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AGENDA

Committee: DEVELOPMENT CONTROL

Date and Time: Tuesday 4th February 2020 at 7.30 p.m.

Venue: Council Chamber

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

Membership: Councillors Dick (Chairman), Sharp (Vice Chairman), Acott, Anderson, Blackwell, Cutler, Fuller, Hart, Mrs Haunts, Johnson, Mumford, Taylor and Mrs Wass.

Substitutes: Councillors Palmer, Skipp, Mrs Thornton and Tucker

Canvey Island Town Councillors: Greig and Mrs Sach

Officers attending: Mr Rob Davis - Planning Development and Enforcement Manager
Jason Bishop – Solicitor to the Council

Enquiries: Miss Cheryl Salmon, ext. 2454

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meeting held on 7th January 2020 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.	19/0800/FUL	Land Adjacent To 2 Napier Gardens Thundersley Benfleet Essex SS7 3UZ (Victoria Ward)	1
2.	19/0853/FUL	Land Adjacent To 44 Handel Road Canvey Island Essex (Canvey Island South Ward)	10

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DEVELOPMENT CONTROL COMMITTEE

TUESDAY 7TH JANUARY 2020

PRESENT: Councillors Dick (Chairman), Sharp (Vice Chairman), Acott, Blackwell, Cutler, Fuller, Hart, Mrs Haunts, Johnson, Mumford, Taylor and Tucker*.

Substitute Members Present: Councillor Tucker* for Councillor Anderson

Also Present: Councillors Mrs Thornton, Tucker and Wood .

Apologies for absence was received from Councillors Anderson and Mrs Wass.

19. MEMBERS' INTERESTS

All Development Control Committee Members disclosed a non-pecuniary interest in Agenda Item 5(2) as the land the subject of the planning application fell under the ownership of Councillor Mrs Liz Wass, a member of the Committee who was therefore known to all Members of the Committee. All Committee Members remained in the Chamber during consideration of the item.

20. MINUTES

The Minutes of the meeting held on 3rd December 2019 were taken as read and signed as correct.

21. DEPOSITED PLANS

1. 19/0813/FUL – 84-88 HART ROAD THUNDERSLEY BENFLEET ESSEX SS7 3PF (CEDAR HALL WARD) - DEMOLISH EXISTING OUTBUILDING AND CONSTRUCT 7 NO RESIDENTIAL UNITS ABOVE COMMERCIAL PREMISES INCLUDING ASSOCIATED PARKING AND FACILITIES - DSA PROPERTIES LTD

The application was presented to the Committee at the request of Councillor Hart, who had requested a Committee decision due to concerns relating to the proposal being overdevelopment, out of character, having a lack of parking and lack of amenity space.

The application sought permission for the expansion of existing residential accommodation above commercial premises fronting Hart Road. While the proposal would provide a modest boost to overall housing supply, the proposal exhibited a number of deficiencies when assessed against the Council's policies and guidance as well as the National Planning Policy Framework. These related to the space around the building, its relationship with adjoining sites, the space within the proposed flats, a lack of outdoor amenity space, and the displacement of commercial servicing onto the highway. The proposal was therefore recommended by the planning officer for refusal.

Details of a late representations received were reported and were circulated to the Committee. The Committee was advised that while Essex County Council,

the highways authority had responded informally raising no objection to the application, a formal response was yet to be received.

A number of slides were presented to the Committee showing views of the application site and plans of the proposals. The Committee shared the concerns regarding the deficiencies identified by the planning officer.

Resolved – that the application be refused for the following reasons as recommended in the Planning Officer's report:

1. The proposal, due to a lack of space between its flank wall and northern boundary, fails to provide the building with a setting that would reflect other three storey developments in the area, to the detriment of the visual amenity and character of the area, contrary to Policy EC2 of the adopted Local Plan, RDG2 of the council's Residential Design Guidance and government guidance in the National Planning Policy Framework.
2. The siting of the proposed three storey development adjacent to the northern boundary of the site would be a dominant and overbearing feature which would overshadow the adjoining pub garden to the detriment of the amenity of those patrons using the garden for outdoor drinking and dining contrary to RDG3 of the council's Residential Design Guidance and government guidance in the National Planning Policy Framework.
3. The proposed residential accommodation (flats 4, 5 and 7) is not considered to offer a satisfactory amount of internal space and all flats with the exception of flat 7 are considered to lack adequate storage space when assessed against the Department for Communities and Local Government's Nationally Described Space Standard. The proposal is therefore contrary to best practice and as such is considered to offer poor quality accommodation contrary to RDG16 of the council's Residential Design Guidance and the high standard of residential development the National Planning Policy Framework seeks to achieve.
4. The proposal, by reason of the loss of any opportunity for off-street commercial servicing, is likely to lead to the unloading of goods on the highway in an area near a primary school to the detriment of pedestrian and highway safety, contrary to Policy S5 of the adopted Local Plan and government guidance in the National Planning Policy Framework.
5. The proposal, by reason of the internal layout and the relationship of bedroom windows balconies and access to the flats, would result in a lack of privacy for occupiers of flats 2, 3 and 6 contrary to RDG5 of the council's Residential Design Guidance and the high standard of amenity the National Planning Policy Framework seeks to achieve.

- 6 The proposed balconies to flats 2, 3 and 6 do not have a useable floor area of at least 5 square metres as required by RDG6 of the councils Residential Design Guidance and are therefore unlikely to provide sufficient outdoor amenity space to meet the needs of future occupiers contrary to government guidance in the National Planning Policy Framework, which states at paragraph 127(f) that decisions should ensure developments create places with a high standard of amenity for existing and future users.

2. 19/0776/FUL – VALDABRE THE CHASE THUNDERSLEY BENFLEET ESSEX (CEDAR HALL WARD)- DEMOLITION OF EXISTING TWO-STOREY DWELLING AND CONSTRUCTION OF 3NO. TWO-STOREY DWELLINGS - MR MARK BLACKHALL

The application was presented to the Committee as Councillor Mrs Wass was the landowner.

The application sought permission for the redevelopment of a site containing one dwelling with three detached houses.

Within the context provided by the NPPF the proposal had been identified as potentially infill development which would be appropriate development in the Green Belt. Notwithstanding the merits of this argument a number of factors had been identified which, in combination, were considered to be of sufficient weight to amount to very special circumstances. The proposal was fully compliant with the Council's adopted residential design guidance and accordingly was recommended for approval.

Mr Barnes the Applicant's agent addressed the Committee in support of the application.

Following discussion it was:

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

Chairman

ITEM 1

Application Number:	19/0800/FUL
Address:	Land Adjacent To 2 Napier Gardens Thundersley Benfleet Essex SS7 3UZ (Victoria Ward)
Description of Development:	Demolition of existing outbuildings and construction of dormer bungalow
Applicant:	Mrs Joanne Hitchcock
Case Officer:	Mr Keith Zammit
Expiry Date:	07.02.2020

Summary

The application seeks permission for the provision of a detached dwelling on land adjacent to an existing dwelling, on what is currently a residential garden. When assessed against the council's policies and guidance the development has been found to have a number of deficiencies. These relate to a lack of space around the dwelling necessary to provide it with an adequate setting and a lack of amenity space for both the proposed and retained existing dwelling. As such the proposal is considered to represent overdevelopment of the site and be contrary to national planning guidance. It is therefore recommended for REFUSAL.

The application is presented to members at the request of Councillor Hart on the grounds of over development, parking concerns and overlooking.

Site Visit

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

Introduction

The application relates to land forming part of the garden of 2 Napier Gardens. It is mainly laid to lawn and contains a detached garage, summerhouse and storage shed. The site is bordered by other residential curtilages. The front boundary treatment of the site is a 1.8m high close boarded fence.

The Proposal

Permission is sought for the demolition of the existing outbuildings and erection of a one-bedroomed dormer bungalow. This would have a footprint of approximately 10m by 8m (including the porch) and a pitched roof to a height of some 7m. Two dormer windows are proposed to the front elevation, with the rear roof slope containing a roof light which is notated as obscure glazed and non-openable.

The proposed external materials for the building are red brick, white render and terracotta roof tiles with 'harvest' block paving on the frontage (red-brown colour).

The first floor accommodation would comprise a bedroom with a walk-in wardrobe and en-suite bathroom, while at ground floor there would be a kitchen, lounge-dining area and bathroom.

It should be noted that there is no vehicular access currently serving the site in the location shown on the submitted plans. However, the application form indicates that a new vehicular access is

proposed as part of this application. Two off-street parking spaces are proposed on a block-paved frontage.

Supplementary Documentation

There is none

Planning History

In 2010 an application for a one-bedroomed bungalow with associated parking (CPT/420/10/FUL) was refused for the following reasons:

1. The proposed development would result in the creation of a mean and cramped form of development which would detract from the setting of No. 2 Napier Gardens and the character and appearance of Napier Gardens in general, contrary to Policy EC2 of the adopted Local Plan, Policy DC1 of the emerging Core Strategy and Government Guidance as stated in Planning Policy Statements Nos. 1 and 3. (PPS1 and 3).
2. The limited size of the plot serves to provide a somewhat contrived internal layout which results in the kitchen becoming trapped in the central part of the building with natural ventilation achieved only by rooflights. It is considered that the internal layout demonstrates the inadequacy of the plot to provide a dwelling of good quality and as a consequence it is considered that the development of the site in the manner proposed would be contrary to Policy EC2 of the adopted Local Plan, Policy DC1 of the emerging Core Strategy and Government Guidance as stated in Planning Policy Statements Nos. 1 and 3. (PPS1 and 3).
3. The proposed dwelling, by reason of its elevated position, heightened boundary treatments and close proximity to the northern and eastern boundaries of the site, would be likely to result in the domination and overshadowing of the adjoining properties, to the detriment of the amenity of the occupiers thereof, contrary to Policy EC2 and Policy H17 SPG3 of the adopted Local Plan and Policy DC1 of the emerging Core Strategy.
4. The creation of the application site would result in the existing dwelling being located some 3m to 4m from the southern boundary of the application site and would allow the occupiers of the existing dwelling to overlook the private amenity area of the proposed dwelling from close proximity. It is considered that the creation of such a situation is unacceptable and would result in an undue loss of privacy for the occupiers of the proposed dwelling contrary to Policy EC3 and H17 SPG4 of the adopted Local Plan, Policy DC1 of the emerging Core Strategy and Government Guidance as contained in PPS 1 and 3.
5. The applicant has failed to demonstrate the provision of adequate, safe and convenient parking provision to serve the needs of the new dwelling. If implemented it is considered that the proposal would be likely to result in an increase in on street car parking, or in vehicles being parked partially on the site and partially overhanging the footway, to the detriment of the free flow of traffic and to highway and pedestrian safety, contrary to Policies EC2 and T8 of the Council's Adopted Local Plan and Policy DC2 of the emerging Core Strategy.

In September 2018 an application for a pre-fabricated annexe for ancillary residential use (18/0651/FUL) was refused for the following reasons:

1. The applicant has not demonstrated a need for the proposed accommodation or that it would be occupied in a manner ancillary to the main dwelling. If permitted, the proposal would provide self-contained accommodation which, due to it being detached from the main dwelling and having its own frontage to the highway, would amount to the creation of an independent

dwelling lacking the normal facilities such as private amenity space, and failing to provide the high quality of residential development sought by the National Planning Policy Framework.

2. The proposal, due to its flat-roofed design, method of construction and use of external materials would result in a discordant form of development, out of character with the street scene and which would fail to integrate satisfactorily with its surroundings. The proposal would therefore be contrary to Policy EC2 of the adopted Local Plan and government guidance in the National Planning Policy Framework.

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework (February 2019):

Introduction and achieving sustainable development

Paragraphs 2, 7-12

Decision-making

Paragraphs 47-48

Making effective use of land

Paragraphs 117-118

Achieving well-designed places

Paragraph 127

Promoting sustainable development

Paragraph 110

Castle Point Adopted Local Plan 1998

EC2 – Design

T8 – Parking standards

Residential Design Guidance (2013):

RDG1 – Plot size

RDG2 – Space around dwellings

RDG3 – Building lines

RDG5 – Privacy and living conditions

RDG6 – Amenity space

RDG7 – Roof development

RDG12 – Parking and access

Consultation

Highways – no comments received

Public Consultation

Neighbour notification – the following objection comments and observations have been made:

- o Overlooking of surrounding properties
- o Overshadowing of surrounding properties
- o Loss of existing parking spaces
- o Difficult diagonal parking for proposed property
- o Overdeveloped site (extensions to existing property)
- o Garden infill not good practice

- o Boundaries shown incorrectly on plans
- o Level changes between sites
- o The existing parking situation in the cul-de-sac will be worsened, for example cars blocking driveways. Residents' parking would be a solution.

Comments on Consultation Responses

- o The local planning authority do not hold records of land ownership and disputes about such matters are not a material planning consideration.
- o The borough council cannot implement a residents' parking scheme, this would need to be undertaken by the county council as highway authority.
- o Any other planning issues raised are considered in the evaluation of the proposal.

Evaluation of Proposal

The land is allocated for residential purposes on the proposals map accompanying the adopted Local Plan so there is no objection in principle to residential development on this site. The main issues for consideration are the design of the dwelling, its impact on neighbours and the occupiers of the new property and any parking implications.

Design

Policy EC2 of the Local Plan seeks a high standard of design in all new buildings. In particular, the scale, density, siting, design, layout and external materials of any development shall be appropriate to its setting and should not harm the character of its surroundings. This is consistent with paragraph 127 of the National Planning Policy Framework (the Framework).

The council has adopted Residential Design Guidance as a supplementary planning document. Within this, guidance at RDG7 states that the roof design of any development should be compatible primarily with the dwelling but should also be informed by the prevailing character of the area and surrounding forms of roof development. Roof development should not repeat poor forms of roof development unless this would rectify an unbalanced or asymmetrical pair of semi-detached or group of dwellings. The roof of a dwelling, either built as new or extended or altered, should be proportionate to the remainder of the dwelling. It must not be too heavy, prominent or dominant. Dormers should be an ancillary feature of the roofscape and must not dominate it. They must be provided with substantial roof verges above, below and to the sides.

The height of the proposed property at 7m compares favourably to the existing property at 2 Napier Gardens which has an overall roof height of some 7.7m. The roof does not look out of proportion with the rest of the dwelling. The proposed dormer windows to the front aspect are well-proportioned with good roof margins and considered to be consistent with design guidance.

Guidance at RDG1 requires the plot sizes for all new development to be informed by the prevailing character of plot sizes. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern. Where there is no clear pattern of plot sizes, the size of the plot should be proportionate to the size of the dwelling occupying it.

In terms of plot width, the frontage of the dwelling would measure some 9.5m. This would be in keeping with other plots nearby in Napier Gardens.

In terms of the plot depth, the site would have a depth ranging from 14m to 17m. The plots on the western side of Napier Gardens have much deeper plots than this although it is acknowledged that they become gradually shallower as they approach the junction with Daws Heath Road.

Nonetheless, the existing dwelling at No.2 Napier Gardens still manages to provide a maximum plot depth of 22m. The plot depth of the proposal would be significantly shallower and therefore appear inconsistent with the pattern of surrounding development on this side of Napier Gardens.

However, in accordance with the above guidance the size of the plot also needs to be informed by guidance set out at RDG2 to RDG6.

RDG2 also advises that the space around all new development should be informed by the prevailing character of space around dwellings and must not result in disruption to this pattern. It goes on to state that where there is no clear pattern the space around a dwelling should be proportionate to the size of the dwelling, with at least 1m between the dwelling and the boundary.

Properties in Napier Gardens generally have a gap between their flank wall and the boundary of at least 1m and sometimes as much as 2.5m or 3m. There are some single storey projections up to boundaries to accommodate garages. No. 9 Napier Gardens has a single storey side/rear extension up to the boundary, but that is the exception rather than the rule.

The proposed dwelling would have a 1m gap between its flank wall and the southern boundary which is acceptable given the context of the streetscene. However, on the northern side the dwelling the gap would only be around 0.25m. The dwelling is two storey at this point and the lack of side isolation space to its side would in the opinion of officers make the dwelling appear cramped and shoehorned into its plot.

This aspect of the development is considered to be in conflict with RDG2 and also Policy EC2 inasmuch as the siting and layout of the development would be inconsistent with its surroundings and therefore harmful to the character of the area.

With regard to the appropriateness of the plot depth it has already been acknowledged that the depth of rear gardens on this side of Napier Gardens reduce in the direction of Daws Heath Road. However, it should also be noted that with the exception of No.2 all these properties have rear garden depths in excess of 9m.

No.2 Napier Gardens was originally constructed with a rear garden depth of 9m on its southern side reducing to approximately 5.5m. This has since been reduced with a single storey rear extension to 6m and 3m respectively. The first floor rear dormer is contained within the original footprint of the dwelling.

The application proposal reduces this distance still further by providing a maximum rear garden depth of 4.5m and at its shallowest the footprint of the roof of the dwelling would be only some 2m set back from the north-western boundary of the site. In terms of the roof and ridgeline of the dwelling, which would have the greatest visual impact on neighbours, this would be set some 5.5m to 7.5m away from the western boundary of the site whereas the ridge of No.2 Napier Gardens is currently set 8.5m to 12m away.

It can be seen from these dimensions that the proposed dwelling would have a materially shallower rear garden depth than its immediate neighbour, which in turn is already much shorter than other dwellings on this side of Napier Gardens.

As such it is considered that the size of the proposed rear garden would be out of character with surrounding pattern of development and lacks sufficient depth to provide an adequate setting for the dwelling.

Such an approach is supported by government guidance, which states at paragraph 127 of the Framework that development should be sympathetic to local character and history, including the surrounding built environment, and should establish or maintain a strong sense of place.

RDG3 requires proposals to respect established building lines. There is no clear building line to the rear of this part of Napier Gardens and the proposal does not project past the rear wall of its adjacent neighbour. Therefore, no objection is raised on the basis of RDG3.

Impact on neighbours

RDG5 deals with privacy and living conditions. A distance of 9m is required to be provided between first floor windows and the boundary of the site. Where this is not achieved, the use of windows with obscure glazing and limited opening can be used to prevent overlooking, but only where the windows concerned are secondary windows.

The proposal does not feature any side-facing first floor windows. The front upstairs dormer windows would overlook the street which is within the public realm. It is noted that the neighbours at 56 Daws Heath Road have raised the issue of being overlooked but as they are on the other side of Napier Gardens, and the carriageway, verge and footways of Napier Gardens have a combined width of over 9m, it is not considered that undue overlooking from the front dormers would occur. There would be no reason to refuse permission on this basis.

The proposed rear facing roof light is notated as obscure glazed and fixed. Given that this window is a secondary source of light such provision would be consistent with the council's guidance set out at RDG5.

It is also noted that neighbours at 52 Daws Heath Road have commented they would feel overlooked by this development, from any patio area and from the dwelling itself, due to changes in ground levels. This concern is understood, but the plans do not show any form of raised patio to the rear of the proposed dwelling, so there would be no reason to refuse the proposal on this basis.

RDG3 requires proposals not to cause excessive overshadowing or dominance to adjacent properties. A comment has been made that the proposal would create a depressing outlook for 56 Daws Heath Road. However, the relationship of the proposed dwelling with the neighbour opposite would be no different than other dwellings in Napier Gardens.

It is not considered that the proposal would be so large or in such close proximity to any other neighbouring properties that any unacceptable loss of amenity by way of overshadowing or dominance would occur. No objection is therefore raised on the basis of RDG3.

Living conditions for occupiers of the new property

RDG16 states that all new dwellings should provide appropriate internal space and circulation space reflecting the character of the surrounding area and current best practice. The Department for Communities and Local Government's 2015 Technical Housing Standards are considered to represent an example of best practice.

Within this document, a one-bedroom, two-person dwelling over two floors requires a floor area of at least 58m². The property has a floor area of 93m² over two floors so performs well in this respect.

The double bedroom should have a floor area of at least 11.5m² and be 2.75m wide. It has a floor area of 24.4m² and a minimum width of 2.8m so is considered generously proportioned.

The property ought to have 1.5m² of built-in storage (i.e. a hall cupboard) and does not have this. It does, however, have a large walk-in wardrobe of 7.6m² and any built-in wardrobe area in excess of 0.72m² in a double bedroom can count towards the storage requirement. The property therefore has enough storage.

There is no doubt that the accommodation being offered is sufficient to meet the guidance set out in RDG16.

RDG6 requires appropriate amounts of outdoor amenity space to be provided in proportion to the size of the dwelling. A minimum of 15m² per habitable room should be provided, with a minimum of 50m².

A dual-purpose living/dining room is proposed and therefore the dwelling could arguably be considered to provide four habitable rooms. In such circumstances an amenity area of at least 60m² is therefore expected. The property has a rear amenity area of some 51m², which is below the minimum.

Were the living/dining room to be counted as one habitable room then only 50m² of amenity space would be required and at first glance the proposal would appear to meet the requirements of RDG6.

However, it should be noted that to meet the minimum amenity standard the applicant has included an area located under the roof of the dwelling. In addition to the roof overhang there is a corner pier supporting it which would further reduce the usefulness and practicality of this area of the plot for outdoor amenity purposes. Once this is excluded from the amenity area calculation the garden falls below the minimum required.

It should also be noted that the proposal would reduce the rear garden area of the existing dwelling to some 55m². This property has six habitable rooms so ought to have an amenity area of at least 90m².

Therefore, both the existing and proposed dwellings would be provided with insufficient outdoor amenity space to meet the council's guidance which in the opinion of officers is indicative of the overdevelopment of the site. As such the proposal is unlikely to meet the outdoor needs of the occupiers of the existing and proposed dwellings and offers a poor level of amenity for future users.

Support for this approach can be found at paragraph 127f of the National Planning Policy Framework which states that developments should create places with a high standard of amenity for existing and future users.

Parking implications

Policy T8 of the Local Plan requires the provision of parking in accordance with adopted standards. The currently adopted standards are the 2009 County Parking Standards which require the provision of a minimum of one off-street parking space for one-bedroomed properties and two spaces for properties with two or more bedrooms. Application of this minimum parking standard is consistent with paragraph 105 of the Framework because it has been set taking into account local circumstances.

RDG12 requires parking not to dominate the public realm and not to have an adverse impact on visual or residential amenity. It also states that the design, size, orientation and location of parking spaces should enable them to be utilised conveniently and must not deter vehicles from using them.

The proposed dwelling would have one bedroom and therefore a minimum of one off-street parking space is sought. The submitted plans show two off-street parking spaces accessed by a central crossover. This is not an efficient parking layout. The porch means that the cars are parked at an angle and it would not be easy to do this with the crossover shown. Parked cars in the street are likely to prevent this from being a realistic parking option. A better solution would be a single parking space on one side of the frontage with a repositioned vehicle crossover to serve it.

The parking layout does not function well but a condition could be imposed on any planning permission granted to overcome this issue, so it does not represent a robust reason for refusing planning permission.

Front forecourt parking would not be visually out of character in Napier Gardens as many other properties have this type of parking provision and its location would not be detrimental to the amenity of nearby residents.

No objection is therefore raised on the basis of Policy T8 or RDG12.

Conclusion and planning balance

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

- o approving proposals that accord with an up-to-date development plan without delay; or
- o where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, 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 proposed⁶; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The council's development plan is not up-to-date. Footnote 7 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; or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

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

The application site is not within or close to, nor does it consist of, an area or asset of particular importance (as listed at footnote 6). Permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal would provide a benefit in terms of a limited boost to housing supply (of one additional dwelling). However, it has also been identified as having a negative effect on its surroundings, due to the plot being of inadequate size to provide the dwelling with an appropriate setting and the lack of isolation space to the northern boundary making it appear cramped within

its plot. The proposal would also provide inadequate amenity space for both the existing and proposed dwellings.

These objections are indicative of the overdevelopment of the plot and consistent with the guidance set out in Chapter 12 of the Framework, which is concerned with achieving well-designed places.

The boost to housing supply of one additional property would not have a significant impact on the council's housing supply and the benefit of providing one new dwelling is considered to be outweighed by the negative aspects of the proposed development when assessed against the Framework as a whole.

It is therefore recommended that the application be REFUSED.

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

My Recommendation is Refusal for the following reasons

- 1 The proposed dwelling, due to a lack of space between its flank wall and northern boundary and provision of inadequate amenity space, would fail to provide the dwelling with an appropriate setting to the detriment of the visual amenity and character of the area contrary to Policy EC2 of the adopted Local Plan, RDG2 of the council's Residential Design Guidance and government guidance in the National Planning Policy Framework.
- 2 The proposal would result in the inadequate provision of outdoor amenity space for both the proposed dwelling and the existing dwelling at 2 Napier Gardens and is indicative of the overdevelopment of the plot. If approved, development is therefore unlikely to be capable of meeting the outdoor needs of the occupiers and would offer a poor level of amenity contrary to RDG6 of the council's Residential Design Guidance and government guidance in the National Planning Policy Framework, which states at paragraph 127(f) that decisions should ensure developments create places with a high standard of amenity for existing and future users.
- 3 The proposed plot, by reason of its shallow depth, would be out of character with the surrounding pattern of development to the detriment of the character and appearance of the area contrary to Policy EC2 of the council's Adopted Local Plan, RDG1 of the council's Residential Design Guidance, and government guidance contained in the National Planning Policy Framework.

Informatives

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

ITEM 2

Application Number:	19/0853/FUL
Address:	Land Adjacent To 44 Handel Road Canvey Island Essex (Canvey Island South Ward)
Description of Development:	Construction of a two-storey chalet-style dwelling
Applicant:	Mr Dean Bullock
Case Officer	Mr Keith Zammit
Expiry Date:	07.02.2020

Summary

The application seeks permission for development of the site with a detached dormer bungalow to mirror the dwelling constructed facing May Avenue.

However, the proposal does not meet the Department for Communities and Local Government's Technical housing standards and therefore fails provide the high standard of residential accommodation sought by the National Planning Policy Framework. The proposal also results in a loss of outlook to occupiers in the dwelling to the north which would also be worse than the previously dismissed appeal scheme for this site.

The proposal is therefore recommended for REFUSAL.

The application is presented to committee at the request of Councillor Compagna over concerns that the proposal would be a dominant feature, overshadow neighbours, be out of character with the surrounding area and overdevelopment of the site. Concern has also been raised about the loss of open space and formation of a narrow pedestrian footpath and the effect this would have on public safety.

Site Visit

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

Introduction

The application relates to an area of grassed land between two existing residential properties and crossed by a footpath linking Handel Road with May Avenue. It is the remnant of a former road that was closed to vehicular traffic in the 1970s but has since been reduced to a footpath only. A new dwelling has been provided on part of the former road, facing May Avenue.

There are residential properties to the north and south of this site, the one to the north being a bungalow at 42 Handel Road, and the one to the south being a house at No.44. The house at 44 Handel Road has a height of approximately 7.3m.

The Proposal

Permission is sought for the erection of a two-bedroomed property on the land, with a car port beneath a flying first floor, in the same style as the recently-constructed property to the west facing May Avenue. The proposed external materials are yellow stock brick, grey cladding and grey concrete tiles, reflecting the development already approved.

The overall roof height would be 7.1m.

Within the property at first floor there are two bedrooms and a bathroom. Downstairs, an open-plan kitchen/living area would be provided, with an additional WC.

Supplementary Documentation

The application is accompanied by a covering letter, structural details, a flood risk statement and materials specification which are available to view on the council's website.

Planning History

In July 2016 an application was refused for the erection of two detached dormer bungalows and relocation of the footpath (16/0336/FUL) for the following reasons:

1. The proposed development would result in a loss of an attractive area of greensward, to the detriment of the character and amenity of the area, contrary to Policy EC2 of the Council's Adopted Local Plan and Government advice as expressed in the National Planning Policy Framework.
2. The proposed dwellings, by reason of their height and proximity to the bungalows at 42 Handel Road and 83 May Avenue, would be likely to result in undue dominance of those dwellings, to the detriment of the amenity of the occupiers of those bungalows, contrary to Policy EC2 of the Council's Adopted Local Plan and Government advice as expressed in the National Planning Policy Framework.
3. Inadequate information has been submitted to satisfactorily demonstrate how surface water run-off from the proposed dwellings and hard surfaces is to be managed without increasing the risk of flooding elsewhere, contrary to Government guidance as contained in the National Policy Planning Framework.

An appeal against this refusal was dismissed. The inspector did not support these reasons however and refused permission based on the loss of privacy to 42 Handel Road (from the repositioning of the footpath to the north side of the site) and the loss of outlook from that property.

Relevant Government Guidance and Local Plan Policies

National Planning Policy Framework (February 2019)

Promoting sustainable transport

Paragraphs 105-106

Making effective use of land

Paragraphs 117-118

Achieving well-designed places

Paragraphs 127, 130

Meeting the challenge of climate change, flooding and coastal change

Paragraphs 155-165

Castle Point Adopted Local Plan 1998

EC2 – Design

T8 – Parking standards

Emerging Local Plan (December 2019)

HS7 – Open spaces, allotment gardens and playing fields associated with educational uses

Residential Design Guidance (2013)

RDG1 – Plot size

RDG2 – Space around dwellings

RDG3 – Building lines

RDG5 – Privacy and living conditions

RDG6 – Amenity space

RDG12 – Parking and access

RDG16 – Liveable homes

Consultation

Canvey Town Council – object for the following reasons:

- o Over dominance to the adjacent bungalow.
- o Members felt that by losing this green open space it will leave a narrow alleyway which provides anti-social behaviour and fails to promote community safety and reduce vulnerability as set out in the National Planning Framework paragraph 92A and 95. The loss of this undeveloped grassed footpath is contrary to Policy HS7 of the council's New Local Plan that clearly states the site is an Open Space, and contrary to paragraphs 99, 100 and 101 of the National Planning Framework.

Environment Agency – No objection provided that the local planning authority has taken into account the flood risk considerations which are its responsibility.

Highways – No comments received

Public Consultation

The following objection comments and observations have been made:

- o Similar to refused appeal scheme in respect of its impact on No.42
- o Loss of light to No.42
- o Increased risk of flooding from sewer/storm water
- o Increased traffic to an already congested road where already no parking spaces are available
- o Not in accordance with Policy EC7
- o Dominance to adjacent property
- o Loss of amenity open space
- o Loss of privacy to adjacent property

Comments on Consultation Responses

Any material planning issues raised are discussed in the evaluation of the proposal.

Evaluation of Proposal

The main issues with this application are the principle of a housing development, its design and layout, impact on neighbours and the living conditions of future occupiers of the dwelling, flood risk and drainage, and any parking implications.

Principle

The land is allocated as residential on the proposals map accompanying the Local Plan. There can therefore be no objection to the principle of a residential development on this site. The land still has highway rights across it even though the adjoining land to the west had them removed for the new property facing May Avenue. The right of way for pedestrians from Handel Road to May Avenue would continue to be maintained by way of the existing footpath, which has been resurfaced to a better standard than the old path and has a new street light. The proposed development would not affect the usage of this footpath.

Should planning permission be granted the applicant would still need to apply for an extinguishment of highway rights, but as free passage for legitimate users of the highway would be maintained it is difficult to see why approval for this would not be forthcoming.

A neighbour of the development has queried whether this development is contrary to policy EC7. This relates to natural and semi-natural features in urban areas and states that they should be retained and enhanced wherever possible. This is consistent with paragraph 127 of the National Planning Policy Framework (the Framework) insofar as it seeks to retain landscaping for development.

The current grassed area may be said to be a natural feature or open space within the urban area, however it is private property (notwithstanding highway rights) and there is no right to use it for recreational purposes. It currently serves as a visual amenity to the area, however as the appeal inspector at the time of application 16/0336/FUL commented, while the appeal site provides some visual amenity within its immediate vicinity, the contribution it makes to the wider character and appearance of the streetscape and area is limited. Such a reason for objecting to the proposal was therefore not supported by the Inspector.

Members will no doubt also be aware that the pre-submission Castle Point New Local Plan published in December 2019 also includes a policy about open space.

This policy, HS7, permits limited minor scale ancillary development on open spaces subject to a number of criteria. However, the proposal is not ancillary to anything and therefore does not fall to be considered under these provisions.

HS7 also supports development resulting in a loss of publicly open space where an assessment has been undertaken which indicates that the existing facility is surplus to requirements. No such assessment has been submitted with the application.

Notwithstanding the above the application of Policy HS7 is only considered appropriate in the context of formal or informal recreational uses. Were this not the case there would be no need to include a requirement for the overall use of the space to be retained for recreational purposes in criteria 2b. Furthermore, unless such open space has a recognised recreational use how can it be assessed against the need for such facilities.

Members should also note that emerging Local Plan has not been submitted for examination and therefore carries very little weight in the decision-making process at this stage.

There is therefore no objection to the proposal in principle.

Design and layout

Policy EC2 of the Local Plan seeks a high standard of design in all new buildings. In particular, the scale, density, siting, design, layout and external materials shall be appropriate to its setting and

should not harm the character of its surroundings. This is consistent with paragraph 127 of the Framework.

The appearance of the dwelling is considered to be reasonably attractive and well proportioned. With an overall height of some 7.1m it would not appear excessively tall in relation to the surrounding development. The house to the south has a height of approximately 7.3m. The proposal would represent a good transition between the house to the south and the bungalow to the north. The use of a mixed palette of materials is felt to add interest to the property and given the variety of materials used on dwellings in the vicinity this would not look out of place. There is therefore no objection to the proposal on the basis of Policy EC2.

The council has adopted Residential Design Guidance as a supplementary planning document. This is considered to reflect the government guidance within section 12 of the Framework.

Guidance at RDG1 is concerned with plot size. It states that within the built-up area, the plot sizes for all new development should be informed by the prevailing character of plot sizes. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern. Where there is no clear pattern of plot sizes, the size of the plot should be proportionate to the size of the dwelling occupying it. This should be informed having regard to RDG2 to RDG6 of the Residential Design Guidance.

Looking at the plots in the vicinity of the application site, they vary in width from around 9m to more than twice this size. The proposed plot width is 8.5m. At the time of approving the newly built dwelling facing May Avenue officers considered that this was an area where there was no clear pattern of plot sizes. The proposed dwelling reflects the size of the plot facing May Avenue and is considered to accord with RDG1.

RDG2 requires the space around all new development to be informed by the prevailing character of space around dwellings. 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 dwelling, with a minimum of 1m.

There are mixed forms of development in the vicinity of the application site, made up of detached, semi-detached and terraced dwellings, with varying degrees of space around them.

The proposed dwelling would have a width of some 7.5m at ground floor and 6.5m at first floor. It would have side access of 1m on the northern side of the plot and the car port would extend up to the boundary on the southern side, beyond which is the footpath. These spaces are felt to be proportionate to the size of the dwelling and would provide it with adequate space and setting.

RDG3 requires proposals to respect established building lines. The proposed house would be 3m from the front boundary which is in keeping with the adjacent dwellings. No objection is raised on the basis of this part of RDG3.

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

The appeal against the council's refusal of permission for 16/0336/FUL was dismissed on the basis of a loss of privacy and outlook for occupiers of No.42 Handel Road.

Now that the footpath is to be retained in its current location rather than moved to the north side of the plot, there would be no loss of privacy to No.42 arising.

However, in terms of outlook, No.42 has two windows in its southern side elevation facing the application site, which serve a bathroom and bedroom. The appeal was dismissed because it was held that a dwelling on this site would lead to unacceptable loss of outlook from the bedroom window. This is currently enjoyed due to the presence of a low boundary fence as well as the application site being undeveloped.

The previous scheme 16/0336/FUL had a 'car port' located 3.3m from the flank wall of No.42 and the first floor set back a further 700mm. This scheme has the two storey flank wall of the dwelling 2.4m from the side windows of No.42. It would therefore be closer to the neighbour than the previously scheme and have a greater effect of reducing No.42's outlook.

The planning authority does not normally protect side windows when development takes place on adjoining land, as there is no entitlement to a view across a neighbour's land. The circumstances in this particular case are however somewhat different. The application site is open in nature and has highway rights over it. At the time the neighbouring bungalow was built there would have been a reasonable expectation that the application site would never be built on. Accordingly, considerations of overlooking or a loss of outlook would not have been foremost in the mind of occupiers.

It is noted that the plans state it is intended to either replace the northern boundary fence to No.42 with a 1.8m high fence or, if this fence does not belong to the applicant, then to erect a new 1.8m high fence adjacent to it. Such work could even be undertaken as permitted development irrespective of the outcome of this application. A 1.8m high fence would not however have the same effect as the proposed development of reducing the outlook of occupiers from the adjacent dwelling. This can be seen on the street scene drawing provided with the application. The erection of a 1.8m high fence along the northern boundary does not therefore represent a convincing argument for allowing the proposal.

Were this development to proceed it is considered that there would be a material loss of outlook from the adjacent property which occupiers have previously enjoyed and would reasonably expect to continue, and the proposal is therefore considered to be contrary to RDG3 of the council's design guidance. Such an approach is supported by the Framework at paragraph 127f which states that development should create places with a high standard of amenity for existing and future users.

There are no windows in the flank wall of the property to the south so the proposal would not cause loss of outlook from this dwelling. It is considered that there is sufficient space between the proposal and other neighbouring properties that it would not have an unduly dominating effect.

RDG5 deals with privacy and living conditions, requiring a distance of 9m to be provided between first floor windows and the boundaries of the site. Where this is not achieved, the use of windows with obscured glazing and limited opening can be used to protect privacy, but only where the windows concerned are secondary windows.

The proposed rear windows would overlook the property's rear garden, which has a depth of approximately 6.5m. The first floor rear windows would not be provided with an outlook distance of 9m, but as the windows are a bathroom window, which could be obscure glazed for privacy, and high level windows to a bedroom, which would not allow overlooking of the property to the rear, it is not considered that the privacy of the new occupants in the house facing May Avenue would be compromised. Were permission granted, conditions would need to be imposed to require the windows to be retained as obscure glazed or high level as appropriate.

The front windows overlook the street. Council guidelines on overlooking are not normally applied to windows overlooking a road as this usually does not result in any loss of privacy to neighbours living opposite.

A window is shown on the stairs to the north side elevation, however it would be high above the stairs and would not cause overlooking of the adjacent property.

Subject to a condition requiring the rear windows above ground floor level to be conditioned as high level, or obscure glazed and with limited openings, the proposal complies with guidance at RDG5.

RDG6 requires the provision of appropriate amounts of outdoor amenity space in proportion to the size of the dwelling. A minimum of 15m² per habitable room should be provided, with a minimum of 50m².

The property is considered to have four habitable rooms requiring an amenity area of 60m². A rear garden of 60.5m² is indicated on the plans as being provided. Officers have measured this to be only some 57m² which is slightly below of the required amount. However, were the bin store area to be included it would meet this guidance.

Notwithstanding any differences in calculating the amenity area the level of provision would not be out of character with the size of gardens in the surrounding area. Given this context it is not considered that an objection on the basis of RDG6 would be sustained on appeal.

Were permission granted, a condition would be necessary withdrawing permitted development rights to prevent the uncontrolled erection of extensions from eroding the already compact rear garden.

Living conditions for future occupiers of the dwelling

The property is a replica of that which has been approved to the west, however officers are becoming increasingly concerned at the substandard level of residential accommodation being provided by developers and the trend towards increasingly smaller dwellings, coupled with the poor levels of amenity that these offer new residents.

RDG16 states that all new dwellings should provide appropriate internal space and circulation space which reflect the character of the area but also reflect current best practice. Accordingly, the Department for Communities and Local Government's 2015 Technical housing standards, which represent an example of current best practice, are now being applied to all new developments.

This property is considered to be a two-bedroom, three-person, two-storey dwelling which should have an overall floor area of 70m² with 2m² of built-in storage.

The overall floor area is 67m² and therefore falls below this guidance. In terms of storage, there is an under stairs cupboard, which the technical housing standard advises should be assumed to have an area of 1m² (included in the gross internal area), and a further storage cupboard is located on the landing with an area of 0.9m², making a total of 1.9m² storage. This, again, is a marginal shortfall.

The master bedroom should have a floor area of at least 11.5m² and minimum width of 2.75m. It has a floor area of 11.4m² and minimum width of 2.662m. A marginal shortfall therefore exists.

The second bedroom (single room) should have a floor area of at least 7.5m² and be at least 2.15m wide. It would have a floor area of 11.8m² and width of 2.27m which meets the requirement.

The property fails to meet the guidance set out in the technical housing standards. Although the shortfalls that have been identified are marginal, there are nonetheless several of them.

It is therefore considered that the proposal fails to provide sufficient internal circulation space in accordance with RDG16 and would be contrary to paragraph 127f of the Framework which seeks the creation of places with a high standard of amenity for existing and future users.

Parking

Policy T8 of the Local Plan requires the provision of parking in accordance with adopted standards. This is broadly consistent with paragraph 105 of the Framework. RDG12 of the council's Residential Design Guidance requires parking not to be visually dominant.

The currently adopted standards are the Essex County Council 2009 Parking Standards. These require the provision of two spaces for properties with two or more bedrooms. The proposal achieves this.

The provision of a car port beneath a flying first floor is not considered to be a visually dominant form of parking.

Paragraph 110e of the Framework seeks the provision of electric vehicle charge points in safe, accessible and convenient locations. A dwelling is considered to be a convenient location because it would enable an occupier to charge their vehicle overnight. An electric vehicle charge point could easily be provided in the car port at minimal effort during the build.

Subject to conditions to ensure the provision and retention of parking and the charge point, no objection is raised to the proposal on parking grounds.

Flood risk

Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 158 states that the aim of the sequential test is to steer new development to the areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Paragraph 159 states that if it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in national practice guidance.

Since the settlement of Canvey Island is located entirely within Flood Zone 3A it is not considered that there are reasonably alternative sites within the area with a lower probability of flooding that could accommodate the proposed development. Accordingly, it is considered that the proposal passes the sequential test.

Practice guidance requires that proposed dwellings within Flood Zone 3A must also pass the exception test. Paragraph 160 of the Framework states that the application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at planning application stage. For the exception test to be passed it should be demonstrated that:

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

In respect of the first criterion, the continued need for housing development to serve the community of Canvey Island is considered to provide a wider sustainability benefit, which is necessary, and the first part of the exception test is therefore considered to have been passed.

In respect of the second part of the exception test, the application is accompanied by a site-specific flood risk statement which demonstrates that although the ground floor of the property would be liable to flood were there to be a tidal flood event, the first floor would offer refuge. Subject to a flood response plan so that the response of occupiers to a flood warning being issued or flooding occurring is managed appropriately, for example by remaining within the first floor of the property rather than trying to evacuate, the second element of the exception test is passed and there is no objection to the proposal on flood risk grounds.

The flood response plan at Appendix E of the Flood Risk Statement prepared by Contour Architectural Designs dated June 2017 reference CAD/PP/16008/FRP-2 is considered satisfactory for this purpose.

Drainage

The Framework states on several occasions including at paragraph 163 that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. This includes ensuring that surface water is dealt with appropriately and does not increase the risk of surface water flooding for nearby sites.

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

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

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

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

There is no surface water body on or in the vicinity of the site that could receive surface runoff, so the next most suitable option is to discharge to the surface water sewer. Attenuated discharge to the surface water sewer is considered to be appropriate in the context of the drainage hierarchy set out in the practice guidance and would minimise any additional burden on the existing drainage infrastructure. This approach is now applied to new developments on Canvey Island.

The application includes no details of surface water drainage. However, it is clear from the plans of the dwelling recently built facing May Avenue that providing a surface water drainage system in accordance with recent practice could be achieved. In line with the previous appeal decision, it is considered that this aspect of the proposal may be dealt with by way of a suitably worded condition were planning permission granted. Subject to such a condition there is no objection to the proposal on the basis of surface water drainage.

It should be noted that in determining the previous appeal the Inspector also concluded that there would be no detrimental effect on flood risk elsewhere from surface water runoff.

Other matters

Practice guidance also states that the structural safety of buildings is a consideration. This is of particular importance in the case of this dwelling as the first floor would be used for flood refuge purposes. The application is accompanied by construction drawings and calculations from Millard and Partners structural engineers, however, there is no non-technical summary. Were permission granted, a condition would need to be imposed requiring submission and approval of details demonstrating that the building has been designed to resist the forces that may act upon it up to and including a 1 in 1000 year flood event and would not suffer structural failure.

As a final point, it is noted that the member call-in request for this application covered a number of other subject areas that have not been specifically addressed in this evaluation. These are:

- o Dominant feature in the street scene
- o Out of character with the surrounding area
- o Overdevelopment of the site
- o Formation of a narrow pedestrian footpath with high fencing either side, consequent effect on public safety, with reference to paragraphs 92a and 95 of the Framework
- o Loss of undeveloped grassed footpath and open space detrimental to character of area and paragraphs 99, 100 and 101 of the Framework.

Dominance in street scene

The proposed dwelling is a replica of the property that has been constructed facing May Avenue and a 'handed' version of the one proposed in application 16/0336/FUL that went to appeal. The street scene in Handel Road is not vastly different from the street scene in May Avenue and the appeal Inspector did not raise this matter as a concern. A refusal of the application on this basis would not be capable of being robustly defended at appeal.

Out of character with the surrounding area

The proposed dwelling would replicate a form of development recently constructed, which is not felt to be out of character with the surroundings. The appeal Inspector supported this conclusion. This objection would therefore not represent a strong reason for refusal of planning permission.

Overdevelopment of the site

'Overdevelopment' cannot form a reason for refusal; it must be evidenced by harm caused. That said, officers have identified harm that would be caused to the amenity of the adjacent residential property, together with a lack of space within the proposed dwelling, which form recommended reasons for refusal.

Formation of a narrow pedestrian footpath with high fencing either side, consequent effect on public safety, with reference to paragraphs 92a and 95 of the Framework

This concern is noted however officers would point out that the previous appeal inspector's decision letter raised no objection to the provision of the footpath relating to that development (facing May Avenue). This proposal would replicate the type of footpath previously approved and already installed. Therefore, a refusal of the application on the basis of a poor pedestrian environment created by the footpath would not stand up to challenge.

Paragraph 92a of the Framework requires planning policies and decisions to plan positively for the provision and use of community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship. Open space features in this list, however, it is mentioned in the context of the types of facilities that one might plan for as part of a large-scale, mixed-use development. In the context of an application for a single dwelling, it is not considered that this paragraph is of great relevance.

Paragraph 95 deals with public safety in the context of terrorist threats which is of no relevance whatsoever to this proposal.

Loss of undeveloped grassed footpath and open space detrimental to character of area and paragraphs 99, 100 and 101 of the Framework.

Paragraphs 99 to 101 concern the designation of Local Green Space in local and neighbourhood plans. This is a planning application for a dwelling house, and the quoted paragraphs are not relevant. The current local plan carries no such designation and the evaluation of this proposal explores in some detail the issue of open space in the emerging local plan.

Conclusion and planning balance

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

- o approving proposals that accord with an up-to-date development plan without delay; or
- o where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, 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 proposed⁶; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The council's development plan is not up-to-date. Footnote 7 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; 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 an area at risk of flooding or coastal change which is an area or asset of particular importance for the purpose of (i) above (as defined at footnote 6). The policies within the Framework that protect that area or asset of particular importance do not, however, provide a clear reason for refusing the development proposed. Permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal would provide a benefit in terms of a limited boost to housing supply (of one additional dwelling). It has also been identified as having a detrimental effect on the amenity of the adjacent property at 42 Handel Road due to a loss of outlook, in addition to offering cramped accommodation that does not meet the Department for Communities and Local Government's Technical housing standard. These objections are consistent with the guidance set out in Chapter 12 of the Framework, which is concerned with achieving well-designed places, and in particular paragraph 127f which states that development should create places with a high standard of amenity for existing and future users.

The boost to housing supply of one additional property would not have a significant impact on the council's housing supply and is therefore considered to be outweighed by the negative aspects of the proposed development when assessed against the Framework.

It is therefore recommended that the application be REFUSED.

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

My Recommendation is Refusal for the following reasons

- 1 The height and proximity of the proposed dwelling to the bedroom window on the flank wall of No.42 Handel Road would be a dominant and overbearing feature for these occupiers which would materially harm their outlook and living conditions contrary to RDG3 of the council's Residential Design Guidance and government guidance in the National Planning Policy Framework.
- 2 The proposed dwelling exhibits shortfalls in terms of the amount of internal circulation space provided when assessed against the Department for Communities and Local Government's Nationally Described Space Standards. The proposal is therefore contrary to RDG16 of the council's Residential Design Guidance and the high standard of residential development the National Planning Policy Framework seeks to achieve.

Informatives

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