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**Angela Hutchings**  
**Chief Executive**

## **AGENDA**

**Committee: DEVELOPMENT MANAGEMENT**

**Date and Time: Tuesday, 5<sup>th</sup> December 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 – Assistant Director Development Services  
David Bland – Chartered Legal Executive Lawyer (Fellow)**

**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 17<sup>th</sup> 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.

	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
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2.	23/0422/VAR	179 Kiln Road, Thundersley, Benfleet, Essex, SS7 1SJ (Cedar Hall Ward)	11
3	23/0456/FUL	Benfleet Service Station, 175-179 Kiln Road, Thundersley, Benfleet, Essex (Cedar Hall Ward)	21
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**DEVELOPMENT MANAGEMENT COMMITTEE**

**TUESDAY 17<sup>th</sup> OCTOBER 2023**

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

**SUBSTITUTE MEMBERS PRESENT:** Councillor Savage for Councillor Lillis

**CANVEY ISLAND TOWN COUNCIL:** None.

**ALSO PRESENT:** Councillors Ainsley, Dearson, T. Gibson, Jones, Knott, McCarthy-Calvert, Mountford, and A. Thornton

**APOLOGIES:** Councillor Lillis

**13. MEMBERS' INTERESTS**

No declarations of interest were made.

**14. MINUTES**

The Minutes of the meeting held on 3<sup>rd</sup> October 2023 were taken as read and signed as a correct record.

**15. PUBLIC SPEAKERS**

Agenda Item 5(1) – Councillor Knott as Victoria Ward Member.

**16. DEPOSITED PLANS**

- (a) **23/0104/OUT – LAND SOUTH OF DAWS HEATH ROAD, THUNDERSLEY, BENFLEET, ESSEX, SS7 2TA (VICTORIA WARD) – 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) – RAINIER DEVELOPMENTS LTD, S, BARBER, J COWELL AND J MEE**

The Planning Officer stated that the application was presented to the Committee in the interests of open and transparent decision making.

Attention was drawn to the procedural note in the report which highlighted that the application had not been determined within the statutory 13 week timeframe and after agreeing one extension with the applicant which expired on the 4<sup>th</sup> July there was no agreement for a further extension. The reason for the delay was that not all relevant consultee comments had been received, notably from the Highways Authority which had not been received until 28<sup>th</sup> August. The applicant gave notice of their intent to appeal the application on the basis of non-determination on 22<sup>nd</sup> August which was prior to comments from the Highways Authority being received. Planning Officers had met with the applicant in September and explained the intent to take the application to Committee in mid-November however the applicant decided this was not acceptable and lodged an appeal on 15<sup>th</sup> September.

The Committee now needed to confirm what the Council's decision would have been had the appeal not been lodged. This would form part of the Council's case in defending the appeal. It was also highlighted that only outline planning permission was being sought at this stage and the decision being sought was in regard to the principal of development on the site and the means of access. All other matters were reserved for an application at a later date.

The application site related to a 4.77ha (11.79acres) area of land, located to the south side of Daws Heath Road, the development proposed to have its main access directly onto the south side of Daws Heath Road, opposite 108 Daws Heath Road, which was located on the north side of the road. The site itself principally comprised 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 formed part of a much larger important wildlife corridor which ran into the urban area towards Rayleigh and was part of the historical Daws Heath Woodlands.

The Planning Officer explained that planning law required applications to be determined in accordance with the Development Plan. The Local Plan (1998) was the Council's current adopted development plan and this identified the site as Green Belt. There were no saved plans within the development plan which sought to establish the principal of development in the Green Belt therefore the starting point for considering the application was the adopted Local Plan and the National Planning Policy Framework (NPPF).

The development had been identified as inappropriate development by officers and therefore in accordance with the NPPF should not be approved unless very special circumstances existed and even then substantial weight should be given to any harm to the Green Belt. The applicant had set out some factors which they believed either individually or cumulatively amounted to very special circumstances. These included a lack of housing land supply, shortage of affordable housing stock, a lack of up-to-date planning policies and an out of date housing plan. Planning officers did not consider these outweighed the identified harm to the Green Belt particularly considering the crucial function this land was considered to serve towards the strategic function of the Green Belt as set out in paragraph 138 of the NPPF.

The site had been identified as being located within three zones of influence of habitat sites: the Benfleet and Southend Marshes, the Blackwater estuary and Foulness Zone Of Influence therefore a contribution under the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) was required. The developer had not offered a unilateral undertaking or other legal agreement to pay a RAMS contribution or submitted their own appropriate assessment or made an upfront payment for this.

The NPPF attached substantial weight to any harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal. The proposed development was inappropriate development and there could be harm to the character, purpose and function of the Green Belt. Conversely, there was a significant shortfall in overall market and affordable housing supply, which the development would contribute towards, the development would also provide some short term economic benefit in the form of temporary construction work.

In terms of the balancing exercise despite the cumulative benefits of the proposal it was not considered that the benefits outweighed the harm that could be caused to the Green Belt therefore it was considered that very special circumstances did not exist to a sufficient quantity to outweigh the harm to the Green Belt. The proposal had 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 Planning Officer drew the Committee's attention to an error on Page 6 of the report, the site was within 850m of Thundersley Great Common SSSI and not 200m.

The Committee considered the late letter schedule before them which explained that a late representation had been received from a member of the public objecting to the proposal. The Planning Officer stated that the comments made were addressed in the report.

Essex County Council Place Services had also submitted representations. One in relation to the archaeology of the site. It was confirmed that the proposed layout seemed to preserve the historic layout and boundaries of the site and potential conditions had been recommended to be imposed on any grant of consent.

Secondly, a holding objection had been made on the grounds of insufficient information on the Hazel Dormouse survey methodology and whether this had been undertaken correctly. Guidance from central government stated that the presence of a protected species and the extent to which the proposal would affect its habitat must be established prior to any planning permission being granted. As there was a reasonable likelihood that the Hazel Dormouse, a protected species, was present on site and there was insufficient information provided in the applicant's Ecological Impact Assessment it was proposed to amend the second reason for refusal in the Planning Officer's recommendation to address this objection.

The Planning Officer clarified that although the report stated that no response had been received from the Essex Badger Protection Group (EBPG) it had originally objected to the application on the basis that no badger survey had been carried out. A response had been provided from the applicant setting out that surveying of the site had not been undertaken because there were no identified badger sets on the site. EBPG were re-consulted on this further information however no response had been received.

It was not considered that any of the late representations impacted on the overall recommendation for refusal apart from the amendment to the second reason for refusal.

Following the presentation Councillor Knott, a Victoria Ward Member, spoke against the application.

Members then took opportunity to ask questions. In response the Planning Officer stated that the amount of affordable housing that would be provided on the site was a 'reserved matter' and for consideration at a later date however it had been indicated by the applicant that 40% of housing on the site would be affordable. A 30 metre buffer was proposed around the development to separate it from the ancient woodland. A bat survey had formed part of the ecological survey of the site, no objection on the grounds of bats on the site had been raised. The NPPF provided

protection to ancient woodlands. The felling of any trees on the site would require a separate planning application. In the 1998 Local Plan this site had been allocated as Green Belt but did not form part of the allocated Green Belt land from the recently withdrawn local plan.

During debate Members of the Committee expressed their support for the recommendation of refusal as they concurred with the Planning Officer's view that there were no special circumstances which outweighed the harm to the Green Belt that the development would cause.

Following debate, it was:

**Resolved** – That it be recommended that planning permission be refused for the following 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.

It has also been identified that there is a reasonable likelihood of the Hazel Dormouse, a protected species, being present on the site. The applicants submitted Ecological Impact Assessment contains insufficient information to determine with sufficient certainty that the Hazel Dormouse or their habitat will not be harmed by the proposed development.

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.

## ITEM 1

<b>Application Number:</b>	<b>23/0582/FUL</b>
<b>Address:</b>	<b>6 Aylett Close, Canvey Island, Essex, SS8 8AN (Canvey Island North Ward)</b>
<b>Description of Development:</b>	<b>Change of use from residential (Use class C3) into a children's home for up to three children (Use class C2)</b>
<b>Applicant:</b>	<b>Yaffle Care Ltd</b>
<b>Case Officer:</b>	<b>Teresa Harrington</b>
<b>Expiry Date:</b>	<b>08.12.2023</b>

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### **Summary:**

The application seeks the conversion of a residential dwelling to a children's care home, at 6 Aylett Close, Canvey Island. As the area is designated for residential use, the proposed application is not considered a departure from the allocation within the adopted Local Plan. The proposal would house three 8-16 year olds that are under the care of local authorities. The application is recommended for approval.

The application is presented to the committee as it has been called in by Councillor Fuller on the grounds of:

- ☐ The location, and character of the location, representing an inappropriate use of the property, resulting in a material detrimental impact on the adjoining properties.
- ☐ The location of the property failing to provide sufficient social amenity to the prospective three children who would be resident.

### **Site Visit:**

It is not considered necessary for Members to visit the site prior to determination of the application as there are no physical changes proposed to the property.

### **Introduction:**

The application site is located on the southern side of Aylett Close, 32m from its junction with Rainbow Road. It is a rectangular shaped site with a frontage of some 11m and a maximum depth of 24m. A link-detached two storey dwelling currently occupies the site. The site frontage has some soft landscaping and enough hard surfacing to provide one off-street parking space, as well as a garage.

The street scene is made up of three dwellings of similar design, character, and size.

The dwelling is immediately surrounded by other residential properties, although to the rear of the site are a block of garages and flats which front onto High Street.

### **The Proposal:**

The applicant seeks permission for change of use from C3 (dwellinghouses) to C2 (residential institutions).

No works are proposed to alter the external appearance of the building. Internally, one of the existing bedrooms is proposed to be used as a home office.

The purpose of the children's residential home would be to offer accommodation to children under the care of Essex County Council (ECC) and neighbouring local authorities. There would be a maximum of three children housed at any one time with two members of staff on site.

Whilst not a planning matter, the site would be subject to visits from an OFSTED inspector, Looked After Children Nurse and Regulation 44 inspector once a year; social workers

approximately once a month (depending on care plan); Family with occurrence dependant on the child's care plan; and maintenance workers as and when needed.

**Supplementary Documentation:**

The application is supported by a:

- o Design and Access Statement
- o Flood Risk Assessment and Flood Response Emergency Plan
- o A Management Operation Plan

**Relevant History:**

None

**Local Plan Allocation:**

Residential

**Relevant Policies:**

NPPF            National Planning Policy Framework

Local Plan (Adopted 1998)

EC2	Design
EC3	Residential Amenity
EC4	Pollution
H2	Residential Land
T8	Parking Provisions

Residential Design Guidance (Adopted 2013)

RDG5	Privacy and Living Conditions
RDG6	Amenity Space

Essex County Parking Standards 2009 (Adopted 2010)

**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 application does need meet the criteria to deem it a CIL liable development.

**Consultation Responses:**

Four bodies were consulted on this application: Canvey Island Town Council, Environment Agency, Environmental Health, and Essex Police.

Canvey Island Town Council

No response received.

Environment Agency

Raised no objections to the proposal providing the flood risk considerations have been taken into account.

Environmental Health

Raised no comments with regards to this application.

### Essex Police

The Designing Out Crime Office responded and welcomed further conversations with the applicant regarding existing and proposed security measures.

### **Neighbour Notification:**

21 neighbouring properties were notified of this application. 15 objection comments have been received from 12 properties detailing the following concerns:

- o Noise and disturbance
- o A loss of character to the area
- o Increased traffic
- o Increased on road parking
- o There has been damage to signposts and this could be dangerous for pedestrians
- o A loss of privacy
- o A loss of residential amenity
- o Increased fire risks to residential properties
- o Overlooking and dominance
- o An unsuitable environment for young children or teenagers
- o Devalue property prices
- o Unruly behaviour and being hassled in the street
- o Distress to neighbours in the surrounding area

A petition of 76 signatures has also been received objecting to the proposal, however no planning reasons have been identified in this petition.

1 support comment has been received highlighting the following points:

- o Young people with additional needs should have an opportunity for a safe home with a family environment that can offer residence or respite accommodation.
- o The application site would be more than suitable for purposes suggested.

### **Comments on Consultation:**

- o The planning officer has informed the applicant of the consultation response from the Designing out Crime Officer and has shared the relevant contact details with the applicant to facilitate further conversations.
- o This recommendation will be made based on the facts and material put before the Local Planning Authority, not speculation as to the nature of future occupants and behaviours they may or may not have.
- o Property prices are not material planning considerations.
- o Damage to sign posts are not relevant to consideration of this application.
- o All material considerations will be discussed in the evaluation of the proposal.

### **Evaluation of Proposal:**

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

It is considered that the main issues concerning this application are the principle of the use, impact on neighbours, and parking.

The proposed use as a children's residential home is considered to fall within the use class C2 'residential institutions' in accordance with the Town and Country Planning (Use Classes) Order 1987 (as amended).

### Principle

Ministerial Statement UIN HCWS795 made on 23<sup>rd</sup> May 2023 by the Minister of State for Housing and Planning stated:

*'The planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love.'*

*Today we use this joint statement to remind Local Planning Authorities that, as set out in paragraph 62 of the National Planning Policy Framework, local planning authorities should assess the size, type and tenure of housing needed for different groups in the community and reflect this in planning policies and decisions. Local planning authorities should consider whether it is appropriate to include accommodation for children in need of social services care as part of that assessment.*

*Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country...*

*In two tier authorities, we expect local planning authorities to support these vital developments where appropriate, to ensure that children in need of accommodation are provided for in their communities.'*

There are no policies within the Local Plan that relate directly to the provision of children's residential homes.

Policy H2 of the Local Plan requires land allocated for residential purposes within the plan to be retained primarily for that purpose. This policy is consistent with the National Planning Policy Framework in so far as the use of residential land for non-residential purposes would encumber the efforts of delivering a sufficient supply of homes.

The existing use of the dwelling is a residential dwellinghouse, located in a residential area. The proposed use remains as residential, as the dwelling would provide somewhere for the children in care to live, whilst experiencing a domestic environment. There will also be an on-site staffing presence.

It should be noted that Class C3 of the Use Class Order within which a dwellinghouse falls, makes provision for up to six unrelated people to live together as a single household where care is provided for residents.

On this basis while the use class of the property will be changing from a single-family dwelling (C3) to a residential institution (C2), the property will still be providing residential accommodation and therefore the principle of the development is considered to be acceptable in relation to Policy H2.

In terms of maintaining housing supply, the proposal would result in the loss of one single family dwellinghouse. However, there would be no loss of a residential use contrary to Policy H2, and it would still provide housing and accommodation, as such, the proposal would supplant one residential type of use with another.

Furthermore, it is hard to see where a children's home could reasonably be located other than in a residential area. In a town centre it would result in loss of commercial floorspace which might

potentially undermine the vitality of the centre. On an industrial estate it would lead to a loss of employment floorspace and could give rise to unacceptable living conditions to residents. In the Green Belt a purpose-built building could be inappropriate development within the Green Belt. An existing residential area is considered therefore to be the most suitable location for a home of this type.

The Local Planning Authority has carefully considered the principle of the proposed change of use of the dwelling, being mindful of the content of the Ministerial Statement, NPPF and adopted Local Plan. It is considered that the principle of the development for a residential care home in an area allocated for residential purposes is in accordance with the relevant guidance and is therefore acceptable. No objection is raised to the principle of the proposal.

### Impact on Neighbours

Policy EC3 of the Local Plan seeks to prevent proposals that would have a significant adverse impact upon the residential amenity of the surrounding area by reason of traffic, noise, fumes, or other forms of disturbance. This policy is consistent with the NPPF which states that decisions should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

It is acknowledged that some neighbour comments received have expressed strong concerns regarding safety, security, antisocial behaviour, noise, and disturbance. A management operation plan has been submitted by the applicant which confirms that there will be always at least two staff members on duty. The staff working shifts are:

- o 07:30 - 20:00
- o 19:30 - 08:00

The staff handover will occur between 07:30 – 08:00 and 19:30-20:00. The shifts have been designed to ensure there are at least two members of staff on duty at all times. The permanent staff presence on the site is considered to ensure that any problems arising relating to nuisance from the site or its residents can and would be suitably managed. In addition, the implementation of CCTV is outlined in the management plan along with a fire alarm system and fire doors, to help ensure the safety of the property and residents. Subject to a condition that the management plan is adhered to, no objection is raised to under Policy EC3.

Some comments received during the consultation period highlighted concerns that the character of the area would change if permission were to be granted. However, the proposed use is a residential use akin to that of an ordinary dwelling, occupied by a family with two parents and up to four children for which there would be no objection. A condition limiting the use of the building to solely the proposed use can be added to any permission granted to limit the use to avoid the potential for any future unacceptable uses to occur arising from legislative changes.

RDG5 considers privacy of occupants and neighbouring residents.

A few comments received during the consultation period highlighted concerns with regards to overlooking and dominance, loss of privacy and loss of amenity. However, there are no alterations proposed to the structure or external appearance of the dwelling and it is not considered that any loss of privacy will occur as a result of this change of use.

RDG6 requires 15m of private outdoor amenity space to be provided for each habitable room. The property is an existing dwelling which has six habitable rooms and generates a requirement for

90m<sup>2</sup> of private outdoor amenity space. 70m<sup>2</sup> is currently provided and will continue to be provided.

Whilst the current amenity space is deficient for the number of habitable rooms, this is an existing situation which is not being altered and the pressure on the use of this space will also not be increasing. This is also considered to be partially mitigated by the sites close proximity (250m) to Smallgains playing field that can be used by residents.

In addition to the nearby playing field, the applicant's site is approximately 0.4 miles to Knightswick shopping centre for food and general high street amenities and so it is thought that the location of the site would provide sufficient social amenity to the prospective residents which is another concern that has been raised during the consultation period.

Therefore, it is thought that no harm will be caused to the character of the area, and there is not thought to be any harmful changes in regard to overlooking, dominance, privacy or amenity. As such it is considered that the proposal complied with EC2, EC3, RDG5 and RDG6.

### Car parking provision

Policy T8 of the Local Plan requires the provision of parking in accordance with adopted standards.

It is noted that the Essex Parking Standards have a specific category to calculate the requirement for the proposed use. This requires one parking space per full time equivalent staff plus one visitor space per three bedrooms as a maximum provision. This requires the site to provide three parking spaces. This is considered to be in accordance with the provisions of the NPPF.

The property benefits from one off street parking space as well as a garage. The garage measures internally some 2.4m by 4.9m, which is smaller than the current standard requirements for a garage of 3m by 7m. However, this is an existing garage and so can be included for parking purposes. It is noted that the surrounding area is not controlled by parking zones or restrictions.

It is acknowledged that numerous objection comments were submitted with concerns regarding a potential increase in on-street parking and traffic.

The site would employ two on-site staff members on a shift pattern. The management plan states that employees will be encouraged to take public transportation or cycle in and a car sharing scheme would also be encouraged. It is noted from the proposal that four cycle spaces are proposed on the frontage of the site and there would be a maximum of three children receiving care and the children would not be of driving age.

The frontage of the site is of a suitable size that the area of hard standing could be extended in size to permit one or two further off-street parking spaces to be provided onsite. This could be secured by a suitably worded condition and would result in three off street parking spaces being provided in total.

Furthermore, the site is located in a sustainable location, being some 0.2 miles from an eastward and a westward bus stop. Due to the bus stop's proximity to the site, staff and visitors could use public transport as a means of reaching the site.

Considering there will normally be only two full time workers on site during the day and other professionals will only visit on a sporadic basis as and when required, an objection raised on the basis of lack of parking provision when subject to condition three forecourt and a single garage parking spaces can be provided is not considered to be a sustainable reason for refusal. No

objections are therefore raised to the parking provision on site subject to the aforementioned condition.

Whilst it is noted that a cycle storage is proposed to the front of the property, this would conflict with the provision of further parking spaces to the front of the property. It is also considered that a structure in this location would appear unsightly and would be better situated elsewhere onsite, with potential to provide such a facility to the rear of the property. Subject to a condition requiring details to be submitted of a revised cycle storage area, no objection is raised to the proposal on this basis.

### Flood Risk

Paragraph 159 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 162 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 163 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.

The site is located on Canvey Island, which is designated as Flood Zone 3A. Since the settlement of Canvey Island is located entirely within Flood Zone 3A it is not considered that there are reasonably available alternative sites within the area with a lower probability of flooding that could accommodate the proposed change of use. Accordingly, it is considered that the proposal passes the sequential test.

Planning Practice Guidance notes that applicants for permission to change the use of a property need to meet the requirements to provide a site-specific flood risk assessment set out in footnote 55 of the NPPF.

Table 2 of the PPG states that an exception test is requested when a use is considered under the floor risk vulnerability classification as more vulnerable. This includes buildings used as dwellinghouses as well as children's care homes which fall under the same classification.

Paragraph 164 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 there is a need for Childrens Care homes, both nationally and locally which this proposed change of use would be meeting an identified need and providing added benefits to the local community by being able to house local children in need of care. The first part of the exception test is therefore considered to have been passed.

In respect of the second criterion, this requires the submission of a site-specific FRA.

The supplied FRA identifies the tidal flood risk at the site from the Thames Estuary as being a residual risk as the site is behind tidal defences. Details supplied within the FRA indicates flood depths for a breach event could be up to 2.36m above local ground level during a 1 in 1000-year flood event for the applicant's site.

The finished ground and first floor levels of the building would not be being altered as a result of this change of use application and therefore the risk remains the same. However, it is considered that the first floor level would provide safe refuge for occupants of the dwelling during both the 1 in 200 and 1 in 1000-year flood events. Provided that the response of occupiers to a flood warning being issued or flooding occurring is acceptably managed through a suitable flood warning and response plan, there is no objection to the proposal on tidal flood risk grounds.

Included within the revised FRA is a Flood Response Plan (FRP). This revised document appears to be semi-consistent with current advice issued by Castle Point Borough Council to residents for a flood situation of "go in, stay in, tune in" as the uncontrolled evacuation of Canvey Island would quickly lead to congestion and people potentially trapped in cars in flood water. This document should be treated as a 'live' document by all future occupiers of both dwellings and should be kept up to date with the relevant contact numbers and valid procedures.

### **Conclusion and Planning Balance:**

The proposal would provide a benefit in terms of providing care for children in need, in an area with easy access to transport, education and health facilities which carries a significant amount of weight.

The development has been found not to have an unacceptable impact on neighbours' amenity subject to appropriate conditions. While parking facilities are less than the suggested ideal amount, there is no breach to the standards caused by this as a result of them being 'maximum standards', and it is considered the proposal will result in less than significant harm to parking facilities in the surrounding area, which carries minimal weight.

No detrimental harm to the residential setting was identified.

When all material factors have been carefully considered, combined with the direction provided in the Ministerial Statement and the NPPF, it is considered that the benefits of granting planning permission substantially outweigh any adverse impacts as a result of the change of use.

It is therefore recommended that permission be granted.

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

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:

### **Conditions**

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

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

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

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

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, and the Town and Country Planning (Use Classes) Order 1987, as amended, (or the equivalent provisions of any statutory instrument revoking, amending or re-enacting those Orders) the property shall only be used as a children's residential care home for children up to the age of 18 or as a C3 use and for no other use without the prior formal consent of the Local Planning Authority.

REASON: In order to ensure an adequate level of residential amenity for occupiers of the site and adjacent properties and that any impacts of potential future changes of use to the property can be properly and fully considered.

- 4 No more than three children up to the age of 18 shall be permanently housed at the property without the prior written consent of the Local Planning Authority.

REASON: In order to ensure an adequate level of residential amenity for occupiers of the site and adjacent properties and that any impacts of an increased number of occupants can be fully considered.

- 5 There shall be a member of staff onsite at all times that children are at the property in order to ensure that the Operating Management Plan is enacted and that the use of the property is properly managed through the appropriate supervision of those living at the address.

REASON: In order to ensure an adequate level of residential amenity for occupiers of adjacent properties.

- 6 The submitted Operating Management Plan dated 15th November 2023 shall be adhered to at all times. Any variations to this management plan shall be submitted to and formally approved in writing by Local Planning Authority prior to their implementation.

REASON: To protect the amenity of surrounding residents.

- 7 Prior to occupation of the development the existing forecourt parking area to the front of the property shall be extended in size to accommodate two additional spaces measuring 2.9m x 5.5m. Such hard surfacing extension shall be designed and constructed in accordance with SUDS principles and made available for use together with a properly constructed and widened vehicular access and visibility splays to the highway.

Where car parking spaces are provided on the site these facilities shall be retained solely for that use and for no other purpose whatsoever without the formal consent of the Local Planning Authority.

REASON: To ensure the hard surface limits the potential for increased surface water runoff from the site and the retention of adequate on site car parking facilities to meet the Councils adopted standards for the amount of accommodation to be provided on the site.

- 8 Prior to first occupation of the development and notwithstanding the details as submitted on the approved plans, details of the cycle parking shall be submitted to and approved in writing by the local planning authority, with reference to accurately scaled plans. The cycle

parking shall be secure, covered and shall be provided prior to first occupation of the development and thereafter retained for its approved purpose.

REASON: To ensure appropriate cycle parking is provided in the interest of sustainable travel.

- 9 Upon occupation of the dwelling, the approved Flood Response Plan shall be enacted and thereafter maintained at all times that the dwelling is occupied. Any revisions to the Plan shall be submitted to and formally approved by the Local Planning Authority.

REASON: In order to ensure the appropriate protection of occupiers of the building in the event of a flood.

## **Informatives**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and determining the proposal in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.
- 2 The 'Essex Police - Designing out Crime Office' (DOCO) welcomes the opportunity to make comment on application 23/0606/FUL.

We recognise that communities where safety and security has been addressed and 'designed in' at the earliest planning stages, will enhance the health and wellbeing of its residents. Perception of crime and fear of crime can be an influential factor in determining the synergy and ongoing sustainability of a community.

The DOCO considers that it is important that the living accommodation is designed incorporating the maximum achievable benefit of Crime Prevention Through Environmental Design.

Upon review of the available documentation, the Essex Police DOCO would wish to meet with the applicant to discuss the proposed and existing security measures in place at the property. This is due to the likelihood that the vulnerable residents could be susceptible to harm and risk, providing them with a safe and secure place to reside is therefore imperative for their safety.

It is also advised that the local Essex Police Missing Persons Liaison Offer is consulted regarding this application.

We would welcome consultation to review any changes to the built environments / physical design specification of doors (inclusive of locking mechanisms), security features (such as bike stores) and design of communal facilities / areas.

We look forward to hearing from you to discuss this matter. Contact with Essex Police Designing Out Crime team is via email: [designingoutcrime@essex.police.uk](mailto:designingoutcrime@essex.police.uk)

## ITEM 2

<b>Application Number:</b>	<b>23/0422/VAR</b>
<b>Address:</b>	<b>179 Kiln Road Thundersley Benfleet Essex SS7 1SJ (Cedar Hall Ward)</b>
<b>Description of Development:</b>	<b>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</b>
<b>Applicant:</b>	<b>Motor Fuel Group Ltd</b>
<b>Case Officer:</b>	<b>Jamie Whitby</b>
<b>Expiry Date:</b>	<b>08.12.2023</b>

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### **Summary:**

This application was presented to the Development Management Committee (DMC) on 3<sup>rd</sup> October 2023 with a recommendation to grant approval. A copy of the original officer's report contained within the agenda for that DMC meeting is appended at the end of this report for reference.

At this meeting, 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. It was advised that on the basis of there being no objection from Environmental Health or other qualified noise experts that based on the evidence submitted as part of the application, there was no sustainable material reason to object to the application on the basis of harm by reason of noise to adjacent residents.

Following this an alternative motion was moved and seconded whereby it was resolved to defer determining the application to obtain further information 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.

The purpose of this report is to provide a summary and assessment of the further information that was requested.

### **Additional Consultation Response:**

#### Environmental Health

No objection

Following a request for additional information, the following table was provided logging nine complaints received by the Environmental Health Service since 2011, a summary of the complaint and any action that was taken, be it informal or formal action.

The following comment was also provided by the Senior Environmental Health Officer:

*'Looking at the records we have had lots of e-mails and telephone calls from the same complainants. We have taken action when action was possible (back in 2018), but we require evidence to be able to investigate/take action for noise nuisance. On at least two separate service requests more recently the complainants have failed to return completed noise diary sheets or record on the Noise App hence we have had no other option but to close the case. We were asked to comment on a planning application in relation to this premises and we employed a specialist acoustic consultant to do this for us (attached). As per the attached he raised no objections but gave suggested conditions.'*

Service Request	Date	Complaint	Actions	Resolution
47229	04.01.11	Noise From A/C Units	Build-up of ice / maintenance men on site. Discussed - agreed to close	Informal
14/00240/ HSPREM	12.05.14	Complaint made against the Shell Petrol Garage in Kiln Road. Resident has seen people sitting in their cars along by the fence smoking. Is this allowed, should the garage display no smoking signs.	2 entries – Last action - Spoke with Mehran, manager. Advised of complaint and need to ensure staff and customers did not smoke on premises. He advised he will speak to all staff and ensure this does not happen. CCTV available for future complaints so staff can be retrained if necessary.	Informal
15/00023/ PHOTH	08.01.15	Mrs X complains that the bins at the Shell Garage are always overflowing and she does not think they have lids on. This is encouraging rats and squirrels - the squirrels are now raiding these bins and eating the food in her garden (her concern is that they have found chocolate in their garden and they have a dog) - also these bins are being emptied at approx. 4 am	11 entries – Last action - Visit - saw Terri. 4 new Veolia bins on site, two weekly collections. NFA – close.	Informal
18/00480/ N_NO	26.04.18	Noise from early morning bin collections, noise from carwash being used with the doors open along with noise from the tannoy and also a Hoover.	171 entries. Notice was served re early morning and night time deliveries and noise from car vacuum cleaner. The notice restricted the delivery times and required the car vacuum cleaner to be repaired, replaced or renewed to reduce noise levels to at or below background during hours of operation. It was taken out of use. The case was closed 6 <sup>th</sup> Feb 2020 - 'at this current stage no further action is required'	Formal
20/01251/ N_NO	25.08.20	Bins at Shell Service station have been picked up recently at 5am for the past 3 weeks.	16 entries - Liaised with Head Office re contract with Veolia – resolved that collections would be after 07:30 going forwards.	Informal

21/00141/ N_NFM	21.01.21	Complaint has stated that the automatic car wash compressor has a fault with it and causing a nuisance.	68 entries – other issues brought in including about delivery lorries leaving their engines running and for how long. No action was possible as most issues related to objections to permitted hours etc. Complainant did not respond to e-mail requesting to arrange noise monitoring and did not record on the Noise App so no further action possible.	Informal
22/00409/ SNOTH	13.04.22	The Shell Petrol garage has installed a new light on the forecourt. However this now shines very brightly into a neighbouring garden. It lights up the garden all night 24 hours a day.	Statutory nuisance for light issues can only be taken if it affects a habitable room which the garden is not. This was explained to the complainant and the case closed.	None possible
23/00510/ N_NO	20.05.23	Car wash is being used with the door open causing an issue with noise	15 entries – Background history of planning conditions sought and any potential consequence of refurbishment carried out. Complainants put on Noise App and sent diary sheets but never used Noise App or returned completed diary sheets so case closed.	None possible
23/00530/ N_NFM	26.05.23	Vacuum cleaner installed and this is causing noise problems as it's a high pitched squeal and bleeping	Duplicate complaint entered by first contact – these issues had been included in 23/00510/N_NO	n/a

### Evaluation of the Additional Consultation Responses:

Since the proposal was presented to the Development Management Committee on 3<sup>rd</sup> of October 2023, the LPA has received an additional consultation response from Environmental Health. They did not raise any objection to the proposal and did not recommend any further conditions.

Environmental health provided data of findings of any investigations and their subsequent outcomes dating back to 2011. In this time, only one service request was dealt with in a formal manner, as a result a notice was served regarding early morning and night-time deliveries and noise from the car vacuum cleaner. The notice restricted the delivery times and required the car vacuum cleaner to be repaired, replaced, or renewed to reduce noise levels to at or below background during hours of operation. It was taken out of use. The case was closed 6th Feb 2020.

There were also five service requests dealt with informally, and two were unable to be acted upon under the control of Environmental Health and were subsequently closed. Of these additional seven requests, four related to noise nuisance.

It was also highlighted that Environmental Health raise no objection to the proposal. Without evidence to demonstrate that there is material harm to residential amenity which is supported by

Environmental Health it is considered that a refusal of this application relating to noise generated by the site and its harm to residential amenity would not be backed by sufficient material planning considerations and would not represent a justifiable or sufficiently robust decision which could be defended were it to be appealed.

Therefore, it is recommended that no objection is raised to the proposal on this basis.

### **Conclusion:**

In light of the above, no change to the officer's recommendation of approval, or proposed conditions as set out in the original officer's recommendation, appended below for reference, are made and the application is recommended for approval.

For the avoidance of doubt the recommendation including amended conditions and informatives is set out below.

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:

### **Conditions**

- 5 Where vehicle parking spaces are provided on the site these facilities shall be retained solely for that use and for no other purpose whatsoever.

REASON: To ensure the retention of adequate on site car parking facilities to meet the Councils adopted standards for the amount of accommodation to be provided on the site.

- 6 The petrol filling station shall be operated only between the hours of 6:00am to 11:30pm seven days a week, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

- 7 The car wash, car vac and air/water tower shall be operated only between the hours of 6:00am to 10:00pm Mondays to Fridays, 7:00am to 10pm Saturdays, and 8:00am to 10:00pm Sundays, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

The shop shall be operated only between the hours of 6:00am to 11:30am seven days a week, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

### **Informatives**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and determining the proposal in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

<b>Application Number:</b>	<b>23/0422/VAR</b>
<b>Address:</b>	<b>179 Kiln Road, Thundersley, Benfleet, Essex, SS7 1SJ (Cedar Hall)</b>
<b>Description of Development:</b>	<b>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</b>
<b>Applicant:</b>	<b>Motor Fuel Group Ltd</b>
<b>Case Officer:</b>	<b>Jamie Whitby</b>
<b>Expiry Date:</b>	<b>06.10.2023</b>

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**Summary:**

The proposal seeks 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. There is no change to the weekday operating hours.

It is considered that these altered hours would have a limited impact on the surrounding area, and it is therefore recommended for Approval.

The application is 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.

**Site Visit:**

It is not considered necessary for Members to visit the site prior to determination of the application as this application concerns solely a change in operating hours of the existing premises.

**Site Description:**

The application premises is a petrol filling station with associated additional facilities; shop, car wash, car vac, and air/water tower. It is located on the northern side of Kiln Road.

To the east, and west of the site, and on the south side of Kiln Road is residential development, whilst to the north is undeveloped land that has permission to build nine bungalows, which has already granted and commenced.

**Description of Proposed Development:**

The proposal seeks to amend its operational hours for the petrol filling station (condition 6 of approved application CPT/108/05/FUL) by an hour on Saturdays and two hours on a Sunday, while retaining the existing business hours Monday to Friday, to provide service 6:00am to 11:30pm 7 days a week.

After further clarification from the agent, it has also been established that the application seeks to maintain the existing operating times for the car wash, car vac, and air/water tower, but extend the hours of business for the onsite shop to align with that of the operational hours for the petrol filling station – an increase of an hour and a half on Saturdays and three and a half hours on a Sunday to provide service 6:00am to 11:30pm 7 days a week (an amendment to condition 7 of approved application CPT/108/05/FUL).

## **Relevant History:**

BEN/249/56 – Petrol Station. Approved 13<sup>th</sup> November 1956.

BEN/269/67 – New toilet and alterations to show room to provide direct access to rear. Approved 14<sup>th</sup> June 1967.

BEN/328/54 – Additional Access. Approved 13<sup>th</sup> September 1954.

BEN/374/70 – Self-service petrol filling station, with canopy, car-wash and accessory shop. Approved 21<sup>st</sup> October 1970.

BEN/374/70/A – Amended plan of redevelopment. Approved 8<sup>th</sup> April 1971.

BEN/374/70/B – Amended plan of redevelopment. Approved 28<sup>th</sup> April 1971.

BEN/374/70/C – Amended plan of development. Approved 30<sup>th</sup> June 1971.

CPT/697/88 – Installation of 18,200 litre underground petroleum storage tank. Approved 14<sup>th</sup> June 1988.

CPT/481/96/FUL Raise and extend existing forecourt canopy and provide new illuminated canopy and shop mounted fascias. Approved 23<sup>rd</sup> October 1996.

CPT/555/02/FUL – Change a condition of a planning permission to allow sales of goods other than motor accessories in shop. Approved 5<sup>th</sup> September 2002.

CPT/83/04/FUL – Redevelopment of service station. Approved 2<sup>nd</sup> April 2004.

CPT/108/05/FUL – Redevelopment of existing petrol service station (revised layout). Approved 4<sup>th</sup> May 2005 subject to the following relevant conditions:

6. The petrol filling station only shall be operated between the hours of 6 am to 11.30 pm Mondays to Fridays, 7 am to 11.30 pm Saturdays, and 8 am to 11.30 pm Sundays, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

7. The proposed shop, car wash, car vac and air/water tower shall only be operated between the hours of 6 am to 10 pm Mondays to Fridays, 7 am to 10 pm Saturdays, and 8 am to 10pm Sundays, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

18/0223/FUL – Extension to existing petrol filling station shop. Approved 24<sup>th</sup> May 2018.

## **Local Plan Allocation:**

Residential and Long Term Residential

## Relevant Policies:

NPPF            National Planning Policy Framework

Local Plan (Adopted 1998)

EC3            Residential Amenity

## 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 application does need meet the criteria to deem it a CIL liable development.

## Consultation Responses:

### Environmental Health

No objection

*'The proposed change is for the site to operate from 6am to 11:30pm daily, albeit with restriction of use of the air/water facilities and car wash, as well as any delivery activities, to the current approved hours of use.'*

*An acoustic assessment has been submitted in support of the application. Having reviewed the submission, it adequately demonstrates that the proposed operational hours should not have an adverse noise impact on the local amenity and therefore acceptable in noise terms.'*

It is noted that Environmental Health was reconsulted following additional information relating to the proposed dwellings to the north of the site and a revised acoustic assessment being submitted. Following this re-consultation and further additional details, it was concluded that the assessment adequately demonstrates the extension of operating hours should not result in a significant noise impact.

## Neighbour Notification:

Ten comments from ten separate residential properties (five properties responded through a single petition) were received in objection to the proposal raising the following issues:

- o It will cause an increase in pollution, disruption, traffic, noise, and light pollution, which has a negative impact on neighbouring residents and wildlife
- o There are plenty of alternatives nearby and therefore this is not a necessity
- o Existing hours were granted previously "to safeguard the residential amenities of the occupiers of adjoining properties", any extension of open hours would contradict this
- o Current noise nuisance law is applicable between 11pm and 7am, and the station already operates outside these hours
- o It will decrease highway and pedestrian safety when it is darker earlier
- o It will result in increased energy use in a time when we are being encouraged to minimize our usage and lower emissions
- o Breaches of existing granted planning permissions were raised, regarding advertising proliferation and lighting levels, and noise population.

- o The site sells liquid gas bottles which no planning permission can be found approving

One comment was received in support of the proposal raising the points:

- o The early opening hours would benefit commuters, emergency services, and local residents
- o The extended opening times are not likely to exacerbate noise from the highway but rather serve those that already are using the road at this time

### **Comments on Consultation:**

- o Claims have been made that existing conditions are not being adhered to regarding advertisement. The Local Planning Authority have no record of receiving complaints regarding this matter that have not already been closed. Should this be the case, an enforcement complaint should be raised with the Local Planning Authority or if it relates to noise should be lodged with Environmental Health.
- o Planning permission is not required to sell liquid gas bottles from a petrol station and this is not a material planning consideration.
- o All material concerns raised during the consultation period will be considered in this report.

### **Supplementary Documents:**

Acoustic Assessment

### **Evaluation of Proposal:**

The main issue here is the impact of the earlier morning and late evening opening on the amenity of adjacent residents.

Paragraph 185 a) of the National Planning Policy Framework states planning policies and decisions should mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Paragraph 185 c) of the National Planning Policy Framework states planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Local Plan Policy EC3 states that development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes or other forms of disturbance will be refused. This is generally consistent with paragraphs 183 to 188 of the National Planning Policy Framework (NPPF).

The proposal is to extend the operational times of both the petrol filling station and on-site shop to 6:00am to 11:30pm at weekends to match the current weekday operating times. The times of use for the car wash, car vac, and air/water tower are not proposed to be altered.

The local planning authority recognises that noise from vehicle doors being opened and closed can be intrusive, particularly in the early hours of the morning or late at night.

Regarding the objection raised relating to the current noise nuisance law, this legislation is not designed to be used to prevent planning permission being granted but rather maintain suitable noise levels within an area.

It is noted that in the original Noise Impact Assessment the impact to dwellings approved and yet to be built on the land to the rear of the site was overlooked. Both Environmental Health and the

applicants noise consultant were made aware of this, and both reassessed the application accounting for such. These assessments have been used to review the application.

A detailed Noise Impact Assessment (NIA) has been undertaken and submitted in support of this application. This NIA has been examined by the authorities Environmental Health department who raise no objections to the proposal concluding that the NIA *'adequately demonstrates the extension of operational hours should not result in a significant noise impact'*.

The NIA has modelled expected visits during an hour period all together during a 15 minute window to generate a worst case scenario. This worst case scenario has been considered against the background noise measurements early in the morning and late at night on a Sunday, which is typically the quietest day. This also included corrections/penalties in line with British Standard testing to make this a worst case scenario. The NIA finds that the existing ambient background noise, from mostly traffic on Kiln Road, will be the same or greater than the noise level generated from the use of the filling station and shop during the proposed extended hours to the nearest residences, both existing and proposed. As such, no objection is raised to the proposal on this basis.

Given the site is already mostly hard surfaced and does not provide many opportunities for nesting for wildlife, the impact the extended times are likely to have on wildlife is considered minimal and no objection is raised on this basis.

While proliferation of services in a residential area is a material planning consideration, the site is already an existing petrol filling station and store and therefore the principle of the proposal is seen to be acceptable. It is also noted that while the BP garage alternative on London Road (A13) is closer to the major roundabout (Hadleigh Roundabout) than that of the Shell garage of this proposal, due to its location on the western bound side of the one-way system it requires one to travel some 965m from the roundabout to access it. The Shell garage on the other hand is some 680m from the roundabout, making it a slightly more convenient option, it also provides a singular convenient fuelling point between the major Sadlers Farm Roundabout and Hadleigh Roundabout.

It is appreciated that a previous application set the limits to safeguard the residential amenities of the occupiers of adjoining properties. The site prior to the approval of application CPT/108/05/FUL had no limitations on its operational times, it is worth noting that the operation limits for the petrol filling station were set based on the chosen opening hours of the business at the time and no other basis. Given the findings of the detailed NIA, it is not considered that there will be adverse harm to nearby residents caused by these extended operating hours and no objection is raised on this basis.

With regard to an extension of operational time increasing risk to the highway and pedestrians when it is darker out, the petrol station is currently operating during times which are considered dark, especially in winter when it gets lighter later in the morning and earlier at night. As such the extension of operation time is not considered to increase risk to highway and pedestrian safety.

## **Conclusion:**

The NIA supports that the proposed change of operating hours would not result in an increase in noise levels above measured ambient levels and therefore concludes that the proposal would not harm the amenity of neighbouring residents by way of noise.

It is not considered that any other objections that there may be to the proposed operating hours of the site exist which would represent a sustainable reason for refusal since it has been identified that the residential amenity of those occupiers surrounding the site would not be harmed. No objection is therefore raised to the proposal on this basis.

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:

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:

### **Conditions**

- 5 Where vehicle parking spaces are provided on the site these facilities shall be retained solely for that use and for no other purpose whatsoever.

REASON: To ensure the retention of adequate on site car parking facilities to meet the Councils adopted standards for the amount of accommodation to be provided on the site.

- 6 The petrol filling station shall be operated only between the hours of 6:00am to 11:30pm seven days a week, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

- 7 The car wash, car vac and air/water tower shall be operated only between the hours of 6:00am to 10:00pm Mondays to Fridays, 7:00am to 10pm Saturdays, and 8:00am to 10:00pm Sundays, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

The shop shall be operated only between the hours of 6:00am to 11:30am seven days a week, and at no other times whatsoever without the prior consent in writing of the Castle Point Borough Council.

REASON: To safeguard the residential amenities of the occupiers of adjoining properties.

### **Informatives**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and determining the proposal in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

### ITEM 3

<b>Application Number:</b>	<b>23/0456/FUL</b>
<b>Address:</b>	<b>Benfleet Service Station 175-179 Kiln Road Thundersley Benfleet Essex (Cedar Hall Ward)</b>
<b>Description of Development:</b>	<b>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</b>
<b>Applicant:</b>	<b>Motor Fuel Group</b>
<b>Case Officer:</b>	<b>Jamie Whitby</b>
<b>Expiry Date:</b>	<b>08.12.2023</b>

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#### **Summary:**

This application was presented to the Development Management Committee (DMC) on 3<sup>rd</sup> October 2023 with a recommendation to grant approval. A copy of the original officer's report contained within the agenda for that DMC meeting is appended at the end of this report for reference, alongside the late letters schedule proposing amendments to conditions 7 and 8 of the officer's recommendation.

At this meeting, 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 (HSE). It was explained that a risk assessment could not be required because it was not part of the planning process and that it was not necessary or likely to receive a response from UK Power Networks, however further information could be sought.

Following this an alternative motion was moved and seconded whereby it was resolved to defer determining the application to obtain further information from the Essex Fire Authority, UK Power Network and the Health and Safety Executive (HSE) on the fire risk in installing electric vehicle charging points.

The purpose of this report is to provide a summary and assessment of the further information that was requested.

#### **Additional Consultation Responses:**

##### Essex Fire and Rescue

No objection raised to the proposal with comments made about providing access to the site, ensuring compliance with Building Regulations, adequate water supply to the site and adequate fire suppression systems.

##### Essex Highways

No objection raised to the proposal.

##### Health and Safety Executive

No interest in the proposal.

##### UK Power Networks

No response provided.

### **Evaluation of the Additional Consultation Responses:**

Since the proposal was presented to the Development Management Committee on 3<sup>rd</sup> of October 2023, the LPA has received additional consultation responses from Essex Fire and Rescue, Essex Highways, and the Health and Safety Executive. None of these bodies raised any objection to the proposal nor recommended any conditions.

Essex Fire and Rescue suggest that the applicant or architect ensure compliance with Building Regulations and ensure adequate fire suppression systems.

As the LPA cannot condition for an applicant to contact a third-party body, and that Essex Fire and Rescue raised no objection to the proposal, it is considered these comments can be adequately addressed through including them in an informative to any granted consent.

### **Conclusion:**

In light of the above, no change to the officer's recommendation of approval, or proposed conditions as set out in the original officer's recommendation, appended below for reference, aside from those proposed previously in the late letters schedule, also appended below for reference. are made and the application is recommended for approval.

The addition of an informative regarding comments made by Essex Fire and Rescue in relation to water supplies and sprinkler systems is recommended.

For the avoidance of doubt the recommendation including amended conditions and informatives is set out below.

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:  
**Conditions**

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

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

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

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

- 3 The external surfaces of the development hereby approved shall be treated in accordance with the details specified on the submitted plans.

REASON: In the interest of visual amenity.

- 4 The external noise levels emitted from the substation and associated plant room equipment shall at no time exceed the existing background level at any noise sensitive premises when measured and corrected in accordance with BS4142:2014 +A1:2019 "Methods for rating and assessing industrial and commercial sound."

REASON: To ensure any nearby noise sensitive premises occupants are not adversely impacted by the proposed development.

- 5 The jet wash bays shall not operate at times other than 08:00 - 18:00 Monday to Saturday and 09:00 to 18:00 on Sunday's and Bank Holiday's.

REASON: To ensure any nearby noise sensitive premises occupants are not adversely impacted by the use of the proposed jet wash bays.

- 6 Any tree works and construction and/or demolition activities onsite shall be carried out in accordance with BS 5837:2012 and the content of the submitted TREE SURVEY/Arboricultural Impact Assessment dated 15th June 2023 prepared by Alltree Consultancy.

REASON: In order to ensure the health and safety of the tree(s) and in the interests of the amenity and character of the area.

- 7 Prior to the commencement of any development the area of wood/grassland along the northern boundary of the site should be surveyed for active badger setts prior to any works being carried out to ensure that there are no active setts within 20 metres of the construction area. If any are found, then appropriate Natural England licencing will need to be applied for and suitable badger mitigation shall be put in place prior to the start of any works to avoid any possibility of the developers inadvertently committing a wildlife crime or infringement of the Protection of Badgers Act 1992.

All workers on site shall be fully briefed concerning the presence of badgers on the site and that any mitigation measures are to be followed.

REASON: To ensure any badgers from within the surrounding areas are protected during the course of the development and to prevent the endangerment and/or entrapment of badgers, in line with the Badger Protection Act 1992, Schedule 6 of the Wildlife and Countryside Act 1981, and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 8 Any trenches, pits, and/or open pipework with a diameter of more than 120mm are to be covered securely overnight, alternatively a ramp can be provided at an angle no steeper than 45° to trenches and/or pits. These areas should be inspected each morning and evening to further ensure no badgers have become trapped. Topsoil or other 'soft' building materials within the site could be adopted by badgers as setts, to avoid adoption these materials should be subject to daily inspection before works commence.

REASON: To ensure any badgers from within the surrounding areas are protected during the course of the development and to prevent the endangerment and/or entrapment of badgers, in line with the Badger Protection Act 1992, Schedule 6 of the Wildlife and Countryside Act 1981, and Section 40 of the Natural Environment and Rural Communities Act 2006.

- 9 Prior to first use of the development hereby approved, the approved electric vehicle parking spaces shall be marked out and provided with a minimum length of 5.5m and width of 2.9m, and retained for the use of the parking of vehicles thereafter.

REASON: To ensure adequate onsite parking provision.

## **Informatives**

- 1 The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application and negotiating acceptable amendments to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for a revised scheme, in accordance

with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

- 2 Essex County Fire & Rescue recommend that the architect or applicant contact Water Section at Service Headquarters, 01376 576000, as the applicant is reminded that additional water supplies for firefighting may be necessary for this development. They also urge the developer to consider the installation of Automatic Water Suppression Systems as these can be effective in the rapid suppression of fires.

<b>Application Number:</b>	<b>23/0456/FUL</b>
<b>Address:</b>	<b>Benfleet Service Station, 175-179 Kiln Road, Thundersley, Benfleet Essex (Cedar Hall)</b>
<b>Description of Development:</b>	<b>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</b>
<b>Applicant:</b>	<b>Motor Fuel Group</b>
<b>Case Officer:</b>	<b>Jamie Whitby</b>
<b>Expiry Date:</b>	<b>06.10.2023</b>

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**Summary:**

The application seeks the erection of EV chargers, erection of canopy, as well as create 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 is designated for residential development, the site already represents a departure from this and the proposed should have a minimal impact and therefore the application is recommended for Approval.

The application is 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 and eroding the natural environment.

**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 premises is a petrol filling station with associated additional facilities; shop, car wash, car vac, and air/water tower. It is located on the northern side of Kiln Road.

To the east, and west of the site, and on the south side of Kiln Road is residential development, whilst to the north is undeveloped land that has permission to build nine bungalows, which has already granted and commenced.

**Description of Proposed Development:**

The proposal seeks to demolish the existing car wash and create a charging zone through the erection of EV chargers with a canopy, as well as to create three jet wash bays, a sub-station enclosure, plant room and associated forecourt works.

**Relevant History:**

BEN/249/56 – Petrol Station. Approved 13<sup>th</sup> November 1956.

BEN/269/67 – New toilet and alterations to show room to provide direct access to rear. Approved 14<sup>th</sup> June 1967.

BEN/328/54 – Additional Access. Approved 13<sup>th</sup> September 1954.

BEN/374/70 – Self-service petrol filling station, with canopy, car-wash and accessory shop. Approved 21<sup>st</sup> October 1970.

BEN/374/70/A – Amended plan of redevelopment. Approved 8<sup>th</sup> April 197.

BEN/374/70/B – Amended plan of redevelopment. Approved 28<sup>th</sup> April 1971.

BEN/374/70/C – Amended plan of development. Approved 30<sup>th</sup> June 1971.

CPT/697/88 – Installation of 18,200 litre underground petroleum storage tank. Approved 14<sup>th</sup> June 1988.

CPT/481/96/FUL – Raise and extend existing forecourt canopy and provide new illuminated canopy ad shop mounted fascias. Approved 23<sup>rd</sup> October 1996.

CPT/555/02/FUL – Change a condition of a planning permission to allow sales of goods other than motor accessories in shop. Approved 5<sup>th</sup> September 2002.

CPT/83/04/FUL – Redevelopment of service station. Approved 2<sup>nd</sup> April 2004.

CPT/108/05/FUL – Redevelopment of existing petrol service station (revised layout). Approved 4<sup>th</sup> May 2005.

18/0223/FUL – Extension to existing petrol filling station shop. Approved 24<sup>th</sup> May 2018.

### **Local Plan Allocation:**

Residential and Long Term Residential

### **Relevant Policies:**

NPPF National Planning Policy Framework (2021)

Adopted Local Plan (1998)

EC2	Design
EC3	Residential Amenity
EC4	Pollution
EC13	Protection of Wildlife and their Habitats
H2	Residential Land
T8	Parking Provisions

Essex Parking Standards 2009 (Adopted 2010)

### **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 application does need meet the criteria to deem it a CIL liable development.

## **Consultation Responses:**

### UK Power Networks

No response provided.

### Environmental Health

Environmental Health provided an initial response on 14<sup>th</sup> August 2023 raising no objections to the proposal and stating the following:

*'The planned proposal has included for the demolition of the existing car wash and plantroom and instatement of 6 No. electric vehicle (EV) charging bays with canopy, 1500 kVA enclosed substation and 3 No. jet wash bays with screens and 2 No. with canopy along the north boundary. The development has been proposed to facilitate modern EV variants within the forecourt intended for use during approved operating hours. The substation is considered as an entirely new plant type that is necessary to support the proposed extension of EV charging facilities and by nature, would operate on a 24/7 basis.*

*Appropriate noise guidelines have been followed within the report such as Noise Policy Statement for England, National Planning Policy Framework (NPPF), Planning Practice Guidance on Noise and British Standard BS 4142:2014 + A1:2019 Methods for rating and assessing industrial and commercial sound. The plant noise levels have been adequately predicted at the at the identified receptors taking into consideration distance losses, surface acoustic reflections and, where applicable, screening provided by the building.*

*Calculations show that noise emissions from the proposed installations would be sufficiently low as to cause no negative impact on nearby noise sensitive residential receivers with specified mitigation methods, therefore meeting the Council's and national requirements.'*

A number of conditions were also suggested should the application be granted which relate to noise emitted from the substation and plant room, construction hours and notification of works.

Following concern that the Noise Impact Assessment had not taken into consideration the proposed dwellings to the north of the site granted consent under permission 19/0937/FUL, of which a technical commencement has occurred, Environmental Health were re-consulted on this matter.

Environmental Health re-considered the proposal in light of the development to the north (19/0937/FUL), taking into account plots seven and nine of this development which would be the nearest noise sensitive receptors to the jet wash bays, plant room and substation. Environmental Health considered that the areas to the north have a predicted noise level of 34dB/38dB which still indicates a low impact both day and night.

The re-consultation reiterated a previously suggested condition relating to the level of noise emitted from the substation and plant room and suggested a new condition restricting the hours of use of the jet wash bays.

### Essex Badger Protection Group

No response provided.

### **Neighbour Notification Responses:**

Seventy-seven responses were received from seventy-four addresses. These comprise of one general comment, seventeen support comments, and fifty-nine objection comments.

The objection comments raised the following:

- o The provisions are not needed in this location and does not align with the Local Plan.
- o If implemented, it would represent overdevelopment of the site.
- o It will result in an increase in noise, chemical and light pollution, traffic, crime, and anti-social behaviour.
- o There should not be a 24-hour service.
- o The approved development to the rear has not been taken into consideration with regards to the Noise Impact Assessment.
- o A concern loss in privacy as a result of increased footfall.
- o It will result in decreased pedestrian safety.
- o The development would result in the loss of green space with works being undertaken in the Root Protection Area of an Oak tree and will also affect wildlife including badgers and bats that live on the site.
- o Concerns were raised regarding safety having EV chargers near petrol pumps.
- o The proposal would result in the worsening of the currently overwhelmed drain system.
- o No contact has been made to surrounding neighbours or businesses.
- o The site currently has unauthorised signage, and noise complaints about the car wash.

The support comments raised the following:

- o The proposal makes good use of the space it has on the site.
- o The proposal helps increase well needed infrastructure, through the providing of a currently lacking provision of public EV chargers in the borough.
- o It will have a positive impact for the environment, through the promotion of electric vehicles and subsequent reduction of petrol and diesel.
- o Noise would be no issue as chargers are practically silent and cars whilst charging are not loud.

The general comment raised the following:

- o There does not seem to be a fire risk assessment.
- o The point was made that electric fires from cars and EV chargers are rare stating that '*in 2019 the London Fire Brigade dealt with just 54 electric vehicle fires compared to 1,898 petrol and diesel fires*'.

### **Comments of Consultation:**

- o Existing issues with drainage within the area is a concern to be raised with the associated drainage company, the proposed development cannot be required to address existing issues.
- o The LPA has consulted all relevant neighbouring properties on this application and while the NPPF 'encourages' those developing a site to engage with the community it is not mandatory.
- o No active planning enforcement cases have been identified for the site, if there are any planning issues these should be reported via the planning enforcement form.
- o Fire safety is a matter that is dealt with under building regulations and other legislation and is not a material planning consideration.

- o All relevant planning matters will be discussed in the 'Evaluation of Proposal'.
- o Any proposed conditions will be included on any recommended consent where necessary and reasonable.

### **Supplementary Documentation:**

Cover Letter  
Noise Assessment Report  
Arboricultural Impact Assessment

### **Evaluation of Proposal:**

The main issues that need to be considered with this application are its impact on neighbours and wildlife, and the impact on parking facilities.

#### The principle of the development

There are no policies within the Local Plan that relate directly to the provision of service stations or EV charging facilities.

Policy H2 of the Local Plan requires land allocated for residential purposes within the plan to be retained primarily for that purpose. This policy is consistent with the National Planning Policy Framework in so far as the use of residential land for non-residential purposes would encumber the efforts of Objective 5 Delivering a sufficient supply of homes.

The site already represents a departure for the land allocation in the current Local Plan with the site being a mixed-use Sui Generis/Class E (Petrol Station, Car Wash and Shop) use in an area allocated for Residential purposes. It is therefore not considered reasonable or sustainable to refuse the principle of any development on the site that relates to its existing use as a petrol filling station.

In terms of maintaining housing supply, the proposal would not result in the loss of any family dwellinghouses, so there would be no loss of a residential use contrary to Policy H2.

The Local Planning Authority (LPA) already take the approach that as electric vehicle (EV) ownership increases and is encouraged, through the restriction in future sales of internal combustion engine vehicles, new developments should provide electric vehicle charging facilities.

The borough currently only has three identified public EV charging facilities, and these are all located within supermarket car parks (more may exist that are not known to the LPA). It would not be unreasonable for visitors to the borough or those passing through with electric vehicles to need to charge their vehicles.

It is considered that the proposal would improve the existing infrastructure within the borough to enable public EV charging which will support the movement towards the greater use of electric vehicles with less reliance on internal combustion engines. The site is already used as a petrol filling station, and this would form an ancillary function to the current use. Furthermore, the proposed jet wash bays would replace the existing mechanical car wash which would also be an ancillary function to the petrol filling station.

Consequently, whilst the land is allocated for residential purposes, it is not currently used for that purpose and the proposal continues the non-residential use it is not considered that an objection to the proposal on the basis of the principle of the development would be justifiable.

## Impact on neighbours

Policy EC2 of the council's adopted Local Plan seeks a high standard of design in all developments. 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 considered to be consistent with the content of the NPPF which at paragraph 130 requires developments to be safe and function well for the lifetime of the development.

The council's LP policy EC3 states that development proposals which would have a significant adverse impact on the residential amenity of the surrounding area by reason of traffic, noise, fumes, or other forms of disturbance will be refused.

LP policy EC4 states that development which would have a significant adverse effect on health, the natural environment, or general amenity by reason of releases of pollutants to water, land, or air, or by reason of noise, dust, vibration, light or heat, will be refused.

Given the proposal is to implement charging points for electric vehicles, it is considered unlikely that the development will result in an increase of fumes emitted from the site.

Concern was raised through the neighbour consultation that the development would lead to a decrease in pedestrian safety. The proposed works do not propose to alter the vehicular access to the site nor the public footpath. Whilst complaints have been received that vehicles queuing into the filling station already block the footpath to the south of the site, this is an existing situation and it is not appropriate to require the proposed development to ameliorate this issue.

It is also considered unlikely that given the current and proposed use of the site as a petrol filling station that any additional pollutants, dust, vibrations, or heat is likely to arise as a result of this development once operational.

Concerns were also raised through the public consultation that noise pollution would increase as a result of the addition of EV chargers and open-air car washing facilities. While the installation of EV charging facilities and associated infrastructure has the potential to increase noise pollution from the site, any noise generated from the electric vehicle chargers or substation is considered to be at a relatively low level compared to that which emanates from the site already. This is confirmed in figure D of the submitted Noise Impact Assessment which shows the specific sounds levels at building facades generated by the substation only. All of these readings are well below background noise levels recorded onsite during the assessment.

Whilst the jet wash bays have the potential to result in louder noise emissions than the chargers and substation, there is already a large mechanical car wash on the site which was a subject of complaint during the public consultation period.

With regard to the open-air car wash facility, it is not uncommon for these to be situated within service stations or close to a residential boundary. Existing examples of this can be found in the borough through the service station located on Somnes Avenue, Canvey Island, the service station located on the corner of High Street and Mitchells Avenue, Canvey Island, and Sainsbury's service station on Rayleigh Road. With two of these being located within or adjacent to residential areas.

It is noted that in the original Noise Impact Assessment the impact to dwellings approved and yet to be built on the land to the rear of the site was overlooked. Both Environmental Health and the applicants noise consultant were made aware of this, and both reassessed the application accounting for such. These assessments have been used to review the application.

To provide some context in relation to sound levels as measured on a logarithmic scale called Decibels (dB), the following points give an indication of how the noise levels and differences are perceived by an average person:

*0 dB - represents the threshold of human hearing (for a young person with ears in good condition);*

*50 dB – represents average conversation;*

*70 dB – represents average street noise, local traffic etc;*

*90 dB – represents the noise inside an industrial premises or factory;*

*140 dB - represents the threshold of pain – the point at which permanent hearing damage may occur.<sup>1</sup>*

A detailed Noise Impact Assessment has been undertaken which takes into account all noise sensitive receptors close to the site. Monitoring of existing noise levels has been undertaken and a worst-case scenario modelled for the proposed development to ascertain any harm which might arise from the proposed development. The assessment finds that any impacts from the proposal are anticipated to be between the No Observed Effect Level (NOEL) and Lowest Observed Adverse Effect Level (LOAEL) levels, which are all below the representative background sound levels at all times with none at the Significant Observed Adverse Effect Level (SOAEL). The report concludes that the development sound would be largely unnoticeable or just perceptible during the most noise sensitive periods of the assessment (during the night), but that this would not be of sufficient loudness to cause any change in behaviour or attitude.

Officers have also noted that the plans in the Noise Impact Assessment incorrectly depict the proposed development in relation to its existing built surroundings and proposed development to the north. The proposed development is shown to overlap the existing access to the west of the site and the site boundary is proposed too far to the north. These inaccuracies apply only to the plan in the Noise Impact Assessment and have been taken into account. Environmental Health when re-consulted looked specifically at the relationship between this development and, plots seven and nine of permission 19/0937/FUL. Environmental Health consider that that the 'areas to the north have a predicted noise level of 34dB/38dB which still indicates a low impact both day and night' and raise no objection.

In consultation with Environmental Health, no objection has been raised to the proposal on the basis of noise or disturbance to the amenity of neighbouring residents of dwellings either already or proposed to be constructed. A condition is proposed to secure that noise levels do not exceed existing background noise thresholds for the substation and plant room equipment which is considered suitable to prevent harm to residential amenity by way of noise from occurring from the substation or plant room.

Another condition is recommended limiting the hours of use of the jet wash bays to ensure the occupants of the nearest noise sensitive receptors are not adversely impacted. The proposed condition of the hours of operation for the jet wash bays (08:00-18:00 Monday to Saturday and 09:00-18:00 Sundays and Bank Holidays) is less than the current mechanical car wash (06:00-22:00 Monday to Friday, 07:00-22:00 Saturday and 08:00-22:00 Sundays). This would mean that the jetwash bays are only in use during the day when the noise levels observed at the site are already higher. Subject to such a condition, no objection is raised to the proposal on the basis of noise unacceptably impacting the residential amenity of occupants of existing or proposed dwellings.

There is no objection from Environmental Health to the proposal and it is considered that an objection to the proposal on the grounds of excessive noise or harm to residential amenity by way of noise would therefore be unsustainable and unreasonable.

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<sup>1</sup> [Annex 16.1 Acoustics and Vibration Terminology Glossary, Definitions and Abbreviations](#)

The issue of a loss of privacy from increased footfall to the site was raised during the consultation period. Whilst the development might increase footfall to the site, the council has no guidance or policies for commercial developments which relate to privacy. Even considering residential guidance and policies, these do not cover ground floor level development, which this proposal would fall within, and there are no restrictions on this type of development. It is not considered that the proposal would result in an identifiable loss of privacy to neighbouring residents as a result of the implementation of this proposal.

It is noted that objections were made to the proposal regarding a fear that crime and anti-social behaviour would be promoted as a result of this development with objection comments relating to the 24-hour use of the site. It is worth highlighting that only the EV chargers would have 24-hour use, and that the rest of the site's facilities would still be restricted by current planning conditions limiting the times in which they are used. Taking a pragmatic view, it is unlikely many people will use this facility late at night and in the early hours of the morning, as most people would charge their electric vehicles at home during this time. Views of anti-social behaviour were also linked to the encouragement of people congregating on site as a result of the additional infrastructure. Once again, taking a pragmatic view, the LPA consider that the inclusion of EV chargers would have no detrimental impact on people choosing to congregate on the site as a change of use is not occurring and the site is currently left open at night anyway.

### Ecology

The council's LP policy EC13 seeks to prevent development that would be harmful to wildlife or important habitats. This is not entirely consistent with the Framework as that sets out a hierarchical approach (at paragraph 180) whereby significant harm to biodiversity resulting from a development should first be avoided, then mitigated, or finally compensated for.

The proposal is set to retain 247m<sup>2</sup> of green space. Given the site is already mostly hard surfaced, combined with the approved development to the north of the site, which has already been cleared of vegetation over the majority of the site, it is not considered that the site has a high ecological value. It is considered unlikely that the proposal would have a limited impact on wildlife breeding or feeding is considered minimal and any harm to biodiversity from the proposal would not be the significant harm that the Framework seeks to prevent. Therefore, no objection is raised on this basis.

Many objections raised feared the development would be detrimental to an established Oak tree. The proposal was submitted with a Tree Survey / Arboricultural Impact Assessment, in which mitigation strategies are outlined in which it shows that the established Oak tree will not be detrimentally affected by this development. It is also noted that this tree is not currently protected. Therefore, no objection is raised on this basis.

The LPA has no identified badger sett in the area of proposed development but as badgers were suggested to use this area the Essex Badger Protection Group (EBPG) was consulted. No response has been received from the Essex Badger Protection Group.

However, when granting consent for the development to the north, badgers were a concern as part of this development and a condition was added requiring a badger survey to be conducted prior to commencement of the development. A badger survey was conducted following application 19/0937/FUL which identified two sets within the central part of the site to the north, one in use and one not having any evidence of recent use. The one in recent use is much further to the north of the site whereas the discussed sett is 20-30m from the southern boundary of the site.

No badger survey has been undertaken as part of this proposal, however officers have examined the site and cannot see any visible signs of badgers, although officers are not experts on badgers. The site is also surrounded by good quality fencing with concrete gravel boards or solid brick walls which would dissuade badgers from casually entering the site. That being said, given the presence of badgers at the site to the north, it is considered suitable, given the proximity to known badger setts, to propose a condition similar to that imposed on permission 19/0937/FUL to require a badger survey to be undertaken prior to development of the area to the rear of the site. If badgers are identified to be present, the condition shall also require appropriate mitigation strategies to be submitted to and approved by the Local Planning Authority.

If setts are identified within the site and are confirmed as being in current use, then the mitigation would need to be delivered under a licence from Natural England which is separate from the planning process.

Subject to a suitably worded condition, no objection is raised to the proposal on this basis.

### Parking provisions

The proposal is not set to increase the parking needs of the site whilst increasing the available parking spaces on the site. The Essex Parking Standards (EPS) 2009 (adopted 2010) stipulate that for 'Petrol Filling Stations' a maximum of 1 parking space should be provided per 20sqm of retail space. It also stipulates that parking spaces should be provided with a minimum width of 2.9m by a minimum length of 5.5m.

On the submitted plans it is shown that the overall site contains a building of some 234m<sup>2</sup>, requiring 12 parking spaces.

The site currently has space for cars to park at the front of the store, containing 6 formalised parking bays, 1 of which is a disability parking bay. This represents a current deficit of 6 parking facilities, however there are also six spaces where cars can fill up with petrol and remain parked in whilst paying. The proposal does not propose to remove any of the existing parking bays, meaning with the proposed additional 6 EV charging parking spaces, adequate parking facilities would still be provided on the site.

The newly proposed bays shown on the proposed site plan measure some 3.0m by 5.0m which do not meet the requirements of the EPS. That being said, there is ample depth to provide bay depths of the required 5.5m while still allowing for adequate manoeuvrability into, out from and around these spaces. With this in mind, a condition can be added to any granted consent requiring the proposed EV charging bays to be marked with formalised bays measuring a minimum depth of 5.5m and minimum width of 2.9m.

No objection is raised to the proposal on this basis.

### **Conclusion:**

The proposal would provide a benefit in terms of improved infrastructure for the use and subsequent promotion of electric vehicles, enhancing social and environmentally sustainable development within the borough which carries a significant amount of weight.

The development has been found not to have an unacceptable impact on neighbours' amenity or wildlife. There may be some less than significant harm to biodiversity from the extending of hard surfacing, which carries some weight but after considering all matters carefully it is not considered that any detrimental impact of the development provides sufficiently robust or sustainable reasons to object to and refuse consent. No objection is therefore raised to the proposal on this basis.

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:

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:  
**Conditions**

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

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

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

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

- 3 The external surfaces of the development hereby approved shall be treated in accordance with the details specified on the submitted plans.

REASON: In the interest of visual amenity.

- 4 The external noise levels emitted from the substation and associated plant room equipment shall at no time exceed the existing background level at any noise sensitive premises when measured and corrected in accordance with BS4142:2014 +A1:2019 "Methods for rating and assessing industrial and commercial sound."

REASON: To ensure any nearby noise sensitive premises occupants are not adversely impacted by the proposed development.

- 5 The jet wash bays shall not operate at times other than 08:00 - 18:00 Monday to Saturday and 09:00 to 18:00 on Sunday's and Bank Holiday's.

REASON: To ensure any nearby noise sensitive premises occupants are not adversely impacted by the use of the proposed jet wash bays.

- 6 Any tree works and construction and/or demolition activities onsite shall be carried out in accordance with BS 5837:2012 and the content of the submitted TREE SURVEY/Arboricultural Impact Assessment dated 15th June 2023 prepared by Alltree Consultancy.

REASON: In order to ensure the health and safety of the tree(s) and in the interests of the amenity and character of the area.

- 7 Prior to the commencement of any development within 11m to the south of the site northern boundary, details of an appropriate scheme for the monitoring of the site to ascertain if badgers are present on the site shall be submitted to and agreed by the Local Planning Authority. Such scheme shall include details of appropriate mitigation actions and measures required to be implemented in the event of badgers being found to occupy or forage in the site.

REASON: In order to ensure the appropriate treatment of a protected species.

- 8 A wooden ramp sufficient to enable the escape of any badger which may inadvertently enter the construction site, shall be placed in any trench left open overnight during the construction period.

REASON: In order to provide an appropriate means of escape for any foraging badgers.

- 9 Prior to first use of the development hereby approved, the approved electric vehicle parking spaces shall be marked out and provided with a minimum length of 5.5m and width of 2.9m, and retained for the use of the parking of vehicles thereafter.

REASON: To ensure adequate onsite parking provision.

### **Informatives**

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

**DEVELOPMENT MANAGEMENT COMMITTEE**

**3rd October 2023**

**SCHEDULE OF LETTERS AND RESPONSES RECEIVED**  
**AFTER THE PREPARATION OF THE REPORT**  
**OF THE HEAD OF PLACE AND POLICY**  
**AND SUPPLEMENTARY INFORMATION**

ITEM 3, Page 23

APPLICATION 23/0456/FUL

Benfleet Service Station, 175-179 Kiln Road, Thundersley, SS7 1SH.

Essex Badger Protection Group

A late representation has been received from the Essex Badger Protection Group raising no objection subject to conditions.

Revised Recommendation

Following this response, it has been decided to amend two of the recommended conditions to incorporate some of the points raised by the Essex Badger Protection Group.

Condition 7:

Prior to the commencement of any development the area of wood/grassland along the northern boundary of the site should be surveyed for active badger setts prior to any works being carried out to ensure that there are no active setts within 20 metres of the construction area. If any are found, then appropriate Natural England licencing will need to be applied for and suitable badger mitigation shall be put in place prior to the start of any works to avoid any possibility of the developers inadvertently committing a wildlife crime or infringement of the Protection of Badgers Act 1992.

All workers on site shall be fully briefed concerning the presence of badgers on the site and that any mitigation measures are to be followed.

REASON: To ensure any badgers from within the surrounding areas are protected during the course of the development and to prevent the endangerment and/or entrapment of badgers, in line with the Badger Protection Act 1992, Schedule 6 of the Wildlife and Countryside Act 1981, and Section 40 of the Natural Environment and Rural Communities Act 2006.

Condition 8:

Any trenches, pits, and/or open pipework with a diameter of more than 120mm are to be covered securely overnight, alternatively a ramp can be provided at an angle no steeper than 45° to trenches and/or pits. These areas should be inspected each morning and evening to further ensure no badgers have become trapped. Topsoil or other 'soft' building materials within the site could be adopted by badgers as setts, to avoid adoption these materials should be subject to daily inspection before works commence.

REASON: To ensure any badgers from within the surrounding areas are protected during the course of the development and to prevent the endangerment and/or entrapment of badgers, in line with the Badger Protection Act 1992, Schedule 6 of the Wildlife and Countryside Act 1981, and Section 40 of the Natural Environment and Rural Communities Act 2006.

## ITEM 4

<b>Application Number:</b>	<b>23/0546/FULCLC</b>
<b>Address:</b>	<b>3 East Crescent Canvey Island Essex SS8 9HL (Canvey Island Central)</b>
<b>Description of Development:</b>	<b>Single storey rear extension, rear dormer including other alterations</b>
<b>Applicant:</b>	<b>Castle Point Borough Council</b>
<b>Case Officer:</b>	<b>Teresa Harrington</b>
<b>Expiry Date:</b>	<b>08.12.2023</b>

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### **Summary:**

The application seeks permission for a single storey rear extension and a rear dormer, including other alterations. No conflicts with local and national planning policy have been identified and the proposal is therefore recommended for approval.

The application is presented to the committee because the council is the applicant and owner of the land.

### **Site Visit:**

It is not considered necessary for Members to visit the site prior to determination of the application as there are no physical changes proposed to the property.

### **Introduction:**

The application site is occupied by a terraced property, located on the south western side of East Crescent, Canvey Island, some 10m east from its junction with North Avenue. The site has a frontage to East Crescent of some 5.2m in width, widening to some 5.9m at the rear of the site, and the site has a maximum depth of some 42.6m. To the east of the site is an adjoining terraced property which is on a corner plot, and to the west is another adjoining terraced property. Parking for one vehicle in the form of hardstanding is provided on the frontage of the site.

The street scene in this part of East Crescent comprises of terraced properties and semi-detached bungalows, some with dormers.

### **The Proposal:**

The applicant seeks permission for a single storey rear extension and a rear dormer, including other alterations. The proposal will create on the ground floor a bedroom with wet room, an open plan kitchen/dining/living and on the second floor (rear dormer in the roof) will create a bedroom.

The works are proposed to be finished in Cedral Click cladding board (Slate Grey) and brickwork to match the adjoining property. All windows are to be replaced with grey aluminium windows.

### **Planning History:**

23/0355/PREAPP – Two storey extension and loft conversion – Closed 07 July 2023.

### **Local Plan Allocation:**

Residential

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

NPFF – National Planning Policy Framework (2021)

Local Plan (LP, 1998):

EC2 – Design

T8 – Parking standards

Residential Design Guidance (2013):  
RDG2 – Space Around Dwellings  
RDG3 – Building Lines  
RDG5 – Privacy and Living Conditions  
RDG6 – Amenity Space  
RDG7 – Roof Development  
RDG8 – Detailing  
RDG12 – Parking and Access

Essex County Parking Standards September 2009 (Adopted June 2010)

### **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 proposal is for a residential extension less than 100m<sup>2</sup> and is therefore not subject to a CIL charge.

### **Consultation:**

Canvey Island Town Council

No response received.

Legal Services

No objection.

UK Power Networks

No response received.

### **Public Consultation:**

One neighbour response received with the following comments:

- o Concerns regarding drainage
- o Concerns regarding a shared wall for an outhouse
- o Concerns regarding a potential increase in demand for parking

Amended plans were submitted during the application process and these plans have been reconsulted on. The expiry date for additional comments is 1<sup>st</sup> December after the publication of this report. Any further comments that are received by this date will be communicated to members in late letter schedule on the night.

### **Comments on Consultation responses:**

- o Drainage is a building control matter and not a planning consideration
- o Shared walls are considered a civil matter under the Party Wall Act and not a planning consideration

All material considerations will be addressed in the main body of the report.

### **Evaluation of Proposal:**

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

The main issues identified for discussion are (1) its impact on the amenity and privacy of neighbours and (2) the effect of the proposal on the levels of natural light to the kitchen area.

#### Impact upon neighbours

RDG3 requires proposals to respect established building lines. RDG3 also requires proposals not to cause excessive overshadowing or dominance to any elevation of an adjoining property.

The initial proposal showed the total depth of the ground floor rear extension would be some 7.9m. Although single storey, the proposed extension would be built along the eastern boundary of the site, orientated north, and project some 5m past the rear of the adjoining property at number 5 East Crescent (which currently has a small rear extension of some 3mx3m). It would also project 7.9m past the neighbour at 1 East Crescent as well. As a result of the degree of projection past the rear of Numbers 1 and 5 and the extensions proximity to the boundary, the proposed extension would be considered to result in excessive dominance to the adjoining properties. Given its orientation to numbers 1 and 5, it is not considered that the deep rear extension should result in excessive overshadowing to either property. However, this is not seen as enough to outweigh the dominance of the structure.

Following a discussion regarding this concern, revised plans were submitted, and the proposed extension would be reduced to a maximum depth of 6m. This would result in a projection of 6m past the rear of number 1 and some 3m past the rear of number 5, which is considered would be less dominant to occupants of both properties. Consequently, no objection is raised under RDG3.

#### Impact on natural light levels

RDG5 discusses privacy and living conditions. All windows should be designed to allow adequate natural light and ventilation to the room they serve.

The NPPF also seeks to achieve high-quality living environments which this authority has taken to include occupants of habitable rooms being provided with a reasonable outlook. This approach has been well supported at appeal throughout the borough.

The initial proposal showed that the ground floor extension would include two rooflights located over the proposed dining and living areas. An initial concern was raised regarding the potential inadequate levels of natural light to the kitchen area and one suggestion to overcome this was to move the proposed rooflights closer to the kitchen area.

Following revised plans, the proposed roof lights have been located closer to the kitchen area and so it is thought that this change, together with a reduction in the depth of the extension which has brought the proposed rear doors closer to the kitchen area, would increase the amount of natural light to the kitchen area to an acceptable level. As such, no objection is raised to RDG5.

#### Parking

Policy T8 requires the adopted parking standards to be taken into account. The current adopted Essex Parking Standards require a minimum of two off-street parking spaces for properties with two or more bedrooms, with each space measuring 2.9 x 5.5m.

RDG12 states that all forms of parking must not dominate the public realm. All parking provision should be sited so as not to have an adverse impact on visual or residential amenity.

The dwelling is already a two-bedroom property, and the site frontage has enough hard surfacing to park one vehicle. There are no proposals to amend the parking area at the front of the dwelling. Although the current parking provision is insufficient, this is an existing situation and whilst increasing the number of bedrooms, there is no requirement in the adopted parking standards to increase the amount of parking at the site, although there is plenty of room to the front of the property to accommodate this. If the proposal were an existing one bedroom property increasing the number of bedrooms then the adopted standards would require an additional space to be provided, however this is not the case. As such no objection is raised to the proposal on this basis.

### **Conclusion and Planning Balance:**

The proposal would provide benefit in terms of providing wheelchair accessible accommodation.

The proposal would not have an unacceptable impact on neighbours' amenity, subject to appropriate conditions. While parking facilities are less than the suggested ideal amount, this is an existing situation.

The proposal has been assessed against the following policies: The National Planning Policy Framework (NPPF), EC2 and T8 of the Local Plan (Adopted 1998), as well as RDG2, RDG3, RDG5, RDG6, RDG7, RDG8 and RDG12 of the supplementary Residential Design Guidance document and the Essex County Parking Standards September 2009 (Adopted June 2010) to which no objections have been raised.

It is therefore recommended that permission be granted.

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

My **RECOMMENDATION** is that planning permission is GRANTED subject to the following:

### **Conditions/Refusal Reasons**

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

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

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

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

- 3 The external surfaces of the development hereby approved shall be treated in accordance with the details specified on the submitted plans or shall be of similar appearance to the materials used in the construction of the exterior of the existing dwellinghouse.

REASON: In the interest of visual amenity.

- 4 Finished ground floor levels within the extension shall be set no lower than finished ground floor levels within the existing building.

REASON: To ensure that occupiers of the dwelling are not placed at increased risk given that the site is liable to flood.

## **Informatives**

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