms*?

The issue here is whether the absence of contribution to EY&C is so critical to the proper development of the area that it makes the proposed development incapable of favourable consideration.

As previously stated the National Planning Policy Framework has at its core the need to achieve 'Sustainable Development'. "Ensuring that better lives for ourselves does not mean worse lives for future generations." It is a clear principle of sustainable development that development should not result in a burden on future generations and that new development should, as far as possible meet its own needs, economically, environmentally and socially.

In order to fulfil its purpose of helping achieve sustainable development, the NPPF states that planning must not simply be about scrutiny, it must be a creative exercise in finding ways to enhance and improve the places in which we live our lives.

The provision of appropriate and accessible childcare is a fundamental requirement for many people in employment or seeking employment. Its availability can have a fundamental impact on the improvement of people's lives.

Essex County Council has identified that a deficiency exists in the current level of EY&C provision within the area of the proposed development and that the development itself would generate a demand for such provision.

The absence of provision could dissuade some people from seeking employment on the site and as such they would be discriminated against by the proposal. This would be inconsistent with the 'inclusive' themes that underlie the Government's focus on sustainability.

As such it is considered that the request is necessary to make the development acceptable in planning terms.

(ii) Is the request fairly and reasonably related in scale and kind to the development?

The County Council has based its calculation of need on the sum total of floorspace the subject of the application. However consent already exists for the provision of some 5,378m<sup>2</sup> of retail warehousing on the site. This represents a material consideration in the determination of the application and in the determination of whether the contribution sought is reasonably related in scale and kind to the development.

The extant consent has been implemented and could be completed without provision made for EY&C places.

Requests for contributions cannot be made retrospectively and it is therefore considered, in the light of the extant consent that the element of floorspace which already has consent should be excluded from any calculation of contribution.

It is considered that this would be the approach adopted by an Inspector should the applicants choose to challenge the level of contribution at appeal.

It is also considered that such an approach would be consistent with the practice of the County Council as most recently expressed in respect of an application for the use of land for employment purposes to the east of the current application site, where the presence of an earlier outline consent, precluded the County Council from seeking a contribution at the reserved matters stage. It is considered that the presence of an extant consent on the site represents a very similar set of circumstances which should be taken into account when determining an appropriate level of contribution.

As a consequence it cannot be asserted that the level of contribution currently sought by the County Council is fairly and reasonably related in scale and kind to the development proposed and that any contribution should reflect the new floorspace provided.

On the basis of the latest available employment density figures, this could reduce the number of spaces to be funded from some 5.6 to 3.2 with a consequent impact on the level of financial contribution required.

On the basis of the above it is considered that the County Council's request for a contribution towards the provision of EY&C places should be supported, although this should be limited to the

new floorspace created. This can be achieved by the imposition of an appropriately worded condition attached the grant of any consent.

The provision of a contribution will impose a financial burden on the applicant and Government guidance is clear that developers and investors should not be overburdened by the combined requirements of planning policy expectations. It should be noted however that no other requirements have been imposed by the Planning Authority in respect of this proposal and in the absence evidence to the contrary, it is not considered that the applicant would be overburdened by this request.

### Secured by Design

Local Plan Policy EC5 - Crime Prevention requires new developments to have regard to the desirability of minimising risk of crime and maximising security through design layout and landscaping. As part of the development of the scheme the applicant held discussions with the Essex Crime Prevention Officers who requested that the following key principles were incorporated into the scheme:

- Mesh fence rather than palisade which is more resilient to attacks and cannot be easily broken through.
- Gates to all car park entrances to prevent undesired use of the parking area
- Active frontages.
- Relationship with Morrison's in order to provide a site wide security strategy.

The Planning Authority cannot require the establishment and maintenance of a joint security strategy for the occupiers of the wider site as this is a matter for the retail unit managers. It can however seek to ensure that mesh fences are used, where aesthetically appropriate and that car parks are appropriately secured by gates. These matters can be dealt with by the attachment of appropriate conditions to the grant of any consent.

The proposal achieves active frontages and no further action is therefore required in this respect.

Subject to appropriate conditions no objection is raised to the proposal on the basis of EC5.

### Impact on adjoining Users

The proposed development seeks, in effect to extend the Morrison's building and car park. The construction works associated with such development are considered likely to impact on the operation of the adjoining development and the users thereof. In particular it is considered that noise, dust, and disruption could be experienced and it is therefore considered appropriate to require the submission and approval of a Construction Environment Management Plan in order to ensure that significant adverse impacts do not occur.

The submission of such a plan can be secured by the imposition of a condition on the grant of any consent.

### **Conclusion**

The proposal seeks to provide 8,086.5m<sup>2</sup> of retail floorspace.

No suitable sites for development of this type and scale are currently available within the Town Centre, or on the edge of the Town Centre and under the circumstances, the proposed site, which is allocated for shopping purposes in the Adopted and New Local Plans and already benefits from consent for 5,378m<sup>2</sup> of retail floorspace, is considered an acceptable location.

Analysis of the impact of the proposed development identifies that it would not result in a significant adverse impact on the vitality and viability of the Town Centre.

The site is located in close proximity to the Canvey Wick SSSI and has previously been identified as having some ecological value. Following the implementation of the extant consent for retail development on this land however, the site has been stripped under ecological supervision and species of ecological value have been translocated the compensation suite located to the east of the Morrison's store, which was provided in mitigation of the wider scheme of which the current application forms part. The current proposal has no adverse impact on ecology.

Natural England, the Environment Agency, the Lead Local Flood Authority and the Highway Authority have raised no objection to the proposed development subject to conditions, whilst the Education Authority has requested a contribution towards the provision of EYC provision, all of which can be accommodated, with reason, within the grant of any consent.

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** subject to the following conditions:

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

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

2 No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. delivery, loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. wheel and underbody washing facilities
- v. construction dust minimisation

REASON: To ensure that on-street parking of these vehicles in the adjoining streets does not occur, to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and to minimise the potential for pollution of the adjoining ecologically sensitive land and retail site, in accordance with the provisions of Policies EC2, EC4 and EC13 of the adopted Local Plan.

3 The external surfaces of the development hereby approved shall be treated in accordance with the submitted schedule of finishes from which there shall be no departure without the prior formal consent of the Local Planning Authority.

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

4 Prior to the commencement of development, details of the materials to be used within the hardsurfaced areas of the site shall be submitted to and approved by the Local Planning Authority.

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

5 No unbound material shall be used in the surface treatment of the vehicular access within six metres of the highway boundary.

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

6 No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

(i) Limit discharge from the site to 3.9l/s for all events up to and including the 1 in 100 year event plus climate change allowance

(ii) Provide sufficient storage on site to manage surface water up to and including the 1 in 100 year event plus climate change allowance. Any exceedance of the drainage system during events of this magnitude should be managed on site.

(iii) Provide sufficient treatment for all elements of the site in line with the CIRIA SuDS manual (C753).

REASON To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, ensure the effective operation of SuDS features over the lifetime of the development and to provide mitigation of any environmental harm which may be caused to the local water environment.

Informative:

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

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

**REASON** The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

**Informative:**

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

8 No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

**REASON** To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

**Informative:**

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

9 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.

10 Prior to the occupation of any building or commencement of any use, a Flood Response 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.

11 Upon occupation of the development or commencement of any use, the approved Flood Response Plan shall be enacted and thereafter maintained at all times that the host building is occupied. Any revisions to the Plan shall be submitted to and formally approved by the Local Planning Authority.

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

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



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

13 The proposed surface treatment of all vehicle parking, washing and repair facilities shall incorporate the provision of petrol/oil interceptors, which shall be installed prior to the first use of the facilities they serve and which shall thereafter be maintained in accordance with the manufacturer's specifications.

REASON: To limit the potential for the pollution of the surface water drainage system, in accordance with the provisions of Policy EC4 of the adopted Local Plan.

14 Prior to the commencement of development, a foul drainage strategy shall be submitted to and approved by the Local Planning Authority. The development shall only be carried out and completed in accordance with the approved strategy.

REASON: In order to mitigate the risk of flooding downstream, in accordance with the provisions of the National Planning Policy Framework.

15 Finished floor levels shall be set no lower than 300mm above the 1 in 200 year (0.5%) probable breach flood level at ground floor level and a minimum of 4.41m AoD at first floor level.

REASON: In order to protect the buildings from flooding and to provide safe refuge in a 1 in 1000 year flood event.

16 Prior to the construction of any building a scheme of flood resistant and resilient construction for the approved buildings shall be submitted to and formally approved by the Local Planning Authority. Any flood resistance and resilience measures shall be in accordance with the document 'Improving the flood performance of new buildings' (DEFRA Publication).

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

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

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

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

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

19 The development shall be constructed in accordance with the scheme submitted by a qualified structural engineer pursuant to condition 18 above.

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.

20 Prior to the construction of any building, areas within the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

REASON: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety.

21 An on-site landscaping, wildlife protection, habitat creation and management plan (including measures for appropriate monitoring and maintenance), targeting in particular those invertebrate species which currently use, or are likely to use, the application site, the Roscommon Way Extension road verges, and the broader assemblage of invertebrate species known from the Canvey Wick SSSI (especially highly mobile species which are likely to use foraging habitats beyond the boundary of the SSSI) shall be submitted to and approved in writing by the Local Planning Authority.

The plan shall provide specific details in respect of planting regimes, plant species, size of plants or densities of planting and the means of preparing, constructing and maintaining bare areas .

REASON: In order to protect the interests of wildlife present on the site and the SSSI and provide a visually attractive development.

22 Prior to the first occupation of the development hereby permitted details of appropriate bird boxes 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 nesting of birds to compensate the loss of habitat within the site.

23 The bird boxes approved under condition 22 shall be installed prior to the first nesting season, after completion of the host building and thereafter permanently retained as such.

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

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

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

25 A lighting strategy, designed to minimise light spill onto surrounding wildlife habitats shall be submitted to and approved by the Local Planning Authority. Any such strategy approved shall subsequently be implemented in its entirety.

REASON: In order to protect the interests of wildlife present on the site and the SSSIs.

26 The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area 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 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 EC2 of the adopted Local Plan.

27 The 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 in accordance with Policy EC2 of the adopted Local Plan.

28 Prior to occupation of the proposed development, the Developer shall provide and implement a Travel Plan including a Travel Plan Monitoring fee to Essex County Council.

REASON : In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Government guidance as contained in the National Planning Policy Framework

29 The proposed refuse storage are shall be provided prior to the first occupation of the development hereby approved and thereafter permanently maintained and retained for such purposes.

REASON: In order to ensure the provision of appropriate refuse and recycling facilities, to serve the needs of the proposed development.

30 Prior to the occupation of the proposed development, details of the proposed refuse and recycling store shall be submitted to and approved by the Local Planning Authority.

REASON: In order to ensure the provision of appropriate refuse and recycling facilities on the site.

31 No occupation of the development shall take place unless and until a suitable scheme has been submitted to and approved in writing by the local planning authority which describes the means by which the impact of the development on Early Years and Childcare provision will be mitigated.

REASON: In order to ensure the appropriate level of mitigation, commensurate with the needs of the development, on early years and childcare provision.

### **Informatives**

1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those

concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

2 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.

3 An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.

Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991."

4 Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.

All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of and at no cost to the Highway Authority. Application for the necessary works should be made to Essex Highways, Unit 36, Childerditch Industrial Estate, Childerditch Hall Drive, Brentwood, CM13 3HD.

e-mail: [development.management@essexhighways.org](mailto:development.management@essexhighways.org)

5 An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.

## Appendix 1

### Responses from Statutory Consultees

#### CPBC Emergency Planning Officer

Satisfied with the flood mitigation measures that the developers propose for the development on this site.

It is very encouraging to see that flood mitigation is being taken seriously by the developer and that flood resistant and resilient construction methods are to be adopted.

\*

#### CPBC Environmental Health Officer

No objections to the application, subject to the implementation of the conclusions of the 'pollution' statements within the Sustainability Statement.

Further to the above, the following informatives are proposed:

#### *Construction and Demolition Noise and Dust Control*

The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the demolition and construction phases of the development. Water suppression shall be employed for any stone or brick cutting and if necessary neighbours shall be advised in advance of any particularly noisy works.

The best practicable means, as identified in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturer's instructions.

#### *Disposing of trade wastes (duty of care)*

In the interests of maintaining and improving air quality within the borough and compliance with the law, there should be no burning of any waste or other materials.

Anyone who produces, imports, keeps, stores, transports, treats or disposes of waste must take all reasonable steps to ensure that waste is managed properly. This duty of care is imposed under section 34 of the *Environmental Protection Act 1990*. It also applies to anyone who acts as a broker and has control of waste. A breach of the duty of care could lead to an unlimited penalty upon conviction.

Further to the above, under the *Clean Air Act 1993* it is an offence to emit dark or black smoke or burn material that is likely to give rise to dark or black smoke on industrial and trade premises, or on premises not so used but if burnt in connection with any industrial or trade process. If a bonfire is producing or likely to produce dark or black smoke by the burning of trade or commercial waste, then the persons responsible may be liable to fines of up to £20,000.

*Electric vehicle e charge points*

In the interests of improving air quality within the borough, it is requested that the applicant considers the installation of electric vehicle charging points (EVCP's); this will enable greater future choice in electric vehicle ownership and usage.

\*

CPBC Refuse and Recycling Officer

No objection

\*

CPBC Legal Services

No objection.

\*

Anglian Water

There are assets owned by Anglian Water or those subject to an adoption agreement within or close to the development boundary that may affect the layout of the site. Anglian Water asks that the following text be included within any decision notice should permission be granted.

*“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.”*

The foul drainage from this development is in the catchment of Canvey Island Water Recycling Centre that will have available capacity for these flows.

Development may lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures.

Anglian Water will request a condition requiring the drainage strategy covering the issue(s) to be agreed.

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Anglian Water would therefore recommend that the applicant consult with Anglian Water and the Lead Local Flood Authority (LLFA).

Anglian Water requests a condition requiring a drainage strategy covering the issue(s) to be agreed.

The planning application includes employment/commercial use. To discharge trade effluent from trade premises to a public sewer vested in Anglian Water requires its consent. It is an offence under section 118 of the Water Industry Act 1991 to discharge trade effluent to sewer without consent. Anglian Water asks that the following informative be attached to any consent granted.



*“An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.*

*Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.*

*Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.”*

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#### Canvey Island Town Council

No objection

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#### Environment Agency

The EA is satisfied that the Flood Risk Assessment referenced: 3209/FRA Final v1.4 and dated 2nd June 2016 provides the information necessary to make an informed decision. The Agency has no objection to the planning application, providing the LPA is satisfied that the development would be safe for its lifetime and that the acceptability of the issues within the LPA remit are properly considered.

The EA offers the following comments:

#### *Tidal Flood Risk*

The site lies within Flood Zone 3a defined by the ‘Planning Practice Guidance: Flood Risk and Coastal Change’ as having a high probability of flooding. The proposal is for the : construction of 5 No. non-food retail units (Class A1) and 1 No. drive thru unit (Class A3) including parking, landscaping and other associated works, which is classified as a “less” vulnerable development as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance”

#### *Thames Estuary 2100 Plan*

The Thames Estuary 2100 Plan published in November 2012 sets out the EA recommendations for flood risk management for London and the Thames Estuary through to the end of the century and beyond. This site is located within the Canvey Island policy unit, which has a policy of “P4: Take further action to keep up with climate change and land use changes so that flood risk does not increase”. The TE2100 Plan is an aspirational document, rather than a definitive policy, so whether the defences are raised in the future will be dependent on a cost benefit analysis and the required funding becoming available. If the defences are able to be raised the proposed development will be protected from flooding during the 1 in 1000 year event in line with climate change.

#### *Local Policy*

Although not adopted, Castle Point’s draft New Local Plan states: “17.26 In order for the sea defences to be improved on Canvey Island it is necessary for land adjacent to these defences to be left free from development as far as possible. The Environment Agency has advised that approximately 19m should be left free from development for this purpose. This enables the delivery of well designed and landscaped defences that not only ensure the future safety of residents but are also attractive and contribute to the quality of the environment.”

### *Fluvial Flood Risk*

In 2015, Anglian Water, Essex County Council and the EA completed an Integrated Urban Drainage (IUD) model for Canvey Island. This provides detailed information on non-tidal flood risk on Canvey Island. The EA has consulted the predicted flood extent and depth maps for the 1% annual event probability with climate change from the IUD model for this site. It has high confidence that the site is not vulnerable to flood risk from a designated main river watercourse.

The EA advises that it is only a statutory consultee for tidal and fluvial flood risk, therefore the LPA should ensure Essex County Council LLFA and Anglian Water provide further flood risk advice before the application is determined.

### *Residual Flood Risk*

The site benefits from the presence of flood defences, which defend Canvey Island to a 1 in 1000 year standard of protection. Therefore there is a residual risk of a failure of the defences.

The Castle Point Strategic Flood Risk Assessment (SFRA) indicates that during the 1 in 200 (0.5%) annual probability event, including allowances for climate change the flood depth on site due to overtopping would not flood however due to breaching would be 0-0.5m. The Castle Point Strategic Flood Risk Assessment (SFRA) indicates that during the 1 in 1000 (0.1%) annual probability event, including allowances for climate change the flood depth on site due to overtopping would be 1-2m however due to breaching would be 1-2m.

### *Finished Floor Levels*

The EA has no objection to the proposed development on flood risk safety grounds, but would recommend that finished floor levels for the proposed development are set as high as is practically possible, ideally 300millimetres above the 1 in 200 (0.5%) chance in any year, including an allowance for climate change breach flood level, or, where this is not practical, flood resilience/resistance measures are incorporated up to the 1 in 200 (0.5%) chance in any year, including an allowance for climate change breach flood level. This is to protect the proposed development from flooding.

### *Safe Refuge*

The FRA states that the “proposed mezzanines should be at a minimum elevation of 4.41m AOD to ensure safe refuge in the event of overtopping or breach of defences should sufficient advance warning not permit site evacuation”. This will ensure safe refuge throughout the 1 in 1000 (0.1%) chance in any year including an allowance for climate change flood event.

### *Flood Plan*

The LPA is the competent authority on matters of evacuation or rescue, and therefore should assess the adequacy of the evacuation arrangements, including the safety of the route of access/egress from the site in a flood event or information in relation to signage, underwater hazards or any other particular requirements. The LPA should consult the emergency planners as it makes this assessment.

The LPA should be satisfied with any emergency flood plan submitted and find it adequate for the purposes of the local authority flood plan

If the LPA is not satisfied with the emergency flood plan, then the EA would recommend the LPA refuse the application on the grounds of safety during a flood event, as users would be exposed to flood hazards on access/egress routes.

*Other sources of flooding*

In addition to the above flood risk, the site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater. The EA has not considered these risks in any detail, but the LPA should ensure these risks are all considered fully before determining the application.

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Natural England

Satisfied in principle subject to the compensation area being linked in planning terms to which ever development solution Morrisons finally adopts.

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ECC Highways

Confirms that proposed revised car park layout showing spaces 2.5m by 5m is acceptable.

No objection subject to the following conditions:

1. No development shall take place, including any ground works or demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii loading and unloading of plant and materials
  - iii storage of plant and materials used in constructing the development
  - iv. wheel and underbody washing facilities

**Reason:** To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. 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 to ensure accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, including any parking spaces for the mobility impaired, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area 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 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 DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

**Reason:** To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

5. The Cycle / Powered Two wheeler 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 / powered two wheeler parking is provided in the interest of highway safety and amenity in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

6. Prior to occupation of the proposed development, the Developer shall provide and implement a Travel Plan including payment of a £3000 Travel Plan Monitoring fee to ECC.

**Reason:** In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011

NOTES:

- Steps should be taken to ensure that the Developer provides sufficient turning and off loading facilities for delivery vehicles, within the limits of the site together with an adequate parking area for those employed in developing the site.
- All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of and at no cost to the Highway Authority. Application for the necessary works should be made to Essex Highways, Unit 36, Childerditch Industrial Estate, Childerditch Hall Drive, Brentwood, CM13 3HD  
e-mail: [development.management@essexhighways.org](mailto:development.management@essexhighways.org)
- The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies February 2011.

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ECC Education

According to the Homes & Communities Agency 'Employment Density Guide 20t5', Use Class A1 floor space has an approximate employee density of one employee per 15- 20sqm of floor space, and Use Class A3 has an approximate employee density of one employee per 15-20sqm of floor space. Thereby, a development of this size could generate up to 400 FTE employees. The number of early years and childcare (EY&C) places generated from new employment proposals is four places per one hundred employees.

The proposed development is located within the Canvey Island West Ward. According to Essex County Council's childcare sufficiency data, there are two providers of early years and childcare in the area. One is a day nursery and one is a pre-school. There are currently no free entitlement funded places vacancies at either provision in the ward.

For Essex County Council to meet its statutory duties it must both facilitate sufficient places to meet free childcare entitlement demand and also ensure a diverse range of provision so that

different needs can be met. It is, thereby, clear that additional provisions will be needed and a project to expand early years and childcare provision in the Canvey Island West Ward is proposed. A developer contribution is sought to mitigate the proposed developments impact on local EY&C provision. The cost per EY&C place at April 2016 costs is £13,930.

For information purposes, if the development was to generate 400 FTE employees, the EY&C contribution would be £222,880, index linked to April 2016. Using the figure estimated by the applicant in their 'Planning and Retail Statement' of 175 FTE employees, for information purposes only, the EY&C contribution would be £97,510, index linked to April 2016. A formula based S106 agreement, to reflect the number of FTE employees generated by the development, would be used.

In view of the above, Essex County Council requests that any permission for this development is granted subject to a section S106 agreement to mitigate its impact on childcare.

If the Council were minded to turn down the application, ECC would ask that the lack of childcare provision in the area be noted as an additional reason for refusal and that ECC is consulted on any appeal or further application relating to the site.

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#### ECC – Lead Local Flood Authority

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, the LLFA **objects** to the granting of planning permission based on the following:

##### *Inadequate Surface Water Drainage Strategy*

The Drainage Strategy submitted with this application does not comply with the requirements set out Essex County Council's Detailed Drainage Checklist. Therefore the submitted drainage strategy does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted strategy fails to:

- Sufficiently limit discharge rates. – the Essex County Council Drainage Guide asks for rates to be limited back to the greenfield 1 in 1 year rate. Alternatively a range of can be used. However, none of these should be greater than the equivalent greenfield rates for the same storm events and in addition long term storage should be provided to manage the increase in the volume of water leaving the site.
- Provide sufficient storage volumes. Calculations should be revised based on the above comments. If pumping is to be used it should be demonstrated that the system can accommodate the 1 in 30 year event in the event that the pumps fail.
- Provide sufficient treatment. The drainage strategy states that a class 1 separator will be used however the drainage plans show a class two. This should be clarified. It should be demonstrated that treatment methods comply with guidance in the CIRIA SuDS manual C753. A full range of SuDS treatments should be considered and priority should be given to above ground treatment whenever possible.

*Summary of Flood Risk Responsibilities for your Council*

We have not considered the following issues as part of this planning application as they are not within the direct remit of the LLFA; nevertheless these are all very important considerations for managing flood risk for this development, and determining the safety and acceptability of the proposal. Prior to deciding this application the LPA should give due consideration to the issue(s) below. It may be that the LPA will need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk;
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building;
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, the LLFA advises local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Letter dated 09.09.16

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, **we do not object** to the granting of planning permission.

The proposed development will only meet the requirements of the National Planning Policy Framework if the following measures as detailed in the FRA and the above mentioned documents submitted with this application are implemented and secured by way of a planning condition on any planning permission.

**Condition 1**

No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented prior to occupation and should include but not be limited to:

- Limit discharge from the site to 3.9l/s for all events up to and including the 1 in 100 year event plus climate change allowance
- Provide sufficient storage on site to manage surface water up to and including the 1 in 100 year event plus climate change allowance. Any exceedance of the drainage system during events of this magnitude should be managed on site.
- Provide sufficient treatment for all elements of the site in line with the CIRIA SuDS manual (C753)

**Reason**

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.



- To provide mitigation of any environmental harm which may be caused to the local water environment

Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

### **Condition 2**

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

### **Reason**

The National Planning Policy Framework paragraph 103 states that local planning authorities should ensure flood risk is not increased elsewhere by development.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

### **Condition 3**

No works shall take place until a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority.

### **Reason**

To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk.

Failure to provide the above required information before commencement of works may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

### **Condition 4**

The applicant or any successor in title must maintain yearly logs of maintenance which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the Local Planning Authority.

### **Reason**

To ensure the SuDS are maintained for the lifetime of the development as outlined in any approved Maintenance Plan so that they continue to function as intended to ensure mitigation against flood risk.

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the

application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

