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Angela Hutchings
Chief Executive

AGENDA

Committee: DEVELOPMENT MANAGEMENT

Date and Time: Tuesday, 17th October 2023, at 7.00pm

Venue: Council Chamber, Council Offices

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

Membership: Councillors Bowker (Chairman), Greig (Vice-Chairman), Acott, Anderson, Barton-Brown, Howlett, Lillis, C. Sach, Skipp and J. Thornton.

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

Canvey Island Town Councillor: S. Sach

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

Enquiries: Cheryl Salmon, ext. 2454

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 3rd October 2023 is attached.

4. Public Speakers

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

5. Deposited Plans

The report is attached.

	Application No	Address	Page No
1	23/0104/OUT	Land South of Daws Heath Road, Thundersley, Benfleet (Victoria Ward)	1

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DEVELOPMENT MANAGEMENT COMMITTEE

TUESDAY 3RD OCTOBER 2023

PRESENT: Councillors Bowker (Chairman), Acott, Anderson, Lillis, Mountford, C. Sach, Savage, Skipp and J. Thornton.

SUBSTITUTE MEMBERS PRESENT: Councillors Mountford (for Councillor Howlett) and Savage (for Councillor Barton-Brown).

CANVEY ISLAND TOWN COUNCIL: None.

ALSO PRESENT: Councillors Dearson, Knott and A. Thornton.

APOLOGIES: Councillor Greig (Vice Chairman), Barton-Brown and Howlett. Canvey Island Town Councillor S. Sach also gave his apologies.

9. MEMBERS' INTERESTS

In relation to Agenda Item 5(4), Councillor Skipp declared a non-pecuniary interest as he was a member of Castle Point Leisure.

In relation to Agenda Items 5(1) and 5(3) Councillor J Thorton stated that she had received representations from local residents about the applications which she had forwarded on to Planning Officers.

In relation to Agenda Items 5(2) and 5(3) Councillor Savage stated that he had been informed that he did not need to declare an interest as a former employee of Shell but wanted to make his association known in the interests of being open, honest and transparent.

10. MINUTES

The Minutes of the meeting held on 5th September 2023 were taken as read and signed as a correct record.

11. PUBLIC SPEAKERS

Agenda Item 5(1) – Mr Choi in objection and Mr Bradley in support.

Agenda Item 5(2) – Mr Thornes in objection and Mr Mahon in support.

Agenda Item 5(3) – Mr Thornes in objection and Mr Mahon in support.

12. DEPOSITED PLANS

(a) **23/0423/FUL – SITE OF THE WARREN AND TANGLEWOOD, HALL CRESCENT, HADLEIGH, BENFLEET, SS7 2QW (VICTORIA WARD) – DEMOLISH EXISTING DWELLINGS AND CONSTRUCT BLOCK OF 12 NO FLATS – BROADLEIGH HOMES LTD**

The application sought permission for the demolition of the two existing dwellings on the site and the erection of a block of 12 flats with parking. In all the circumstances the scheme was felt to be compliant with local and national policies and guidance, and no reasons for refusal could be found. The scheme was therefore recommended for approval.

The application was presented to the Committee at the request of Councillor Skipp so that the Committee could assess the potential deficits in parking and amenity space provision as required by the Council's adopted standards and guidance.

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

Mr Bradley, the applicant, spoke in support of the application.

In response to questions from the Committee the Planning Officer explained that there was no formula in terms of percentages for assessing the weight that should be given to each aspect of the planning application. It was based upon deciding the amount of weight to be afforded to each of the issues in terms of a set of scales and then determining the overall balance. It was confirmed that the building situated behind the proposed development was a clinic and would not lead to any loss of residential privacy at the rear. In all other respects it complied fully with the Council's Residential Design Guidance document.

With regard to parking, the Planning Officer stated that to prevent any noise pollution to nearby residents from the parking stacker it was proposed that it would be enclosed in a structure similar to that of a garage. An explanation of how the parking stacker would work was given. It was stated that whilst the parking stacker did not comply with the Council's 2.9m width requirement for parking spaces the nature of the stacker meant that parking was more controlled and therefore the Planning Officer did not consider this would prejudice the use of the car stacker to its maximum potential.

With regard to parking in the surrounding area, it was stated that officers relied on evidence provided by Essex County Council (ECC) as the Highways Authority. Refusal of the application on the grounds of parking would need to be supported by ECC and they had raised no objection to the application or to the parking stacker. There was sufficient space outside the site for service vehicles to load and unload. Other planning applications had recently been granted permission in the borough with a similar parking system and compared favourably to what was proposed for this application. A proposed condition had been included to ensure that an adequate width was provided. It was confirmed that the parking provided at the front of the site was sufficient for two vehicles.

It was confirmed that no social housing would be included on the site. The applicant had submitted a viability assessment and ECC Place Services had reviewed it and confirmed that it was not viable for the applicant to provide social housing on the site.

However it had been negotiated with the applicant to provide a contribution for local healthcare facilities.

During debate some Members, whilst supportive of the principle to build on brownfield sites were concerned about the parking deficiency on the site and felt that they could not support the proposal for this reason. Other Members considered that there were no sufficient grounds to refuse the application on the basis of parking and amenity space.

Following debate, it was:

Resolved – That planning permission be granted subject to the applicant entering into an agreement under section 106 of the Town and Country Planning Act 1990 to secure the following:

- a contribution of £1,567.60 for recreational disturbance mitigation, indexed from grant of planning permission.
- a contribution of £5,800 for improvements to local healthcare facilities, indexed from 01/01/2022.

and the conditions as set out in the Planning Officer's report.

(b) 23/0422/VAR - 179 KILN ROAD, THUNDERSLEY, BENFLEET, ESSEX, SS7 1SJ (CEDAR HALL) - VARIATION OF CONDITIONS 6 AND 7 (OPENING HOURS OF PETROL GARAGE AND SHOP, CAR WASH, CAR VAC AND AIR/WATER TOWER) OF PERMISSION CPT/108/05/FUL - MOTOR FUEL GROUP LTD

The proposal sought to extend the operational times of the Shell petrol filling service and associated shop from 07:00-23:30 on Saturdays and 08:00-23:30 on Sundays to 06:00-23:30 seven days a week. It was proposed that the hours of business of the onsite shop would align with that of the petrol filling station. There was no change to the weekday operating hours or to those of the car wash, car vac and air/water tower. It was considered that these altered hours would have a limited impact on the surrounding area, and it was therefore recommended for approval.

The application was presented to the Development Management Committee following a valid call-in request being lodged by Councillor J Thornton relating to the impact of the proposal on the residential amenity of neighbouring properties by reason of additional pollution.

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

Mr Mahon, a representative of the applicant, spoke in support.

In response to questions from the Committee the Planning Officer explained pollution within the context of Local Plan Policy EC3 included noise, disturbance to residential amenity, light, fumes and traffic disturbance. The applicant had now applied to vary the hours and Planning Officers in consultation with Environment Health and consideration of a Noise Impact Assessment (NIA) had reached the conclusion that there was no additional harm caused to the surrounding area. It was confirmed that the Planning Department did not have access to Environmental Health's complaints system but it had not raised any objections to the application.

With regard to statutory noise and light nuisances, Environmental Health would be responsible for enforcement if it was not related to breach of a planning condition. If it was, then the Planning Department would be responsible for enforcement but liaise closely with Environmental Health depending upon the nature of the condition breached. The NIA monitored noise levels, including background noise, that emanated from the site and impacted on the surrounding area. It was not known whether the assessment had been undertaken from a baseline level or peaks in noise however it was again highlighted that Environmental Health had raised no objection to the proposal.

With regard to the operating hours it was stated that the current hours had been applied for in 2005 and there had been no objections to the application. It was explained that the petrol forecourt was currently open for longer hours than the associated shop and that when the shop was closed petrol was paid for via a service hatch on the forecourt.

During debate Members raised concerns that the change in operational hours would cause an increase in noise disturbance to the detriment to the amenity of local residents.

Following debate, a vote took place on the recommendation in the report which was lost. An alternative motion was moved and seconded that the application be refused due to the detriment to the amenity of local residents. The Planning Officer advised that on the basis there was no objection from Environmental Health or other qualified noise expert that based on the evidence submitted as part of the application, there was no sustainable material planning reason to object to the application on the basis of harm by reason of noise to adjacent residents.

The Committee considered that it did not have sufficient information from Environmental Health about the number of noise complaints received about the site and the outcome of any investigation of those complaints. An alternative motion with valid reasons was moved by Councillor Lillis and seconded by Councillor Mountford and it was:

Resolved – That the application be deferred to request a report from the Council's Environmental Health Department on the number of noise complaints received from properties surrounding this site and the outcome of the investigation into those complaints.

- (c) **23/0456/FUL - BENFLEET SERVICE STATION, 175-179 KILN ROAD, THUNDERSLEY, BENFLEET ESSEX (CEDAR HALL ROAD) - DEMOLITION OF CAR WASH AND THE CREATION OF CHARGING ZONE, ERECTION OF EV CHARGERS, ERECTION OF CANOPY, THREE JET WASH BAYS, SUB-STATION ENCLOSURE, PLANT ROOM AND ASSOCIATED FORECOURT WORKS – MOTOR FUEL GROUP**

The application sought the erection of electrical vehicle (EV) chargers, erection of canopy, as well as the creation of three jet wash bays, sub-station enclosure, plant room and associated forecourt works to an established petrol station to the north of Kiln Road. While the area was designated for residential development, the site already represented a departure from this and it was considered that the proposal would have a minimal impact and was therefore recommended for approval.

The application was presented to the Committee following a valid call-in request being lodged by Councillor J Thornton relating to the impact of the proposal on the residential amenity of neighbouring properties by reason of additional pollution and eroding the natural environment.

The Planning Officer stated that since publication of the agenda a late representation had been received from the Essex Badger Protection Group raising no objection to the application subject to conditions. Conditions 7 and 8 of the report had therefore been amended to incorporate some of the points raised by the Essex Badger Protection Group. A copy was circulated to the Committee.

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

Mr Mahon, a representative of the applicant, spoke in support.

Following the presentation the Committee took opportunity to ask questions of the Planning Officer. In response it was stated that as detailed in the Noise Impact Assessment the noise from the jet wash would have a sound power level of 78 decibels. The Planning Department did not have access to Environmental Health's complaint records. It was not a statutory requirement to seek advice from the Fire Authority regarding the EV chargers proximity to the petrol pumps however if it was something the Committee required it could be requested. Further information could also be requested from UK Power Networks however a response was often not forthcoming. It was not possible to require the applicant to request the information from UK Power Networks as part of the application submission.

There was no specific distance set out in planning law that dictated where EV chargers should be situated in relation to petrol pumps. There were industry standards, referred to as 'the blue book', on how a petrol forecourt was designed but this was not a document that Planning Officers had access to or could take into consideration as part of their assessment of the application. It was proposed that the EV chargers would be operational for 24hrs a day. There were no limits on the number of EV chargers that could be installed on one site. Details of where the fuel tanker loaded the fuel to were not known and were not relevant to consideration of the application.

During debate Members raised concern about the fire safety risk in relation to the installation of EV chargers and their proximity to the petrol pumps on a petrol station forecourt in a residential area.

Following debate, a vote took place on the recommendation in the report which was lost.

The Committee felt that more information from the Fire Authority including a risk assessment on this matter would be beneficial. It was also considered that further information should be sought from UK Power Network and the Health and Safety Executive. The Planning Officer explained that a risk assessment could not be required because it was not part of the planning process but further information could be sought.

The Committee gave valid reasons for an alternative motion which was moved by Councillor Lillis and seconded by Councillor Sach. It was therefore:

Resolved – That the application be deferred to request further information from the Essex Fire Authority, UK Power Network and the Health and Safety Executive on the fire risk in installing electoral vehicle charging points on the site.

(d) 23/0411/FULCLC - WATERSIDE FARM SPORTS CENTRE, SOMNES AVENUE, CANVEY ISLAND, ESSEX, SS8 9RA (CANVEY ISLAND WEST) - REFURBISHMENT OF AN ARTIFICIAL GRASS PITCH (AGP) WITH PERIMETER FENCING, HARDSTANDING AREAS, STORAGE CONTAINER AND FLOODLIGHTS - SHANE WILLIAMS

The application sought permission for the refurbishment of an existing external Artificial Grass Pitch (AGP) and associated works at Waterside Farm Leisure Centre. The refurbishment would modernise the current sports pitch in accordance with the FA's (Football Association) technical guidance and current standards.

The site was allocated for Green Belt and Public Open Space purposes in the Council's adopted Local Plan and was considered consistent with national and local policy. The proposal was therefore recommended for approval.

The case was presented to the Committee given that the Council was both the applicant and landowner.

In response to questions from the Committee the Planning Officer explained that the practice of hiring the pitch to local football groups was expected to continue. The material that would be used for the resurfacing was not known. A Member referred to a joint statement issued by the Football Association and other sports bodies expressing a view that micro plastic surfaces should not be used for environmental reasons. The Planning Officer responded that the Committee could not require the applicant to look at alternative material uses for the pitch, that was not the application before them, and that there was no material planning reason to add a condition in this regard. It would need to meet the '6 condition test' in the National Planning Policy Framework which this did not. It was suggested that as the Council was the applicant this matter could be raised by Members outside of the meeting with the Head of Environment or Leisure Services Manager. The current pitch did not accord with the current FA's guidance therefore the applicant could not be required to ensure that the replacement pitch met this requirement. There were no known planning policies which specified this.

During debate Members welcomed the proposal and considered it would be a great asset for the local community.

Following debate it was:

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

ITEM 1

Application Number:	23/0104/OUT
Address:	Land South Of Daws Heath Road Thundersley Benfleet Essex SS7 2TA (Victoria Ward)
Description of Development:	Outline application for up to 58 dwellings with associated vehicular access, parking, public open space, play space and attenuation basins, together with landscaping enhancements (all matters reserved except access)
Applicant:	Rainier Developments Ltd, S. Barber, J. Cowell And J. Mee
Case Officer:	Terence Garner
Expiry Date:	4th July 2023

Summary:

This application relates to a parcel of land, measuring 4.77ha (11.79acres), located to the south side of Daws Heath Road, east of Rayleigh Road and west of Little Havens Hospice, see **Fig: 1**.

Outline planning permission is being sought for the development of the site, for up to 58 dwellings with associated vehicular access, parking, public open space, play space and attenuation basins, together with landscaping enhancements. All matters are reserved except for the principle of development and means of access.



Fig: 1 – Site Location plan.

The application site is unallocated for development on the development plan for Castle Point and lies entirely within the designated Green Belt as shown on the proposals map, which was adopted as part of the Local Plan (1998) and reviewed and updated in 2019, see **Fig 2**.

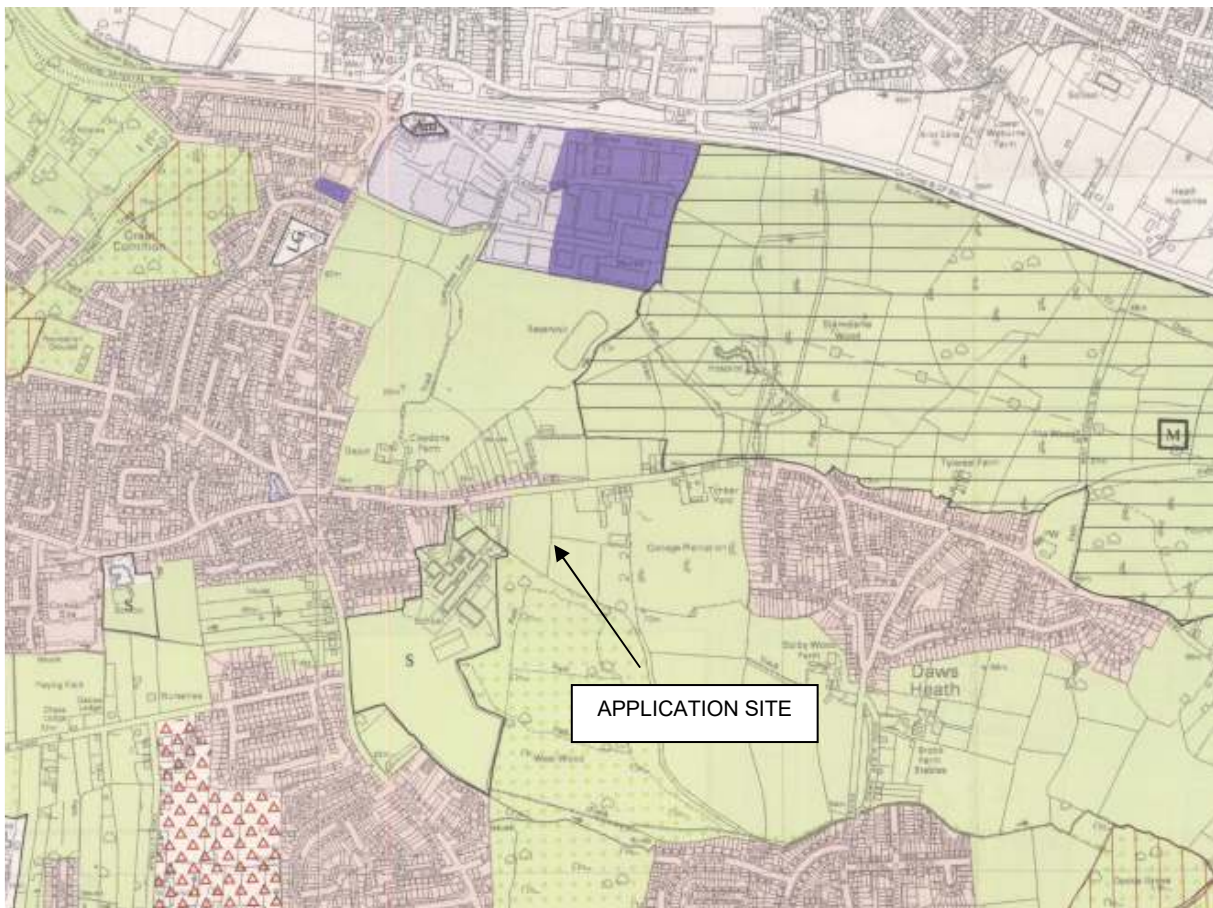


Fig: 2 – Extract of Castle Point Local Plan Proposals Map (Adopted 1998)

Consideration of the proposal under the provisions of the NPPF and adopted Local Plan establishes that the proposal constitutes '*inappropriate development*' in the Green Belt, which could only be justified if '*Very Special Circumstances*' could be supported, either individually or cumulatively, but which would need to outweigh the harm to the Green Belt and interests of acknowledged importance.

In this case, the 'tilted balance' under paragraph 11 of the NPPF is applicable as the Council is unable to demonstrate a five-year housing land supply, however the harm that will result to the Green Belt and open countryside will be significant and unacceptable.

The proposal is therefore considered to be contrary to the purposes and function of the Green Belt, the 1998 adopted development plan for Castle Point and Government guidance as contained in the NPPF.

There has been no evidence to show that this development can only be achieved through the development of this Green Belt application site. In the absence of a clear demonstration that the identified need could not be met elsewhere, it is not considered that this circumstance nor any others suggested by the applicant, either individually or cumulatively would justify inappropriate development in the Green Belt.

The proposal has also been assessed to have an unmitigated harmful impact on identified habitats sites resulting from recreational disturbance contrary to Government guidance as contained in the NPPF.

The policies in the Framework relating to the protection of habitat sites and the Green Belt provide clear reasons for refusing the development proposed, and criterion (i) applies, nullifying the

presumption in favour of sustainable development. No very special circumstances or other considerations are considered to exist that outweigh these concerns.

The proposal is therefore recommended for **REFUSAL**.

This application is presented to committee because it is considered to be of sufficient scale to warrant consideration by the committee, in the interest of open and transparent decision making.

Procedural Note:

This application was validly submitted on 20th February 2023 and a determination date of 22nd May 2023 was set. It was not possible to make a recommendation on this application during this timeframe as all consultee comments had not been received. An extension of time until 4th July 2023 was agreed with the applicant's agent on 24th May. During this extended period of time, it was also not possible to determine the application as consultee comments were still awaited, notably the Highways Authority comment which was not received until 28th August.

However, prior to this, on 22nd August the local planning authority received 10 days prior notification of the applicant's intent to appeal the application on the basis of non-determination. Officers arranged to meet with the applicant and their agent to discuss the application and their intent to appeal. This meeting took place on 13th September. During this meeting it was explained to the applicant that since the local planning authority were now in possession of the Highways Authority consultation response, they would be able to move forward with progressing the scheme. It was identified that the authority would still need to undertake a Habitat Regulation Assessment (HRA) and consult Natural England on this, but that despite this, officers considered that they could reasonably make a recommendation on this item and present this to the Development Management Committee in mid-November. An extension of time to allow for this to take place was requested but was not forthcoming.

On 15th September the applicant confirmed that despite the proposed timetable, there remained a number of caveats to the timetable, that they could still be no further forward come November in receiving consent for the proposal due to an insufficient degree of certainty of the outcome of the application and that waiting until November for a decision would be delaying the inevitable. Notification of an appeal being lodged on grounds of non-determination was received the same day. This application is therefore currently at appeal.

However, the council need to determine what its recommendation would have been, had the appeal not been lodged. This is crucial, as it forms the backbone of the council's case when defending against the appeal. The council are being pressured for this decision by the Planning Inspectorate to progress the appeal.

Therefore, any subsequent vote on this recommendation would not approve or refuse consent for the proposed development but would only confirm what the council's recommendation would otherwise have been. This will then be passed onto the Planning Inspectorate and the appeal will proceed to be determined with this forming a core document.

Without agreeing what the council's decision would otherwise have been, the council will have to enter an appeal with the need to defend every single aspect of the development, rather than only those which are disagreed upon and do not form part of the Statement of Common Ground (SoCG). This will add additional time, resources and expense in defending the appeal over and above what would be necessarily expended defending select aspects of the proposal if a recommendation is agreed.

It should also be noted that under normal circumstances, should Members have sought to depart from this recommendation, by virtue of the provisions of the Town and Country Planning (Consultation) (England) Direction 2021, the application is identified as one which must be referred to the Secretary of State, in order that he might consider whether this was an application he wished to call in for his own determination.

Once that determination had been received, this matter would have been presented to a further meeting of the Development Management Committee for final determination in the light of the Secretary of States final decision.

Site Visit:

It is considered that it would be beneficial for Members to visit the site prior to determination of the application.

Site Description:

The application site relates to a 4.77ha (11.79acres) area of land, located to the south side of Daws Heath Road, the development proposes to have its main access directly onto the south side of Daws Heath Road, opposite 108 Daws Heath Road, which is located on the north side of the road. See **Fig 3** below, which is also a draft layout for the site.

To the west of the application site is the Deanes School and sports centre access road. Existing residential properties are located immediately to the east of the school access road and further east is the Ragwood Riding Centre and a small number of residential properties before Daws Timber Yard.

This site forms part of a narrow 440-500m, north-south gap between Thundersley and Daws Heath, which with the exception of minor sporadic development, is open and free from widespread suburban style development as characterised in Thundersley and Daws Heath.

To the southeast of the site are extensive ancient woodlands, in particular the Valerie Wells Wood and West Wood.

The site itself principally comprises a number of small fields, having natural hedgerows with trees, bushes and grassland and large ancient woodland to the southeast and southwest. The site also forms part of a much larger important wildlife corridor which runs into the urban area towards Rayleigh and is part of the historical Daws Heath Woodlands.



Fig: 3 – Draft layout of site for 58 Dwellings.

There are no significant buildings on the site and the existing farm access will form the new access for the site on to Daws Heath Road.

More widely, Rayleigh town centre is located approximately 1.2 miles (1.9km) north of the application site and Hadleigh town centre is approximately 1.4 miles (2.25km) southeast of the site. There are a number of local facilities in both Rayleigh and Hadleigh town centres, including schools, leisure, retail and employment. These meet many of the day-to-day needs of existing local residents, reducing the need to travel long distances outside of the Borough. To the west of the site lies Thundersley and to the east lies Daws Heath, both are local centres, providing local services.

The site is not shown to be within a conservation area and there are no listed buildings present on the site. There are shown to be two Grade 2 listed properties at 96 and 98 Daws Heath Road but they are 75metres or so from the site boundary itself, separated from the site by existing two storey housing and mature planting.

The documentation submitted with the application included a desktop archaeological and heritage survey, which shows no archaeological or historic concerns.

Overall, the application site lies outside of any defined settlement boundary and is within the Green Belt between two urban areas.

Further to the Green Belt designation, the Site is within the Zone of Influence (Zoi) of eleven statutory designated sites, including nine Natura 2000 sites of international ecological importance, five of national ecological importance and one of local ecological importance, as well as nineteen non-statutory designated sites of local importance.

Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar sites are within 3.0km to south of the site.

The site is located within 200m of Thundersley Great Common SSSI to the northwest, 1.5km (1.1mils) from Great Wood and Dodds Grove SSSI and Garrold's Meadow SSSI all slightly further to the east.

Notwithstanding the above, Essex Wildlife Group operate and manage Little Haven Nature Reserve and Valerie Wells Wood Nature reserve which are both located immediately to the east of the site.

There are also a number of protected species within these woodlands some of which are listed under the priority species mentioned in the post 2010 bio-diversity framework. These include the Heath Fritillary butterfly, which was close to extinction in 1970, and the Southern Wood Ant, which only survives in the immediate area.

Whilst not directly on this site there are a large number of Badger Setts on the opposite side of Daws Heath Road, which are well established and have been for some time, any development on this site is likely to have an impact on their foraging environment.

The site also falls within the Hadleigh and Daws Heath Complex Living Landscape, an area identified for its network of wildlife-rich habitats. It covers an area of 470 Hectares (Ha), of which 182 Ha Are Woodland, 235 Ha are open Land and 53 Ha built up areas (Essex Wildlife Trust, 2010). See **Fig:4**.

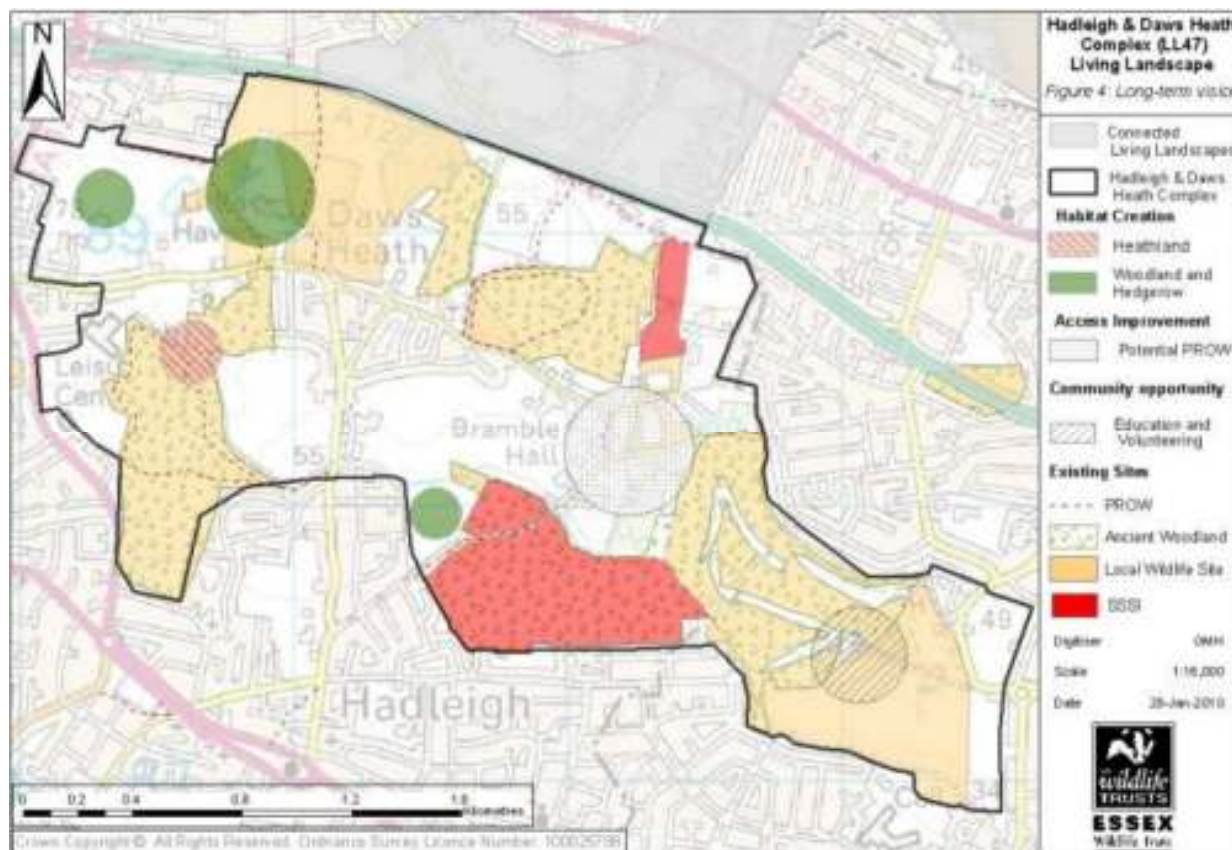


Fig: 4 - Hadleigh and Daws Heath Complex Living Landscape

The vision for the Living Landscape is to achieve conservation and improvement through pursuing the following objectives:

- o Enhance the management of existing ancient woodland, lowland grassland and hedgerows which are of high conservation priority in the UK Biodiversity Action Plan.
- o Maintain and increase populations of Heath Fritillary butterfly, dormice and Song Thrush, which are UK and Essex Biodiversity Action Plan species.
- o Create and pursue opportunities to link up existing habitats by planting new hedgerows and woodland to enable key species to colonise new areas to develop more robust and sustainable populations.
- o Monitor habitats and key species to determine current condition and status and to provide base lines to assess the effectiveness of future conservation management.
- o Improve access within the landscape for a wider range of local people, including the less able and schools.
- o Increase the involvement of schools in their local landscape by developing the Forest School initiative in Castle Point, Southend and Rochford.
- o Improve community involvement in the management of ancient woods and in creating new habitats by increasing voluntary activity within Hadleigh, Daws Heath and Leigh on Sea.
- o Develop the Belfairs Woodland Resource Centre to interpret and promote the value of woodland within the landscape to a wider audience.
- o Provide business opportunities for the rural economy for the production and sale of woodland products.
- o Promote the value of the landscape and opportunities for informal recreation to visitors, for the benefit of local tourism.
- o Influence the planning process to minimise the adverse impacts of development and to maximise any benefits that can be achieved through planning gain.
- o Provide management advice to farmers and landowners that would lead to enhancement of the landscape.

Ecological surveys undertaken on the application site found the following:

- o The Site comprises improved grassland with some scattered scrub, hedgerows, treelines and ancient woodland which is located to the southeast of the site.
- o The Site contains habitats which could support the following protected species or species groups; bats (roosting, foraging and commuting), nesting birds, hazel dormice and reptiles;
- o Further surveys for reptiles, roosting bats and hazel dormice were undertaken which returned a negative result, as such, these species groups are considered likely absent from the Site;
- o Further surveys for foraging and commuting bats found an assemblage of seven species, the majority common and widespread species, this assemblage of bats was assessed as being of local importance.

Description of Proposed Development:

Outline planning permission is sought for the development of the site, for up to 58 dwellings with associated vehicular access, parking, public open space, play space and attenuation basins, together with landscaping enhancements.

The only aspects for approval with this application are that of access and the principle of development.

Parking & Bicycle provision

The applicant emphasises that the Proposed Development would adhere to the adopted Essex County Council Parking Standards for vehicular and bicycle parking. This would be confirmed at the Reserved Matters stage.

Draft Layout

The draft layout illustrates the proposed roadway running southwest from the central access point leading to two cul-de-sac roads (3 & 4) with footpaths running southwards. Five small spur roads run from the initial central access roads, providing vehicular access to properties further into the southern area of the site, via shared surfaces. see **Fig: 3**

Hard and Soft Landscaping

Details of hard and soft landscaping will form part of the reserved matters application; however, the draft masterplan see **Fig: 3**, illustrates,

- o a pedestrian/cycle access from the footpath running along the western boundary of the site, to recreational routes through the proposed development, (9)
- o A woodland buffer to the south and south-eastern corner of the site, (6)
- o Two attenuation basins to the southern part of the site, (8)
- o Play space next to the south-eastern side of the two attenuation basins (10)
- o Pumping station north of the western attenuation basin

The proposed development seeks to retain existing field boundaries where possible, buffer zones have been included for the ancient woodlands to the east and south of the site.

Housing Provision

The overall level of affordable housing would be 40%, with an indicative Housing Mix as outlined below in **Table 1**:

Table 1 – Indicative Housing Mix Schedule

Dwelling Size	Market Homes (60%)	Affordable Homes (40%)	Total
1 Bedroom	2	2	4
2 Bedroom (including Bungalows)	8	6	14
3 Bedroom	15	8	23
4 Bedroom Including Bungalows)	8	7	15
5 Bedroom	2	0	2
Total	35	23	58

Flood Risk and Drainage

The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy, in addition to a Utilities Assessment. This includes a drainage strategy for the proposed

development, incorporating SuDS and onsite attenuation provided in the form of 2 large attenuation basins to the south of the site.

Supplementary Documentation:

The application was initially accompanied by the following documents:

- o Tree constraints plan
- o Arboricultural overlay
- o Topographical survey
- o 'Shadow' Habitats Regulations Assessment
- o Ecological Impact Assessment
- o Flood Risk Assessment and Drainage Strategy
- o Geophysical Survey Report
- o Housing Mix Schedule
- o Landscape and Visual Impact Assessment
- o Planning Statement
- o Preliminary Arboricultural Impact Assessment
- o Statement of Community Involvement
- o Transport Statement
- o Tree Survey
- o Utilities Assessment
- o Archaeological and Heritage Assessment (3 parts)
- o Desk Study Report (3 parts)
- o Design and Access Statement (4 parts)

During the course of the application, it has been further supplemented by an addendum to the planning statement and a copy of an appeal decision.

Planning History:

There have been no relevant planning submissions on this site.

Pre-Application Engagement:

There has been no pre-application discussion or engagement with regard to this application prior to the submission of this application.

Local Plan Allocation:

Green Belt

Relevant Policies:

National Policy Planning Framework (NPPF, 2021)

Planning Practice Guidance (PPG)

Housing: optional technical standards

Adopted Local Plan (1998)

- | | |
|------|---|
| EC2 | Design |
| EC3 | Residential Amenity |
| EC4 | Pollution |
| EC13 | Protection of Wildlife and their Habitats |

EC14	Creation of new Wildlife Habitats
EC22	Retention of Trees Woodlands and Hedgerows
H9	New Housing Densities
H10	Mix of Development
T2	Intensification of Access Use
T8	Car Parking Standards
RE4	Provision of Children's Playspace and Parks
CF1	Social and Physical Infrastructure and New Developments
CF14	Surface Water Disposal

Residential Design Guidance (RDG, 2013)

The proposal is for outline consent only with all matters except access reserved. Under such circumstances it is not considered that a detailed assessment of the proposed development against all of the Council's adopted RDG would be appropriate, although the applicant is advised that in the preparation of any detailed scheme for reserved matters, adherence to the provisions of the RDG will be expected. Where possible advice based on the provisions of the RDG is offered within this report.

Relevant guidance includes:

- RDG1 Plot Size
- RDG2 Space around Dwellings
- RDG3 Building Lines
- RDG4 Corner Plots
- RDG5 Privacy and Amenity
- RDG6 Amenity Space
- RDG7 Roof Development
- RDG8 Detailing
- RDG9 Energy and Water Efficiency and Renewable Energy
- RDG10 Enclosure and Boundary Treatment
- RDG11 Landscaping
- RDG12 Parking and Access
- RDG13 Refuse and Recycling Storage
- RDG16 Liveable Homes

The application will also need to comply with the provisions of the Technical Housing Standards – National Described Space Standard (DCLG, March 2015)

Other relevant Documents

- Habitats Regulations Assessment (Screening Report and Appropriate Assessment) Sept 2020.
- Safer Places: The Planning System and Crime Prevention 2004
- Developer Contributions Guidance SPD – Adopted March 2023
- Community Infrastructure Levy
- Castle Point Open Space Appraisal Update 2012
- Technical Housing Standards: Nationally Described Space Standard (DCLG, 2015)
- Parking Standards: Design and Good Practice (Essex County Council, 2009)
- Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (Essex County Council, 2020)
- South Essex Economic Development Needs Assessment (2017) South Essex Retail and Leisure Study (November 2017)
- South Essex Strategic Flood Risk Assessment (April 2018)

Community Infrastructure Levy (CIL):

The proposed development type is located within a Community Infrastructure Levy (CIL) charging zone, as set out in the council's adopted CIL Charging Schedule. CIL is non-negotiable and is calculated at the time planning permission is granted. The charge is based on the net increase of gross internal floor area of the proposed development, and payment of CIL is due upon commencement of the development, in accordance with the council's CIL Instalment Policy. It may be possible to claim exemption or relief from CIL. Further information is provided on the council's website: Community Infrastructure Levy (CIL) | Castle Point.

This is a residential development that is CIL liable.

Consultation Responses:

Essex County Council Highways Authority

The indicative masterplan shows a main access with a 5.5m carriageway and 2x 2m footway. Lower category road types (shared surface / private drive) can be provided within the development in line with the principles of the Essex Design Guide. Type 3 turning heads will also be required to facilitate service / larger vehicle manoeuvres.

To facilitate pedestrian movement alternative access arrangement should be considered at the north-west corner of the development to link into Daws Heath Road.

No objection is raised to the proposal from a highway and transportation perspective subject to a number of suggested conditions and informatives being implemented should permission be granted.

Essex County Council Infrastructure Planning Officer

As the unit size and mix has not been advised, I have assumed they will all be houses of 2 or more bedrooms.

A development of this size can be expected to generate the need for up to 5.2 early years and childcare places and 17.4 primary school places.

Early Years and Childcare

The demand generated by this development would require a contribution towards the creation of additional places. A developer contribution of **£90,139 index linked to Q1- 2020** is sought to mitigate its impact on local Early Years & Childcare provision. This equates to **£17,268** per place.

Primary Education

This development would sit within the priority admission area of Thundersley Primary School, which has a Published Admission Number of 60 pupils per year. As at the census in October, the school had 443 pupils on role. This number includes a 'bulge' group of 87 pupils in Year 4. Although there are fluctuations in demand, which means there is pressure in some years, there is generally a suitable balance in the area between capacity and the number of children for whom this is their closest school. Looking at the wider area, forecasts set out in the Essex School Organisation Service's Ten-Year Plan suggest that there may be a need for additional capacity in the Thundersley, Benfleet and Hadleigh areas during the second half of the Plan period. Greater

clarity over Castle Point's new Local Plan will be a key determinant in crystallising ECC's response to any pressure on school places.

A developer contribution of **£300,463 index linked to Q1- 2020**, is sought to mitigate its impact on local Primary School provision. This equates to £17,268 per place.

Secondary Education

As there are sufficient places available in the area, a developers' contribution towards new childcare places will not be required for this application.

Post 16 education

A contribution toward Post16 education is not required at this time. However, in accordance with the Essex County Council Developers' Guide to Infrastructure Contributions (Revised 2020), an Employment and Skills Plan (ESP) should be developed to set out how the developer will engage with and maximise local labour and skills opportunities.

School Transport

Having reviewed the proximity of the site to the nearest Primary and Secondary school, Essex County Council will not be seeking a School Transport contribution at this time. However, the developer should ensure that safe direct walking and cycling routes to local Primary and Secondary Schools are available.

Libraries

The suggested population increase brought about by the proposed development is expected to create additional usage of Hadleigh Library which is approx. 3 miles away from this development. A developer contribution of **£4,512.40** is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit, index linked to April 2020.

Monitoring Fees

The Monitoring Fee will be charged at a rate of **£550 per obligation** (financial and otherwise).

Employment and Skills

Supports Castle Point Council in securing obligations which will deliver against this crucial role in supporting employment and skills in the district. In the current economic climate and national skills shortage, ECC supports Castle Point Council in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. Additionally, encourages Castle Point Council to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes as a result of this development.

In view of the above, I request on behalf of Essex County Council that if planning permission for this development is granted it should be subject to a section 106 agreement to mitigate its impact on EY&C, Primary Education and Libraries.

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure

the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

Essex County Council Green Infrastructure Team

No response received.

Essex County Council Lead Local Flood Authority (LLFA)

- o The LLFA do not accept discharge rates being limited to QBAR. The LLFA require discharge rates to be limited to 1 in 1-year greenfield rates. Please update the hydraulic modelling accordingly.
- o Please clarify the storage required. Section 6.2.11 states 950m³ of storage is required, yet the figures in section 6.2.13 add up to 920m³ (540m³ and 380m³) This figure also differs to the drainage plan.

Following advisory comments:

- o Recommend looking at the Essex Green Infrastructure Strategy
- o Environment Agency updated the peak rainfall climate change allowances
- o Situated within a Critical Drainage Area and therefore use of rainwater harvesting, such as water butts, should be considered (EA don't have any criteria drainage areas for the area – is this the same as EA requirements or different?)

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following conditions; submission and approval of detailed surface water drainage scheme, scheme to minimise risk of off-site flooding during construction and prevent pollution and maintenance plan of surface water scheme, maintain yearly maintenance logs.

Recommends an informative regarding placing the SuDS on the register, consult with ECC for any drainage features proposed for adoption, changes to existing water courses may require separate consent, applicant responsibility to seek consent where appropriate and comply with common law, final decision regarding viability and reasonableness of maintenance lies with LPA.

Following additional advisory comments:

- o Any works to a ditch will require a S23 Ordinary Watercourse Consent.

Essex Fire and Rescue Service

The following to be considered during the continued development of the application:

- o Use of community spaces as a hub for our Prevention teams to deliver Fire Safety and Education visits, with the shared use of an electric charging point.
- o Adherence to the requirements of the Fire Safety Order and relevant building regulations, especially approved document B.
- o Installation of smoke alarms and/or sprinkler systems at suitably spaced locations throughout each building.
- o Implementation of vision zero principles where there are introductions of or changes to the road network.
- o Appropriate planning and mitigations to reduce risks around outdoor water sources.
- o Suitable principles in design to avoid deliberate fire setting.
- o Consideration for road widths to be accessible whilst not impeding emergency service vehicle response through safe access routes for fire appliances including room to manoeuvre (such as turning circles).
- o Access for Fire Service purposes must be considered in accordance with the Essex Act 1987 – Section 13, with new roads or surfaces compliant with the table below to withstand the standard 18 tonne fire appliances used by Essex County Fire and Rescue Service

- o Implementation of a transport strategy to minimise the impact of construction and prevent an increase in the number of road traffic collisions. Any development should not negatively impact on the Service's ability to respond to an incident in the local area.
- o A risk reduction strategy to cover the construction and completion phases of the project.
- o Implementation of a land management strategy to minimise the potential spread of fire either from or towards the development site.

Environment Agency

Provided views on surface water discharge to attenuation pond and then ditches brought up by Anglian water. No further response received.

Anglian Water

Assets affected

Site layout needs to accommodate Anglian Water assets within either adoptable highways or public open space. If not, practicable sewers will need to be diverted at the developers cost and be completed before development can commence. Site is within 15m of the sewage pumping station and cannot be easily relocated. Dwellings within 15m of the pumping station would place them at risk of nuisance in the form of noise, odour or general disruption from maintenance work. Should accommodate through a necessary cordon sanitaire, through public space or highway infrastructure.

Wastewater treatment

Development is in the catchment of Southend Waster Recycling Centre that will have available capacity for these flows.

Used water network

Proposed connection is acceptable and do not require a condition for foul water. Requests informatives.

Surface water disposal

Preferred method of surface water disposal would be to a Sustainable drainage system (SuDS) with connection to sewer as the last option. Proposal intends to discharge surface water to an attenuation pond and ultimately discharge to a ditch. This is outside Anglian Water jurisdiction and the Planning Authority will need to seek views of the Environment Agency.

Essex Police

Generic comment – refers to Secured by Design and Essex Design Guide

Essex Police strongly recommends the developer seeks to achieve the Secured by Design accreditation.

Applicant should consider the areas concerning security and would welcome the opportunity to discuss the development at the appropriate time within the planning process.

Movement strategy

Further information regarding pedestrian access and movement so can ensure that security cannot be easily compromised. This will mitigate 'crime and ASB generators' which could breach the integrity, safety and compromise the suitability of the development.

Landscaping

Welcome the opportunity to liaise regarding green architecture and appropriate landscaping plan, especially with regards to the use and management of the proposed communal spaces within the development and general topography of the site. Along with street furniture and any proposal play equipment within the open public realm spaces.

Lighting

Like to discuss lighting proposals to ensure uniform illumination is provided with due consideration given the spill of light and ecological considerations.

Parking

Welcome information regarding visitor parking and measures to prevent inconsiderate parking which may cause congestion and tension within the area. Seek clarity regarding parking design shown.

Electric Vehicle Charging Points

Recommend that consideration is given to the security provision for EVCPs. Early consideration will mitigate the opportunities associated with crime relating to this comparatively new vehicle fuel power provision. Welcome consultation regarding the infrastructure, proposals, and management of EV charging points.

NHS England

The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 139 new residents and subsequently increase demand upon existing constrained services. Using the accepted standards set out, the capital required to create additional floorspace to support the population arising from the proposed development is calculated to be **£28,600**.

The ICS has identified that the development will give rise to a need for additional healthcare provision to mitigate impacts arising from the development and requests that these are secured through a S106 legal agreement attached to any grant of planning permission. In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.

Natural England

The site falls within the 'Zone of Influence' (Zoi) of one or more of the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS).

In the context of your duty as competent authority under the provisions of the Habitats Regulations, it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

Advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a

suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue.

Advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the inclusions confirmed in line with the guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant. No shadow HRA was submitted in this instance.

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Essex Wildlife Trust

No response received.

Essex Badger Protection Group

No response received.

Cadent Gas

No response received.

Castlepoint Wildlife Group

No response received.

CPBC Environmental Health

Details of the proposed dwellings will be a matter for a reserved application but anticipated to comprise predominately detached two-storey dwellings including four bungalows. Would expect to see the following internal noise standard levels derived from Table 4 of BS8233:2014 and also World Health Organisation values.

If a full application is submitted, details should be submitted to support the application of the layout and internal arrangement within buildings. Details should ensure that:

- o Large family units are not situated above smaller units.
- o Similar types of rooms in neighbouring dwellings are stacked above each other or adjoin each other.
- o Halls are used as buffer zones between sensitive rooms and main entrances, staircases, lift shafts, service areas and other areas for communal use.

Given the proximity of the proposed development to neighbouring noise sensitive properties, it is possible that site clearance, preparation and construction noise may impact nearby receptors and will have to be taken into consideration by the applicant and their contractors.

Based on the submitted information, the site seems suitable for residential development in relation to noise/vibration considerations, so would have no objections to a full application.

Requests conditions regarding submission of a noise assessment, construction management plan and any unforeseen ground contamination

CPBC Legal Services

Application will require a S106 agreement to be in place should the application be approved. In relation to the merits of the application, no observations.

CPBC Street Scene

No response received.

CPBC Housing Manager

The inclusion of 40% affordable homes is welcome, but we would seek clarification as to whether these will be affordable rent or home ownership as the former is in high demand within the borough.

Suitability of development in the Green Belt will be considered in terms of the planning assessment and we support encouraging developers to find sites not under these restrictions to deliver a suitable scheme and the much-needed affordable homes for rent.

CPBC Public Open Space Operational Manager

No response received.

Comments on Statutory Consultation Responses:

- o Recommended conditions will be applied to any grant of consent where those conditions meet the six conditions tests as set out in paragraph 56 of the NPPF.
- o Recommended contributions will be secured by way of a suitable legal agreement should permission be granted.

Public Consultation:

Letters have been sent to all occupiers adjoining the site along with three site notices and a press notice in the Basildon Echo.

406 responses from residents have been received from **340** different addresses which make the following objection comments:

- o Mental health, physical health and well-being will be affected
- o Noise pollution, dust, dirt, mud and traffic during construction will be unbearable for a lengthy build time
- o Daws Heath Road is a busy cut through with no control over speeding traffic
- o How will the through road be maintained and what will happen with street lighting?
- o Local wildlife concerns – badgers, foxes, muntjac deer, bees, butterflies and birds
- o Overdevelopment
- o Construction traffic will destroy the roads
- o Most populated area in Essex
- o Overpopulated borough with one of the highest levels of air pollution in Essex
- o Home to horses, around 15 horses from this yard and with the other two stables on Daws Heath at least 60 horses will be moved
- o Infrastructure currently cannot cope; roads, trains, drainage, sewerage and buses are bursting
- o Roadworks/accidents on regular basis bring area to standstill
- o Negative effect on the environment, biodiversity and air quality
- o Borders an ancient woodland which should be protected
- o Doctors, dentists, hospitals and schools are oversubscribed
- o Reduce quality of life of all residents from air quality and more traffic
- o Houses that are built are not affordable and should be houses not flats
- o Shared ownership is dangerous path to go down
- o The houses aren't for local people
- o Heavily congested and polluted roads
- o Destruction of wildlife habitat (badgers, bats, etc)
- o Additional traffic will lead to gridlock at Woodman Arms junction and beyond
- o Green Belt should be protected
- o Restricted visibility from access from cars approaching from the east
- o Visual impact of fencing from West Wood
- o Watercourses run from the land into West Wood
- o No additional infrastructure such as medical centre, community halls or shops
- o Needs extra road capacity
- o Needs investment in schools, dentists, doctors and roads before any more houses
- o Need these valuable open spaces for current and future generations
- o No more houses
- o Protect the environment
- o Ending a much needed livery yard which provides children and adults a chance to enjoy the outside and horses for fitness and mental health
- o Application driven by profit
- o Ruin the rural character of the area
- o Does not align with Councils ecological and climate change focus
- o Level of noise in a very peaceful area would be very disturbing
- o Having issues with burst pipes in the area
- o Suffer with extra pollution and congestion
- o Result in the loss of the riding school leading to loss of business/employment for several people
- o Need more green fields and woodlands not less
- o Loss of mature woodlands and trees

- o Lack of stables and equine facilities
- o Council is working on a Local Plan and this application is premature
- o Area along the road is known for flooding
- o Inappropriate development on Green Belt
- o This is a nature reserve
- o Congestion from parking associated with Deans School
- o Loss of biodiversity, natural habitat (woods, meadows and scrub lands) and places for wildlife to live
- o Loss of vital green lung for the area
- o Lack of educational services for planned increase in population
- o Detrimental impact on carbon footprint
- o Traffic congestion in already congested traffic area
- o Urge developers to withdraw their application
- o Should be built on brownfield
- o The level of existing Green Belt is the reason for living in the area as important for well-being and leisure
- o Imperative doesn't have as developments happening across the road
- o Lack of public transport leading to poor access to local amenities
- o Farmland is at a premium and should be protected
- o Make existing problems worse
- o Infrastructure first
- o Serves the purpose preventing urban sprawl and division between Daws Heath/Thundersley

1 supporting response from a resident received with the following comments:

- o This development will bring housing stock into use
- o Should include social housing if none supplied it should not go ahead

Comments on Public Consultation Responses:

- o The existing poor condition of the road is a matter for the highway authority to address
- o Noise and disruption from construction is a transitory and short-lived nuisance which would not be sustainable or forming a robust reason for refusal. Construction management plans could be used to manage the impact.
- o Property value, profit or the motivation of the applicant are not material planning considerations.
- o Other planning matters are considered in the evaluation of the proposal.

Evaluation of Proposal:

The Principle of Development

Planning law requires that applications for planning permission be determined in accordance with the Development Plan which is currently in force unless material considerations indicate otherwise (paragraph 2 of the National Planning Policy Framework (NPPF)).

The adopted Development Plan is the starting point for decision making and development that accords with the Local Plan should be approved and proposals which conflict with the Plan should be refused unless material considerations indicate otherwise.

The Development Plan for Castle Point is the adopted Local Plan (1998). The Proposals Map associated with the Plan identifies this site as Green Belt. It should be noted however, that the adopted Local Plan contains no saved policies which establish the general principles for the

control of development within the Green Belt. For this reliance is now placed on the provisions of the NPPF.

The NPPF states that plans and decisions should apply a presumption in favour of sustainable development when decision making, this means approving development proposals where they accord with an up to date development plan, without delay, or where there are no relevant development plan policies, or policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework or where specific policies in the Framework provide a clear reason that development should be refused (paragraph 11 of the NPPF).

Footnote 7 to the NPPF identifies that land allocated for Green Belt purposes is an example of where the policies in the Framework can provide a clear reason for refusing the development proposed.

The NPPF states that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open (paragraph 137). Within the Green Belt there is a general presumption against inappropriate development. Such development should not be approved, except in very special circumstances.

Paragraph 140 states that once established Green Belt boundaries should only be altered in the most exceptional circumstances, through the preparation or review of the Local Plan.

Paragraph 147 of the NPPF clearly states that inappropriate development in the Green Belt, which includes large scale commercial and residential development, is by definition harmful to the Green Belt and should not be approved, except in very special circumstances and paragraph 148 of the NPPF states that when considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Paragraph 149 states that the Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt unless they qualify for consideration under one of the stated exceptions.

These exceptions are:

- a) Buildings for agriculture and forestry;
- b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) Limited infilling in villages;
- f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - Not have a greater impact on the openness of the Green Belt than the existing development; or

- Not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

This proposed development does not qualify for such consideration and is therefore inappropriate development which is by definition harmful to the Green Belt.

Having determined the existence of definitional harm, consideration must also be given to any other harm that might arise from the development of the site.

Paragraph 138 of NPPF sets out the five main purposes of Green Belts:

- o to check the unrestricted sprawl of large built-up areas;
- o to prevent neighbouring towns from merging into one another;
- o to assist in safeguarding the countryside from encroachment;
- o to preserve the setting and special character of historic towns; and
- o to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are its openness and permanence.

The existence of Very Special Circumstances

There is no statutory definition of the term 'very special circumstances' as the Courts have held that very special circumstances will be specific to the particular scheme under consideration. Such considerations do not have to be unique or incapable of repetition.

The Planning Authority considers that a very special circumstance need not be a single matter but may result from a combination of matters which individually may not be considered very '*special*', but which in combination, when viewed objectively, may be identified as '*very special*'.

The NPPF states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm arising from the proposal, is clearly outweighed by other considerations.

The applicant has identified a number of factors which, in the applicant's opinion, constitutes, both individually and cumulatively, very special circumstances. These are:

- I. lack of housing land availability
- II. shortage of affordable housing stock
- III. lack of up to date planning policies
- IV. out of date development plan

In this regard, the applicant suggests that the Council has an inadequate supply of housing land to meet their future housing needs and has a shortfall in available affordable housing stock. The applicant also cites the out-of-date planning policies and development plan, as reasons for very exceptional circumstances being employed to bring about change in the housing market in the area.

The 4 points mentioned by the applicant earlier are put forward as justification for the Council to allow for '*very special circumstances*' which would support new development within a Green Belt area.

Green Belt considerations and the tilted balance

The local planning authority acknowledges that it does not currently have a five-year housing land supply and that this currently sits at 1.86 years¹, and that the proposal would offer some benefit in terms of a limited boost to housing supply within the borough of up to 58 dwellings. It is also acknowledged that the applicant indicates that 40% of the units (23 in total) would be affordable. It is considered that cumulatively, significant weight is attributed to these factors.

It is clear that the application site is located on unallocated land as shown on the development plan for Castle Point, and additionally it is within the designated Green Belt, see **Fig: 2**.

As mentioned previously Paragraph 138 of the NPPF sets out the main purposes of the Green Belt which is to restrict development and to maintain the openness of the Green Belt, preventing towns from merging, restrict urban sprawl, avoid encroachment in the open countryside and preserving the setting and special character of historic towns.

This has always been the main philosophy behind Green Belt policy, and it has maintained the openness and permanence of the countryside.

These aspects are clearly identified with this application when regard is paid to the limited gap between Rayleigh, Hadleigh, Thundersley and Daws Heath and that the loss of the limited gap formed by the designated Green Belt, would cause significant harm to the openness of the countryside and the Green Belt.

This site specifically forms the limited gap between Thundersley and Daws Heath, which is particularly important as this gap represents a 440-500m narrow north-south corridor, which with the exception of minor sporadic development, forms a distinct and definitive boundary between the two settlements of Thundersley and Daws Heath. The proposal would result in the coalescence of some of the large parts of the sporadic development, notably that of the Ragwood Riding Centre and dwellings to the north of this Centre, with the proposed development, eroding this distinctive but narrow north-south separation to almost half its current size at approximately 240m, with development proposed to extend across much of the site.

It is considered that this section of Green Belt, very strongly serves the first three purposes of Green Belts, which are; to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns merging into one another, and to assist in safeguarding the countryside from encroachment. The encroachment of the built for into the Green Belt would erode its function and purpose.

In consequence, the Council do not consider that the long-term philosophy and objectives of the Green Belt, should be relaxed to allow piece-meal development to take place within the Green Belt.

The circumstances being purported by the applicant do not justify very exceptional circumstances to allow such an exception to permit development to take place.

Design and Layout

Adopted Local Plan Policy EC2 seeks to ensure a high standard of design in all proposals with particular regard paid to scale, density, siting, design, layout and external materials which should

¹ Castle Point Authority Monitoring Report 1st April 2021-31st March 2022

be appropriate to the setting, and which should not harm the character of, the surroundings. Proposals should take account of all elements of the local design context.

The NPPF similarly seeks well designed development, and it is therefore considered that Policy EC2 is consistent with the NPPF.

Residential Design Guidance (RDG) was adopted as supplementary documentation. The current application is for outline consent only with all matters except access reserved.

Consequently, limited details of design are provided at this time. Some general advice is however offered in respect of the proposed residential development to inform any future reserved matters application.

In terms of the provisions of the adopted Residential Design Guidance, it should be noted that RDG1 states that within the existing built-up area the plot sizes for new development should be informed by the prevailing character of plot sizes.

RDG2 states that in forms of development where there is no clear pattern of development the space around a dwelling should be proportionate to the size of the building. At least 1m should be provided between the property and the boundaries of the site. Where dwellings are located adjacent to public open space or other areas of land which serve as a buffer to development less space may be considered acceptable. It is further stated that for new large-scale developments, such as that proposed, a different character with varying degrees of space around dwellings can be created, however this should be accompanied by a robust design rationale.

RDG3 essentially requires the establishment of appropriate building lines and seeks to ensure that development does not result in excessive overshadowing or dominance to any elevation of an adjoining property.

RDG4 states that development on corner plots should be designed to turn corners. It also states that all new or replacement dwellings on corner plots should provide active and articulated frontages to all elevations that face the public realm. The developer will be expected to have regard to this advice in the preparation of reserved matters. Corner plots should also be designed to limit the length of high-level garden screening, particularly along return frontages. The guidance states that in all appropriate cases opportunities should be taken to create features on corner locations, which enhance legibility.

RDG5 states that for all residential development above ground floor level a distance of 9m shall be provided between windows, edges of balconies or raised amenity space and the boundary it directly faces at first floor level and 15m at second floor level. Any submitted scheme will be required to demonstrate compliance with this requirement.

RDG6 is concerned with the provision of private amenity area so that the outdoor needs of occupiers are provided for. Flats are required to be provided with 8m² of amenity space for each habitable room. Where three or fewer rooms are provided a minimum amenity space of 25m² per unit is required. This may be provided at a communal level. Where balconies are provided these will only be considered to contribute to amenity area provision where they have a depth of at least 1.5m and an area of at least 5m². For dwellings 15m² per habitable room is required. Where three or less rooms are provided an area of 50m² will be required. Habitable rooms do not include bathrooms, ensuites and utility rooms. All other rooms are included.

RDG7 is concerned with roof development and particularly seeks to ensure that proposals which incorporate features such as dormers and rooflights into roof planes do not result in over dominant

or disproportionate roof treatments. If it is proposed to provide dwellings with rooms in the roof the applicant will be expected to adhere to the requirements of RDG7.

RDG8 requires the design of all development to result in well-proportioned and balanced properties. Fenestration should be aligned both vertically and horizontally. The developer will be expected to have regard to this advice in the preparation of reserved matters.

RDG9 is concerned with the achievement of energy and water efficiency and renewable energy.

RDG10 provides guidance in respect of boundary treatments and states that the means of enclosure and surface material should be informed by the prevailing character of the area and that any means of enclosure should not dominate the public realm. It also states that in all cases the means of enclosure and surface treatment must be of high-quality materials, appropriate in terms of appearance and ongoing maintenance to the location. The developer will be expected to have regard to the requirements of RDG10 in the preparation of reserved matters.

RDG11 of the Residential Design Guidance is concerned with landscaping.

RDG13 is concerned with the provision of appropriate refuse and recycling storage facilities. It is noted that within the Design and Access Statement it is intended to make appropriate provision for both commercial and domestic waste storage. Details will be provided at the reserved matters stage.

Scale

The issue of scale in terms of its impact on the openness of the Green Belt has already been discussed and the principles of that discussion will not be repeated here.

The Density and Mix of Proposed Housing Policy

H9 of the adopted Local Plan requires the optimum density of housing to be achieved on any site whilst ensuring that the proposal does not harm the character of the surrounding area, provides a functional and attractive layout with adequate building lines, landscaping, setting and space around the building and ensuring that the proposal accords with all appropriate policies.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This is a vague policy which is inconsistent with the requirements of paragraph 62 of the NPPF which requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The South Essex Strategic Housing Market Assessment (SHMA) for Castle Point (2020) to review the need for different house sizes and types to meet the changing needs of the Borough's population. This Addendum concluded that there will be demand from a range of different household types, although demand will be particularly strong from families with children and people of retirement age. This means that there is a strong demand, for 3 or 4-bedroom properties reflecting the need of growing families. It is important that these homes are provided as they will help to attract more professional and working aged people to live in the area. This is particularly important for both business growth and in sustaining public services, such as healthcare.

In addition, the Addendum also identified a housing pressure arising from the growing population of older people, which highlights the desirability of bungalows in Castle Point. Bungalows make up 29% of the housing stock currently, and it is expected that there will be demand for additional bungalows in the plan period, reflecting the characteristics of the local housing stock.

It also identifies the need for specialist accommodation for older people, suggesting a need for around 45 units per annum of sheltered housing types. In addition to this around 20 additional bedspaces are required each year in residential care/nursing accommodation.

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

This is consistent with paragraphs 126 and 130 of the NPPF.

NPPF - Para: 126, states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, create better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations and how these will be tested, is essential for achieving this. So too is effective engagement between applicants' communities local planning authorities and other interests throughout the process.

Plans should at the most appropriate level set out a clear design vision and expectations so that applicants have as much certainty as possible about what is likely to be acceptable.

NPPF - Para: 130, states further, planning policy 's and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) visually attractive as a result of good architecture, layout and appropriate and effective landscaping
- c) sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change(such as increased densities)
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development(including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, was a high standard of amenity for existing and future users show me: and where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion and resilience.

The proposal provides an indicative housing mix which is considered to be broadly acceptable. This can be confirmed during the reserved matters stage of the application. It would be advisable for the applicant to consider the aforementioned policy considerations as well as the findings of the 2020 SHMA when determining their final proposed housing mix.

Highways and Parking

Many local residents have expressed concern over the potential traffic implications arising from the proposed development, which proposes access onto the Daws Heath Road. Given that access to the site is not a reserved matter, it falls to consider this matter under this application.

Policy T2 of the adopted Local Plan states that proposals which would result in the intensification of the use of existing accesses or the creation of new accesses onto any trunk, principal or other classified road will, in appropriate cases, require the submission of a traffic impact study demonstrating the ability of the highway network to accommodate the proposed development. Where such demonstration cannot be shown, or where there is a policy objection from the Highway Authority, permission will be refused.

When considering applications that would affect these roads, the Council will consult the Highway Authority and will take the advice received into account when determining applications for planning permission.

Essex County Council as Highway Authority have been consulted on the application and have raised no objection to the proposal, subject to a number of conditions where necessary and appropriate. On the basis of this consultation with the subject matter experts, the highway network may therefore be concluded as being capable of supporting traffic generated by the proposed development.

Policy T8 of the Adopted Local Plan requires the provision of appropriate levels of on-site car parking in accordance with the Essex Planning Officers Vehicle Parking Standards 2009.

Policy EC2 of the Adopted Local Plan highlights the need to ensure that all modes of movement are safe and convenient.

Standard C3 is relevant to the proposed development and requires one space to be provided for all dwellings having one bedroom and 2 spaces for each dwelling having more than one bedroom.

Each parking space should be a minimum of 2.9m wide and 5.5m deep and parking spaces may be provided within garages – single garages are required to be 3m wide (internally) and double garages are required to be 6m wide (internally). All garages are required to be 7m deep (internally) and must be provided with a 6m deep forecourt.

RDG12 states that in the provision of all forms of development, parking must not dominate the public realm. All parking provision should be sited to avoid an adverse impact on visual or residential amenity. Access to all forms of development must be safe and convenient for all users, and the design, size, orientation and location of parking spaces should enable the spaces to be utilised conveniently and must not deter vehicles from using them.

Details for the proposed residential development are less defined, however, it is considered that advice in respect of the provision of parking may be usefully provided at this juncture, in order to inform any future submission of such reserved matters.

Ecology and Trees

Details for the proposed landscaping and ecology for this proposal are not clearly defined, however, it is considered that advice in respect of this may be usefully provided at this juncture, in order to inform any future submission of such reserved matters. It would be expected that in the submission of any reserved matters that those submissions take into account the following provisions.

Paragraph 180 of the NPPF states:

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

Policy EC13 of the adopted Local Plan states that the Council will refuse development which is prejudicial to the interests of all wildlife and the retention and management of important habitats.

Policy EC14 encourages proposals to promote the creation of new wildlife habitats. It further states that the Council will take into account the potential for the creation of wildlife habitats, particularly where these would enhance and complement existing elements of nature conservation on adjoining land.

Policy EC14 is considered consistent with the NPPF, particularly in respect of paragraph 179. In respect of Policy EC13 it is considered more expedient to consider the proposal in the context of paragraph 180 of the NPPF.

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

Recreational Disturbance, Avoidance and Mitigation Strategy (RAMS)

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 2023/24 this is £156.76 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.

This proposal lies within three zones of influence: Benfleet and Southend Marshes, the Blackwater estuary and Foulness ZOI. The developer has not offered a unilateral undertaking or other legal agreement to pay a RAMS contribution nor have they submitted their own appropriate assessment. Nor has there been an upfront payment for this.

Usually where this represents an objection to a proposal, the matter is raised with the applicant given that it is relatively straightforward to resolve. However, in this instance, due to the applicant's

decision to appeal the application on the grounds of non-determination, it has not been possible to rectify this issue with the applicant.

Furthermore, it has not been possible to submit an HRA to Natural England due to the application having been appealed prior to this being done, with the need for the council's recommendation necessitating this be done with utmost haste and not providing sufficient time to submit an HRA to Natural England for review.

Consequently, the development would, therefore, have an unmitigated impact on the habitat's sites on the coast through increased recreational pressure and would be contrary to the principles set out in the Framework and lack any form of mitigation.

Summary and Conclusion:

The Framework sets out at paragraph 11 a presumption in favour of sustainable development, which for decision-taking, means that permission should be granted, unless the harm caused by the proposal outweighs the benefits of the proposal. This is otherwise known as the 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-date⁸, granting permission unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

In this case, 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 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

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 within three zones of influence of coastal habitat sites in terms of recreational disturbance and is within the Green Belt, both of which are listed as protected areas at footnote 7 of the Framework.

The development has been identified as having an unmitigated impact on the habitat sites from recreational disturbance.

The NPPF attaches great importance to the Green Belt, attaching substantial weight to any harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal. The proposed development is inappropriate development and there would be harm to the

character, purpose and function of the Green Belt which conflicts with national policies as contained within the NPPF.

Conversely, there is a significant shortfall in overall market and affordable housing supply, which the development would contribute towards, whilst the scheme would also provide some an economic benefit insofar as the creation of temporary construction jobs. These weigh in favour of the proposal.

Whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, as set out in paragraph 148 of the Framework, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Consequently, for permission to be granted, the planning balance would have to outweigh this identified harm, not just marginally, but decisively.

The totality of considerations in favour of this proposal have been considered which include but are not limited to the supply of market and affordable housing where an identified shortfall exist which amount to significant weight in favour of the proposal. However, despite the totality of considerations in favour of the proposal, it is not considered that these considerations clearly and definitively outweigh the combined weight of the harm to the character, purpose and function of the Green Belt, and conflict with national planning policy.

Therefore, it is considered that the other considerations in this instance do not clearly outweigh the harm identified to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

Consequently, the proposal has been assessed to have an unmitigated harmful impact on identified habitats sites from recreational disturbance, and that the harm caused by the proposal to the character, purpose and function of the Green Belt would directly conflict with national planning policy.

The policies in the Framework relating to the protection of habitat sites and the Green Belt provide clear reasons for refusing the development proposed, and criterion (i) applies, nullifying the presumption in favour of sustainable development. No very special circumstances or other considerations are considered to exist that outweigh these concerns.

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

My **RECOMMENDATION** is that planning permission be **REFUSED** for the following reasons:

Refusal Reasons

- 1 The proposal represents inappropriate development in the Green Belt as defined by the National Planning Policy Framework. Such development will only be permitted if very special circumstances exist to justify its inappropriateness. It is not considered that very special circumstances have been demonstrated in this case which either in isolation or combination carry sufficient weight to outweigh the harm to this part of the Green Belt. The proposed development is therefore contrary to Government advice as contained in the National Planning Policy Framework.
- 2 Under the Conservation of Habitats and Species Regulations 2017 (commonly referred to as the Habitat Regulations) a Habitat Regulations Assessment (HRA) is required for development that is likely to have significant effects on a Habitat Site. Habitat Sites are

protected for their international importance. They are designated through the EU Birds Directive and EU Habitats Directive, and these Directives have been transposed into UK law. The proposal lies within the zones of influence of the Benfleet and Southend Marshes, Foulness and the Blackwater and as such would result in increased recreational pressure on wildlife habitat sites on the Essex coast.

The applicant has not offered any mitigation in accordance with the council's adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) or commissioned their own Appropriate Assessment to demonstrate that there would be no significant likely effect and in the absence of either of these the proposal would be contrary to guidance set out in the National Planning Policy Framework.

Informatives

- 1 The Local Planning Authority has acted positively and proactively in determining this application by setting out a clear timetable for determination to the applicant, once important consultee comments had been received, and by identifying matters of concern with the proposal and clearly setting these out in the reason(s) for refusal.