



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



**Ann C. Horgan**  
**Head of Governance**  
**Proper Officer**

## **AGENDA**

**Committee: DEVELOPMENT MANAGEMENT**

**Date and Time: Tuesday 1<sup>st</sup> February 2022 at 7.00pm**

**Venue: Council Chamber, Council Offices**

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

**Membership: Councillors Skipp (Chair), Acott, Anderson, Blackwell, Fortt, Fuller, Gibson, S Mumford, J. Thornton and Walter.**

**Substitutes: Councillors Savage, A. Thornton, Tucker and Withers.**

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

**Officers attending: Mr Robert Davis – Planning Development and Enforcement Manager  
Mr Keith Zammit – Planning Officer  
Mr Stephen Garner – Planning Officer  
Mr Jason Bishop – Solicitor to the Council**

**Enquiries: Miss 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 7<sup>th</sup> December 2022 is attached.

**4. Public Speakers**

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

## 5. Deposited Plans

The report is attached.

	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
1.	21/0877/FULCLO	The Gunny Park Land Off Cedar Road, Canvey Island, Essex, SS8 9HH (Canvey Island Central Ward)	1
2.	21/0813/FUL	Hobson and Sons Ltd, Kenneth Road, Benfleet, Essex, SS7 3AF (Cedar Hall Ward)	21

Agendas and Minutes can be viewed at [www.castlepoint.gov.uk](http://www.castlepoint.gov.uk)  
Copies are available in larger print & audio format upon request  
If you would like a copy of this agenda in another language or alternative format:  
Phone: 0207 520 1431 or email [translations@languageline.co.uk](mailto:translations@languageline.co.uk)

**DEVELOPMENT MANAGEMENT COMMITTEE**

**TUESDAY 7<sup>th</sup> DECEMBER 2021**

**PRESENT:** Councillors Skipp (Chairman), Acott, Anderson, Blackwell, Fortt, Fuller, J Thornton and Walter.

**Substitute Members Present:** None

Councillors A Thornton and Tucker also attended.

**Canvey Island Town Council:** Councillors Greig and Sach.

Apologies for absence were received from Councillors Gibson and substitute member Councillor S Mumford.

**COUNCILLOR DICK**

Before continuing with the business of the meeting the Committee paused for a short while to remember Councillor Bill Dick who had recently passed away.

**10. MEMBERS' INTERESTS**

Councillor Acott declared a Disclosable Non-Pecuniary Interest in Agenda Item No. 5(2), Leisure Island Fun Park, Eastern Esplanade, as he had previously received free hospitality from the applicant and left the Chamber during consideration of this item.

Councillor Blackwell declared a Disclosable Non-Pecuniary Interest in Agenda Item No. 5(2), Leisure Island Fun Park, Eastern Esplanade, as he had previously received free hospitality from the applicant and left the Chamber during consideration of this item.

Councillor Skipp declared a Disclosable Non-Pecuniary Interest in Agenda Item No. 5(2), Leisure Island Fun Park, Eastern Esplanade, as he had previously received free hospitality from the applicant and left the Chamber during consideration of this item.

**11. MINUTES**

Councillor Fortt stated that he had given his apologies for his absence at the previous meeting but that these had not been recorded in the Minutes.

The Minutes of the meeting held on 5<sup>th</sup> October 2021 were taken as read and signed as a correct record subject to an amendment to the apologies for absence.

## 12. DEPOSITED PLANS

### **21/0817/FULCLC – GARAGE SITE ON LAND TO THE REAR OF 171-217 LINK ROAD, CANVEY ISLAND, ESSEX, SS8 9SP (CANVEY ISLAND WINTER GARDENS WARD) - REMOVAL OF EXISTING GARAGES AND PROVISION OF 3NO. TWO-STOREY RESIDENTIAL DWELLINGS WITH ASSOCIATED PARKING AND PRIVATE AMENITY SPACE – CASTLE POINT BOROUGH COUNCIL**

The application sought permission for three new council houses on land forming part of an old garage parking court. The dwellings were for social, affordable, or intermediate rent for people on the Council's housing needs register.

The site was allocated for residential purposes in the Council's Adopted Local Plan and was consistent with national and local policy and residential design guidance. The proposal was therefore recommended for approval.

The application was presented to the Committee due to the Council being both the applicant and landowner.

Councillor Greig, Canvey Island Town Council representative raised concern about parking provision on the site.

Following the presentation Members took opportunity to ask questions of the Planning Officer regarding surface water flooding, the recreational space available near to the site, the level of street lighting surrounding the scheme and the use of solar photovoltaic panels rather than solar thermal panels.

During debate the Committee felt that further opportunity existed to utilise decentralised energy supply for the development, in accordance with government guidance in the National Planning Policy Framework. Concern was also raised regarding the security of the electric vehicle charge points referred to in condition 8 and that there was a possibility these could be subject to vandalism.

A motion to this effect was moved and seconded and the Committee voted to amend the resolution to add conditions to include solar photovoltaic panels in the scheme and ensure the security of the electric vehicle charge points.

Following debate on the recommendation a vote was taken and it was:

**Resolved Unanimously** – That the application be approved subject to the conditions set out in the Planning Officer's report and two additional conditions as follows:

- 1) Prior to construction of the development above foundation level, a scheme for the provision of renewable energy generation for the approved dwelling houses shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include solar photovoltaic panels in addition to the measures already identified in the planning

application. Such scheme as may be approved shall be installed and made operational prior to occupation of the development and thereafter maintained in accordance with any manufacturer's recommendations.

- 2) Prior to occupation of the development, a scheme of security measures for the electric vehicle charge points referred to in condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The charge points shall be fitted with the approved security measures prior to occupation of the development.

### **13. APPOINTMENT OF CHAIRMAN**

Following the resolution of the first item Councillors Acott, Blackwell and Skipp left the Chamber due to their Disclosable Non-Pecuniary Interests in Agenda Item 5 (2). As the Chairman had left the Chamber the Committee voted on the appointment of a Chairman for the second item. It was moved, seconded and voted on as follows:

**Resolved Unanimously** – That Councillor Anderson be appointed Chairman for the remainder of the meeting.

### **14. 21/0881/FULCLO – LEISURE ISLAND FUN PARK, EASTERN ESPLANADE, CANVEY ISLAND, ESSEX, SS8 7JQ (CANVEY ISLAND SOUTH WARD) – CHANGE OF USE FROM RECREATION LAND TO FUNFAIR AND CONSTRUCTION OF NEW BOUNDARY FENCE – MR SCOTT PETTY**

The application sought permission for an expansion of the existing children's amusement park northwards onto Labworth Green. This was not considered to raise any issue of principle, however, officers had concerns about the visual impact of proposed fencing on the public realm.

The applicant had agreed to set the fence back from the highway boundary to reduce its visual impact and to maintain a pedestrian link between the seafront and Labworth Green. Although the distance it had been set back was not level with the existing front fence it was now in a position that the Planning Officer felt was acceptable.

The applicant had also agreed to a condition being imposed on any permission granted requiring details of fencing to be submitted and approved separately. This would enable the Council to secure a more visually appropriate fence rather than the 3m palisade fence originally proposed, which was excessive in height and ill-suited in design. It was also possible to further reduce the impact of the proposed fencing with some landscaping between the fence and Furtherwick Road, which could take the form of tree planting.

Subject to these matters being dealt with by condition there was no further objection to the proposal and officers were able to recommend the scheme for approval.

The application was presented to the Committee due to the Council being the landowner.

Following the presentation Members took opportunity to ask questions of the Planning Officer. It was queried whether a condition could be added to include a planting scheme to soften the fencing surrounding the site. It was explained that the applicant only had a lease on the area shown so it was not possible to condition planting on the outside of the site because this land was not part of the lease. It would however be appropriate along the right-hand side of the site and this was already covered under condition 4 in the report.

A Member questioned why the applicant was unwilling to align the fence with the existing property line. It was stated that the applicant felt that this was unreasonable as it was on land he could not use and therefore a compromise had been reached on the positioning of the fence, as shown. Adding a condition to position the fence further back would not be appropriate as it would be directly against what the applicant had stated he wanted to do. If Members felt that this was wholly unacceptable then they should consider refusing the application.

A Member felt that the provision of additional trees would enhance this area by softening the street scene and preventing the park becoming waterlogged and requested whether they could be planted around the whole site. It was stated that landscaping could not be requested on the north and west side of the site as it was outside the applicant's land, it was only possible to request it on the right-hand side of the site next to Furtherwick Road and this was covered by condition 4 in the report.

Following consideration of the application it was:-

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

Chairman

## ITEM 1

**Application Number:** 21/0877/FULCLO  
**Address:** The Gunny Park Land Off Cedar Road Canvey Island  
Essex SS8 9HH  
(Canvey Island Central Ward)  
**Description of Development:** Creation of enhanced public space including a  
community building, enhanced walkways, planting  
areas and gym/play equipment  
**Applicant:** Canvey Island Big Local  
**Case Officer:** Mr Stephen Garner  
**Expiry Date:** 04.02.2022

---

### Summary

The proposal seeks consent to enhance an area of existing public space known as The Gunny Park by providing a community building and structures, enhanced walkways, planting and landscaped areas, gym/play equipment. The proposal also includes the provision of solar panels and battery storage units for the community building.

Part of the site is listed as a Scheduled Monument. The proposal is considered to respect the historic nature of the site and be broadly consistent with national and local policies. The proposal is therefore recommended for APPROVAL.

The case is presented to the committee because the council is the landowner.

### Site Visit

It is recommended that members visit the site prior to determination of this application to gain a true understanding of the layout and historic value of the site.

### Introduction and Background

The application site comprises an area of land allocated as Public Open Space within the adopted Local Plan, part of which comprises a Scheduled Monument known as *'Heavy Anti-aircraft gun site, 170m southwest of the junction of Cedar Road and West Crescent'*.

The Monument consists of a World War II Heavy Anti-aircraft gun battery which is now surrounded by housing. During wartime the site was known in documents as *'TN7 (Thames North) Furtherwick'* but is now known locally as *'The Gunny'* or *'The Gunnery'*. The gun battery was designed to intercept German bombers using the Thames estuary to navigate to London and other industrial targets and were operational between 1940-46.

This Monument is one of only nine sites to survive from an original wartime deployment of about 40 heavy anti-aircraft positions around Essex.

The remains of the gun emplacements survive to this day and are partly concealed beneath modern earthworks which have been added to the original earthen blast defences constructed around the concrete emplacements. This site and its survival is considered exceptional as the battery retains both the gun emplacements and the central command post. The key elements of the site are highlighted in the figure below.



**ABOVE-GROUND REMAINS AT TN7 FURTHERWICK SITE**

- 1 - Base of NE Square Gun Emplacement
- 2 - Concrete lattice platform that mounted ancillary building
- 3-6 All four octagonal gun emplacements
- 7 - Command post building
- 8 - Bridge possibly over a former dyke. Consider areas north and south of this are recessed and flood
- 9 - Possible line of original fence. Concrete gate bottom extant
- 10 & 11 - Bases of modern sheds; demolished recently
- 12 & 13 - Unknown concrete remains, possibly original. One holds metal rods cut short, probably the ones seen to be originally quite tall in 1970s skating photographs
- 14 - Magazine ammo store building

★ indicates major buried structure

Since the site was decommissioned, the site has been used as a community space and play area, with a skatepark covering parts of the Monument. There are several formal paths that criss-cross the site. Initially all structures were completely buried when the skatepark was made but the earth has worn away overtime to reveal the corners of the structure's underneath.

The site was given Scheduled Monument Status in January 2001 over the extant of the visible and buried wartime remains as a reminder of the important role these types of sites played in the



defence of Britain during WWII. The schedule excludes more modern surface features such as tarmac foot paths.

The site is currently surrounded by residential development, with the Longview Residential Care Home situated to the south of the site. In the southwestern corner is an electricity sub-station. Vehicular access to the site is available from West Crescent whilst pedestrian access is also available off Cedar Road to the north of the site.

The applicant, Canvey Island Big Local, is a partnership focusing on Winter Gardens and Central Ward where the majority of members must live. It has been granted £1 Million by National Lottery Community Fund managed by Local Trust and is one of 150 such communities in England.

The Partnership aims to provide a new local hub for the use of the whole community that enables all ages and abilities to meet informally, to enjoy gardening and other activities, to play and to appreciate local history, in a way which is sustainable in the long term and enables community ownership of facilities.

Other groups are involved in aspects of the proposal, such as Trust Links, a local independent mental health and wellbeing charity, who propose to establish a community garden facility, similar to other local groups and facilities such as the community garden located to the rear of the Whitehouse building behind the council offices.

## **The Proposal**

### *Community building*

The proposal includes a wide gamut of features which all centre around the proposed community building. The proposed community building would be sited on top of the existing hard surfacing which was the base of the NE Square Gun Emplacement. The proposal seeks to build a raised foundation for the timber framed building on top of the existing base, negating the need to dig foundations.

The community building would be some 13.0m wide and some 10.0m deep with a shallow pitched roof of ~22.5 degrees rising to a maximum height of some 5.4m. An area of raised decking will be provided around the buildings northern and western sides with accessible ramps leading up to the decking and entrances of the building.

Internally the building is divided into two main sections. To one side of the building is a proposed café and kitchen area, and to the other side is a large activity space. There is also an officer and a number of accessible WCs proposed internally and the building is also proposed to provide an externally available accessible WC as well.

This building is proposed to be finished externally in vertical cementitious cladding, the colour of which has not yet been decided. The roof is proposed to be finished in a single ply roof covering with a similar appearance to lead, with a number of solar photovoltaic panels affixed to the roof. All windows and doors are proposed to be triple glazed aluminium units. Externally mounted white roller shutters are proposed to be installed over all external doors and windows for security reasons.

The community building is proposed to be used partly as a café and also as a general meeting space with spaces which can be used by community groups, clubs and other such organisations to form a central hub for such activities.

Several sustainable technologies are also proposed to be used in the construction of the building including photovoltaic panels and rainwater harvesting.

### *Garden area*

To the north of the community building is proposed to be the community garden area. This will comprise several raised planting beds and a large, covered pergola structure which would be some 6.0m square with a maximum height of approximately 3.6m. The covered pergola would be open sided and constructed from timber posts with a felt and timber roof.

Surrounding the covered pergola and community garden area the ground is to be surfaced with Breedon golden amber gravel or similar.

Two small shipping containers are proposed, one to the northeast and one to the southwest of the covered pergola. Each container would measure 2.5m wide by 6.0m deep and be approximately 2.6m tall. These containers would provide storage for gardening equipment for use by community groups within the community garden. They are to be provided and managed by Trust Links.

To the northeast of the northern shipping container several compost bays for the recycling of vegetative material associated with the community garden are proposed.

### *Play and gym equipment*

Located near the eastern entrance to the site off West Crescent, six pieces of adult gym equipment are to be installed. The surface of the ground around this equipment is to be finished with a reinforced grass safety surface.

To the south and west of the site 12 pieces of play equipment together with associated safety surfacing, where required, are proposed.

The exact nature of the equipment proposed has not been specified however indicative examples can be found in the Precedent Images supplementary document accompanying this application.

### *Car parking*

The existing hard surfacing accessed from West Crescent is proposed to be utilised as a subbase for new hard surfacing and line markings to provide a parking area for up to 11 vehicles, two of which are larger accessible spaces. Three Sheffield ring cycle stands are proposed adjacent to this parking area for the secure storage of bicycles.

There is also proposed to be an electrical vehicle charging point within the car park.

### *Proposed lighting*

Within the car park and along the footpath connecting to the proposed community building several lighting columns are proposed. These lighting columns are to be light sensitive so will only turn on at certain times of day.

### *Energy Storage*

To compliment the proposed solar photovoltaic panels on the community building, two shipping containers are proposed to be sited to the north of the existing sub-station for the purpose of battery storage of the energy produced. This will allow the development to store and utilise solar energy, as well as feeding it into the grid when there is an excess in available energy.

These shipping containers are proposed to be screened by soft landscaping, however specific details have not been provided.

### *Landscaping*

Several new pathways are proposed across the site which weave between and around the key features and elements of the monument, proposed community building and the entrances and exits to the site.

During wetter months land along the site's eastern boundary can be prone to standing water. It is proposed to excavate and slightly regrade this area to provide a wetland meadow area to help improve local habitat.

Several other landscaping features are proposed, such as wildflower meadows, native shrub and hedge planting, tree planting and open grassed areas.

Other than what has been provided on the on the site layout plan, no specific details of the specific nature of the regrading, types or locations of planting, planting or maintenance plans have been submitted as part of the application for consideration.

### *Care home access*

A small access gate and bridge is also proposed to the sites southwestern corner providing a link between the park and the Longview Care Home. This gate and access to and from the park from the care home is proposed to be controlled by the management and staff of the care home.

### *Opening times*

At both entrances to the park there are proposed to be new secure high-level gates.

To the pedestrian entrance from Cedar Road, a new 1.8m tall mesh security gate is proposed to be set back from the highway.

Similar style mesh security gates are proposed to the vehicular entrance to the site from West Crescent.

The proposed community building is intended to be open or possibly open for use between 09:00-22:00 dependant on use.

The park itself is proposed to be open during daylight hours only, unless the community building is in use whereby the park may remain open outside of daylight hours. Outside of daylight hours and when the community building is closed, the caretaker or relevant keyholders to the building will be responsible for closing and securing the community building and closing the park prior to locking the accesses to the park.

The reason for these opening times and security measures is to protect the proposed community building and other assets within the park.

### *Other ancillary items*

Smaller ancillary items are proposed around the park and community building, such as picnic benches, information boards and signage, litter bins and commercial storage bins for the community building.

## Supplementary Documentation

In addition to numerous drawings, this application is supported by a number of supplementary planning documents:

- o Archaeological Desk Based Assessment
- o External Lighting Report
- o Flood Risk Assessment
- o Geo-environmental and Geotechnical Site Assessment
- o Precedent Images
- o Design and Access Statement
- o Design and Access Statement Appendices
- o Little Gypps 'Gunney' Heavy Anti-Aircraft Battery Survey for Canvey Island Big Local
- o Survey Results following Public Consultation
- o Growing Together Canvey Island Project Outline July 2021
- o 2no. Historic England pre-application advice letters (dates 19/04/16 and 06/08/20)
- o Gunny battery v 1.1 (details of battery energy storage)
- o Scheduled Monument Consent Letter

## Planning History

There is no relevant planning history.

## Adopted Local Plan Allocation

Public Open Space

## Emerging Local Plan Allocation

Open Space

## Relevant Policies and Government Guidance

NPPF            National Planning Policy Framework (2021)

NPPG            National Planning Practice Guidance

Adopted Local Plan (1998)

EC2            Design

EC3            Residential Amenity

EC4            Pollution

EC5            Crime Prevention

EC7            Natural and Semi-Natural Features in Urban Areas

EC14          Creation of New Wildlife Habitats

EC23          Tree and Shrub Planting

EC38          Archaeological Sites and Monuments

T8            Parking Provision

RE4            Provision of Children's Play Space and Parks

New Local Plan

HS1            Strategy for Healthy Communities

HS2	Opportunities for Indoor Leisure and Sports
HS3	Opportunities for Outdoor Recreation
HS6	Community Facilities
TP7	Parking Provision
DS1	General Design Principles
DS2	Landscaping
CC1	Responding to Climate Change
CC2	Tidal Flood Risk Management Area
CC3	Non-Tidal Flood Risk Management
CC4	Sustainable Buildings
NE1	Green Infrastructure and the Undeveloped Coast
NE7	Pollution Control
HE1	Conserving and Enhancing the Historic Environment

Essex Parking Standards September 2009 (Adopted June 2010)

## **Consultation**

### Canvey Island Town Council

No comments received

### Environmental Agency

No objection provided that the authority has taken into account the flood risk considerations which are its responsibility.

### Environmental Health

No objection subject to a number of conditions where necessary and relevant regarding construction management plans and external lighting controls.

### Historic England

Do not object to the proposal and confirms their support for the application on heritage grounds. Historic England considers that the application would meet the requirements of the NPPF, in particular paragraphs 199, 200, 202 and 203.

### Legal Services

No construction or other works in respect of this planning application are to be undertaken without a lease, licence or other written legal agreement entered into with the Council.

### Sport England

The proposed development does not fall within either their statutory or non-statutory remit and refers to advice contained within the NPPF and NPPG.

### UK Power Networks

Raises a number of observations regarding the proposal and offers advice to ensure a satisfactory form of development which would not conflict with their apparatus.

## **Public Consultation**

Residents adjoining the site have been consulted and site notices erected. As a result of this public consultation, two objections to the proposal have been received in addition to one comment in support. The following comments and observations have been raised:

- o Object to the proposal being open until 22:00
- o Who will look after the site at night, are there security gates and cameras?
- o What if neighbouring residents' fences are broken?
- o Why would a play area be open until 22:00?
- o This will result in antisocial behaviour issues
- o Does the battery storage facility emit noise?
- o Is there a risk of the battery storage facility being so close to the substation?
- o There is the risk that privacy may be lost from raised ground levels
- o This will be a great resource for the community

## Comments on Consultation Responses

These comments and observations are discussed in the evaluation of the proposal.

## Evaluation of Proposal

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

In October 2020, the council submitted to the Planning Inspectorate its new Local Plan (2018-2033) for examination. The plan sets out the council's aims and objectives for the Borough over the 15 year period, and includes policies to support these ambitions. A post-hearings letter has now been issued by the Inspector following conclusion of the examination hearings that took place in June 2021. This states that subject to main modifications the plan is capable of being found legally compliant and sound. Accordingly, the council is now giving policies contained within the plan not subject to further public consultation increased 'weight' when determining planning applications. The degree of increased weight afforded them will depend on the level of objection they received during the examination hearings and Regulation 19 consultation.

### *Principle*

Section 70 of the Town and Country Planning Act 1990 and section 38 of the Planning and Compulsory Purchase Act 2004 require applications to be made in accordance with the development plan unless there are clear and convincing material considerations that indicate otherwise.

National Planning Practice Guidance advises that the NPPF is a material consideration that must be taken into account where it is relevant to a planning application. This includes the presumption in favour of sustainable found at paragraph 11 of the Framework:

- o *“approving development proposals that accord with an up-to-date development plan without delay; or*
- o *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:*
  - i. *the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or*
  - ii. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.”*

The area is allocated within the adopted Local Plan as Public Open Space, so any use that results in the loss of such space would prima facie be a reason for refusal.

Under the New Local Plan, the policies map also shows the site to be allocated as Open Space.

There are no current policies within the adopted Local Plan which specifically refer to the retention of public open space, however Policy RE4 is concerned with the provision of additional children's play space in areas of identified need, such as Canvey Island Central Ward.

Policy HS1 of the emerging Local Plan seeks to promote good physical and mental health amongst residents by ensuring access to high quality open spaces and opportunities to engage in sport and recreation. This can be achieved through working with partner organisations, community and voluntary groups to deliver multifunctional open spaces and green infrastructure projects.

Policy HS2 of the emerging Local Plan seeks to increase indoor leisure facilities by encouraging the use of multi-functional community halls within local communities and working with the community to deliver suitable facilities.

Policy HS3 of the emerging Local Plan aims to secure open space in order to support active and healthy communities by delivering open space and green infrastructure in the borough. In order to improve the quality of open spaces and the ability of residents to be able to enjoy them to their fullest potential improved facilities and biodiversity within open spaces should be sought.

Policy HS6 of the emerging Local Plan seeks new community facilities where it can be demonstrated that the development will provide a flexible space that can respond to changing needs, be accessible to all and provide greater community benefits.

Policy NE1 of the emerging Local Plan aims to enhance and restore existing green infrastructure to provide multiple benefits to the environment and local communities. This policy encourages a net increase in biodiversity, opportunities for local food production and recreational benefits for local people.

Currently the site represents a grassed field with some raised mounds covering the remains of the WWII gun emplacements. In this regard it is considered to functionally contribute as open space and should be retained to serve the nearby residents

The proposed scheme would remove part of the existing open space by providing a community building together with other elements such as the containers. As such it would appear to be at odds with the express intent of retaining the land as public open space.

However, the new community building together with other elements would provide wider enhancements to The Gunny and increase the biodiversity of the site.

Overall, it is considered that the proposal offers a great many benefits in rejuvenating and improving the site whilst providing a host of valuable community facilities which would not take away from the purpose of including the land within the allocation as public open space, but augment it, encourage its use and offer a sustainable route to maintain and grow the space into a better used and more feature rich community asset.

As such, it is considered that the proposal provides significant benefits to the site and would extend these benefits to residents within the wider surrounding area by providing an improved set of community facilities which would enhance and encourage the use of the open space, to the

benefit of local residents. As such, it is considered that the proposal is acceptable in principle and no objection is raised on this basis.

### *Impact on Scheduled Monument*

Paragraph 197 of the NPPF states that in determining planning applications, local planning authorities should take account amongst other things of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Paragraph 199 goes on to state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 200 sets out that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of assets of the highest significance, notably Scheduled Monuments should be wholly exceptional.

Paragraph 201 sets out that where substantial harm to or total loss of significance of a designated heritage asset, authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss.

Paragraph 202 outlines that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use.

Policy EC38 of the adopted Local Plan seeks the protection and retention of important archaeological sites and Monuments.

Policy HE1 of the emerging Local Plan also seeks to the protection of and retention of important archaeological sites and Monuments, permitting developments affecting such sites provided they protect, enhance, and preserve the site and their setting.

Aside from some minor landscaping and planting, it is considered that the potential for harm to the designated heritage asset is in the form of the proposed community building as most other structures are set outside of the boundary of the asset, although some play equipment and lighting are proposed on the periphery of the asset's scheduled boundary.

The proposed community building together with these other features would bring some degree of impact to the designated heritage asset, which would introduce additional built elements to the site and have the potential to mask and detract from the heritage asset itself. Indeed, the proposed community building is to be constructed wholly over the concrete base of a gun emplacement.

However, the proposal encompasses many elements that are needed and would be highly valued locally. The new building, landscaping and other features have been sensitively designed and thoughtfully considered so not to dominate the monument, and include many elements that would enhance the heritage asset. In taking the history of the site into account, the has created an informed narrative for the proposal, which aids the creation of a sense of place.



As such, it is considered that the proposal represents less than substantial harm to the heritage asset and that the proposal would bring about clear enhancements to the asset. Given the consideration that the proposal constitutes less than substantial harm and the considerable public benefits of the scheme that would arise from permitting the proposal to proceed, it is considered that this outweighs the limited potential harm to the heritage asset and that permission should not be refused based on harm to a Scheduled Monument.

Historic England have also been consulted and support for the proposal. The Applicant has also applied for Scheduled Monument Consent for some aspects, which has been granted by the Secretary of State.

The Scheduled Monument Consent granted by the Secretary of State contains conditions to ensure the protection of the Monument during the construction process including but not limited to the notifying of Historic England of the works so a representative can be present if required, informing all workers of the significance and reason the site is protected and, prohibiting equipment and machinery operating within the asset boundaries for all but expressly authorised works.

### *Design and layout*

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

Policy DS1 of the emerging Local Plan reinforces and strengthens the content of Policy EC2.

The proposed scheme has been well considered and thought out in terms of its layout. The proposed community building would sit centrally within the site to create a hub and focal point which does not detract from the setting and appearance of the Scheduled Monument. The dimensions and design of the proposed community building are proportionate in respect of both its intended use and facilities it is to provide as well as the context of its surroundings.

Other ancillary features such as the covered garden area have been designed sympathetically to have a pleasant appearance with items such as storage containers, waste management and battery storage sensitively sited and where appropriate landscaped so that they do not have such a detrimental impact on either the park itself or neighbouring residents.

The proposed new paths, landscaping and play equipment are all thoughtfully sited and positioned so that they respect the history of the site, enhance the provisions of the public open space, and are unlikely to have any detrimental impact on the privacy of neighbouring residents.

Policy CC4 of the emerging Local Plan requires all new development to minimise its impact on the environment by incorporating measures for high energy efficiency and the use of decentralised energy sources. It also opines that the design of developments should also incorporate measures for achieving high levels of water efficiency.

The proposal intends to implement a rainwater harvesting system to aid with water efficiency measures. Solar voltaic panels are proposed to the roof of the proposed community building alongside battery storage modules close to the power station. This will help to provide free energy for the building with the batteries providing a storage medium in which to create a decentralised power supply which can be supplemented by grid power as and when required, even supplying the grid in times of excess energy production.

It is considered that such energy efficiency measures are highly desirable design features of this proposal and will contribute well to the sustainability of the building and site in the future.

### *Proposed use*

Policy EC3 of the council's adopted Local Plan states developments which would have a significant adverse effect upon the residential amenity by reason of traffic, noise, fumes or other forms of disturbance will be refused.

Policy EC4 of the council's adopted Local Plan states developments which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land or air, or by reason of noise, dust, vibration, light or heat will be refused.

Policy NE7 of the emerging Local Plan reiterates the content of these two policies.

Policy EC5 states that the council will expect new development schemes to have regard to the desirability of minimising the risk of crime and maximising security by virtue of their design, layout and landscaping. This is consistent with paragraph 130 of the NPPF which seeks to ensure that decisions should create places that are safe and inclusive, where crime and disorder, and fear of crime do not undermine the quality of life or community cohesion.

The park itself if proposed to be open during daylight hours only. Outside of this, a caretaker, funded by the use of the community building is proposed to close the park. This will limit opportunities for antisocial behaviour, which more typically occurs during the hours of darkness and will protect the building and other assets within the park.

The community building is to have a café area with kitchen to one half and an activity space to the other. The café is proposed to be utilised as a meeting place and as a café for members of the public, whilst the activity space is to be available for use by a wide range of groups and members of the public for meetings, clubs, events and gatherings.

The maximum opening times of the community building is proposed to be 09:00-22:00. Where these times exceed daylight hours, the park would remain open whilst the community building is in use. Outside of daylight hours and when the community building is closed, the caretaker or relevant keyholders to the building will be responsible for closing and securing the community building and emptying the park prior to locking the accesses to the park.

Given the isolation of the community building from other residential properties it is considered that the use of the building for these purposes and within these time constraints would not have any detrimental impact to neighbouring residents by reason of noise. Indeed, it would offer a public facility which would benefit residents.

It is however important to consider that beyond these times the associated comings and goings of people using the community building could disturb neighbouring residents. If approved, it would be necessary to condition the permitted opening times to address such concerns.

A scheme of lighting is also proposed for the proposed car parking area and the connecting footpath with the community building. A detailed design scheme for this lighting has been provided which demonstrates the impact this lighting would have on the surrounding area. Directional lighting has been utilised to minimise light spill beyond the areas intended to be illuminated. Given the well-designed scheme it is not considered that whilst in use the lighting would result in undue levels of light pollution.

However, to further minimise the impact of the proposed lighting scheme, it would seem reasonable and prudent to condition any approval to ensure that the proposed lighting scheme is implemented and that the luminance levels are not excessive.

Concern has been raised that the proposed battery storage modules may emit some form of noise, which could result in disturbance to neighbouring residents. Although the submitted details state that the batteries run virtually silently, little to no details have been provided to substantiate this. To alleviate concerns of residents and to prevent future potential noise disturbances, it is considered appropriate to require a noise impact assessment detailing the potential noise emitted by these units to be submitted to and approved by the authority prior to the units being made operational.

It is considered that the proposed security measures, including the opening and closing times of the park, lighting, and the proposed security shutters to the main community building, will provide a degree of security and protection to the community assets within the park area and dissuade antisocial behaviour and crime.

### *Parking*

Policy T8 requires adopted parking standards to be taken into account. Parking spaces should be 2.9m x 5.5m with accessible spaces measuring 3.9 x 6.5m. End of row spaces next to hard objects should be afforded an additional 1.0m of space to allow for ease of manoeuvrability into and out of end bay spaces.

Policy TP7 of the emerging Local Plan requires developments to make provision for safe and secure car parking, parking for people with disabilities and parking for bicycles, having regard to the Essex Vehicle Parking Standards. This policy currently carries little weight, but generally continues the ethos of Policy T8 and paragraph 107 of the NPPF.

The proposed community building represents a mixed use with the café covering ~50m<sup>2</sup> and the other part being used as a public hall which is the most relevant comparison within the parking standards covering ~75m<sup>2</sup>. The adopted parking standards require a maximum of one space per 5m<sup>2</sup> for café uses and one space per 25m<sup>2</sup> for public hall uses.

This generates a requirement for 10 spaces for the café and three spaces for the community hall. A maximum of 13 spaces are required where 11 are proposed to be provided. Given that the parking standards represent a maximum number of spaces required and paragraph 108 of the NPPF states maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, the 11 spaces proposed seem to represent a reasonable provision and no objection is raised to the proposal on this basis.

Cycle parking provision for three Sheffield cycle stands are also proposed, which are considered acceptable having regard to the adopted standards.

It is noted that Paragraph 112 of the NPPF requires development, where practicable, to incorporate facilities for charging plug-in and other ultra-low emission vehicles. Following the announcement by the government in 2017 that it intends to ban new petrol and diesel cars from 2040, and the more recent announcement that this ban will be brought forward, the need to provide infrastructure for charging electric vehicles is even more pressing.

Provision for electric vehicle charging has been made with an electric vehicle charging upstand proposed to be provided in the car park. Details on subterranean utilities drawings also indicate

that additional ducting will be run from the community building to the car park to enable easy installation for future electric vehicle charging upstands in the future.

### *Landscaping*

Policy EC7 of the adopted Local Plan states that natural features and open spaces within urban areas shall be retained and enhanced wherever possible in order to safeguard their physical, visual, recreational and wildlife value.

Policy EC14 states that the council will promote the creation of new wildlife habitats in conjunction with development proposals.

Policy EC23 states that to improve the physical environment, encouragement will be given to the planting of native trees and shrubs where appropriate.

Policy DS2 of the emerging Local Plan requires where appropriate developments to provide hard and soft landscaping, appropriate to and suitable for the location. Landscaping schemes would be expected to include planting schemes, identifying species, type, sizes, numbers, densities, planting location and aftercare. Native species should be utilised suitable to the location and SuDS where also appropriate should form an integral part of the landscaping scheme.

Policy NE1 of the emerging Local Plan promotes the creation, restoration, and enhancement of green infrastructure across the borough to provide increased biodiversity and ecological value.

Policies DS2 and NE1 of the emerging Local Plan currently carry little weight, but generally continues the ethos of Policies EC7, EC14 and EC23, as well as Chapters 11 and 15 of the NPPF.

From the details currently submitted, the proposed landscaping scheme appears to be sympathetic to its surroundings, taking into account existing situations to provide new and valuable environments and habitats. A variety of planting schemes to create a wetland meadow, wildflower meadows, native shrub and hedge planting, new tree planting will all result in an increase to biodiversity and the variety of habitats available than what is currently available on site.

The proposed landscaping scheme would be highly beneficial to the biodiversity of the site and create a valued environment within this urban area which could be enjoyed by members of the public.

No objection is raised to the proposal on the grounds of landscaping. However, further details of the proposed planting and maintenance schemes, and earthworks would be required before actual implementation. The provision of such information can be adequately addressed through an appropriately worded condition.

### *Flood risk and drainage*

Canvey Island lies within an area identified as falling within Tidal Flood Zone 3, defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a high probability of flooding. The site benefits from the presence of tidal defences, which defend Canvey Island to a 1 in 1000 annual probability standard of protection. Although Canvey Island is defended to a high standard of protection, it is at risk should there be a flood defence failure. This residual flood risk should be considered, as although the likelihood of it occurring is low, the consequences should it happen would be very high.

Government guidance as contained in the National Planning Policy Framework (NPPF) requires all proposals for new dwelling in areas at risk of flooding to be accompanied by a site-specific Flood Risk Assessment (FRA) in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood.

The NPPF states at paragraph 159 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Paragraph 162 states that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

Paragraph 163 states that if, following application of the sequential test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the exception test can be applied if appropriate.

In applying the sequential test, a suitable catchment area must be decided upon for the area of search for alternative sites. The proposed development is principally for the creation of the community building (insofar as flood risk is concerned). This community building is proposed to serve as a community hub and resource in an area which has previously lacked investment and has received funding specifically to tackle levels of deprivation. Therefore, it would appear that such a facility would be most suitably located within close proximity or within the area of concern, which in this instance is the Canvey Island Winter Gardens and Central Wards.

All of the land within these two wards is within Flood Zone 3, the zone with the highest probability of flooding, so there are no alternative preferable locations within the area for the proposed development with a lower probability of flooding. Nor is it considered that there are any potential sites located sufficiently close enough to the two wards that are outside of a flood zone or which would be capable of serving a similar function. The sequential test is therefore considered to be passed.

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

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

In respect of the first criterion, it is considered that the community hub and facility together with the associated habitat creation that will accompany it and enhancement of the site will provide value and wider sustainability to the community that outweigh the flood risks.

It has been identified in the FRA that the building would be liable to flood in the event of a heavy rain or flood event. Therefore, this poses a risk to the potential users of the building and the building itself.

No Flood Response Plan (FRP) has been submitted alongside this application and this is a key document required for all new buildings constructed on Canvey Island.

The absence of a FRP represents an objection to the proposal. However, this matter can be adequately addressed by an appropriately worded condition. On this basis subject to such conditions, no objection is raised to the proposal.

### *Drainage*

The Framework states on several occasions including at paragraph 167 that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This includes ensuring that surface water is dealt with appropriately and does not increase the risk of surface water flooding for nearby sites.

Practice guidance states that generally, the aim should be to discharge surface runoff as high up the following hierarchy of drainage options as reasonably practicable:

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

Canvey Island has particular circumstances due to its flat topography, whereby all rain water that falls on the island is drained by gravity through a network of pipes and other watercourses to a number of pumping stations around the perimeter of the island where it has to be pumped over the sea wall.

The ground conditions on Canvey Island are London Clay which offers poor permeability for rainwater which combined with a high-water table severely reduces the effectiveness of items such as soakaways or other infiltration methods. For this reason, infiltration is not considered a suitable method for disposal of surface water.

The proposed community building would cover an area of approximately 130m<sup>2</sup> where the existing concrete base of the gun emplacement covers an area some 180m<sup>2</sup> in size, therefore comparatively the level of surface water runoff would not be increased through the erection of the community building. The raised decking area would increase this area by approximately 100m<sup>2</sup>. However, provided the area of ground underneath the decking is not covered with any new impermeable material rainwater hitting the decked area would run off similarly to the existing situation.

Subject to a condition requiring any hard surfacing underneath the decking of the proposed community building being SuDS compliant, it is not considered that the proposal would materially alter or make worse the existing surface water drainage situation insofar as the community building is concerned.

However, a scheme would be required in respect of surface water drainage for other impermeable surfaces such as the battery storage containers, covered pergola and garden storage containers. This could be adequately addressed by way of a suitably worded condition.

Although policies CC1, CC2 and CC3 of the emerging Local Plan carry little weight at this stage the proposal would be consistent with their aims.

## Conclusion and planning balance

The proposed development satisfies all relevant national and local planning policies and guidance and would enhance the facilities currently available to local residents and the biodiversity of the site. The proposal would also improve the appearance of the site. In doing so, the proposal respects the historic significance of the Scheduled Monument and would contribute to its setting.

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

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

- 3 No development shall take place, which in the interests of clarity includes demolition, ground works or construction of the development hereby approved at the application site, 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.

Reason: To ensure that the development as a whole is carried out in a way that causes minimal disturbance to the existing occupiers of the site, surrounding neighbours, users of the highway and the Scheduled Monument.

- 4 Prior to the first beneficial use of the community building hereby approved a full landscaping/tree planting scheme shall be submitted to and formally approved by the Local Planning Authority.

Such a scheme shall include full details of all proposed tree, shrub and flora planting, including species, size, siting, density, methodology and the proposed times of planting and planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment and management, schedules of plants, noting species, plant sizes and proposed numbers / densities.

Such a scheme shall also include full details of the proposed excavation/regrading works to establish a wetland meadow including existing and proposed topographies.

Such submitted landscaping scheme shall also make provision for the satisfactory screening of the battery storage modules as well as other storage containers proposed as part of the development together with what colour these containers will be.

Within one year of the first beneficial use of the community building all landscaping works shall be carried out in accordance with the approved landscaping scheme.

Any trees removed, dying or being damaged or becoming seriously diseased within five years of the date of this permission shall be replaced with trees of such size and species as may be formally approved by the Local Planning Authority.

REASON: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.

- 5 Prior to being made operational, a noise impact assessment report to investigate the potential for noise nuisance to occupants of surrounding residential properties from the approved battery storage units shall be submitted to and approved in writing by the local planning authority.

The detailed noise impact assessment shall be carried out by a suitably qualified acoustic consultant/engineer. Any required noise mitigation measures recommended shall be carried out in full prior to the first operation of the battery storage units and permanently retained as such thereafter.

Reason: To safeguard the amenities of surrounding occupants of nearby residential units.

- 6 Details of the surface water runoff from the community building and any new areas of hardstanding shall be submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. The surface water drainage system shall be installed in accordance with the approved details prior to the first beneficial use of the development and thereafter maintained at all times.

REASON: To ensure that hazards from surface water flooding are not exacerbated and because the details submitted were insufficient for consideration of this aspect of the proposal.

- 7 Prior to the first beneficial use of the community building, a Flood Response Plan shall be submitted to and approved by the local planning authority. Such approved Flood Response Plan shall be enacted and thereafter maintained and kept up to date.

REASON: To ensure the appropriate protection of occupiers of the building in the event of a flood.

- 8 Prior to their first installation details of all play and gym equipment to be installed shall be submitted to and approved by the Local Planning Authority.

REASON: To ensure the proposed equipment does not have a detrimental impact on the amenities of neighbouring residential properties.

- 9 Prior to their first use on site details or samples of the cladding to be used on the external surfaces of the proposed community building shall be submitted to and approved by the local planning authority.

REASON: To ensure a satisfactory form of development in sympathy with the proposed development and historic nature of the site.

- 10 The external surfaces of the development hereby approved shall be treated in accordance with the approved details.



REASON: In the interest of visual amenity.

- 11 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting that Order) the approved community building shall only be used as a meeting place and cafe for the principal use of the community and for no other purpose.

REASON: In order to preserve the amenity of nearby residential occupiers.

- 12 The use of the proposed community building hereby permitted shall only operate between the hours of 09:00 - 22:00 Monday to Sunday, and at no other times whatsoever.

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

- 13 Prior to first beneficial use of the community building the approved parking layout as depicted on Drawing No. 2006-WWA-00-XX-DR-L-0101 Rev PL06 shall be laid out and made available for use.

The approved parking shall thereafter be retained as such and used for no other purpose without the prior formal consent of the Local Planning Authority.

REASON: In order to ensure the provision of adequate on site parking facilities for the approved development.

- 14 The proposed electric vehicle charge point shall be provided within suitable proximity of the parking facilities and made operational prior to first beneficial use of the community building. Following installation, the charge point shall be retained as such thereafter and maintained in accordance with any manufacturer's recommendations.

REASON: To facilitate the use of electric vehicles by users of the development in the interest of sustainable transport.

- 15 Prior to the first beneficial use of the community building the approved cycle parking shall be provided and thereafter retained at all times.

REASON: To ensure appropriate cycle parking is provided and retained in the interest of supporting sustainable modes of transport.

- 16 The lighting scheme hereby approved shall be carried out fully in accordance with the approved plans and details as specified in the submitted External Lighting Report reference 7221/GM/RPT/01.

REASON: To achieve a suitably lit which would not have an adverse impact on the residential amenity of nearby residents.

- 17 Notwithstanding the submitted details in the External Lighting Report reference 7221/GM/RPT/01, external artificial lighting at the development shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals in the 'Guidance Notes for the Reduction of Obtrusive Light'. Lighting shall be minimised, and glare and sky glow prevented by correctly using, locating, aiming and shielding luminaires in accordance with the guidance notes.

REASON: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by lighting.

## Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and negotiating acceptable amendments to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for a revised scheme, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 Please note that a site notice was displayed in a publicly visible location at the site. Castle Point Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.
- 3 There is the opportunity to minimise damage to the property should it ever be flooded by incorporating flood resistance and resilience measures into the construction. For further information, search online for the publication "Improving the Flood Performance of New Buildings - Flood Resilient Construction" by the Department for Communities and Local Government (May 2007).
- 4 UK Power Networks advises the following:
  1. The distance between buildings and substations should be greater than seven metres or as far as is practically possible.
  2. Care should be taken to ensure that footings of new buildings are kept separated from substation structures.
  3. Buildings should be designed so that rooms of high occupancy, i.e. bedrooms and living rooms, do not overlook or have windows opening out over the substation.
  4. If noise attenuation methods are found to be necessary we would expect to recover our costs from the developer.

Other points to note:

5. UK Power Networks require 24 hour vehicular access to their substations. Consideration for this should be taken during the design stage of the development.
6. The development may have a detrimental impact on our rights of access to and from the substation. If in doubt please seek advice from our Operational Property and Consents team at Barton Road, Bury St Edmunds, Suffolk, IP32 7BG.
7. No building materials should be left in a position where they might compromise the security of the substation or could be used as climbing aids to get over the substation surround.
8. There are underground cables on the site associated with the substation and these run in close proximity to the proposed development. Prior to commencement of work accurate records should be obtained from our Plan Provision Department at UK Power Networks, Fore Hamlet, Ipswich, IP3 8AA.
9. All works should be undertaken with due regard to Health & Safety Guidance notes HS(G)47 Avoiding Danger from Underground services. This document is available from local HSE offices.

Should any diversion works be necessary as a result of the development then enquiries should be made to our Customer Connections department. The address is UK Power Networks, Metropolitan house, Darkes Lane, Potters Bar, Herts, EN6 1AG.

## ITEM 2

**Application Number:** 21/0813/FUL  
**Address:** Hobson And Sons Ltd Kenneth Road Benfleet Essex  
SS7 3AF  
(Cedar Hall Ward)  
**Description of Development:** Demolition of existing building and erection of 30  
residential apartments, landscaping and associated  
access and parking arrangements  
**Applicant:** Savannah Property Investments Ltd  
**Case Officer:** Mr Keith Zammit  
**Expiry Date:** 28.02.2022

---

### Summary

The application seeks the redevelopment of previously developed with 30 apartments. It is considered to be an acceptable proposal which would help address the shortfall in the council's housing supply and is therefore recommended for APPROVAL.

The application is presented to the committee due to the need for a section 106 agreement for various financial contributions to mitigate its impact on local services, as well as to ensure that the site makes an appropriate affordable housing contribution by providing three apartments as First Homes.

### Site Visit

The site is clearly visible from various public vantage points, so it is not considered necessary for members to make an accompanied site visit prior to determination of the application.

### Introduction

The application relates to a two-storey, flat-roofed building on the eastern corner of Kenneth Road and Kiln Road. It was occupied by a business manufacturing corporatewear before that company vacated the site in 2021. The site is largely hard surfaced, although it has an Oak tree on the western boundary with Kenneth Road, and there is a hedge on the southern boundary.

The site is bordered by residential curtilages to its north and east. Opposite the site to the south, across Kiln Road, is Thundersley Glen woodland, with the nearest access point just over 200 metres to the east along Kiln Road. Across Kenneth Road, to the west, is Thundersley Congregational Church.

There is a pedestrian crossing of Kiln Road outside the site.

### The Proposal

Permission is sought for the demolition of the existing building and the erection of a building containing 30 flats over three floors, made up of 21 two-bedroom flats and nine one-bedroom flats. A communal roof terrace is proposed, with some flats having their own private balcony.

The proposed external materials are red brick, light grey render, black and white weatherboarding, and red roof tiles.

A 30-space car park is proposed, with vehicular access from Kenneth Road at the northern end of the site. It has been confirmed by the applicant that the telegraph pole will be moved to accommodate the access.

## Supplementary Documentation

The application is accompanied by:

- o Arboricultural report
- o Environmental noise report
- o Sustainable drainage technical assessment proforma
- o Phase 1 desktop study (contaminated land)
- o Planning statement
- o Surface water and SuDS assessment
- o Transport statement
- o Tree protection plan
- o Financial viability assessment
- o Accommodation schedule

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

### Planning History

There have been various applications for works to the existing factory premises over the years although, as it is proposed to demolish the building and redevelop the site, these are not relevant to consideration of the current proposal.

### Relevant Government Guidance and Local Plan Policies

The site has a residential allocation in the adopted Local Plan. In the New Local Plan, it has no specific allocation.

National Planning Policy Framework (the Framework, 2019)

Local Plan (LP, 1998):

- EC2 – Design
- EC7 – Natural and semi-natural features in urban areas
- EC13 – Protection of wildlife and their habitats
- H7 – Affordable housing
- H9 – New housing densities
- H10 – Mix of development
- H13 – Location of development
- T8 – Parking standards

Residential Design Guidance (2013):

- RDG2 – Space around dwellings
- RDG3 – Building lines
- RDG4 – Corner plots
- RDG5 – Privacy and living conditions
- RDG6 – Amenity space
- RDG9 – Energy & water efficiency and renewable energy
- RDG10 – Enclosure and boundary treatment
- RDG11 – Landscaping
- RDG12 – Parking and access
- RDG13 – Refuse and recycling storage
- RDG16 – Liveable homes

New Local Plan Pre-Submission (NLP, 2019):

- SD2 – Development contributions
- HO3 – Housing mix

HO4 – Securing more affordable housing  
TP7 – Parking provision  
DS1 – General design principles  
DS2 – Landscaping  
CC1 – Responding to climate change  
NE5 – Ecologically sensitive and designated sites

## **Consultation**

Legal services – The unilateral undertaking offered is now acceptable.

Planning Policy – Three First Homes are now offered as an affordable housing contribution which is a marked improvement on the initial proposal and is welcomed.

Refuse and Recycling – comments on revised plans awaited

Lead Local Flood Authority – holding objection raised due to:

- o Lack of information around the treatment of surface water from the parking area
- o The drainage strategy does not demonstrate that all storage features can half empty within 24 hours for the 1 in 30 year +40% climate change critical storm event
- o Evidence of a viable connection route is required

Updated response 18/1/22: The applicant still has not sufficiently addressed the treatment aspect.

Environmental Health – Conditions recommended to ensure that the indoor and outdoor living areas of dwellings are not exposed to excessive noise, amenity of neighbouring residents protected (through a construction management plan) and that lighting does not adversely affect surrounding residents. Request that internal noise transmission is attenuated to at least 5dB above the Building Regulations value.

County Education – comments on revised plans awaited. The initial consultation response sought a contribution of £69,072 for primary education provision and £2,334 for improvements at Hadleigh Library (the primary education figure is expected to be revised downward as the revised plans have more one-bedroom flats and fewer two bedroom flats).

NHS England – Approximately 72 new residents are anticipated from the development which could not be absorbed by existing GP practices in the area. Therefore, a contribution of £11,270 is requested to increase the capacity of Essex Way surgery. No update to this comment following the revised plans.

Anglian Water – No adverse comments. The Lead Local Flood Authority should be consulted.

County Highways – No objection with conditions suggested.

Essex Police – Would like to see the development achieve Secured by Design accreditation.

## **Public Consultation**

The following comments have been made in response to neighbour notification, press and site notices, following the submission of revised plans on 22<sup>nd</sup> December 2021:

- o The entrance is too close to the bus stop on the opposite side of Kenneth Road, more accidents and public safety issues would arise
- o Additional on-street parking in surrounding streets
- o Additional pressure on NHS surgeries/schools

- o Additional pressure on sewerage infrastructure
- o Insufficient green space
- o No environmental features such as solar panel/heat exchanger boiler
- o A lesser number of properties would be a better redevelopment
- o Overlooking/dominance of nearby properties
- o We would like the trees on the eastern boundary retained
- o No protection from vehicles entering adjoining gardens from car park
- o Nearby properties have been flooded by surface water
- o Car park ought to be gated and the site secured to provide security for adjacent properties
- o There have been problems with gulls nesting on the roof of the existing building, which could affect the proposed roof terrace

## **Comments on Consultation Responses**

- o There is no local plan policy that the council will seek sound attenuation between flats that is over and above Building Regulations requirements so this cannot be required.
- o There is no adopted local plan policy requiring provision of microgeneration such as solar panels so while this would be an attractive feature it cannot be insisted upon.
- o The likelihood of vehicles accidentally entering adjoining gardens from the car park is highly unlikely, however any damage from such an occurrence would be a civil matter
- o It is noted that neighbouring properties in Bradley Avenue were burgled with access gained via the Hobsons Factory. However, the proposal would not make this situation any worse and while improvements are always desirable there is no policy basis on which to require the car park to be gated or fenced off.
- o It would be for the management of the building to install bird deterrent measures if these were necessary
- o The conditions suggested by the highway authority will be incorporated into any grant of planning permission where reasonable and necessary
- o Other matters are considered in the evaluation of the proposal

## **Evaluation of Proposal**

The starting point for determining a planning application is the National Planning Policy Framework (NPPF) and those saved policies within the council's Adopted Local Plan (1998), alongside supporting policy documents and SPDs. In October 2020, the council submitted to the Planning Inspectorate its new Local Plan (2018-2033) for examination. The plan sets out the council's aims and objectives for the borough over the 15 year period and includes policies to support these ambitions. A post-hearings letter has now been issued by the inspector following conclusion of the examination hearings that took place in June 2021. This states that subject to main modifications the plan is capable of being found legally compliant and sound. Accordingly, the council is now giving policies contained within the plan not subject to further public consultation increased 'weight' when determining planning applications. The degree of increased weight afforded them will depend on the level of objection they received during the examination hearings and Regulation 19 consultation.

The site is residentially allocated in the adopted LP and therefore the proposal removes a nonconforming use from a residential area. Consequently, there can be no objection in principle to a residential redevelopment of the site. The main considerations with this application are:

- o Housing mix
- o Design
- o Impact on neighbours
- o Living conditions for future occupiers
- o Parking implications

- o Drainage
- o Effect on wildlife habitat
- o Developer contributions

### *Housing mix*

LP policy H10 seeks an appropriate mix of dwelling types in proposals for residential development, to satisfy a range of housing requirements. This is expanded upon in emerging NLP policy HO3 which states that sites between 0.5 and 4ha should comprise at least 35% one- or two-bedroom homes for general needs.

The site is 0.27ha in area therefore falls outside of the scope of policy HO3. Nevertheless, this development would consist entirely of one- and two-bedroom homes, which goes towards meeting a need for smaller homes for smaller households. It is acknowledged that no homes with three or more bedrooms would be provided on this site, but on smaller housing sites such as this it is recognised that the potential for provision of all types and sizes of housing is limited. There is therefore no objection to the proposal based on housing mix.

LP policy H9 states that the optimum density for any site will be the number of dwellings that can be accommodated without the development being harmful to the character of the site and its surroundings, provides a layout that is both functional and attractive with adequate building lines, landscaping, setting for the buildings and space around them. This is best assessed by considering the proposal against the council's Residential Design Guidance.

LP policy H13 requires developments of flats to be located on or near main roads. The rationale for this requirement is not immediately clear from the policy or its supporting text but a commonly held view is that main roads tend to be locations with higher ambient noise levels that can more readily accommodate the denser nature of residential development that flats bring. Kiln Road is the main east-west route through the district, so this criterion is satisfied.

### *Design*

The Framework seeks, at paragraph 126, the creation of high-quality, beautiful and sustainable buildings. Paragraph 130 goes on to require developments to function well and add to the overall quality of the area, be visually attractive as a result of good architecture, be sympathetic to local character including the surrounding built environment and establish or maintain a strong sense of place.

LP policy EC2 seeks a high standard of design in all new buildings, having regard to the scale, density, siting, design, layout and external materials of development, sentiments echoed by emerging NLP policy DS1. This approach is consistent with the Framework.

LP policy EC2 also seeks the treatment of spaces around buildings with appropriate hard and soft landscaping. NLP policy DS2 seeks the provision of appropriate landscaping, and expects native species to be provided, of appropriate growth habits, with sustainable drainage being incorporated into landscaping schemes if required.

The council's Residential Design Guidance at RDG11 deals with landscaping, mirroring the requirements of NLP policy DS2.

The existing building is utilitarian in appearance, as one would expect a factory premises to look. It contrasts with the adjacent domestic scale architecture, but it is low-rise, set well back from the roads by about 12 metres and is an established feature.

The proposed building has accommodation over three floors and is closer to the highway boundaries, only set back from the boundaries about five metres. This situation has arisen because the applicant has sought to place car parking at the rear of the proposed building, where the existing building has parking in front. While a greater set-back from the highway would be preferred, this is nonetheless an improvement on the initial proposal that officers were presented with, which showed a building only two or three metres from the highway at some points. The current proposal allows for some landscaping as a buffer. A detailed landscaping scheme could be worked up by condition.

Architecturally, the proposed building is considered to sit quite well in relation to the surroundings. The maximum overall height of 12 metres is not felt to be excessive. The elevation drawings show that the building would have a finished ground floor level set slightly below the level of the adjacent highways, an effect that is most pronounced at the southern Kiln Road frontage, where the finished ground floor level would be around 1.7 metres lower than the highway. Overall, it is not considered that this scheme would be unduly prominent or dominant in relation to the surrounding street scene. In architectural terms, there is no design objection.

LP policy EC7 requires natural and semi-natural features and open spaces within urban areas to be retained wherever possible, to safeguard their physical, visual, recreational and wildlife value. This is consistent with the Framework, insofar as it requires appropriate and effective landscaping for development.

There is a mature Oak tree on the western boundary of the site, which is a feature that it is desirable to retain. The indicative landscaping on the proposed layout suggests retention of this tree, but any detailed landscaping scheme would be expected to make this tree a key retained landscaping feature.

RDG2 of the council's Residential Design Guidance requires the space around all new development to be informed by the prevailing character of space around dwellings. In the case of buildings containing flats or specialist residential development, a space equivalent to 25% of the width of the building should be provided.

The building measures 54 metres across its long Kenneth Road frontage. Isolation spaces totalling 13.5 metres should therefore be provided. The spaces to either side are 7.8 metres and 6.4 metres which add up to 14.2 metres in compliance with the guidance.

Along the shorter Kiln Road frontage, the building width is approximately 28 metres. Isolation spaces totalling 7 metres should therefore be provided. The spaces provided to either side are 9.1 metres and 3.1 metres, so this clearly satisfies RDG2. No objection is therefore raised to the proposal based on a lack of adequate setting.

RDG3 requires development to be informed by the prevailing building lines to the public realm it faces and not to disrupt exceptionally strong building lines.

The proposal responds well to the building lines formed by adjacent development to the north and west. It is not considered to be out of step with its surroundings. No objection is therefore raised based on RDG3.

RDG4 requires development on corner plots to be designed to turn corners, providing active frontages to all elevations that face the public realm. The proposal performs well against this criterion.

RDG10 deals with enclosure and boundary treatment. It seeks public and private space to be clearly defined with means of enclosure not dominating the public realm.



The plans indicate a landscaped front boundary, which is a good example to set in this prominent location. Further details of this can be agreed by condition.

The other boundaries are not shown in detail, but it is expected that standard timber fencing would be used, to which officers have no objection, provided that adequate visibility is maintained at the vehicular access to Kenneth Road. Again, details can be agreed by condition.

### *Impact on neighbours*

RDG5 deals with privacy and living conditions, requiring a distance of 9m to be achieved between first floor windows and the boundaries with adjoining sites, increasing to 15m at second floor level.

The second floor east facing windows (apartments 26, 27 and 30) just manage to meet this distance. The site plan indicates that trees close to the east boundary would be retained where possible to prevent overlooking of properties in Bradley Avenue. This is not strictly necessary, and officers feel that there would be 'landscaping tension' due to the trees overhanging some of the parking spaces, leading to their eventual removal. This part of the proposal needs more thought when a detailed landscaping scheme is prepared but given that the proposal complies with design guidance on overlooking, an objection on this basis would not be warranted regardless of whether the trees are retained.

The windows in the end walls would need to be the subject of a condition requiring them to be obscure glazed and with limited opening.

The proposed roof garden would be set some 21m from adjoining gardens to the east which exceeds the minimum 18m distance in design guidance for development at third floor level in respect of overlooking. To the north, the roof of the proposed building would prevent overlooking of neighbouring properties. There is therefore no need for additional measures to protect the privacy of neighbouring residents in relation to the proposed roof terrace.

Balconies to apartments 9 and 19 would need a condition for side screens to reduce overlooking of adjoining gardens (to the rear elevation of the building only).

Privacy of balcony users is also an important consideration. This matter is addressed at RDG6. Some balconies in the development would be close to each other so inter-balcony overlooking needs to be thought about, and privacy of balcony users from passers-by in the street or the car park requires consideration. The balconies shown on the elevations appear to have clear glazing surrounding them and in the experience of officers this leads to occupiers erecting their own privacy screening and degrading the appearance of the development. Balcony enclosures should be opaque to reduce the likelihood of occupiers erecting their own privacy screening. This also obscures the view of items stored on the balcony which helps to keep the development looking attractive. A condition is needed to require balcony construction/material details to be submitted and approved separately.

RDG3 requires proposals not to lead to excessive overshadowing or dominance of adjacent properties. The building footprint is situated such that it would not unduly overshadow or dominate adjacent residents. The proposal is set further away from the rear boundary than the existing building so offers opportunity for betterment in this respect.

### *Living conditions for future occupiers*

RDG16 states that all new dwellings should provide appropriate internal space and circulation space which reflects the character of the surrounding area and current best practice. The

proposal meets national space standards which are an example of best practice. No objection is therefore raised to the proposal based on RDG16.

RDG6 requires amenity space provision of at least 8m<sup>2</sup> per habitable room for flats, with a minimum of 25m<sup>2</sup> per flat. Balconies with a floor area of 5m<sup>2</sup> and depth of 1.5m may be included in this requirement.

Flats 9, 10, 11, 12, 13, 16, 21, 22, 23 and 24 have a balcony in accordance with RDG6. This does not provide 25m<sup>2</sup> per flat, but nonetheless is a usable outdoor area, which provides these flats with a good level of amenity.

Ground floor flats 1 and 2 have a semi-private area separated from the car park by a hedge, which they could use in lieu of a balcony.

That leaves the remaining flats with no balcony or private area, or they have a balcony that does not meet the council's design guidance due to it being under 5m<sup>2</sup>. These 18 flats need a communal area. This should have an area of 450m<sup>2</sup>. Only 230m<sup>2</sup> is provided, about half the size it should be. It nonetheless would provide a useable outside space for flats that do not have any. The shortfall in amenity space is a negative aspect of the development which will need to be factored into the overall planning balance.

### *Parking*

LP policy T8 requires the provision of parking in accordance with adopted standards. The currently adopted standards are the 2009 county parking standards which require the provision of a minimum of one off-street parking space for one-bedroom properties and a minimum of two off-street parking spaces for properties with two or more bedrooms (no distinction between houses and flats). Visitor parking should be provided at a rate of 0.25 spaces per dwelling (rounded up).

NLP policy TP7 also requires parking to be provided having regard to adopted standards but with the rider that maximum parking standards will only be applied where there are exceptional circumstances to justify such restrictions, to be consistent with paragraph 108 of the Framework. The residential parking standard is minimum, so this is not relevant here.

The proposal requires the following minimum provision:

21 x 2 bed flats = 42 spaces  
9 x 1 bed flats = 9 spaces  
Visitors 0.25 x 30 = 7.5 = 8 spaces

Total 59 spaces

A 30-space car park is proposed. This is approximately half the parking needed according to adopted standards. The parking standards document states, however, that reductions of the vehicle standard may be considered if there is development within an urban area that has good links to sustainable transport. The site is not particularly conveniently located for rail transport. It does, however, benefit from being located at a junction of several bus routes serving nearby towns as well as Benfleet and Rayleigh railway stations. This is a site with good links to sustainable transport so a reduced level of parking provision of one space per flat with no visitor parking is appropriate and a refusal based on a lack of parking would not be supported on appeal. A parking provision on the basis of one space per flat would also be wholly consistent with council practice in recent years for flatted developments.

The closest side streets, Bradley Avenue and Close, have residents' parking. It is acknowledged that this does not operate 24 hours a day, as it only seeks to prevent parking during the working day. It does, however, make parking in the adjacent streets less attractive for flat dwellers, which is a concern repeatedly raised by those living nearby.

Storage for 34 cycles is provided which is in accordance with the parking standards (one per dwelling for residents plus one for every eight dwellings for visitors).

There is no objection to the proposal based on the level of car or cycle parking.

RDG12 requires parking not to be detrimental to visual or residential amenity. The parking is to the rear of the building so would not harm visual amenity. Neighbouring gardens would have a car park adjacent to their boundaries which could be considered a little unneighbourly, but this has to be balanced against the improvement to residential amenity from the building being set further away from neighbouring properties. On balance, it is not felt that there would be a significant detrimental impact on neighbouring residential amenity.

### *Drainage*

The Framework requires that proposals do not increase flood risk elsewhere which, in terms of surface water, means ensuring that this is sustainably managed and does not cause excess runoff to the highway or adjacent sites.

Planning Practice Guidance sets out a hierarchy of drainage options with infiltration being the preferred method of surface water disposal followed by discharge to a surface water body before connection to surface water sewers or other drainage systems can be considered.

Ground conditions are not suitable for infiltration (this is based on a borehole record at nearby Seevic college) and there is no surface water body on or in the vicinity of the site to which surface water could be discharged.

It is therefore proposed that surface water runoff will be managed through a rain garden and attenuation storage with attenuated discharge to the surface water sewer at 1 litre per second.

At the time of writing there is an unresolved objection from the Lead Local Flood Authority based on:

- o Lack of information around the treatment of surface water from the parking area
- o The drainage strategy does not demonstrate that all storage features can half empty within 24 hours for the 1 in 30 year +40% climate change critical storm event
- o Evidence of a viable connection route is required

On the final and substantive point, the sewer map for the area has been examined and this shows no surface water sewer in the highway immediately adjacent to the site. The nearest public sewer is approximately 14m away. It is not uncommon, however, for sites to have a private surface water drain leading to the public network, which does not appear on maps, so it is quite possible that the sewer extends up to the corner of the site. In the worst-case scenario, where the surface water sewer could not be connected to, as a last resort the sewerage undertaker has in the recent past accepted connections of surface water to the foul sewer, which is an option in the drainage hierarchy that appears in Planning Practice Guidance.

The LLFA has examined further information submitted by the applicant on 13/1/2022 and now advises that only the treatment aspect still has not been sufficiently addressed. This matter can be suitably dealt with by condition on any grant of planning permission.

Subject to such a condition there is no objection to the proposal based on drainage.

### *Effect on wildlife habitat*

LP policy EC13 seeks to avoid development that is prejudicial to the interests of all wildlife and their habitats. This is inconsistent with the Framework because it does not allow for the hierarchical approach at paragraph 180 to be undertaken. In this instance, emerging NLP policy NE5 is more relevant because it seeks first to avoid impacts to biodiversity by locating development on sites where there would be less harmful impacts, then to mitigate and manage the impact of a development on a site's biodiversity, then, as a last resort, to provide compensation.

The site itself is not of any significant wildlife interest.

In terms of the wider area, it has been identified that population growth in Essex is likely to significantly affect wildlife habitat sites on the coast through increased recreational pressure. To counter this, the council has, along with other districts in the county, adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) which sets out a tariff applied to all net new residential development within the zones of influence of the habitat sites. For 2021/22 this is £127.30 per dwelling. Once collected this goes into a fund to avoid and mitigate adverse effects from increased recreational disturbance. Alternatively, the developer can commission their own Appropriate Assessment.

The proposal lies within two zones of influence: that of the Benfleet and Southend Marshes and that of the Blackwater estuary. The developer has offered a unilateral undertaking to pay a RAMS contribution, which the borough solicitor says is acceptable, but this will need to be incorporated into a S106 agreement if other developer obligations are required.

### *Developer contributions*

LP policy H7 states that the council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes, but does not specify any figures. In 2009 the council adopted a Developer Contributions Supplementary Planning Document with a requirement for 35% of dwellings on sites of 15 units or more to be affordable. Emerging NLP policy HO4 raises this figure to 40% in Benfleet, Hadleigh and Thundersley.

Paragraph 48 of the Framework states that local planning authorities may give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant emerging policies with the policies in the Framework.

The Castle Point New Local Plan was submitted in October 2020 and has been the subject of hearing sessions. It is therefore at an advanced stage in its preparation. Regarding the policy on affordable housing, outstanding matters have been resolved through the examination process, and there are therefore no outstanding matters, particularly as they relate to flatted development for general occupation. The principal issue was in relation to specialist accommodation for older people which is not relevant to this application.

Paragraph 61 of the Framework expects a local housing needs assessment to be carried out to determine the need for housing, including, as detailed in paragraph 62, the need for affordable housing. Paragraph 63 of the Framework expects that where a need for affordable housing is

identified then provision should be made for this on-site unless an off-site provision or an appropriate financial contribution in lieu can be robustly justified.

Paragraph 65 is clear that 10% of the total number of homes on a major development site (sites of 10 homes or more) should be made available for affordable home ownership.

Paragraph 64 indicates that for sites where vacant buildings are being reused or redeveloped any affordable housing requirement should be reduced by a proportionate amount. Details on calculating vacant building credit are set out in the related Planning Practice Guidance.

#### Policy H7 of the Adopted Local Plan

Policy H7 of the Adopted Local Plan sets out the requirement for affordable housing provision in Castle Point on appropriate housing development schemes. The policy itself does not specify a percentage requirement (although 20% is suggested in its reasoned justification). The policy instead indicates that the requirement will be determined on a case-by-case basis dependent on the scale of the development, its location and any substantial costs associated with other infrastructure requirements.

#### Developer Contributions Guidance SPD

This SPD, adopted by the Council in 2009, establishes the requirement for affordable housing based on need and viability considerations at that time. It indicates that 35% of total housing provision on a site should be affordable. This has been used in the determination of relevant planning applications since that time, with national policy previously in PPS3, but in the Framework since 2012 providing the threshold for applicable applications.

#### Policy HO4 of the emerging Local Plan

Policy HO4 of the emerging Local Plan was prepared having regard to the South Essex Strategic Housing Market Assessment Addendum 2017, which calculated the need for housing, and the Local Plan Viability Assessment 2018, updated in 2020. This evidence determined a need for 353 homes per annum in Castle Point to be affordable. Balancing the need against viability considerations policy HO4 sets out a requirement for 40% affordable housing on sites in Benfleet, Hadleigh and Thundersley. Consistent with the threshold in the Framework, this policy requirement applies to all major developments comprising or including residential uses.

#### The Proposed Development

The application site is located in Thundersley. This is an area of the borough where the Local Plan Viability Assessment 2018, updated in 2020, indicates that it is appropriate to seek contributions towards affordable housing at 40%.

Policy H7 of the Adopted Local Plan itself does not specify a percentage requirement for affordable housing, and therefore the emerging Local Plan carries weight in resolving this issue of clarity, particularly as it is based on clear evidence prepared in accordance with the Framework and the associated Planning Practice Guidance. It is therefore appropriate to place substantial weight on this policy requirement in the determination of this application.

Policy H7 does however set out considerations as to how the requirement may be adjusted through negotiations. These considerations are:

- Scale,
- Location, and
- Other infrastructure costs.

The Framework is clear that affordable housing is a consideration for major developments comprising or including residential uses e.g. schemes of 10 homes or more. This proposal includes 30 homes, and therefore the scale for securing affordable housing is appropriate.

In relation to location, the council's viability evidence indicates that developments in the Benfleet, Hadleigh and Thundersley area can accommodate 40% affordable housing. It is therefore appropriate to consider securing affordable housing on this site.

Regarding other infrastructure costs, these will be determined in consultation with other service and infrastructure providers and will need to be balanced against the need for affordable housing once all the relevant information and requests have been received. It should be noted that the Local Plan Viability Assessment 2020 made an allowance of £17,500 for S106 infrastructure contributions (Table 5.17), in reaching the conclusions that 40% affordable housing is an appropriate requirement. It is not envisaged that the 'ask' of the service and infrastructure providers will exceed the identified requirement, and consequently, there is no requirement to adjust the affordable housing requirement to reflect other infrastructure costs.

On the basis of the above considerations, which reflect the requirements of policy H7 of the Adopted Local Plan whilst drawing on the clarity and consistency with national policy set out in the emerging plan which has been subject to examination, a 40% requirement for affordable housing is the starting point for consideration at this site.

It is however recognised that the site is previously developed land and is currently occupied by a vacant building which previously operated as a factory. The application of a vacant building credit would therefore be consistent with paragraph 64 of the Framework, and the associated Planning Practice Guidance.

The Financial Viability Assessment accompanying this application indicates that vacant building credit applies to 91.56% of the new building proposed. This means that affordable housing can only be sought on 8.44% of the new building, which equates to approximately 1 unit.

Paragraph 65 of the Framework, however, requires, where major development involving the provision of housing is proposed, at least 10% of the total number of homes to be available for affordable home ownership. This would be 3 homes in the proposed scheme. Paragraph 65 lists exemptions to this 10% requirement, but these do not include sites where vacant building credit is applicable.

Following negotiations, the applicant has increased his affordable housing offer to provide three First Homes on the site, which is a marked improvement on the initial proposal. This is welcomed and meets the 10% minimum required set out in the Framework.

The discount for First Homes is a minimum of 30%. The council has not set a local alternative to this, so the discount for this scheme should be 30%. This will need to be worked into the eventual section 106 agreement for this development, should the application be approved.

In terms of other infrastructure, NLP policy SD2 states that the council will seek appropriate contributions from qualifying developments in order to support the delivery of new or improved infrastructure necessary to deliver the sustainable development promoted in the plan. The plan includes an allowance for windfall sites, of which this is one, so it is reasonable to expect these sites to make contributions to infrastructure provision, should the relevant providers state that this is necessary.

Contributions towards primary education provision, library provision and GP provision have been requested by the relevant providers, to mitigate the impact of the proposed development on local

facilities. The applicant has not objected to this. The figures in the consultee comments may be revised downwards due to a shift in the balance of one- and two-bedroom flats.

Subject to these matters being included in the section 106 agreement there is no objection to this aspect of the proposal.

### *Other matters*

RDG13 seeks the provision of safe, adequate and suitable means of refuse and recycling storage. The proposed bin room is at the rear of the building with access directly onto the car park. Officers are informed that the council refuse and recycling vehicle could reverse into this development so the location of the bin store would not be a problem. Written comments on this matter have not been forthcoming but officers understand that the layout shown would not preclude the development from being serviced by refuse collection teams. There is therefore no objection to the proposed arrangements.

RDG9 seeks the provision of measures for achieving high levels of energy and water efficiency in developments. It also infers that renewable energy systems should be integral to the design of development and not an afterthought. At the present time there is no adopted LP policy which would enable the council to insist on the provision of measures within the development to reduce the consumption of water and energy, or the provision of on-site microgeneration, however, if and when the NLP is adopted then policy CC1 will provide a basis for this.

### **Conclusion and planning balance**

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

- o approving proposals that accord with an up-to-date development plan without delay; or
- o where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
  - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

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

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

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

The proposal would provide a benefit in terms of a boost to housing supply of 30 additional dwellings. Three of these housing units would also be for affordable home ownership. It has also been identified as having a negative aspect inasmuch as the level of communal amenity space provision falls short of what is set out in RDG6. This objection is consistent with the guidance set out in Chapter 12 of the Framework, which is concerned with achieving well-designed places.

The boost to housing supply and provision of some much needed affordable homes at a time of high housing demand carries a fair amount of weight in the overall planning balance and is considered to outweigh the negative aspect of the proposed development.

It is therefore recommended that the application be approved.

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 planning permission is **GRANTED** subject to the applicant entering into an agreement under section 106 of the Town and Country Planning Act 1990 to secure:

- o the provision of three onsite affordable housing units and financial contributions towards primary education, library services, RAMS and GP provision

and 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 This permission shall be read in conjunction with the contemporaneously dated agreement entered into under section 106 of the Town and Country Planning Act 1990.

REASON: To ensure the provision of:

- (i) an appropriate contribution towards the provision of affordable housing on-site,
- (ii) an appropriate financial contribution towards primary education and library services as determined by the local education authority.
- (iv) an appropriate healthcare contribution as determined by NHS England.
- (v) an appropriate financial contribution towards the Recreational Disturbance Avoidance Mitigation Strategy (RAMS).

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

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

- 4 No development shall take place, including any ground works or demolition, until a construction management plan has been submitted to and approved in writing by the local



planning authority. The approved plan shall be adhered to throughout the construction period. The plan 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
- Control measures for dust, noise and vibration
- Lighting
- Restriction of hours of work and all associated activities audible beyond the site boundary to 07:00-18:00 Monday to Friday, 08:00-13:00 Saturdays and no works to be undertaken on Sundays or Bank Holidays
- Advance notification to neighbours and other interested parties of proposed works
- Public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works

REASONS:

- To ensure that on-street parking of contractors' vehicles in adjoining streets does not occur
- To ensure that loose materials and spoil are not brought out onto the highway in the interest of highway safety
- To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site

- 5 No development shall take place, including any ground works or demolition, until a landscaping scheme has been submitted to and approved in writing by the local planning authority. Such a scheme shall include planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers/densities, and details of existing trees to be retained together with measures for their protection during construction (including the demolition of the existing building).

Any proposed planting shall be set sufficiently back from the highway so as to ensure that the future outward growth of the planting does not encroach upon the highway.

All landscaping works forming part of the approved scheme shall be carried out in accordance with the approved scheme prior to occupation of the development.

Any tree or shrub contained within the approved landscaping scheme dying or becoming damaged, diseased or uprooted within 5 years of the development being occupied shall be replaced by a tree or shrub of a similar size and species, or such other species as may be agreed in writing with the local planning authority.

REASON: To ensure a satisfactory standard of landscaping in the interest of visual amenity and to ensure the retention of landscaping features that contribute to the ambience of the area.

- 6 Prior to commencement of construction of the approved building, details shall be submitted to and approved in writing by the local planning authority of measures to ensure that no vibration from road traffic is transmitted through the structure and fabric of the building into the dwelling units so as to cause a vibration dose value of greater than 0.4m/s (1.75) 16 hour day-time or 0.26 m/s (1.75) 8 hour night-time as defined by BS 6472 (2008). The development shall be constructed in accordance with the approved details.

REASON: To ensure that the amenities of future occupiers are protected.

- 7 Prior to construction of the development above foundation level, a scheme of acoustic insulation shall be submitted to and approved in writing by the local planning authority. All habitable rooms exposed to external road traffic noise in excess of 55dBA Leq 16 hour (free field) during the day (07:00 to 23:00 hours) or 45dBA Leq 8 hour (free field) at night (23:00 to 07:00 hours) shall be subject to sound insulation measures to ensure that all such rooms achieve an internal noise level of 35dBA Leq 16 hour during the day and 30dBA Leq 8 hour at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures are able to be effectively ventilated without opening windows. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

REASON: To ensure that the amenities of future occupiers are protected.

- 8 Prior to construction of the development above foundation level, a scheme to ensure that the maximum day time noise level in outdoor living areas exposed to external road traffic noise does not exceed 50dBA Leq 16 hour [free field] shall be submitted to and approved in writing by the local planning authority. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

REASON: To ensure that the amenities of future occupiers are protected.

- 9 Prior to construction of the approved building above foundation level, details of all materials to be used on the external surfaces, and on any hard standing, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

REASON: In the interest of visual amenity and because the details submitted were insufficient for consideration of this aspect of the proposal.

- 10 The windows noted as obscure on the first and second floor plans shall be -
- (i) obscure-glazed to at least level 3 on the Pilkington Scale (or such equivalent as may be agreed in writing with the local planning authority); and
  - (ii) non-opening, unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed

and retained as such thereafter.

REASON: In order to prevent overlooking of adjacent residential properties.

- 11 Prior to first occupation of the development, a scheme to:
- reduce overlooking of adjacent residential properties from the proposed balconies, and
  - reduce overlooking between balconies within the development
- shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first occupation of the development and thereafter retained at all times that the development is occupied.

REASON: To ensure adequate privacy and amenity for adjacent residents and occupiers of the development.

- 12 The balconies shall be enclosed with opaque material prior to first occupation of the development, details of which shall first be submitted to and approved in writing by the local planning authority. Any subsequent change to the approved material shall only take place with the written agreement of the local planning authority.

REASON: To provide privacy for residents of the development and to prevent items stored on the balconies from being visible externally, in the interest of visual amenity.

- 13 Prior to the laying of any hard standing for the car park, a scheme for the provision of electric vehicle charging facilities shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in its entirety prior to first occupation of the development and thereafter retained.

REASON: To enable the charging of electric vehicles in accordance with government guidance in the National Planning Policy Framework.

- 14 Prior to first occupation of the development, the approved vehicle parking spaces shall be provided, hard surfaced and drained, together with properly constructed vehicular access to the highway, all in accordance with the approved plans and details. The proposed vehicular access shall be reconstructed to a width of 5.5m straight for at least the first 6.0m within the site. The redundant vehicle access points on Kenneth Road shall be closed and the footway, kerbing and verge reinstated prior to first occupation of the development. Following their provision, all parking spaces shall be retained for the parking of vehicles and not used for any other purpose.

REASONS:

- To ensure adequate space for parking off the highway
- To ensure that all vehicles using the private drive access do so in a controlled manner
- To ensure that opposing vehicles may pass clear of the limits of the highway, and
- To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway

all in the interest of highway safety.

- 15 Prior to first occupation of the development, the approved refuse storage area shall be provided and made available for use. Thereafter, this facility shall be retained for its approved purpose.

REASON: To ensure the continued availability of suitable refuse storage facilities in the interest of visual amenity and the amenity of future occupiers of the development.

- 16 Prior to first occupation of the development, the approved cycle storage facility shall be provided and made available for use. Thereafter, this facility shall be retained for its approved purpose.

REASON: To ensure the continued availability of cycle storage in the interest of sustainable travel and taking into account the low level of parking provision and the need to ensure that the dwellings are suitable for occupation by non-car owners.

- 17 Prior to first occupation of the development, the developer shall be responsible for the provision, implementation and distribution of a Residential Travel Information Pack for

sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator. These packs (including tickets) are to be provided by the developer to each dwelling free of charge prior to occupation.

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

- 18 External artificial lighting at the development shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals in the 'Guidance Notes for the Reduction of Obtrusive Light'. Lighting shall be minimised and glare and sky glow prevented by correctly using, locating, aiming and shielding luminaires in accordance with the guidance notes.

REASON: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by lighting.

- 19 Prior to first occupation of the development, details of all proposed boundary treatments shall be submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. The approved boundary treatments shall be erected prior to first occupation of the development.

REASON: To ensure that any boundary treatment is in keeping with the character of the area.

- 20 Prior to construction of the approved development above foundation level, details of surface water drainage, including the treatment of surface water, shall be submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. The development shall thereafter be drained in accordance with the approved details prior to occupation.

REASON: In the interest of preventing an increase in the risk of surface water flooding to this and adjacent sites and to protect water sources and biodiversity.

## **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.