

# **HUTCHINSONS**

**Town and Country Planning Act 1990**

**APPEAL BY**

**MESSRS SMITH, G&K GROUNDWORKS LTD & ACT ROADWAYS  
LTD**

**LAND EAST OF MANOR TRADING ESTATE,  
BENFLEET, ESSEX, SS7 4PS**

**STATEMENT OF CASE  
OF  
CASTLE POINT BOROUGH COUNCIL**

**PINs Ref: APP/M1520/W/22/3310794  
LPA Ref: 21/0532/OUT**

**HUTCHINSONS**  
15 Castle Gardens, Kimbolton, Cambridgeshire. PE28 0JE

## 1 INTRODUCTION

1.1 This statement is produced in support of Castle Point Borough Council's refusal of outline planning permission for 68 residential units, three Class E (Commercial, Business and Service) Units, one B2 (General Industrial) unit and two B8 (Storage and Distribution) units with associated access, parking, amenity space, strategic landscaping and noise attenuation together with the restoration and improvement of existing estate roads and infrastructure on land to the east of the Manor Trading Estate, Benfleet.

1.2 The application subject to this appeal was refused on 10 May 2022. The application was determined under delegated powers and was refused for the following five reasons for refusal:

- 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 any very special circumstances have been demonstrated 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 *The proposal fails to adequately identify and consider the impact of the proposed residential and commercial development on safeguarded waste disposal sites within the adjoining Manor Trading Estate, contrary to the provisions of Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP) and paragraph 187 of the National Planning Policy Framework.*
- 3 *The submitted Noise Constraint Survey and Facade Noise Assessments fail to adequately demonstrate a lack of adverse impact arising from the operation of sites within the Manor Trading Estate on future occupiers of the proposed commercial and residential development, contrary to paragraph 187 of the National Planning Policy Framework and Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.*

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- 4 *The submitted Noise Constraint Survey and Facade Noise Assessments fail to adequately demonstrate a lack of adverse impact arising from the installation of the proposed acoustic barrier on the western boundary of the site on premises and operations within the Manor Trading Estate, contrary to paragraph 187 of the National Planning Policy Framework and Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.*
- 5 *The proposal fails to demonstrate the provision of appropriate car parking, powered two wheeled vehicle parking and cycle parking facilities for the proposed commercial units, contrary to the provisions of the adopted Essex parking standards and the provisions of Policy T8 of the adopted Local Plan and TP8 of the New Local Plan. Further, it is not considered that the applicant has adequately demonstrated that the proposed development will adequately mitigate its impact on the existing parking provision within the adjoining Industrial estate in order to ensure that existing operations are not compromised by the proposal.*
- 1.3 The appeal was lodged on the 9 November 2022 and the inquiry is scheduled for 4 days commencing on Tuesday the 28 February 2023.
- 1.4 Following submission of the appeal, the Appellants submitted an updated Development Masterplan ref: 16.3839/P205 Rev B dated 25 November 2022 together with a Schedule of Commercial Building Floor Areas (also dated 25 November 2022). It is understood that the Appellants intend these to address the objections raised by Reason for Refusal No 5 and to demonstrate that sufficient parking can be provided at the site. The Council does not consider that these address those concerns but is prepared to rely on the updated Development Masterplan in preparing its evidence, including when expanding upon its objections in relation to Reason No 5.
- 1.5 The Parties are preparing a Statement of Common Ground which will provide a description of the site, identify the relevant planning policies and set out the relevant background history of the appeal site. It also sets out matters of agreement as well as matters of disagreement. It is noted that the Appellants have provided the Heads of Terms for a Unilateral Undertaking which will be subject to the details of any planning approval. It is considered that a Section 106

Agreement to mitigate the impacts of the development is necessary. The UU Heads of Terms are discussed by the Council without prejudice to its case that the appeal should be dismissed.

- 1.6 Included within the submissions prepared by the Local Planning Authority is a copy of the Officer report prepared in respect of the proposed development. In accordance with procedural rules the content of this report is not repeated within this statement but the Inspector is advised that this report clearly sets out the Council's case in respect of the proposed development and should be read in conjunction with this Statement of Case. It is therefore appended to this Statement of Case at Appendix 1.
- 1.7 Following notification of the appeal, the Council engaged an independent acoustic consultant to review and re-assess the acoustic evidence submitted by the Appellant. On the basis of the information contained in the Appellants' document HA/AD961/V2 the Council confirms that it withdraws RFR 4 (impact of acoustic barrier on premises and operations within the Manor Trading Estate) and does not intend to pursue that reason for refusal at this appeal. The Appellants were informed of this on 4 January 2023. For the avoidance of doubt, the other RFRs (Nos 1,2, 3 and 5) still stand and this Statement of Case therefore sets out the Council's case in respect of those outstanding RFRs.

## **2 SITE AND SURROUNDING**

2.1 It is anticipated that a site description will be agreed in the Statement of Common Ground. The Council in presenting their case will describe and refer to the following:

- the appeal site and its relationship with the adjacent Manor Trading Estate;
- the relationship of the appeal site with the adjoining land uses, particularly in relation to the Heston Day Care Centre and the Robert Drake Primary School;
- the access and parking provision contained in the Manor Trading Estate.

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### **3 PLANNING HISTORY**

- 3.1 The area of the appeal site proposed for housing has not been the subject of any relevant planning applications. However, the appeal site also includes a small area of the existing Manor Trading Estate (MTE). The Manor Trading Estate sits to the west of the appeal site and is an established industrial estate. There is a history of planning applications relating to the varied industrial uses of the Trading Estate. In addition, an appeal was dismissed for the extension of the Manor Trading Estate eastwards into the Green Belt to the rear of Unit 30 in February 2008<sup>1</sup>. The Council will refer to the appeal decision in so far as it is relevant to the current proposals.
- 3.2 Furthermore, as highlighted in the Officer Report, the site was the subject of proposed allocations in the previous draft Local Plan. The Council will explain these in more detail and will rely on the most recent Examining Inspector's Report when setting out the Council's case.

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<sup>1</sup> Appeal ref: APP/M1520/A/07/2034627

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## **4 PLANNING POLICY**

- 4.1 The development plan for the area comprises the Castle Point Local Plan adopted in November 1998, and the Essex Minerals Local Plan (July 2014) and the Essex and Southend-on-Sea Waste Local Plan (July 2017).
- 4.2 The adopted Local Plan Proposals Map identifies the majority of the appeal site as Green Belt. The north western corner of the site (demarcated by a line on the updated Development Masterplan Drawing No 16.3839/P205 Rev B) is shown as part of the Manor Trading Estate on the Proposals Map and is identified as Employment Land. This section is therefore excluded from the Green Belt.
- 4.3 The Secretary of State's saving direction of September 2007 saved the majority of policies but did not save Policy GB1 which related to control of development in the Green Belt. As a consequence, the Council has since applied Government policy when considering development in the Green Belt as currently set out in Chapter 13 of the 2021 National Planning Policy Framework (the NPPF/the Framework)
- 4.4 The Council commissioned a NPPF Conformity Check in April 2013 which compared each of the saved policies in the Castle Point Adopted Local Plan 1998 with the NPPF (2012), and indicated the degree of consistency between the two documents. RFR 5 of the Decision Notice refers to Local Plan Policy T8 - Car Parking Standards. This policy was considered to be consistent with the Framework which required local planning authorities to set such standards reflecting local circumstances.
- 4.5 The Local Plan contains a single policy relating to pollution – Policy EC4. Whilst that policy was considered to be generally consistent with paras 120 to 125 of the 2012 NPPF, the Conformity Check advised that those paragraphs contained a number of qualifications that should be considered when determining an application. As a consequence, the Council has relied on the more detailed policy position in the NPPF in relation to pollution when considering planning applications.
- 4.6 It is agreed that the development plan does not make provision for meeting housing needs beyond 2001 (Policy H1). Furthermore, the Council is unable to demonstrate a five year supply of housing land and the Local Plan can be regarded

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as being out of date when assessed against Paragraph 11 of the NPPF.

- 4.7 The Essex and Southend on Sea Waste Local Plan 2017 is relevant to this appeal. Policy 2 - Safeguarding Waste Management Sites and Infrastructure requires the Waste Planning Authority to be consulted on non-waste development proposals on sites located within 250m of safeguarded sites. The Manor Trading Estate contains a number of safeguarded waste disposal sites. The policy indicates that proposals which are considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure are unlikely to be opposed if they meet the three conditions of the policy. The current proposal does not meet those conditions: the waste management uses are still operational (a), the potential loss of the waste infrastructure would not form part of a strategy or scheme that has wider environmental, social and/or economic benefits that outweigh the retention of the waste use and no alternative provision is made for the potentially displaced waste use (b) and no suitable replacement site or infrastructure is being proposed as part of this scheme (c). The County Council Waste Authority has confirmed that the objection to the proposal still stands in its most recent letter of 26 April 2022 and the proposal is considered to be contrary to Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.
- 4.8 At the time of writing the Officer Report (Appendix 1), the Council had prepared a new Local Plan which had undergone examination and was subject to the Examining Inspector's Report and had been found sound subject to Main Modifications. The Council withdrew that Local Plan on 15 June 2022 and therefore after the refusal of the application the subject of this appeal. The policy of the now withdrawn Local Plan as referred to in the decision notice (Policy TP8) is therefore no longer relevant and will not be referred to in the Council's evidence. However, it is accepted that some of the evidence base documents remain relevant as does the Examining Inspector's Report dated 3 March 2022.

### **Emerging Local Plan**

- 4.9 Following the withdrawal of the draft Local Plan in June 2022, the Council adopted a new Local Development Scheme in November 2022. This advises that the consultation on the Issues will take place between January to August 2023 with formal submission of the Local Plan being in June 2025, the Examination taking



place later that year and Adoption anticipated in March 2026. At present, no document has been published for consultation.

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## 5 THE COUNCIL'S CASE

### Reason for Refusal No 1 – Green Belt

- 5.1 The parties agree that the proposal represents inappropriate development in the Green Belt and therefore by its very nature, the development is harmful to the Green Belt. Substantial weight should be given to any harm to the Green Belt (NPPF, 148). The Council considers that no very special circumstances have been demonstrated which would clearly outweigh the harm to the Green Belt.
- 5.2 The Council will consider the benefits now being advanced by the Appellants. These were originally set out in the Officer Report and the Local Planning Authority will expand upon its consideration of the Appellants' identified benefits of the submitted scheme as now set out in their Statement of Case, including the provision of affordable housing and improvements to the Manor Trading Estate.
- 5.3 The Appellants advanced the benefits listed below at the application stage. These were considered in the Officer Report and found not to represent the very special circumstances needed to overcome the harm to the Green Belt and set aside Green Belt Policy. The Council will review these benefits in the light of the Appellants' Statement of Case and will consider if there are any new or additional factors which mean that they can now be considered to represent very special circumstances.
- a. The provision of 68 residential units in the context of a long term housing supply deficit.
  - b. Provision of 50% affordable housing
  - c. Provision of employment space
  - d. Environmental Improvements to the Manor Trading Estate
  - e. Increased ecological value of the site
  - f. Provision of community infrastructure including public open space, a new pedestrian crossing and school parking
- 5.4 It is noted that the Appellants have indicated in their Statement of Case that they intend to present additional evidence in relation to some of the above matters as

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well as in relation to the impacts of and upon the safeguarded waste facilities which are identified at Appendix 1 and 2 of the Essex County Council's Mineral & Waste Planning consultation letter dated 26 April 2022. However, that information has not yet been received by the Council. The Council therefore reserves the right to submit a rebuttal or addendum evidence in the event that the information submitted by the Appellants is received after the submission of its proofs of evidence and raises issues that need to be addressed.

- 5.5 It is also noted that the Appellants have introduced issues around Heston Lodge and ownership of land used by the Care Centre and alludes to 'consequences for Heston Lodge if not formally resolved' (As' SoC, para. 2.19). The Council considers that this is a private land ownership matter which cannot be considered as a very special circumstance in Green Belt terms.
- 5.6 The Council will consider whether circumstances have changed to warrant greater weight to be given to the benefits advanced by the Appellants.
- 5.7 The Local Planning Authority notes the Appellants' intention to prepare a Unilateral Undertaking to deliver the Appellants' identified benefits of the proposal and reserves the right to comment on the contents of the Unilateral Undertaking when it is received. Issues of viability were considered at the application stage and also in the examination of the withdrawn Local Plan. However, to date, there has been no demonstration or clarification from the Appellants that the benefits described as arising from the development of the site can be achieved without adversely impacting on the viability of the scheme, and the Local Planning Authority questions how such benefits may reasonably be identified as very special circumstances.
- 5.8 The Council will conclude in respect of the weight to be attached to the Appellants' identified very special circumstances.
- 5.9 The Local Planning Authority will also expand upon the content, consideration at hearing and subsequent findings of the Inspector in respect of the sound, but withdrawn Local Plan. The Local Planning Authority will particularly identify the detailed consideration given by the Examining Inspector, to the proposal and arguments of the Appellants in respect of the development of this site which were presented at that time. (Inspector's Post-Hearing Letter dated 6th September

2021, paragraphs 47 -52). The site under consideration at that stage was some 3.7ha and was identified as an allocation for employment purposes. The Examining Inspector concluded that there were not fully evidenced and justified exceptional circumstances for the alteration of the Green Belt boundary for the proposed extension to the Manor Trading Estate as set out in that Plan. He therefore recommended that the proposed allocation should be deleted, the Plan amended and that the land should be retained in the Green Belt.

- 5.10 The Council will consider if there have been any other circumstances which would indicate that development of the appeal site in the manner proposed would be acceptable. The Local Planning Authority will identify the distinct and robust differences in the circumstances between this proposal and that referred to in paragraph 2.35 of the Appellants' Statement of Case (which, whilst not stated, is believed to be a reference to planning application 21/1137/FUL – Demolition of existing building and stables and construction of 44 affordable dwellings including open space, playspace, landscaping and associated access, infrastructure and parking arrangements, which is currently the subject of an appeal (Appeal reference: 3310483 to be heard by way of a Hearing), which enabled a different conclusion to be reasonably reached in respect of each proposal, based on their individual merits. It should be noted that the Officer recommendation in respect of application 21/1137/FUL was rejected by the Development Management Committee which refused consent for the proposal.
- 5.11 The Council will conclude that the proposal for 68 dwellings on the appeal site will fail to retain the openness of this part of the Green Belt and that no very special circumstances have been advanced to justify the setting aside of national Green Belt policy contained in the NPPF.

### **Reasons for Refusal No 2 and 3 – Noise**

- 5.12 RFRs 2 and 3 can be taken together. The Council will contend that within the proposed acoustic environment the proposed development represents poor acoustic design which would be likely to have an impact on existing industrial processes resulting in likely complaints of noise from future residential occupants and be contrary to the requirements of the policies of the NPPF in relation to noise (NPPF paragraphs 185 and 187).

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- 5.13 The Council will respond to arguments in respect of the operation of the “Benfleet Scrap” site to the west insofar as they are relevant to the consideration of the planning merits of the appeal proposal and the roles and responsibilities of the Planning Authority.
- 5.14 To this end, reference may be made (as relevant) to the judicial review brought by one of the Appellants in respect of the Authority’s determination of planning application 18/0834/FUL (Claim No. CO/5120/2018. Dismissed 31.07.2019) and the challenges in the High Court lodged by the Appellant ([2020] EWCA Civ 1420). Dismissed by the Court of Appeal 29.10.2020) in which legal arguments in respect of the operation of Benfleet Scrap were raised and rejected by the Courts.
- 5.15 The Council will expect the Appellants to support their arguments with clear evidence to demonstrate that the proposal can be integrated effectively with existing businesses, applying para. 187 of the NPPF. Any such evidence will be assessed and scrutinised in the Council’s evidence.
- 5.16 The Council will also present expert evidence to assess the existing and expected future acoustic environment, and the impact of the existing industrial development on the proposed commercial and residential development.
- 5.17 The Council will contend that the Appellants’ reliance on the upper limits of BS8233:2014 for external noise, is inappropriate in this case.
- 5.18 The Council will demonstrate that the noise generated by the existing Trading Estate would be likely to be excessive at the proposed residential properties and that, were the scheme permitted, the risk of noise disturbance to future occupiers would be high. It is considered that the location of a large housing scheme in close proximity to the noisy uses at the Manor Trading Estate would result in a poor standard of residential amenity for future residents contrary to the requirements of the NPPF, particularly Paragraphs 185 and 187 (and 130). It is contended that all the dwellings would be reliant upon mechanical ventilation to achieve an acceptable level of noise amenity internally. However, the Council considers that a total reliance on mechanical ventilation is unreasonable. Furthermore, no such measures can be put in place to provide an acceptable noise environment externally and it is considered that the gardens and external areas of the residential development will be subject to unacceptable noise levels from the
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existing uses on the nearby Manor Trading Estate. As such, the Council considers that future residents will experience an unacceptable level of residential amenity which is likely to generate justified complaints in respect of the noisy activities on the Trading Estate.

- 5.19 The Council has put forward suggested conditions at Appendix 2 of this Statement which include noise conditions. Those conditions are considered essential to achieve acceptable internal noise levels for the residential properties. It is considered that no conditions can be imposed that would provide an acceptable external environment for future residents. Furthermore, the Council has serious reservations on how the proposed noise conditions can be enforced over the lifetime of the development, and maintains that even if imposed, they will still not ensure an acceptable level of amenity for future residents as required by the NPPF (paragraph 130). As a consequence, the proposal fails to ensure that the development can be effectively integrated with the adjacent Manor Trading Estate contrary to paragraph 187 of the NPPF and Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.

#### **Reason for Refusal No 5 – Parking Provision**

- 5.20 The Council will expand upon its concerns in respect of commercial parking provision and would confirm at this stage that the Appellants' comments in respect of the revision of floor space within the Class E units do not resolve the issue.
- 5.21 Policy T8 of the adopted Local Plan confirms that the parking standards of Essex County Council will be applied. The most up to date parking standards are set out in the County's document Parking Standards; Design and Good Practice produced in September 2009 and adopted by Castle Point Borough Council in June 2010.
- 5.22 The adopted parking standards reflect the previous Use Class classification of B1, B2 and B8 and require maximum provision for car parking spaces (normally 5.5m by 2.9m) and minimum standards for cycle parking for both staff and visitors based on floor area, powered two wheel vehicles (PTWs) and disabled space for each former use class. Although B1 is now Class E, it is considered that the previous standard still applies as there is no equivalent E class requirement. The ratio of parking space to floorspace is different between the B classes but each category requires the four forms of parking space to be provided. Paragraph 3.2 of the

Standards sets out the required sizes of the parking bay spaces and also includes a minimum bay size for vans and for HGV's. The parking standards indicate that a reduced car parking bay size of 5.5m x 2.5m may be used in exceptional circumstances as determined by the LPA. The Council does not consider that any exceptional circumstances have been demonstrated in this case. Disabled parking bays should be 6.5m x 3.9m (paragraph 3.3.5).

5.23 The Development Masterplan (Drawing No 16.3839/P205 Rev B), submitted after the appeal was lodged, shows the parking provision intended for the appeal proposal. However, the Council considers that this does not reflect the necessary provision required by the parking standards and that the proposals do not demonstrate that adequate parking provision can be provided. The proposals on the Masterplan are of the reduced size 5.5m x 2.5m and fail to provide any spaces for disabled, cycle parking or for PTWs. In addition, it should be noted that there is no provision made for vans or any other commercial vehicles and the proposals fail to explain how the existing parking spaces within the employment site and which are displaced by the proposed development, will be replaced.

5.24 The Council will therefore argue that the proposal fails to demonstrate that the necessary commercial parking provision for both the existing and extended industrial estate can be provided on the site and is therefore contrary to Local Plan Policy T8.

### **Conditions**

5.25 The Council has provided its suggested conditions at Appendix 2 to this statement. These have been prepared on an assumption that the industrial and residential elements of the scheme may be developed at different times. The noise conditions are considered the minimum requirements to make this scheme acceptable but as indicated above, the Council does not consider that any conditions can be imposed that would make the external environment acceptable in residential amenity terms and which would meet the tests set out in the NPPF Paragraph 56.

### **The Planning Balance**

5.26 The Council acknowledges that the provision of housing to meet the needs of the community, and in particular housing to meet the affordable housing need, are

matters which carry significant weight in favour of the grant of planning permission. The Council accepts that it does not have a five year supply of housing land and that tilted balance is engaged. The Council also acknowledges that other benefits advanced by the Appellant can be given some weight in the planning balance. However, the majority of the appeal site is located in the Green Belt and national policy requires that very special circumstances need to be demonstrated to justify the loss of openness and the harm that would be created to the Green Belt.

5.27 Substantial weight is given to the Green Belt harm as required by the Framework (para. 148). The loss of green belt land is significant and the Examining Inspector did not consider that this was a site that should be released from the Green Belt, albeit that a smaller site was being considered for employment uses at that time. Nevertheless, the Council maintains that when weighed in the planning balance, the harm of the proposals to the Green Belt provides a clear reason for refusing the proposal. The proposals are contrary to the National Planning Policy Framework and the development plan, and the material considerations advanced by the Appellants do not represent very special circumstances in this case.

5.28 The proposal would not represent sustainable development when assessed against paragraph 8 of the NPPF and the proposals should therefore not be granted permission.

5.29 The inspector will be invited to dismiss this appeal.

The Council reserves the right to add to, amend, or alter this Statement of Case as necessary.



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## 6 DOCUMENTS

6.1 The following documents may be referred to or relied upon by the council in preparing and presenting their case:

- National Planning Policy Framework 2021
- Castle Point Borough Local Plan 1998
- Castle Point Borough Local Plan Saving Direction 2007
- Castle Point Adopted Local Plan 1998 – NPPF Consistency Check (2 April 2013)
- Essex County Council – Parking Standards – Design and Good Practice 2009 SPD
- Inspector's Report on Examination of the new Castle Point Local Plan March 2022
- Inspector's Post Hearing letter dated September 2021
- Castle Point Borough Green Belt Review 2018 – Part 1
- Appeal ref: APP/M1520/A/07/2034627 – Site at Unit 30 Brunel Road and to the rear of Unit 30 manor Trading Estate, Benfleet and associated drawing(s).
- Appeal Ref: APP/C1570/W/21/3274573 - Land north of Bedwell Road, Elsenham, Essex
- Explanatory Note of the Noise Policy Statement for England (DEFRA, 2010)
- Planning Practice Guidance: Noise (DCLG, 2013).
- Table 4 of BS8233:2014

(and others as may be agreed in the Statement of Common Ground or notified to the Appellant)

## **APPENDIX 1**

### **Officer's Report**

## OFFICERS REPORT: DELEGATED APPLICATIONS

REFERENCE: 21/0532/OUT

**Date of Expiry of Application:** 31.05.2022,

**Site Address:** Land East Of Manor Trading Estate, Benfleet, Essex, SS7 4PS

**Applicant's Name:** Messrs G P Smith, K M Smith, G M Smith, G W Smith

### **Note:**

It should be noted that this application was initially submitted in May 2021, during the Hearing into the Local Plan and is based on the assumption that the provisions of the Submitted Local Plan, insofar as they are set out in Policy EC2 of that document and relate to the application site, would be carried forward.

It should be noted that following consideration of the provisions of the Inspectors post Hearing letter received in September 2021, Policy EC2 was withdrawn and the former Green Belt allocation of the site reinstated.

Subsequent to this modification the Local Plan was found sound.

Members however resolved not to adopt the New Local Plan on 23<sup>rd</sup> March 2022.

The 1998 Local Plan therefore remains the adopted Local Plan. This allocates the site for Green Belt purposes.

### **Summary**

This application concerns an area of land located to the east of the Manor Trading Estate, which was, in part, identified as suitable for release from the Green Belt, for employment purposes, within the submitted 2019 Local Plan (SLP). Following the receipt of the Inspector's post Hearing letter in September 2021, this allocation was deleted. The site therefore remains within the Green Belt.

The application seeks outline consent, with all matters except access reserved for later consideration, for a mixed commercial and residential development comprising up to 6,359m<sup>2</sup> of commercial floorspace and 68 dwellings, of which 34 are identified for affordable housing purposes, together with the provision of associated infrastructure and open space and highway alterations.

Consideration of the proposal under the provisions of the NPPF, the adopted Local Plan and the New Local Plan identifies that the proposal constitutes inappropriate development

in the Green Belt, in respect of which no Very Special Circumstances are identified, which either individually or cumulatively, outweigh the harm to the Green Belt.

The proposal is therefore contrary to Government guidance as contained in the NPPF.

Further the proposal fails to give adequate consideration of the impact of the proposed development on adjoining land uses, particularly safeguarded waste disposal sites, and fails to adequately demonstrate that the impact of adjoining land uses on future occupiers of the site are adequately mitigated.

The proposal is therefore recommended for REFUSAL.

### **The Site and its Surroundings**

The site is irregular in shape and comprises a recently cleared area of rising land to the east of the Manor Trading Estate.

To the north and east the site is adjoined by a belt of trees beyond which is a scattering of 'plotland' development comprising detached and semi-detached dwellings in relatively large plots.

To the west the site abuts the Manor Trading Estate (MTE). The MTE is a mixed use development accessed from Church Road. It is typified by a range of commercial, service sector, warehouse and industrial processes. There is a scrap metal merchants and low rise, light industry buildings along the western boundary.

To the south the site is bounded in part by the curtilage of the Heston Day Care Centre and in part by the curtilage of the Robert Drake Primary School.

The site has a maximum depth of some 490m and a maximum width of some 285m. The site encompasses an area of some 5.57ha.

The site exhibits a fall of some 7m from east to north-west and an unnamed watercourse is located within the southern part of the site. This travels east-west across the route of the proposed access road and is culverted to the west of the site and within the school grounds.

### **The Proposal**

Outline consent, with all matters reserved except access, is sought for 68 residential units together with 5 Class E(g) Units of between 400 m<sup>2</sup> and 600m<sup>2</sup>, 1 Class B2 unit of some 1143m<sup>2</sup> and 2 Class B8 Units, each of some 1308m<sup>2</sup> with associated access, parking, amenity space, strategic landscaping and noise attenuation measures including the provision of a 12m high wall on the boundary of the site, mechanical ventilation to the dwellings and the orientation of dwellings to achieve quieter private amenity areas.

The submissions indicate the provision of 11 one bedroomed residential units, 15 two bedroomed residential units, 25 three bedroomed residential units, 12 four bedroomed residential units and 5 five bedroomed residential units, equating to a density of some 35dph.

Of these dwellings, 34 are stated to be affordable housing units, this equates to 50% of the housing provision on the site.

It is also proposed to provide areas of open space and revised access to the Heston Day Care Centre as well as relocating the school drop off/pick up point to a newly created car park within the application site and providing a new pedestrian crossing to the Robert Drake School.

The site will be primarily served from a new access from Church Road, with a secondary access serving the non-Class E(g) units from Brunel Road, within the Manor Trading Estate.

The application refers to the restoration and improvement of existing roads and infrastructure within the adjoining Industrial Estate. Whilst the roads within the adjoining site are identified as falling within the ownership and control of the applicant, these are not included within the confines of the current application site.

Works for improvement of the infrastructure on the Manor Trading Estate were approved under reference 20/0159/FUL. It is interesting to note that the applicant has stated that it is intended to fund these improvements from part of the proceeds of the proposed development the subject of this application.

## **Supplementary Documentation**

Initially the application was accompanied by:

- Design and Access Statement
- Arboricultural Impact Assessment and Method Statement
- Soil Contamination Assessment
- Noise Constraint Study
- Preliminary Ecological Assessment (2018) and Update (2021)
- Transport Assessment
- Geotechnical Report.
- Flood Risk Assessment and Drainage Strategy
- Suds Proforma
- Statement of Community Engagement
- Regeneration Document

Following the receipt of comments from the Minerals and Waste Authority (Essex County Council) subsequent Façade Noise Exposure Assessments have been submitted.

The applicant has also submitted draft Heads of Terms in respect of a S106 Agreement intended to secure the provision affordable housing, necessary infrastructure improvements, site mitigation and works to the adjoining industrial estate.

All of these documents can be viewed on the Council's website.

## **Planning History**

No planning applications have previously been received for the development of the application site.

The site does however have history in the context of the New Local Plan.

The 2014 Local Plan identified part of the application site for employment purposes. This sought to provide access to the identified land through the existing industrial estate, consequently that part of the current application site which provides access from Church Road was not included in the 2014 proposed allocation. That Plan was not progressed.

The 2016 Local Plan similarly allocated land to the east of the Manor Trading Estate, which forms part of the application site, for employment purposes with access through the existing estate. That Plan was also not progressed.

The 2019 submitted Plan allocated some 3.7ha of the land to the east of Manor Trading Estate for employment uses with access through the existing estate. This allocation was made to meet identified employment needs on the Mainland.

However, on the 29<sup>th</sup> September 2021 the Inspector's post Hearings letter was received. Within it the Inspector concluded that 'there are not fully evidenced and justified exceptional circumstances for the alteration of the Green Belt boundary for the proposed extension to the Manor Trading Estate as set out in the Plan.'. Consequently, he considered that the proposed allocation should be deleted and the land retained in the Green Belt.

This amendment was made to the Plan as part of a series of modifications which were then the subject of public consultation following which the Council received the Inspector's final report on 3rd March 2022. This concluded that the duty to co-operate had been met and with the main modifications made by the Council the New Local Plan was sound, satisfying the requirements referred to in Section 20(5)(a) of the Planning and Compulsory Purchase Act 2004.

Whilst Members resolved not to adopt the Plan on March 23<sup>rd</sup>, 2022, it remains sound and a material consideration in the determination of any application.

Accordingly, policies contained within the plan are being attributed considerable weight in the determination of planning applications.

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

In light of the non-adoption of the New Local Plan, the 1998 Local Plan is currently the adopted Local Plan for Castle Point. This identifies that the site is allocated for Green Belt purposes.

It may be noted that had the modified New Local Plan been adopted, the site would have been allocated for Green Belt purposes.

The following policies are of relevance:

### National Policy Planning Framework (2021)

#### Introduction and achieving sustainable development

Paragraphs: 2, 7-10, 11, 12, 14.

#### Decision making

Paragraphs 47, 49, 50, 54.

#### Delivering a sufficient supply of homes

Paragraphs 61.

#### Building a strong, competitive economy

Paragraph 81

#### Promoting healthy and safe communities

Paragraphs 92, 93, 98, 100.

#### Promoting sustainable transport

Paragraphs 107, 108, 110.

#### Making effective use of land

Paragraphs 119, 120,

#### Achieving well designed places

Paragraphs 126, 130.

#### Protecting Green Belt land

Paragraphs 137, 147, 149.

#### Meeting the challenge of climate change, flooding and coastal change

Paragraphs 154, 162-165, 167.

#### Conserving and enhancing the natural environment

Paragraphs 174, 180, 183, 184, 186.

### Adopted Local Plan

EC2:	Design
EC3:	Residential Amenity
EC4:	Pollution
EC13:	Protection of Wildlife and their Habitats
EC14	Creation of new Wildlife Habitats
EC22	Retention of Trees Woodlands and Hedgerows
H9	New Housing Densities
H10	Mix of Development
T8:	Car Parking Standards
RE4	Provision of Children's Playspace and Parks
CF1:	Social and Physical Infrastructure and New Developments
CF14:	Surface Water Disposal.

### Other relevant Development Plans:

#### Essex Minerals and Waste Local Plan 2014

Policy S4

#### Essex and Southend on Sea Waste Local Plan 2017.

Policy 2.

### The New Local Plan

Policies which will be given consideration, as appropriate, in this report are:

SD1	Making Effective Use of land
SD2	Development Contributions
HO1	Housing Strategy
HO3	Housing Mix
HO4	Securing More Affordable Housing
EC1	Economic Strategy
HS1	Strategy for Healthy Communities
HS3	Opportunities for Outdoor recreation
TP6	Highway Impacts
TP7	Safe and Sustainable Access
TP8	Parking Provision
TP9	Access for Servicing
DS1	General Design Principles
DS2	Landscaping
GB1	Green Belt Strategy
GB2	New Development in the Green Belt
CC1	Responding to Climate Change
CC3	Non-Tidal Risk Management
CC4	Sustainable Buildings
NE4	Local Wildlife Sites
NE5	Ecologically Sensitive and Designated Sites
NE6	Protecting and Enhancing the Landscape and Landscape Features



NE7 Pollution Control  
NE8 Contamination  
NE10 Ensuring Capacity at Water Recycling Centres

### Residential Design Guidance (RDG)

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

Relevant guidance includes:

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

The applicant is further advised that any proposal for residential development will be expected to comply with the provisions of the Nationally Described Space Standards.

### Other relevant Documents

- Essex Planning Officers Association Vehicle Parking Standards – C3 (August 2009)
- The Castle Point Borough Green Belt Review 2018
- Addendum to the South Essex Strategic Housing Market Assessment (2017)
- Addendum to the South Essex Strategic Housing Market Assessment (2020)
- South Essex Economic Needs Assessment (2017)
- Habitats Regulations Assessment (Screening Report and Appropriate Assessment) Sept 2020.

### **Consultation**

It should be noted that some comments were received prior to the receipt of the Inspectors report on the Local Plan. No further consultation as a consequence of the findings of the Inspector have been undertaken, hence some comments may now be out of date but are retained within this report in the interests of completeness.

### Essex County Council Highways

No objection subject to conditions

Essex County Council Minerals and Waste

*Response of 29.06.2021:*

*Holding objection*

- Inadequate assessment of noise provided. It has not been demonstrated that the proposed development would not give rise to future noise complaints from prospective residents which might subsequently compromise the ability of the existing waste management facility, which is a safeguarded facility through the Essex and Southend on Sea Waste Local Plan, to operate in conformity with its planning permission.
- No Waste Infrastructure Impact Assessment (WIIA) has been submitted and it has not been demonstrated that the proposed development would not prejudice an existing waste site.
- Site Waste Management Plan required.

*Response of 03.09.2021 following submission of WIIA and reconsultation*

*Holding Objection maintained*

- The potential for new residents to be subject to adverse effects and for complaints regarding noise from scrap operations has not been resolved and the proposal is therefore currently considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure.

*Response of 23.12.2021 following submission of Façade Noise Assessment and reconsultation*

*Holding Objection maintained*

- The MWPA does not consider that proposed mitigation adequately compensates for what are accepted to be noise impacts above recommended guidelines across much of the rest of the external space and that as such future residents are likely to complain about the operation of the adjoining scrap metal recycling facility and consequently has the potential to adversely impact on the operation of a safeguarded waste site or infrastructure and is therefore not compliant with Policy 2 of the WLP.

*Response of 27.04.2022 following submission of revised Façade Noise Assessment and reconsultation*

*Holding Objection maintained*

- Having reviewed the FNE, the MWPA maintains its objection on the basis that the application is not in conformity with the NPPF and Policy 2 of the Essex and Southend-on-Sea Waste Local Plan (WLP) 2017. This is because the proposal is currently 'considered to have the potential to adversely impact on the operation of a safeguarded waste site or infrastructure' (WLP Policy 2) and therefore may lead to 'unreasonable restrictions' (NPPF Para 187) on the operation of existing development.

Essex County Council Fire and Rescue

Additional water supplies for firefighting may be necessary for this development. Developers to consider the installation of Automatic Water Suppression Systems (AWSS).

Essex County Council Infrastructure Planning Officer

A development of this size can be expected to generate the need for up to 5.1 early years & childcare places, 17.1 primary school places and 11.4 secondary school places.

This development is adjacent to Robert Drake Primary School and care must be taken when designing the scheme to minimise and mitigate any impacts on the school, or its pupils, including noise, air quality, visual intrusion, highway safety and active travel.

The access cuts into the footway and lay-by in front of the school. If there is an opportunity to improve the footways in front of the school or get a crossing, this would be welcomed.

There is currently sufficient secondary capacity to accommodate additional pupils from this development.

Suggested population increase brought about by the proposed development is expected to create additional usage of the local library. In accordance with the Essex County Council Developers' Guide to Infrastructure Contribution (Revised 2020), a contribution is therefore considered necessary to improve, enhance and extend the facilities and services provided at the nearest library.

If your council were minded to turn down the application, the lack of surplus Primary school places and library facilities in the area to accommodate the proposed new homes can be noted as an additional reason for refusal.

Lead Local Flood Authority

No objection subject to conditions.

Environment Agency

No comment.

Anglian Water

Has assets close or crossing the site. Layout should take account and accommodate assets within highways or open space.

Benfleet Water Recycling Centre does not have capacity to treat wastewater flows from the development site. Additional capacity would have to be created.

Surface Water drainage strategy required.

Consent for the discharge of trade effluent to the public sewer must be obtained from Anglian Water before first discharge.

Essex Police  
No response

NHSEngland  
No response

Natural England  
HRA required.

Invertebrate Conservation Trust (Buglife)  
No response

Essex Wildlife Trust  
No response

Essex Badger Patrol  
No response

CPBC Environmental Health Officer  
Supports the objection of the Minerals and Waste Authority.  
Condition required in respect of appropriate remediation of contamination.

CPBC Legal Services  
No objection

CPBC Streetscene  
No objection.

CPBC Planning Policy  
The development plan for the Borough remains the Castle Point Local Plan 1998. The new Local Plan is currently in examination and therefore as it is advanced some weight can be afforded to it.

GB1 – Green Belt Strategy  
This application falls within the current extent of the Green Belt (as defined in the 1998 local plan). The new Local Plan proposes to remove the site from the Green Belt for employment purposes. The site will, therefore, only cease to be Green Belt if the submitted Local Plan is adopted and assuming the allocation EC2 – Extension to Manor Trading Estate is retained as an allocation within the Plan.

As this application has come forward at such a time before the Green Belt land is released then the application will need to be assessed against existing Green Belt policy and would need to demonstrate very special circumstances. The national Planning Practice Guidance is clear that housing need alone is unlikely to constitute the very special circumstances required to permit inappropriate development within the Green Belt.

The NPPF (2021) requires that Green Belt boundaries '*should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of [local] plans.*' (Paragraph 140). The Local Plan seeks to do so, for employment uses. The applicant has made a representation to the plan. It cannot be assumed that the proposed allocation for employment will be found sound and that the exceptional circumstances for the removal from the Green Belt [identified within the plan] are justified. The Inspector's post Hearings letter is due in September 2021 and the Council will know whether the proposed policy remains as submitted or has been deleted [or amended].

Therefore, at the present time it is far from clear whether the site will be removed from the Green Belt and as such existing Green Belt designation applies.

#### HO4 - Securing more affordable homes

It is clear that there is a need for affordable housing in Castle Point from the supporting evidence (2016 SHMA). Policy HO4 of the emerging Local Plan requires 40% affordable housing on housing sites in this area. This requirement has been assessed as appropriate through the CIL Viability Study 2020. As the application is proposing 50% affordable housing the application exceeds the requirements of policy HO4. Paragraph 149 of the NPPF sets out the exceptions that could make inappropriate development in the Green Belt. These include (sub-paragraph f) 'Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites)' The adopted development plan and emerging Plan does not identify what limited affordable housing would be appropriate or identify any rural exception sites, therefore this application would not be appropriate in these circumstances.

If this application is approved, this affordable housing provision should be secured through a S106 Agreement which also secures the Council nomination rights to the affordable homes proposed and that any shared ownership or First Homes are held as such in perpetuity. The S106 Agreement should also ensure that the affordable home ownership units meet the definition of affordable housing as set out in the NPPF.

#### EC2 – New Employment Land

This site falls within 3.7 hectares of land allocated for new employment purposes, for B1b, B1c and B2 uses under the previous use classes order. Within the schedule of proposed main modifications of April 2021 (EXM-031) under modification reference M11.21 it is proposed that B8 and E(g) uses as defined in the Use Classes Order should be delivered on this site. The Inspector examining the Castle Point Local Plan is considering this proposal and policy EC2 as a whole. As identified within the evidence observations, the requirement for new employment land is based on the growth expected within the mainland area within the borough, if a smaller area was delivered through this site, this would not be in keeping with sustainable development and providing employment opportunities closer to homes. As identified in the EDNA

no other suitable employment land was identified as suitable for employment purposes on the mainland.

It is considered that the extension to Manor Trading Estate employment allocation is consistent with national planning policy on building a strong, competitive economy set out at part 6 of the NPPF. Paragraph 80 expects planning policies to help create conditions in which businesses can invest, expand and adapt. It expects significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In the absence of this allocation there would be no employment land provision for existing businesses, or new businesses, to invest, expand or adapt in the mainland part of Castle Point, potentially forcing local businesses to look elsewhere for premises as they grow and change.

It is also considered to be an approach which is more generally compatible with the NPPF, including part 8 of the NPPF which is focused on promoting healthy and safe communities. This chapter strongly advocates place making which promotes walking and cycling. Spreading economic opportunities out better enables this. This is reiterated in paragraph 104 of the NPPF which states that planning policies should support an appropriate mix of uses across an area to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities.

The extension to the Manor Trading Estate for employment purposes has been assessed through the Sustainability Appraisal process. The outcomes of this assessment are set out page 54 of the SA Report [SUS-007]. This shows that where the policy requirements of the plan are applied to proposals for employment development on this site the outcomes should be broadly neutral to positive across the various objectives.

#### NE5 – Determining Applications affecting Ecologically Sensitive and Designated Sites

The application site is a greenfield site and abuts a Potential Local Wildlife Site. Therefore, and consistent with the requirements of policy EC2, the applicant will need to ensure that any harm to the wildlife site is fully mitigated, and that a measurable biodiversity net gain is ultimately achieved consistent with the more specific requirements of policy NE5.

#### NE7 – Pollution Control

In accordance with the NPPF and the agent of change principle, new uses should not conflict with existing uses. The site lies adjacent to a waste disposal site and therefore consideration should be had to whether the proposed residential uses are suitable in this location with effective mitigation being implemented.

#### Obligations

S106 to secure the affordable housing provision and nomination rights for the affordable rented units.

Relevant contributions to education, healthcare, transport etc in line with the Developers Contributions Guidance and Essex Developers Guide should be secured.

As a greenfield site a measurable biodiversity net gain should be provided.

### **Public Consultation**

In excess of 60 objections have been received from local residents which make the following comments:

- Loss of Green Belt
- Loss of Wildlife Habitat
- Inadequate infrastructure to support proposal
- Increased traffic and potential for accidents
- Site is too close to school
- Proposal is not needed
- Increased air pollution
- noise and disturbance affecting existing and future residents and adjoining school and day care centre
- Loss of lay-by
- Light pollution
- Surface and foul drainage systems inadequate
- Noise surveys inadequate
- Adverse impact on existing businesses.
- Premature

The applicant has submitted a response to the third party consultation responses. This can be viewed on the website.

In addition 30 letters of support were received, primarily from occupiers of the adjoining Industrial Estate, making the following comments:

- Improvements to roads and infrastructure on existing estate needed
- New units will create opportunities for business expansion and employment
- Support for provision of housing and particularly affordable housing
- Support for improved lay by and crossing facilities.
- Welcome attenuation of noise from scrap yard.

### **Evaluation of the Proposal**

The proposal seeks outline consent, with all matters reserved except access, for 68 residential units together with 5 Class E(g) Units, 1 Class B2 unit and 2 Class B8 Units

with associated access, parking, amenity space, strategic landscaping and noise attenuation measures.

In addition, it is proposed to provide alternative parking provision for the Robert Drake School, improved pedestrian crossing facilities and alterations to the access to Heston Lodge.

The application site is allocated for Green Belt purposes in the adopted Local Plan.

The submitted New Local Plan identified part of the site as suitable for release for employment purposes under Policy EC2 with the remainder of the site allocated for Green Belt purposes. However, the Inspector's post hearing letter indicated that there was no justification for the release of this site from the Green Belt and subsequently recommended that the allocation be deleted. The Council consulted on its post Hearings modifications accepting the Inspector's modification to delete the proposed allocation and keep the site within the Green Belt. The Inspector found the Plan sound in his letter dated 3 March 2022. The site therefore remains within the Green Belt.

Whilst the Council has resolved not to adopt the new Local Plan, the Inspectors Final Report and the unadopted, but sound, New Local Plan carry significant weight in the determination of this application.

The proposal will be determined in the light of the comments and findings of the Local Plan Inspector, the adopted and New Local Plans and the policy framework provided by the NPPF. Consideration will be given to the acceptability of the principle of the proposed development on the site in the first instance.

Consideration will subsequently be given to the impact of the proposal on the Green Belt, safeguarded waste disposal sites, noise attenuation, contamination, access and parking, appearance and layout, ecology and trees, flood risk, and sustainability.

Whilst objections have been raised to the proposal on the basis of prematurity, given that a determination has now been made in respect of the New Local Plan, prematurity is no longer considered a relevant issue in this case.

### **The Principle of Development**

Planning law requires that applications for planning permission be determined in accordance with the Development Plan currently in force unless material considerations indicate otherwise (paragraph 2 of the NPPF). The adopted Development Plan is the starting point for decision making. Development that accords with the Local Plan should be approved and proposals which conflict with the Plan should be refused unless material considerations indicate otherwise.

The NPPF further states that where the relevant Development Plan policies are out of date, the Planning Authority should grant planning permission unless any adverse



impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework or specific policies in the Framework provide a clear reason that development should be refused (paragraph 11 of the NPPF).

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

The Development Plan for Castle Point is the adopted Local Plan (1998). This identifies the site as Green Belt. As outlined above, the site remains in the Green Belt.

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

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

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

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

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

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

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

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

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

The Castle Point Borough Green Belt Review 2018, Part 1 identifies the wider area of land, of which the application site forms part, as Parcel 1 and states that this parcel forms a strategically important 'central corridor' which runs north-south through the Borough. This Parcel is identified as strongly serving the purposes of checking the unrestricted sprawl of the built-up area and preventing the merging of adjacent settlements and performs moderately strongly in safeguarding the countryside from encroachment (Purposes 1 – 3).

The proposed development would result in the intensive development of a currently vacant site. Such development represents a physical and visual encroachment into the Green Belt, in conflict with purposes 1 – 3. This carries weight against the proposal.

However, it must be recognised that in considering the limited potential for economic growth and employment opportunity within the mainland area of the Borough within the context of the preparation of the New Local Plan, the Council considered that the need to balance such opportunities represented a Very Special Circumstance which justified, in the absence of the availability of other urban or derelict land suitable for such purposes, the release of land from the Green Belt. An area of some 3.7ha of land to the east of the Manor Trading Estate was therefore proposed for release to meet the specifically identified employment need. Whilst the proposal would impact on the Green Belt, the Planning Authority considered that release of this site would not significantly harm the strategic function of the wider area and identified the release of the site specifically for employment purposes in Policy EC2 of the submitted Local Plan.

However, after considering the proposal at the Local Plan Hearing, the Inspector was not convinced by the evidence that there was a need to seek greater balance in the provision of employment land within Castle Point and considered further that in terms of the exceptional circumstances for the alteration of the Green Belt boundary to accommodate the extension to the Manor Trading Estate, there was no quantitative need for additional employment provision at a strategic level for the plan period. Whilst he acknowledged that the planning system should actively manage patterns of growth in support of the transport objectives of the Framework, he considered the proposal at the Manor Trading Estate to be modest in scale, of limited benefit and potentially difficult to bring forward in the plan period. Consequently, he concluded that there were not fully evidenced and justified exceptional circumstances for the alteration of the Green Belt boundary for the proposed extension to the Manor Trading Estate as set out in the Submitted Plan and that the proposed allocation should be deleted and the Plan amended to retain the site in the Green Belt. This conclusion weighs heavily against the proposed development.

It is not considered that the application site makes any contribution to the setting or special character of an historic town. Redevelopment of the site would have no impact on this function of the Green Belt.

In terms of assisting urban regeneration, the 2019 Plan identified part of the site for employment purposes in acknowledgement of the limited availability of derelict or other urban land suitable for such purposes within the Mainland area of the Borough. It is acknowledged therefore that retention of the application site within the Green Belt could not assist in the regeneration of derelict or other urban land.

Prima facie, given the identified harm to the Green Belt, to which substantial weight is attributed, in accordance with Government guidance, the proposal should attract a recommendation of refusal; however, the Local Planning Authority is required to consider whether there are any very special circumstances, either in isolation or combination, which would outweigh that harm and justify a departure from the policy requirements.

The Authority must also consider whether there are other material considerations which would justify inappropriate development in the Green Belt.

#### The existence of Very Special Circumstances

There is no statutory definition of the term ‘very special circumstances’ as the Courts have held that very special circumstances will be specific to the particular scheme under consideration.

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

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

Whilst not specifically identified as a very special circumstance in the submitted Design and Access Statement, it must be recorded that some 3.7 ha of the 5.57ha application site was identified in the 2019 Plan for release for employment purposes.

This allocation derived from detailed assessment of the contribution of the allocated land to the purposes of the Green Belt, as set out in the 2018 Green Belt Review Parts 1 and 2 and by the perceived need to provide opportunities for economic growth within the Mainland area of the Borough where land suitable for such purposes is constrained. In seeking to identify opportunities for the provision of land for employment purposes land to the east of the Manor Trading Estate was identified as the most sustainable and deliverable site, despite that fact that it was still considered to fulfil a Green Belt function.

In considering the provisions of the 2019 Local Plan however, the Inspector rejected the proposal based on a lack of evidence to justify the release. As a consequence the site remains allocated for Green Belt purposes in the New Local Plan.

The New Local Plan currently has no formal status, but the fact that the release of this site from the Green Belt has been given recent and very specific consideration within the context of a Local Plan examination and found to be unjustified, weighs heavily against the proposal and cannot be considered to represent a very special circumstance.

Within the submitted Design and Access Statement the applicant has identified a number of factors which, in the applicant's opinion, constitute, both individually and cumulatively, very special circumstances. These are:

- The provision of 68 residential units in the context of a long-term housing supply deficit
- Provision of 50% affordable housing
- Provision of employment space
- Environmental improvements to the Manor Trading Estate
- Increased ecological value of the site
- Provision of community infrastructure including public open space, a new pedestrian crossing and school parking.

It may be noted that the majority of these considerations were presented in the applicant's submitted response to the Inspector's letter.

Each will be considered in turn.

#### The provision of 68 residential units in the context of a long term housing supply deficit.

The applicant identifies the historic difficulty that the planning authority has experienced in identifying sufficient land within the urban area to meet its housing needs and opines that the application site should be released from the Green Belt in order to assist in the satisfaction that need.

To that end, in the response to the Inspector's letter the applicant suggested that release of the site would represent a logical extension to the urban area.

The Planning Authority has long recognised that housing land availability within the Borough is limited and that this has impacted on its satisfaction of housing needs.

It is further acknowledged that the provision of 64 dwellings would make a contribution towards meeting housing need and could therefore be considered to represent a very special circumstance and material consideration in the determination of this application.

However, the Council identifies no necessity for this site to be released from the Green Belt to meet housing needs.

Since September 2018 the Standard Methodology has been used to calculate the objectively assessed needs of the Borough. Based on the Standard Methodology the

identified target for the Borough is 355 new homes per annum over the Plan period 2018 – 2032 (a total of 5,325 dwellings).

The New Local Plan identifies land capable of delivering 5,510 dwellings over the period. The identified land does not include the application site.

Whilst it is acknowledged that in the past the Planning Authority has not met its housing needs, the New Local Plan does identify sufficient land which can deliver the housing needed to meet identified needs (Policy HO1). It should be noted that the Inspector has not identified a flaw in the determination of housing need or the means to satisfy such need.

It should be noted that the applicant made strong representations to the Plan and sought as part of those representations to secure the release of the application site for a mixed use. The applicant also attended the Hearings to present their case. The Inspector considered both the written and verbal submissions and whilst it is not the place of the inspector to recommend an alternative use for the site, nowhere in his comments in respect of this site does he offer any suggestion that development outweighs harm to the Green Belt.

#### Provision of 50% affordable housing

Setting aside the above lack of identified need for the release of the application site for residential purposes, it must be acknowledged that the provision of affordable housing is a factor which could add weight to the favourable consideration the proposal.

The applicant is offering to provide 50% of the units as affordable housing product and makes the point that this level of provision exceeds current and proposed policy requirements.

Policy H7 of the adopted Local Plan (1998) states that the Council will seek to negotiate a proportion of affordable housing for rent, shared ownership, or outright sale, where appropriate to the scale of development schemes.

It should be noted however that Policy H7 was adopted some twenty years ago and that changes in the housing market have continually informed the Council's view on what constitutes appropriate affordable housing provision. For schemes of individual dwellings the Council currently seeks no less than 50% of all new affordable housing as affordable housing for rent, with the remainder provided as affordable home ownership products, as defined in the NPPF. The Council will seek nomination rights in the Section 106 Agreement.

The Council's Developer Contributions Supplementary Planning Document provides the latest adopted guidance on the amount and type of contribution that is expected in relation to affordable housing provision. This currently requires the provision of 35% affordable

housing on sites of 15 units or more. This would equate to the provision of 23 affordable housing units on this site.

The viability report prepared to support the New Local Plan, suggests however that within the mainland areas of the Borough the provision of 40% affordable housing is more appropriate. This provision is enshrined in Policy HO4 of the New Local Plan. Under this provision 28 affordable housing units would be required on this site.

More recently the NPPF has identified that where major development involving the provision of housing is proposed, planning authorities should expect at least 10% of the total number of homes to be available for affordable home ownership. This would equate to the provision of at least 7 of the dwellings being available for affordable home ownership, with 'First Homes' being the Government's preferred vehicle for delivery.

The applicant has suggested that affordable housing provision of 50% could be made on site.

This offer, whilst generous, is viewed with caution.

Any provision of affordable housing on the site would be secured by a S106 planning obligation.

Government guidance is clear that planning obligations must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

These tests are set out as statutory tests in regulation 122 of the Community Infrastructure Levy Regulations (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework.

As stated above, the New Local Plan identifies sufficient land to meet housing needs and will make a substantial contribution to the availability of affordable housing. The framework provided by the New Local Plan and the discussions held with large scale house builders engaged in the master planning of the development of those sites identified as suitable for release for residential purposes, provides confidence that affordable housing needs within the Borough will be substantially mitigated over the Plan period. The provision of affordable housing on this site, whilst in principle attractive, does not attract such weight in this context, to make the proposal acceptable in planning terms.

Setting aside the Green Belt issue, it should be noted that the New Local Plan identifies that the provision of 40% affordable housing would be necessary (Policy HO4).

The applicant proposes the provision of 50%. It is the view of the planning authority that such provision would not be fairly and reasonably related the scale of the development proposed. Whilst no doubt not intended, excessive provision such as that proposed, could be construed as an attempt to sway opinion in respect of the acceptability of the proposal and is therefore viewed with caution.

Nothing in the submitted documentation suggests that the applicant is working in co-operation with a Registered Provider (RP) nor indeed that the views of any such provider has been obtained in the preparation of the application or offer.

Furthermore there has been no demonstration that the provision of affordable housing at this level would be viable. The NPPF states at para 58 that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. However, the current proposal is not compliant with the provisions of either the adopted or New Local Plan and this assumption cannot therefore be made. The Planning Authority is concerned that this level of affordable housing may not be capable of being achieved on the site, particularly in the light of the applicant's stated intention to use at least part of the receipts from the site on the upgrading of the Manor Trading Estate and the substantial costs likely to be attributable to the provision of appropriate acoustic screening and decontamination of land on the western boundary of the site.

Cumulatively these factors give cause for concern in respect of the deliverability of affordable housing at this level on the site and this limits the weight that may be attributed to this consideration.

#### Provision of employment space

The need for 9ha of additional employment land within the Borough was identified in the South Essex Economic Development Needs Assessment 2017.

In seeking to meet that need through the provisions of the New Local Plan the planning authority initially assessed the capacity of existing consented sites. This revealed the availability of some 20ha of land, more than twice that required to meet identified needs. No absolute need for the identification of further employment land therefore existed. However, all of the land identified was located on the southern part of Canvey Island. The mainland part of the Borough is home to over 50% of the resident population of Castle Point and over 50% of the planned growth. In order to ensure sustainable development patterns and provide the opportunity for local employment and economic growth within the mainland area of the Borough the planning authority considered it appropriate to identify further land within the mainland area of the Borough, to meet the specific local employment need.

Consideration of the available opportunities identified some 3.7ha of land adjacent to the Manor Trading Estate as suitable for such purposes. This land was identified within Policy EC2 of the New Local Plan. Proposed modifications to the Local Plan identified that the

land, if brought forward, would be allocated primarily for uses falling within Use Classes B2, B8 and E(g) of the Use Classes Order, subject to the satisfaction of stated criteria, including the provision of access through the existing Industrial Estate, the achievement of environmental net gains on the site and the provision of sustainable drainage measures.

However, the Local Plan Inspector's post-hearing letter clearly stated that there was a lack of demonstrated need for the provision of additional employment land and suggested, in order for the Plan to be found sound, that this allocation should be deleted and the land retained within the Green Belt.

This suggestion was accepted by the Planning Authority and incorporated into the New Local Plan post hearings Modifications.

It should be noted however, that even if the Planning Authority had rejected the Inspectors advice and continued with its original provision to secure 3.7ha of employment land on the site, the proposal would remain unacceptable as it seeks to provide only 2.49ha of employment land. This reduction in the provision of land available for employment would have adversely impacted the Authority's then stated objectives for business growth and employment opportunities on the mainland.

On this basis it is difficult to see how the current proposal would have offered significant benefit in terms of the provision of employment land.

The applicant suggests that the costs associated with the development of the allocated site in the absence of the provision of residential development renders the site not viable. The argument would appear to be that unless further land is released and provision of residential development included, to secure sufficient financial impetus to achieve the development of the land on the northern part of the application site for employment purposes, the objective of Policy EC2, insofar as it relates to land east of the Manor Trading Estate and the applicant's desire to improve conditions on the adjoining Industrial estate, could not be achieved.

This point was strongly made on behalf of the applicant at the Local Plan Hearing but as the Inspector considered that Policy EC2 was, in itself, unnecessary, so too must be any development required to make it viable.

It should further be noted that to date, no demonstration of the stated lack of viability has been presented. In the absence of such demonstration it is considered that, even in the absence of the Inspector's consideration of Policy EC2, the applicant's argument could attract little weight whilst the apparent prejudicial impact of the proposal on employment opportunities would represent substantial weight against the proposal.

#### Environmental Improvements to the Manor Trading Estate



The provision of improvements to the Manor Trading Estate would be consistent with Policy ED7 of the adopted Local Plan.

The applicant identifies that he is the owner of the roads, and has responsibility for the underlying infrastructure, within the adjoining Manor Trading Estate. Extensive photographic evidence is provided within the supporting documentation to the application which attests to the poor condition of the roads and associated footways and the historic under investment in, and poor management of, the adjoining Industrial site.

The applicant suggests that improvement of the Manor Trading Estate could be funded by development of the application site with a mixed-use employment and residential scheme. To support the statement the applicant has submitted a document entitled 'Realising Potential – The Manor Trading Estate, Benfleet'. This document seeks to identify the medium to long term aspirations of the owner to secure a phased regeneration of the existing employment site. It is stated that the units forming part of the current application form Phase 1 of that aspiration and will allow existing businesses to decant into new premises, thus releasing sites for redevelopment. It is suggested that redevelopment may comprise up to 12 phases.

The applicant does not however identify that he owns all of the land comprising the Manor Trading Estate. Achieving the redevelopment of existing units may not therefore be within the gift of the applicant.

Whilst it is acknowledged that the applicant has achieved planning permission for improvements to the highway and associated infrastructure within the existing employment site, no applications have been received in respect of the redevelopment of units on the site.

Whilst the planning authority is mindful of the condition of the Estate and would acknowledge that improvements within the Estate would be of benefit to the occupiers and the landowner(s), there is a lack of clarity over whether such improvements would have significant wider benefits. It is clear that even in its current condition, the site provides significant opportunities for local businesses, there being high levels of occupancy across the site.

Furthermore, it must be acknowledged that the wider employment site contains a number of safeguarded uses which are essential for the proper management of waste and serve a valuable local function which might struggle to find alternative suitable local locations and which would not appear to sit comfortably within the aspirations of the applicant. The loss or potential relocation of these facilities could prove unattractive to the Planning Authority and the Minerals and Waste Authority.

Finally, it must be recognised that neither a long term aspiration, which at the present time appears to be unsupported by any financial or technical considerations, nor historic underinvestment on adjoining land represent very special circumstances which would justify the release of land from the Green Belt.

No weight is therefore attached to this argument in the consideration of the current proposal.

Within the specific context of the submitted planning application and the applicant's identification of the provision of improvements to the highway infrastructure on the adjoining land within the provisions of a S106 agreement associated with the grant of approval in respect of the current proposal, the Planning Authority would question how such improvements might be legally secured. Whilst the applicant has advised that he is willing to enter into a S106 Agreement to secure such improvements, reference is again made to the statutory tests in Regulation 122 of the Community Infrastructure Levy Regulations (as amended in 2011 and 2019) and paragraph 57 of the National Planning Policy Framework. Planning obligations may only constitute a reason for granting planning permission if they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Improvements to the existing infrastructure on the Manor Trading Estate will not make the proposed development acceptable in planning terms, neither could it be argued that improvements to the entire Manor Trading Estate are directly related to the proposed development, although it is conceded that some improvements to secure appropriate access to the proposed commercial units served from Brunel Road may be considered necessary. Finally, it is not considered that improvements to infrastructure on the whole of the Manor Trading Estate may be considered fairly and reasonably related in scale and kind to the proposed development. Consequently, it is not considered that the Planning Authority may legitimately enter into a S106 Agreement securing these objectives, or that the provisions of such an agreement would be capable of enforcement by the Planning Authority.

The benefits of the proposal as advised to various businesses on the Manor Trading Estate and as referenced in the consultation responses received from such businesses are not considered likely to be capable of being secured in the manner suggested.

Should the applicant choose to use part of the proceeds from the development of the site to secure improvements on adjoining land – this is a matter for him and not the Planning Authority.

#### Increased ecological value the site

The NPPF, adopted Local Plan and New Local Plan all encourage and promote the achievement of biodiversity net gain. The applicant suggests that the development of the site can achieve this.

The initially submitted Preliminary Ecological Assessment (PEA) was prepared in 2018 following a survey of the site. That Report makes it clear that at the time of the survey the land had only recently been cleared, indeed removal of material was still on-going, and that the ground was bare and recently tilled. It was noted that a dried pond was present at the centre of the site and that mature trees had been retained within the southern area of the site, although access to this area was constrained and survey was not possible.

Unsurprisingly, given the condition of the site, the Report found that the majority of the site had limited ecological value.

This however had not always been the case.

The site has no ecological designation however, it is within the Zone of Influence associated with the Benfleet and Southend Marshes, Site of Special Scientific Interest, Special Protection Area and Ramsar site and could therefore be expected to have the potential for ecological interest and importance and indeed prior to 2012 the site had been identified as a Potential Local Wildlife Site (PLoWS 5) comprising a species rich grassland. However, as a consequence of the cessation of grazing the biodiversity of the site deteriorated and the site began to experience scrub encroachment.

By 2012 only a small area of the site remained open, with much of that dominated by coarse grass species. As a consequence, the site did not achieve Local Wildlife Site status. In the absence of any evidence of ecological management it is considered unlikely that the site would have developed significant ecological value in the period 2012 to 2018.

In 2018 works to clear the site prompted a request for tree preservation orders to protect trees on the site. After survey, the majority of the site was not considered appropriate for such protection although trees on the northern and eastern edges were considered worthy of preservation. Woodland Tree Preservation Orders 10/2018, 12/2018 and 13/2018 were confirmed on the 17<sup>th</sup> July 2018 and remain extant.

The Authority received an updated PEA dated July 2021. This confirms that the site is in a similar condition to that identified in 2018, with bare earth habitats maintained, although developing an ephemeral flora.

The report also confirms that the mature oak trees along the proposed southern access route may be classified as broadleaved woodland and hence as a habitat of principal importance (a habitat which is most threatened, in greatest decline or where the UK holds a significant proportion of the world's total population) under the NERC Act (2006).

The report concludes that any potential adverse impacts from the proposed development upon specific protected species/habitats/designated sites could be mitigated by careful design and development of less sensitive areas/habitats on site. No detail on how measurable net biodiversity gain may be achieved has however been provided.

In its current condition, it must be conceded that the site has limited ecological value and that consequently any works to improve the quality the habitat would be likely to result in a net biodiversity gain.

It must also be conceded however that a 'do nothing' scenario could also result in regeneration of the scrub and potentially the formation of secondary woodland. Albeit unmanaged such regeneration would achieve biodiversity net gain without the need for development.

Given this potential it is not considered that the site needs to be developed to achieve ecological improvement.

Nor is it considered that the site represents a significant habitat, the retention of which could provide the very special circumstances needed to justify inappropriate development.

Furthermore, it is considered that any proposal for the redevelopment of land, particularly within the Green Belt, would be required to demonstrate the provision of measurable biodiversity net gain, in accordance with the provisions of the NPPF. The satisfaction of a policy requirement cannot be considered to represent a very special circumstance that would weigh in favour of the development of the site.

Provision of community infrastructure including public open space, a new pedestrian crossing and school parking.

In order to secure appropriate access to the site, the applicant proposes to remove an existing lay-by on Church Road which is used as a drop off point to the adjoining Robert Drake School. This provides some 5 parking spaces. It is proposed to replace this facility with a new car park served off the proposed access road which will provide up to 12 parking spaces. It is also proposed to provide pedestrian crossing enhancements on Church Road.

The relocation of the existing parking lay by is required to facilitate the provision of appropriate sight splays to the new access road serving the development site. It is proposed to replace the existing parking bays with a grassed verge, thus ensuring as far as possible, that visibility to the west is maintained.

Such provision would be consistent with the provisions of the NPPF which requires the achievement of healthy, safe and inclusive places and Policy TP7 of the New Local Plan which seeks to secure safe and sustainable access. Securing appropriate sight splays at the new junction would contribute towards the achievement of a safe environment, however it is not considered that such provision represents a very special circumstance which would justify inappropriate development in the Green Belt. Such provision therefore carries no weight in the consideration of the proposal.

The provision of alternative parking for the school is considered a necessity, given that the existing facility is to be removed to facilitate the proposed development. It is noted that the applicant seeks to provide an increased area for school parking, such provision carries some minor positive weight in the consideration of the proposal.

The proposal also seeks to provide a pedestrian crossing and publicly accessible open space.

In terms of the pedestrian crossing, a number of options were considered by the Highway Authority however all locations introduce difficulties in implementation, there being a considerable number of residential and employment crossovers in proximity in addition to identified junction conflict. Consequently, the provision of a crossing is not supported by the Highway Authority and in the absence of such support cannot be provided.

The Highway Authority further advises that the school already has a school crossing patrol and that the provision of a zebra crossing would result in the removal of this facility. It is the view of the Highway Authority that the existing school crossing patrol is the best arrangement for the school for two peak flows during the day.

Consequently, the applicants offer of the provision of a crossing facility carries no weight in the consideration of this proposal.

In terms of the provision of open space, the NPPF and Policy HS1 of the New Local Plan encourage the provision of high-quality open spaces within developments in order to provide opportunities for sport and physical activity for the health and well-being of the community.

Policy RE4 of the adopted Local Plan seeks to provide playspace and parks in areas of identified need in association with development. Policy HS3 of the New Local Plan seeks to encourage the provision of outdoor recreational space within development proposals.

The submitted Plan indicates the provision of some 0.28ha of open space at the southern end and on the western side of the site, adjacent to the southernmost proposed B8 building. Such provision represents a useful addition to open space provision in the area.

This is of minor positive weight in the consideration of the proposal.

Further to the above identified circumstances, the applicant considers that the application site is fully contained and would have no impact on the openness and appearance of the Green Belt.

It is the view of the Planning Authority that openness can be measured both in physical and perceptual terms. Put simply, development may physically reduce the amount of open space available within the site and thus physically affect openness by replacing open space with built form.

The proposal seeks to provide significant built development on a site which is currently vacant. Such development cannot avoid adversely impacting on the openness and appearance the Green Belt.

However, it must be conceded that the Local Plan did seek to allocate part of the site for employment purposes which, if progressed, would have resulted in the removal of part of the site from the Green Belt.

Impact on the openness of the Green Belt, in the context of the submitted Local Plan, therefore carries minor weight.

### Conclusion on Green Belt considerations and the tilted balance

Within the context of the adopted Local Plan the proposal represents inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. Para 148 of the NPPF states that when considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

Very special circumstances however can temper this harm. The applicant has identified several circumstances which he considers reduce the harm to the Green Belt to a level where planning permission may be granted for the proposed development. The Planning Authority does not concur with this view.

Whilst it is conceded that part of the site was identified as being capable of being released from the Green Belt within the 2019 Local Plan, this release was intended to secure satisfaction of a specific identified local need which cannot be easily achieved elsewhere within the Mainland area of the Borough. It has become clear since the Local Plan hearings however that such provision is not justified by the evidence and the allocation was subsequently deleted.

In the light of consideration of all of the evidence the former allocation of the site can carry no weight.

Even if the allocation had been maintained, the application site seeks to secure the release of a larger area of land and to utilise such land, in part, for an alternative purpose, inconsistent with the provisions of the 2019 Plan. This inconsistency would have attracted significant weight against the proposal.

The applicant's identified need for housing and the capacity of the proposal to deliver affordable housing at the level proposed attracts limited weight whilst the proposed improvements to the Manor Trading Estate and ecology attract no weight and the proposed school car park attracts only minor weight.

From the analysis undertaken it is concluded that within the context of the NPPF and the New Local Plan, the proposal will result in harm to the Green Belt to which substantial weight is attributed.

Paragraph 11 of the NPPF, which sets out the presumption in favour of sustainable development and provides that where there are no relevant development plan policies, or the policies which are most important for the determination of applications are out of date (and this includes by virtue of the provisions of footnote 8 to the NPPF, in applications for the provision of housing, situations where the local authority cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of granting permission would outweigh the benefits when assessed against the policies of the Framework taken as a whole (the tilted balance).

The Green Belt is specifically identified as a protected area and as demonstrated above, the provisions of paragraphs 147 – 149, considered in the context of the current proposal, provide clear reasons for refusing the proposal.

An objection is therefore raised to the proposal on the basis of Green Belt policy.

### **Impact of the proposal on Safeguarded Waste Disposal sites.**

The Manor Trading Estate hosts a number of safeguarded waste disposal sites.

Essex County Council is the Minerals and Waste Planning Authority for Castle Point and is responsible for the production of mineral and waste local plans. The Development Plan in Castle Point therefore includes the Essex Minerals Local Plan 2014 (MLP) and the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP). All proposals affecting waste disposal sites must be considered in the context of these documents.

The proposal must also be considered within the context of paragraph 187 of the NPPF which seeks to ensure that existing businesses do not have unreasonable restrictions placed on them as a result of development permitted after they were established.

The application site sits within a number of Waste Consultation Areas as defined within the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP) and as such is subject to Policy 2 of that document which essentially seeks to ensure that existing and allocated waste sites and infrastructure are protected from inappropriate neighbouring developments that may prejudice their continuing efficient operation or ability to carry out their allocated function in the future. Policy 2 defines Waste Consultation Areas as extending up to 250m from the boundary of existing or allocated waste infrastructure, unless they are Water Recycling Centres, where the distance increases to 400m.

In order to determine whether the proposed development would have an adverse impact on operational waste disposal sites within the Trading Estate, the applicant is required to undertake a Waste Infrastructure Impact Assessment. No assessment was initially submitted, however following the receipt of comments from the Mineral and Waste Authority an Assessment was submitted.

The applicant also submitted a Facade Noise Assessment in an attempt to demonstrate the appropriate mitigation of noise impact on future residents.

Following further consultation the Minerals and Waste Authority was of the view that the proposed mitigation was inadequate and that the proposed development would prejudice the operation of the safeguarded sites.

The applicant subsequently revised the layout of the site and presented a further Facade Noise Assessment. This was considered by the Mineral and Waste Authority which remained of the view that the proposed mitigation was inadequate and that the proposed development would prejudice the operation of the safeguarded sites.

The proposal therefore fails to demonstrate compliance with Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017 and the provisions of paragraph 187 of the NPPF. This represents an objection to the proposal.

## **Noise Attenuation**

Consideration must be given to the potential for residents of the proposed development to experience noise and disturbance from the adjoining employment area.

Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. Noise can interfere with residential and community amenity and the utility of noise-sensitive land uses. Noise exposure can have effects including sleep disturbance and annoyance. It is also agreed by many experts that environmental noise can lead to chronic health effects. For example, associations have been found between long term exposure to some types of transport noise, particularly from aircraft and road traffic, and an increase in the risk of cardiovascular effects (heart disease and hypertension).

For these reasons, noise is a material consideration in the planning process and a key aspect of sustainable development.

PPG Paragraph 001 (reference ID: 30-001-20140306) states that noise needs to be considered when new developments would be sensitive to the prevailing acoustic environment. In determining applications opportunities should be taken to consider improvements to the acoustic environment.

PPG Paragraph 003 (reference ID: 30-003-20140306) states that local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or is likely to occur;
- whether or not an adverse effect is occurring or is likely to occur; and
- whether or not a good standard of amenity can be achieved.



In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.

Further guidance in relation to new noise sensitive development near existing noise sources is provided in National Planning Practice Guidance (PPG)<sup>1</sup>, which states:

‘For noise sensitive developments, mitigation measures can include avoiding noisy locations in the first place; designing the development to reduce the impact of noise from adjoining activities or the local environment; incorporating noise barriers; and optimising the sound insulation provided by the building envelope. It may also be possible to work with the owners/operators of existing businesses or other activities in the vicinity, to explore whether potential adverse effects could be mitigated at source. Where this is the case, it may be necessary to ensure that these source-control measures are in place prior to the occupation / operation of the new development. Where multiple development sites would benefit from such source control measures, developers are encouraged to work collaboratively to spread this cost. Examples of source control measures could include increased sound proofing on a building (e.g. a music venue) or enclosing an outdoor activity (e.g. waste sorting) within a building to contain emissions.

Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development’.

The NPPF states at paragraph 174(e) that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, or being put at, unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 185 of the NPPF states that in order to prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution, including noise, on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.

Para 187 of the NPPF also seeks to consider the issue of pollution from the operators viewpoint and states:

“Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

Policy EC4 of the adopted Local Plan 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 dust, vibration, light or heat will be refused.

This provision is reflected in New Local Plan Policy NE7 which states that development proposals should be located and designed in such a manner as to not cause significant adverse effect on the environment or the health of new and existing residents.

Further advice on how planning authorities should consider noise risk in applications for outline consent is provided by the Professional Practice Guidance on planning and Noise, published by the Association of Noise Consultants, the Institute of Acoustics and the Chartered Institute of Environmental Health (CIEH) in 2017.

This advises that:

*'3.12 LPAs should not grant outline planning permission for new residential developments at sites considered to pose a medium or high noise risk without first being satisfied that good acoustic design will be able to overcome the acoustic challenges.'*

*3.13 In particular, where a site is considered medium or high risk following an initial site noise risk assessment, it is recommended that the examination of acoustically critical issues such as site layout, building heights, materials, landform contouring, detailed design and landscaping, the location of vehicle and pedestrian access, boundary treatments, amenity spaces etc. should not be left for agreement at a later stage.'*

It is therefore clear, in the light of all the above guidance, that for this development to be capable of being permitted, the applicant must adequately demonstrate that the impact of noise from existing industry, that could have a significant adverse effect on new development, is capable of being mitigated to the extent that adjoining land users and any future resident would not be in a position to have reasonable grounds to raise a complaint against an existing business.

The applicant initially submitted a Noise Constraints Survey (NCS) and subsequently a Façade Noise Assessment in which it is identified that the adjoining land uses are likely to result in noise nuisance to future residents unless mitigated and opine that the provision of a 2.4m high acoustic fence along the northern part of the eastern boundary and the retention of the existing boundary treatment to the Benfleet Scrap site, which comprises a 5m high concrete wall and a sheet steel wall, together with a new 12m barrier, 1m 'in' from the site boundary and provided by the rear wall of proposed commercial buildings, would secure an area within the application site within which 2-storey dwellings (i.e. ground and first floor), could be built without residents being subjected to noise levels which would equate to an adverse impact.

From this it was deduced that the area between the proposed dwellings and the western boundary of the site, within which the proposed commercial buildings and access provisions were sited, would experience noise levels which would equate to an adverse impact.

It was noted that no consideration appeared to have been given to the impact of noise on the health and well-being of occupiers of the commercial units.

The submitted NCS and Façade Noise Assessment was considered by Jacobs which was appointed to this purpose by the Essex County Council Minerals and Waste Authority and by Essex County Council. In Jacob's assessment, the submitted NCS provided only a very brief overall summary of the assessment undertaken and no technical detail. Without an understanding of the measurement, calculation and assessment work that underpinned the recommendations in the submitted report it was held that the suitability of the proposed mitigation could not be determined.

Further, it was noted that the NCS, as set out at Paragraph 2.3 thereof, was founded on an application of British Standard 4142. The determination of noise amounting to a 'nuisance' is beyond the scope of this standard. As such, it was the view of Jacobs that the applicant had not demonstrated that development within the identified area would not give rise to future noise complaints from prospective residents and that subsequently it was not demonstrated that the proposed development would not compromise the amenity and health of future residents or the ability of existing waste management facilities and other commercial premises to operate in conformity with their planning permissions.

As such the proposal failed to comply with the provisions of the NPPF, Policy EC4 of the adopted Local Plan and Policy NE7 of the New Local Plan. This represented an objection to the proposal.

In addition concern was raised that no consideration appears to have been given to the implications for the provision of the proposed noise barriers on occupiers of the Trading Estate.

At the present time noise, particularly that emanating from the Benfleet Scrap site, is a source of complaint from businesses on the Manor Trading Estate, as attested to by comments made in letters received in response to the current application from businesses in the area.

The submitted NCS identified that noise from the scrap site is clearly audible across the application site and whilst not demonstrated within the NSC, it may be anticipated that such audibility dissipates the further east one travels.

One might expect a similar effect within the Trading Estate as noise travels west and south, albeit potentially moderated by intervening buildings.

The provision of a significant acoustic barrier on the eastern boundary of the Benfleet Scrap site may have the effect of 'bouncing back' noise thus potentially increasing noise nuisance within the Estate to the detriment of the operation of existing businesses.

The failure of the application to clearly demonstrate that the proposed mitigation would not have an adverse impact on adjoining land users represented a further objection to the proposal.

The applicant subsequently chose to undertake further work to demonstrate the adequacy of the proposed mitigation and submitted a Facade Noise Exposure (FNE) Assessment. This was considered further by the Minerals and Waste Authority, which concluded that the proposal had the potential to adversely impact on the operation of a safeguarded waste site or infrastructure' (WLP Policy 2) and therefore may lead to 'unreasonable restrictions' (NPPF Para 187) on the operation of existing development.

The rationale for this conclusion is that whilst the FNE identifies that proposed mitigation measures should bring the external amenity noise levels to between 51-60dB, this would still exceed the 'desirable' limit of 50Db for external amenity spaces, as well as potentially the upper guideline of 55Db. Such noise levels are considered likely to result in complaints and could inhibit operations on the adjoining site.

The FNE attempts to further justify noise sensitive development the site by identifying that BS 8233:2014 requires a consideration of the context and location of a proposed development site, and that elevated noise levels such as those recorded may be warranted in city centres or urban areas adjoining the strategic transport network in order to make efficient use of land resources to ensure that development needs can be met.

It should be noted that the application site is neither a city centre or adjacent to a strategic route network. The source of noise that would be problematic is accepted within the FNE as being a metal recycling facility, a single point source, rather than the numerous combined sources normally found in a city centre, or emanating from the constant flow of a strategic transport network. As such the conditions which might be considered appropriate in these contexts are not relevant to the current scheme.

Further the FNE suggests that as no other suitable alternative land use exists for the application site the proposal represents an efficient use of land, the development of which is acceptable, despite the recorded exceedance of the recommended levels in BS8233:2014.

This conclusion is rejected. The fact that no suitable alternative land uses have been identified is not considered a justification for residential development in an area where noise levels cannot be mitigated to an acceptable level. Whilst it is accepted that BS8233:2014 recommends that development should not be prohibited solely on external amenity noise levels, the location of the proposed development is not held as being one akin to a city centre or in proximity to a strategic transport network as set out in that

document and that a clearly identifiable source of nuisance noise creates a different context.

The FNE also makes reference to Professional Practice Guidance on Planning & Noise: New Residential Development, 2017 (ProPG 2017).

ProPG 2017 states (inter-alia) that where significant adverse noise impacts remain on any private amenity space, then that impact may partially be offset through the design of the development, including through alternative amenity provision.

Paragraph 10.6 – 10.8 of the FNE highlights alternative areas of public open space which have been incorporated into the scheme. Situated to the south of the site is an area of grassland and biodiversity pond for communal use. Noise modelling confirms that noise levels within this dedicated community amenity space is 53 - 54dB(A), which is stated as being below the BS8233:2014 recommended level. It is clarified that this is below the upper guideline of 55Db but above the desirable level of 50Db. It is further stated that this amenity scheme can be detailed at the architectural design stage so as to permit future occupiers' tranquillity. However, details are not yet available and so this cannot be substantiated.

Reference is also made to a communal recreational area with a pond to the north of the site. It is stated in the FNE that noise levels exceed the BS 8233: 2014 standard at this location and that this pond and area is required to allow for surface drainage. It is however subsequently noted in the FNE that typically communal areas tend to be in use during weekends and weekday evenings, which is when the nearby industrial premises are understood to not be operable. As such it is argued that the noise climate for this area is likely to meet BS 8233: 2014 requirements during these periods.

It should be noted that the scrapyard is however licensed to work on a Saturday, 07:30 – 17:00.

Setting aside this fact, it is not in any case considered that either of these amenity provisions adequately compensates for what are accepted to be external amenity noise impacts above recommended guidelines, for a number of reasons.

Firstly, both spaces exceed BS 8233: 2014 desirable thresholds during business hours for the metal recycling facility, the southern space closely matches the upper limit during business hours, and the northern area, whose primary function is drainage, exceeds the upper guideline.

Secondly, it is important to note that the noise mitigation measures that are proposed are required to attempt to mitigate against the noise impacts of an easily identifiable point source, and not a general noisy environment of the likes highlighted within BS 8233: 2014.

This creates a lack of conformity with the Development Plan.

Paragraph 9.13 of the FNE states that internal noise levels should be considered in the context of room ventilation requirements though it is also noted that at the time of writing, full details regarding a ventilation strategy were not available.

Paragraph 9.14 notes that mechanical ventilation has been specified throughout the development due to external noise levels being likely to cause an internal noise level increase above BS 8233:2014 recommended internal levels if openable windows were to be used for ventilation and overheating. This would suggest that no amount of noise mitigation is possible as part of the proposed development to ensure that internal noise levels fall below recommended guidelines without impositions on the quality of life of future residents.

This creates an issue of conformity with NPPF Paragraph 187 which states, inter-alia, that “Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.” (emphasis added)

With a clear point source for the nuisance noise, which is accepted within the FNE as being at a level above relevant guidelines for occupancy and amenity use, it is reasonable to conclude that the existing waste use ‘could have a significant adverse effect on new development’ (NPPF Para 187) and the development subject to this application has ‘the potential to adversely impact on the operation of a safeguarded waste site or infrastructure’ (the test set out in WLP Policy 2) as existing waste operations could attract legitimate complaint from future residents. Such complaints could lead to the type of ‘unreasonable restrictions’ being placed on the existing development which NPPF Paragraph 187 is designed to avoid. The application is not therefore, compliant with the NPPF and Policy 2 of the WLP . This represents an objection to the proposal.

Concern is also expressed in respect of both the visual and engineering challenges associated with the provision of a 12m wall. It is not considered that these aspects of the proposal are adequately addressed within the submitted application.

Finally with regard to noise, it is inevitable that the development of the application site will generate noise and disturbance during the constructional phase. However, such noise is transitory and will rarely provide a robust reason for refusal of an application for development of the type proposed.

In order to mitigate the impact as far as possible, it is considered that construction works on the site should be undertaken in accordance with an appropriate Construction Environment Management Plan which provided for the appropriate control of noise emanating from the site during the construction phase and a robust framework for dealing with dust emissions and spoil tracking from the site. A condition securing the submission and compliance with such a Plan may be attached to the grant of any consent.

## **Contamination**

Para 183 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed uses taking account of any risks arising from contamination.

Policy NE8 of the New Local Plan requires the appropriate remediation of contaminated land prior to the implementation of any planning consent.

Investigations undertaken by the applicant have identified that land adjacent to the western boundary of the site has been heavily contaminated with lead, nickel, zinc, mercury, cadmium, dibenzo(a,h)anthracene, Petroleum Hydrocarbons and PCBs including hydraulic fluids, lubricating oils and insulation in electrical equipment.

The consultants appointed by the applicants suggest that should permission for residential development be secured on the site a Remediation Strategy will be required. If a 'Dig and Dump' approach is considered, the soils will be classified as 'Hazardous Waste'. Thus, the consultants recommend that a supplementary site investigation is undertaken to fully delineate the extent of the contamination, both laterally and vertically in order to estimate volumes of contaminated soil that will require off-site disposal.

In the event that planning permission is achieved, an appropriate remediation strategy can be secured by condition.

Remediation may have implications for the viability of the proposed development.

## **Design and Layout**

Adopted Local Plan Policy EC2 seeks to ensure a high standard of design in all proposals with particular regard paid to the scale, density, siting, design, layout and external materials which should be appropriate to the setting, and which should not harm the character of, the surroundings. Proposals should take account of all elements of the local design context.

Policy DS1 of the New Local Plan reflects the provisions of EC2 and seeks to promote healthy and active lifestyles through design.

The NPPF similarly seeks well designed development and it is therefore considered that Policy EC2 and New Local Plan policy DS1 are consistent with the NPPF.

Local Plan Policy H17 states that in designing proposals, regard must be had to the design and layout guidelines contained within Appendix 12 of the Local Plan. Appendix 12 has been superseded by the adopted Residential Design Guidance (RDG).

The current application is for outline consent only with all matters except access reserved. Consequently, limited details of design are provided at this time.

Some general advice is however offered in respect of the proposed residential development to inform any future reserved matters application.

In terms of the provisions of the adopted Residential Design Guidance, it should be noted that RDG1 states that within the existing built-up area the plot sizes for new development should be informed by the prevailing character of plot sizes. The proposed development is not of course within the existing built-up area. This guidance therefore has no relevance in the context of the proposed development.

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

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

Whilst the application seeks only outline consent with layout reserved for later consideration, it is considered that sufficient scope exists within the site to secure a layout which does not result in undue overshadowing or dominance.

No objection is therefore raised the proposal on this basis.

RDG4 states that development on corner plots should be designed to turn corners. It also states that all new or replacement dwellings on corner plots should provide active and articulated frontages to all elevations that face the public realm. The developer will be expected to have regard to this advice in the preparation of reserved matters.

Corner plots should also be designed to limit the length of high-level garden screening, particularly along return frontages. The guidance states that in all appropriate cases opportunities should be taken to create features on corner locations, which enhance legibility.

The application seeks only outline consent with layout reserved for later consideration, however, it is considered that sufficient scope exists within the site to secure a layout conforms to the provisions of RDG4.

RDG5 states that for all residential development above ground floor level a distance of 9m shall be provided between windows, edges of balconies or raised amenity space and



the boundary it directly faces at first floor level and 15m at second floor level. Any submitted scheme will be required to demonstrate compliance with this requirement.

RDG6 is concerned with the provision of private amenity area so that the outdoor needs of occupiers are provided for. Flats are required to be provided with 8m<sup>2</sup> of amenity space for each habitable room. Where three or fewer rooms are provided a minimum amenity space of 25m<sup>2</sup> per unit is required. This may be provided at a communal level. Where balconies are provided these will only be considered to contribute to amenity area provision where they have a depth of at least 1.5m and an area of at least 5m<sup>2</sup>.

For dwellings 15m<sup>2</sup> per habitable room is required. Where three or less rooms are provided an area of 50m<sup>2</sup> will be required. Habitable rooms do not include bathrooms, ensembles and utility rooms. All other rooms are included.

RDG7 is concerned with roof development and particularly seeks to ensure that proposals which incorporate features such as dormers and rooflights into roof planes do not result in overdominant or disproportionate roof treatments. If it is proposed to provide dwellings with rooms in the roof the applicant will be expected to adhere to the requirements of RDG7.

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

RDG9 is concerned with the achievement of energy and water efficiency and renewable energy. Policy CC4 of the New Local Plan is concerned with the provision of sustainable buildings. No details of energy and water efficiency and renewable energy provision have yet been provided. The developer will be expected to have regard to the requirements of RDG9 in the preparation of reserved matters.

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

RDG11 of the Residential Design Guidance and Policy DS2 of the New Local Plan are concerned with landscaping. Reference is made in the submitted Design and Access Statement to the provision of strategic landscaping to increase the ecological and environmental quality of the site. The Planning Authority welcomes the principle of such provision and would advise that any landscaping scheme should be heavily biased towards native species with demonstrated ecological value.

Appropriate methods to secure the provision of the identified access road without damaging the root plates of the existing trees on the northern boundary of the site must be utilised where necessary to secure the health and well-being of adjoining trees. Details of such measures will be expected within any reserved matters application.

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

## **Scale**

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

In terms of more generalist comments in respect of the scale of the development, limited information is currently available, however it is intended to screen the western boundary of the site with a 12m high acoustic barrier comprising the proposed Class E(g) and B2 uses.

The majority of the buildings on the Manor Trading Estate are one-and-a half to two storeys in height. The applicant indicates that the proposed buildings will have a front elevation eaves height of some 6m rising to 12m at the rear.

Concern is expressed that the provision a 12m high structure along the western boundary of the site will create a prominent feature in the landscape.

However, by reason of relative orientation, it is not considered that the proposed structure would have a significant adverse impact on the amenity of adjoining land users by reason of overshadowing. No objection is therefore raised to the proposal on this basis.

## **The Density and Mix of Proposed Housing**

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

The submissions indicate the provision of residential development at a density of some 35dpha across the site, with absolute density declining to the east. Such density and configuration are considered acceptable in the context of the proposed development.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This is a vague policy which is inconsistent with the requirements of paragraph 62 of the NPPF which requires local

planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

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

In addition the Addendum also identified a housing pressure arising from the growing population of older people, which highlights the desirability of bungalows in Castle Point. Bungalows make up 29% of the housing stock currently, and it is expected that there will be demand for additional bungalows in the plan period, reflecting the characteristics of the local housing stock. It also identifies the need for specialist accommodation for older people, suggesting a need for around 45 units per annum of sheltered housing types. In addition to this around 20 additional bedspaces are required each year in residential care/nursing accommodation.

The Addendum identifies the potential demand for different housing types and sizes as follows:

Type of Accommodation required			
Houses	Bungalows	Flats	
68%	25%	7%	
Size of Accommodation required			
1 bed	2 bed	3 bed	4+ bed
6%	22%	43%	29%

The proposed development identifies the provision of 11 one bed units (16%), 15 two bed units (22%), 25 three bed units (37%) and 25% of the properties are will be 4+ bedroomed units.

As can be seen the composition of the proposed development is slightly inconsistent with identified needs, however, the application is for outline consent only with all matters

except access reserved. The composition of the development can therefore be adjusted at the reserved matters stage if considered necessary.

## **Access and Parking**

Policy T8 of the Adopted Local Plan requires the provision of appropriate levels of on-site car parking in accordance with the Essex Planning Officers Vehicle Parking Standards 2009. This provision is reflected in Policy TP8 of the New Local Plan, which also introduces a requirement for all new development to have the infrastructure capacity installed to provide for the charging of electric and other ultra-low emission vehicles in safe, convenient and accessible locations.

Policy EC2 of the Adopted Local Plan and Policy TP8 of the New Local Plan highlight the need to ensure that all modes of movement are safe and convenient.

It is proposed to provide a new access road to serve the proposed residential development and Class E(g) buildings from Church Road, utilising the access point which currently serves the Heston Day Care Centre. Access to this building will be reconfigured to secure access off the new road.

The proposed B2 and B8 uses will be served from a new access provided from Brunel Road.

The Highway Authority has raised no objection to this arrangement.

It is proposed to provide some 2600m<sup>2</sup> of Class E(g) use adjacent to the western boundary of the site, served from Church Road. Such uses may include Offices to carry out any operational or administrative functions, research and development of products or processes and industrial processes which can be carried out in a residential area without detriment to its amenity. Such uses are equivalent to the former Class B1 uses and require the provision of parking at a scale of 1 space for every 30m<sup>2</sup> of floor space. This element of the scheme will therefore generate a need for 87 car parking spaces. The submitted drawing indicates the provision of 87 spaces to meet that need.

It should be noted that each parking space should be a minimum of 2.9m wide and 5.5m deep. Those identified appear to be less than this. Addressing any deficiency in the size of the proposed spaces may have adverse consequences for the achievement of this quantum of provision. Failure to achieve an appropriate level of parking to meet the needs of the commercial development on this site will attract an objection.

It should be noted that the parking standards also require the provision of cycle parking on the basis of 1 space per 100m<sup>2</sup> for staff plus one space per 200m<sup>2</sup> for visitors together with appropriate provision for powered two wheeled vehicles and within the proposed car parking areas provision must be made for an appropriate level of disabled parking facilities.

No provision is identified within the layout. This represents a further objection to the proposal.

From the calculation of parking requirements, it can be seen that the proposed Class E(g) commercial units will generate significant traffic flows within the residential estate and concern is expressed in respect of the impact of such traffic flows on the amenity and safety of future residents, particularly those on the southern and western parts of the site.

Any reserved matters application will be required to clearly demonstrate how the amenity and safety of future residents will be protected and the servicing needs of the commercial units is to be met, consistent with the provisions of Policy TP8 of the New Local Plan

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

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

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

It should be noted that RDG12 requires that parking provision should not dominate the public realm and should be sited so as not to have an adverse impact on visual or residential amenity. The submitted layout does not indicate the location of residential parking however the applicant is advised that on-site parking at the front of properties which dominates their setting and appearance will not be considered acceptable.

On the western half of the application site, served from Brunel Road, it is proposed to provide some 2616m<sup>2</sup> of Class B8 uses and some 1143m<sup>2</sup> of Class B2 use.

Together these will generate a requirement for some 41 parking spaces which, subject to the same concerns expressed above in respect of the size of the spaces, appears adequately demonstrated within the submissions.

It is noted however that at the present time the area to be redeveloped for B2 and B8 uses appears to provide a parking facility for the existing units. It is not clear where such parking is to be accommodated within the submitted scheme. The applicant has previously advised that the Manor Trading Estate experiences high levels of on street parking which can at times disrupt traffic flows on the estate and prejudice operations. It is not considered that the applicant has adequately demonstrated that the proposed development will adequately mitigate its impact on the existing parking provision in order to ensure that existing operations are not compromised by the proposal. This represents an objection to the proposal.

## **Flood Risk and Drainage**

The application site is located within Flood Zone 1 and therefore considered to be at low risk of tidal or fluvial flooding.

Within Table 2 of the NPPG: Flood Risk and Coastal Change, residential developments are considered to be 'more vulnerable' in terms of the impact of flooding, whereas commercial development is classified as 'less vulnerable'. Table 3 of the NPPG: Flood Risk and Coastal Change, states that more vulnerable and less vulnerable development is considered appropriate within Flood Zone 1. The development therefore passes the flood risk Sequential Test and the Exception Test does not need to be applied.

The Environment Agency (EA) 'Flood Map for Planning' shows that a proportion of the site, to the south of the proposed residential development and across the northern part of the site, through an area to be developed for both commercial and residential purposes, is subject to a low level of surface water flood risk. When flooding does occur within these areas floodwater depths are predicted to be between 0.3m and 0.9m with water velocity predicted at 0.25m/s.

Paragraph 167 of the NPPF states that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere.

The Environment Agency has raised no objection to the proposal on the basis of fluvial flood risk however, the development includes significant site coverage with impermeable materials. There is therefore the potential for surface water runoff onto adjoining land. However, subject to the submission and implementation of an appropriate surface water drainage strategy, it is considered that such risk may be appropriately mitigated and no objection is therefore raised to the proposal on the basis of surface water flooding.

The drainage strategy may be secured by condition.

Reference is made in the submitted flood risk assessment, to the presence of an unnamed watercourse in the southern part of the site. No details of the treatment of this feature are provided within the submissions, however it should be noted that retention of this feature and its incorporation within a sustainable drainage strategy would be consistent with Policy NE6 of the New Local Plan.

Finally, it should be noted that the LLFA has identified that for the proposed industrial use zone within the site an appropriate pollution management strategy has not been provided.

It is considered however that such a strategy can be secured by condition. No objection is therefore raised to the proposal on the basis of the absence of such a strategy.

## **Ecology and Trees**

Some consideration has already been given to the ecology of the site in the consideration of the very special circumstances identified by the applicant in respect of the principle of development in the Green Belt. This section of the evaluation seeks to consider wider issues pertaining to the ecological implications of the proposed development.

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

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

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

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

Policy NE5 of the New Local Plan states that the Council will support proposals which can demonstrate a measurable net gain in biodiversity.

Policy NE6 states that all development proposals should contribute positively towards creating a visually attractive environment and should seek to protect and integrate key natural and semi-natural features including field boundaries, hedgerows, trees, woodlands and watercourses.

The ecological value of the site and its enhancement in terms of biodiversity has been considered in the assessment of very special circumstances undertaken earlier in this report. It is not intended to repeat that assessment here. Other matters however still require consideration.

The site has no ecological designation but is within the zone of influence associated with the Benfleet and Southend Marshes Special Protection Area (SPA) and Ramsar site and the Outer Thames SPA.

The Pre submission Local Plan 2018-2033 (including modifications) Habitats Regulations Assessment 2020 identified that the land identified as suitable for release for employment purposes under Policy EC2 had the potential for likely significant effects (LSE) on the designated areas.

‘Significant effects’ has been defined through case law. A significant effect is any effect that would undermine the conservation objectives for the qualifying features of Habitats Sites potentially affected, alone or in combination with other plans or projects. There must

be a causal connection or link between the Local Plan and the qualifying features of the site (s) which could result in possible significant effects on the site (s). Effects may be direct or indirect and a judgement must be taken on a case-by-case basis. The decision as to whether or not a potential impact is significant depends on factors such as: magnitude of impact, type, extent, duration, intensity, timing, probability, cumulative effects and the vulnerability of the habitats and species concerned. What may be significant in relation to one site may not be in relation to another. An effect which is not significant can be described as 'insignificant', 'de minimis' or 'trivial'- i.e. it would not undermine the conservation objectives.

Given the identified potential for adverse impact there is a need for a Habitats Regulations Assessment (HRA) to be undertaken in respect of the current proposal, which differs from the proposed allocation in the Submitted 2019 Local Plan, within the context of which the application was submitted, in order to identify that potential and any appropriate mitigation.

There is a wide range of potential impacts and in the context of the current application the following impacts are considered most likely to cause Likely Significant Effects:

- Habitat loss and fragmentation / land take as a result of development.
- Loss of functionally linked land (land outside the SPA and Ramsar site).
- Increase of any type of disturbance,
- Changes in water availability or water quality as a result of development and increased demands for water treatment, and changes in groundwater regimes due to increased impermeable areas;
- Changes in atmospheric pollution levels due to increased traffic, waste management facilities etc.

Each will be considered in turn:

#### Habitat loss and fragmentation / land take as a result of development

The designated sites are characterised by wetland features. It is this topography that makes them of significance to the birds that use them. Loss of such habitat, even if not within the confines of the designated area, could result in a shift in usage pattern by birds and a subsequent deterioration in the quality of the designated areas as a consequence of over grazing/use.

Assessment of the site has identified that this is not a wetland area and consequently the development of the site would not result in habitat loss or fragmentation likely to have an adverse effect on the designated site.

#### Loss of functionally linked land (land outside the SPA and Ramsar site).

The site is considered sufficiently inland to be confident that the land would not be functionally linked to the designated sites.

#### Increase of any type of disturbance



Disturbance concerns species rather than habitats and the intensity, duration and frequency of repetition of disturbance are important parameters

Any event, activity or process contributing to the:

- The long-term decline of the population of the species on the site.
- The reduction, or to the risk of reduction, of the range of the species within the site or
- The reduction of the size of the available habitat of the species,

can be regarded as significant disturbance.

Factors such as noise, light, dust and vibration and even invasive species, are all capable of causing significant disturbance.

The current proposal seeks to provide both commercial and residential development.

Given the nature of the proposed commercial activity and its isolation from the designated sites it is not considered that operational activity would be likely to give rise to a significant adverse impact on the designated sites. However, the construction phase may result in noise, light, dust and vibration which could have an impact.

It is considered however that such impact may be adequately mitigated through the preparation and implementation of an appropriate construction environment management plan. This can be secured by condition attached to the grant of any consent.

The proposal also includes the provision of residential development and has the potential to adversely affect the designated site through increased recreational pressure.

In 2020 Castle Point adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). This identifies that within Castle Point any new residential development will be likely to generate recreational activity within designated areas.

It further identifies that such impact can be mitigated through investment in the management, education and control of visitor numbers.

In order to fund such investment every net dwelling provided within the Borough will be expected to make a financial contribution.

This can be secured through a S106 agreement.

#### Changes in water availability, or water quality

The quality of the Habitats Sites (wetlands) is dependent on water quantity and quality. Any changes in water quantity and quality therefore has the potential to significantly impact them. Consequently, impacts could be caused if developments cause increased demands for water, water treatment or changes in groundwater regimes because of increased impermeable areas.

It should be noted that following the expansion of the Abberton Reservoir there is sufficient capacity to meet water demand for the foreseeable future. No further consideration need therefore be given to this aspect of the development.

At the present time almost all of the site is permeable, there being very little hardsurfacing present. Development will inevitably limit permeability as a consequence of the provision of a greater area of hardsurfacing. This has implications for surface water runoff not only in terms of surface water flooding, but also through nutrient enrichment of water and potential lowering of dissolved oxygen as well as increased water velocities and levels all of which could adversely impact on the designated sites as a consequence of their relationship with the Thames and associated tributaries.

All runoff is treated at one of three water recycling centres (WRC) operated by Anglian Water. All discharge into the Thames or its tributaries and each has the capacity to adversely impact in the designated sites if wastewater generated by development exceeded capacity and untreated wastewater was allowed to enter the ecosystem.

Anglian Water has confirmed however that there is sufficient capacity within the WRCs to accommodate the proposed growth. This, coupled with the requirement for all new development to limit pollution through the implementation of Construction Environmental Management Plans and to secure sustainable drainage methods which limit the quantity and/or speed of water reaching the WRCs, will sufficiently mitigate impacts to avoid significant effects.

#### Changes in atmospheric pollution levels.

There are number of atmospheric pollutants which can result in direct or indirect impacts to Habitats sites. These impacts are usually caused when the qualifying features are plants, soils and wetland habitats although some species may also be indirectly impacted from air pollution causing changes in habitat composition.

The main source of air pollution in the Borough has been identified as traffic emissions, particularly along the major routes. The Highways Agency Design Manual for Road and Bridges (DMRB)<sup>16</sup> assumes that air pollution from roads is unlikely to be significant beyond 200m from the road itself.

The application site is located more than 200m from a major road and therefore has limited potential to be adversely affected by traffic emissions.

The application site is considerably further than 200m from the designated sites and it is not considered that any pollution generated by the normal use of the site would lead to significant impacts on those sites . However, the proposed development is indirectly capable of impacting the sites through the generation pollution associated with the construction period and the construction and post construction generation of traffic emissions.

During the construction period precautionary air quality mitigation can be secured through the Construction Environment Management Plan. This will ensure that the proposed development will not, either individually or cumulatively lead to an unacceptable risk to air quality.

A Construction Environment Management Plan can be secured through the imposition of a condition on the grant of any consent.

#### Cumulative Impact

In the preparation of the submitted Local Plan Appropriate Assessment was undertaken which included comprehensive identification of all the potential effects of the Local Plan likely to be significant, including development of the application site, taking into account the combination of the effects of the Local Plan with those of other plans or projects.

The current proposal seeks to develop a larger site than that identified in the SLP, and to provide a different form of development. It is not considered however that these differences are so substantial as to have a significant impact on the conclusions drawn in the Appropriate Assessment which were that subject to amendments, which have been incorporated into the submitted Local Plan, development of the site would not for the most part have an adverse impact on the designated sites or any functionally linked land. The only area of concern which has been identified is the potential for additional recreational disturbance arising from the proposed residential development. It is considered that in respect of development currently proposed, that impact could be resolved through the provision of a financial contribution towards measures for the mitigation of such impacts under the Recreational Disturbance Avoidance Mitigation Strategy (RAMS).

A Construction Environment Management Plan will however be required to avoid many of the other identified potential adverse effects.

#### Conclusion on Habitat Regulations Assessment

It is considered that the development proposed will **not** have an adverse impact on the integrity of the designated sites, provided an appropriate contribution towards the mitigation of recreational disturbance is secured and a Construction Environment Management Plan is provided which addresses pollution and water quality/quantity impacts during the construction phase of the development. This can be secured through a pre-commencement condition.

Outside consideration of the impact of the proposed development on designated sites, it should be noted that in addition to its proximity to the European designated sites, the application site is located within 5km of six Sites of Special Scientific Interests (SSSI), the nearest of which, Thundersley Great Common SSSI, is located 1.1km to the east of the site. The remainder are all more than 2km from the site.

In addition 11 Local Wildlife sites and 3 potential Local Wildlife sites are located within 2km of the site.

Whilst proximity to such sites might suggest that the site has potential for ecological significance, the submitted Preliminary Ecological Assessment has demonstrated that the denuded nature of the site has limited its current ecological value.

Consideration of the development of the site has identified that it would have no direct impact on any designated sites or priority habitat and is not required to be retained in its current state in the interests of maintaining the integrity or facilitating the management of any designated site.

Assessment of the site has confirmed that the site is largely cleared, with no evidence of Newts, Hazel Dormouse or Badgers being present, although several trees appear to offer the opportunity for bat roosts. The ephemeral flora now developing was not considered to offer particularly valuable habitat for terrestrial invertebrates.

The existing site may therefore be concluded to have limited ecological value and no objection is therefore raised to the proposal on the basis of its adverse impact on local ecology.

Policy NE5 of the New Local Plan requires that proposals should demonstrate a measurable net gain in biodiversity. This is consistent with the provisions of the Environment Act 2021. This has not been demonstrated to date; however it is considered that the retention of trees on the site and extensive new planting with a variety of native species and a robust ecological management plan should assist in this regard.

A condition securing these matters and requiring demonstration of the provision of measurable biodiversity net gains using the Defra metric can be attached to the grant of any consent.

It is noted from the submitted ecological assessment that due to a land ownership dispute land at the southern end of the site, where it is proposed to create the new access, could not be surveyed.

The ecologists have identified that this area constitutes a mature oak woodland which may qualify as a habitat of principal importance. The ecologists advise that within this area the removal of mature trees should be avoided where possible. This would be consistent with New Local Plan policy NE6.

The submitted arboricultural report identifies that there are some 124 trees and 7 groups of trees present on the wider site. Of these two are considered to be of high value (Category A) and twenty six trees and four groups are considered to be of moderate value (Category B). The remainder are considered to be category C or U and of low value.

The proposed development requires the removal of three category B trees, twenty-three category C trees, two category C groups, and four category U trees.

Other trees which are to be retained will require pruning works to facilitate the development.

The applicant's arboriculturalist recommends that the loss of these trees be compensated by the planting of extra heavy standard or semi-mature specimens in the landscape proposals. This can be secured by condition.

It is advised that during the construction phase all trees will be protected from mechanical damage to their trunk, branches and roots by the installation of 2m high protective fencing to create a construction exclusion zone (CEZ). Site workers, machinery and storage of materials will not be permitted within this zone. Given the size of the site it is considered that such restrictions should not impair operations on the site. Again, conditions can be imposed to secure these objectives.

An area of key concern is the relationship that will be created between the proposed access road and oaks located within the southern part of the site. It is proposed to construct a section of the road, where it encroaches into the root protection area of the adjacent trees, using an above-ground no-dig installation using a cellular confinement system such as 'Cellweb' with a permeable final surface. This will minimise soil compaction and create a physical barrier above the soil which will prevent inadvertent damage to soil and roots. Research indicates that the use of 'Cellweb' in such situations is effective and that developments of up to 100 dwellings can be served by such arrangements. Whilst the current proposal includes commercial development it is considered unlikely that traffic generated by the proposed uses would adversely impact on such provision.

## **Sustainability**

Reference has been made to elements of sustainability throughout this report however, consideration of the wider concept in respect of this proposal is considered necessary.

The NPPF seeks to ensure that new development is sustainable and within paragraph 8 identifies three overarching objectives:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure,
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

- c) an environmental objective – to protect and enhance our natural, built and historic environment, including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

The NPPF is clear that whilst these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework; they are not criteria against which every decision can or should be judged.

They are however worthy of some consideration in the context of the current proposal.

In terms of economic sustainability , the Planning Authority had previously identified a need for the provision of employment land within the Mainland area of the Borough. The provision of employment uses on this site was identified as appropriate to assist in meeting that need and could have contributed to economic sustainability. However the release of land to the east of the Manor Trading Estate for employment purposes was rejected as unsound by the Inspector and deleted from the Plan.

It must be stated however, that even had that not been the case and the proposal to retain such land as was identified within Submitted Local Plan Policy EC2 for employment purposes had been maintained, the current proposal seeks to achieve less employment land than was envisaged by the planning authority, thus it is considered that had the economic sustainability objective of the New Local Plan and consequently the site, would have been prejudiced by the current proposal.

In terms of the social objective, the proposal seeks to secure a range of housing sizes and open space and may be assumed to have the potential to support strong, vibrant and healthy communities. However, demonstration that the impact of the commercial operations on the adjoining land on the proposed development can be fully mitigated has yet to be achieved by the applicant. The sustainability of the site in terms of health and well-being cannot therefore be demonstrated at this time.

Finally, in terms of the environmental objective, the applicant advises that the current proposal provides an opportunity to enhance not only the natural environment within the site, but the built environment adjacent. It has not however been demonstrated that development of the site is necessary to secure ecological improvement of the site or that the improvement of the adjoining land is viable.

The weight that may be attached to the sustainability of the site within the context established by the NPPF therefore appears limited.

At site level, consideration of the energy and water efficiency of the proposed development have been considered above. No further comment is offered in this regard.

In the case of transport, developments are expected to demonstrate the opportunity for use of sustainable transport modes and limited journeys.

Access to public transport from the site is generally good with easy access to bus and rail facilities and walking and cycling opportunities are available for schools and open space, employment and shopping facilities. The site would consequently appear to be well placed in terms of the opportunities available to limit use of the private car.

## **Site Waste Management**

Paragraph 8 of the NPPF recognises the importance of using natural resources prudently and minimising waste to ensure the protection and enhancement of the natural environment and to achieve sustainable development. It also reiterates the need to mitigate and adapt to climate change and move towards a low carbon economy. An efficient and effective circular economy is important to achieving these objectives.

Policy S4 of the Minerals Local Plan (2014) advocates reducing the use of mineral resources through reusing and recycling minerals generated as a result of development/ redevelopment. Not only does this reduce the need for mineral extraction, it also reduces the amount sent to landfill. Clause 4 specifically requires:

“The maximum possible recovery of minerals from construction, demolition and excavation wastes produced at development or redevelopment sites. This will be promoted by on-site re-use/ recycling, or if not environmentally acceptable to do so, through re-use/ recycling at other nearby aggregate recycling facilities in proximity to the site.”

It is vitally important that the best use is made of available resources. This is clearly set out in the NPPF and relevant development plan documents.

To ensure compliance with these requirements it is considered that conditions should be attached to the grant of any consent requiring the applicant to prepare an appropriately detailed waste management strategy through a Site Waste Management Plan (SWMP).

A SWMP would be expected to:

- present a site wide approach to address the key issues associated with sustainable management of waste, throughout the stages of site clearance, design, construction and operation,
- establish strategic forecasts in relation to expected waste arisings for construction,
- include waste reduction/recycling/diversion targets, and monitor against these, and
- advise on how materials are to be managed efficiently and disposed of legally during the construction phase of development, including their segregation and the identification of available capacity across an appropriate study area.

## **Other Considerations**

A number of objections and comments have been made in respect of the proposed development, by interested parties. Whilst many of the concerns and comments have been addressed in the foregoing, a number remain to be considered. These are as follows:

Inadequate infrastructure to support proposal

The Planning Authority has consulted all relevant service providers including Anglian Water, Essex Fire and Rescue, Essex Infrastructure and the NHS. With the exception Essex Infrastructure, none have advised of any deficiencies in infrastructure provision arising from the proposed development.

The Essex Infrastructure Officer has identified a need for up to 5.1 early years and childcare places, 17.1 primary school places and 11.4 secondary school places being generated by the proposed development. There is no requirement for the provision of secondary school capacity to accommodate additional pupils from this development.

Appropriate contributions towards the provision of educational capacity can be achieved through the provisions of a S106 Agreement.

It is also suggested that the development of the site for residential purposes will generate a need for additional library infrastructure. This too can be achieved by a S106 Agreement.

The Infrastructure Officer suggests that should the Council be minded to refuse the application, the lack of surplus Primary school places and library facilities in the area to accommodate the proposed new homes could be noted as an additional reason for refusal.

It is considered however that such deficiencies are capable of mitigation and as such do not constitute a robust reason for refusal. No objection is therefore raised to the proposal on this basis.

The application includes the provision of open space.

Policy RE4 of the adopted Local Plan states that the Planning Authority will seek to provide and facilitate the provision of additional children's playspace and parks.

Policy HS3 of the New Local Plan seeks to secure public access to open space in order to support active and healthy communities and to manage recreational pressure on areas of nature conservation interest.

The South Essex Strategic Green and Blue Infrastructure Study identifies that in respect of parks and gardens and provision for children and young people, the Borough exhibits a deficit of provision. The proposal provides some 0.28ha of open space which will meet the Informal recreational needs of future residents as well as provide the opportunity for ecological enhancement.



Management and maintenance of the land for recreation and ecology purposes will be required in perpetuity and can be achieved through a S106 Agreement.

No provision is made within the scheme for the satisfaction of formal recreational needs arising from population growth generated by the proposal.

The Castle Point Playing Pitch Strategy identifies that growth will generate a need for additional football pitch provision. A contribution towards the provision of additional pitches, to be delivered through the Football Association's Local Football Strategy for Castle Point, is therefore required.

The Built Facilities Strategy meanwhile identifies that growth will place additional demand on swimming pool provision, indoor bowls provision and sports/community hall provision. A contribution towards built sports facilities is also therefore required.

Both contributions can be achieved through a S106 Agreement.

#### Surface and foul drainage systems inadequate.

The Planning Authority has consulted Anglian Water, the EA and the LLFA. None have advised of any deficiencies in drainage infrastructure provision arising from the proposed development which cannot be appropriately mitigated.

#### Increased traffic and potential for accidents

Whilst it is inevitable that development of the site will result in increased traffic in this part of Benfleet, the Highway Authority has not identified a lack of capacity in the highway network to accommodate the traffic flows associated with the proposed development. No objection may therefore be raised to the proposal on this basis.

Whilst increased traffic could generate a potential for increased accidents, in the absence of an objection to the proposal from the Highway Authority, this is unlikely to represent a sustainable reason for refusal.

#### Site is too close to school

It is unclear if the contributor is concerned that the residential development is too close to the school or whether it is the commercial element of the scheme.

The facts are that both the proposed residential development and the commercial development are located further from the school than existing residential and commercial development on Church Road.

Furthermore, proximity to a school is desirable for many homeowners.

Whilst concern may be expressed in respect of the need for construction vehicles to move in close proximity to the school during the construction phase, this represents a transitional stage of the development which can be mitigated by the implementation of a

Construction Management Plan and the achievement of construction access through the adjoining industrial estate.

No objection may be raised to the proposal on the basis of proximity to the school.

#### Proposal is not needed

There is no identified need for the site to be released for residential purposes, although the desirability of allocating some of the land for employment purposes was identified within the 2019 Local Plan.

In his final report on the Local Plan however, the Inspector made it clear that there is no need for the site to be released for employment purposes and advised that in the absence of the identification of any very special circumstances to justify release of the land from the Green Belt, it should be retained within the current allocation.

This weighs heavily against the proposed development.

#### Increased air pollution

There is no evidence to support the premise that development of the site in the manner proposed would give rise to unacceptable air pollution during the operational phase.

The potential for air pollution during the construction period can be adequately mitigated through the preparation and implementation of an appropriate Construction Environment Management Plan which can be secured by condition.

#### Noise and disturbance affecting existing and future residents and adjoining school and day care centre

The issue of noise affecting future residents has been examined in the evaluation of the proposal.

The current scheme seeks to provide residential development and commercial uses. Those closest to the proposed residential development are uses which might be undertaken within a residential area without adverse impact on the amenity of adjoining residents. As such it is not considered that the operational phase of the development will give rise to unacceptable levels of noise.

Noise arising during the construction stage, including the noise and disturbance generated by construction vehicles attending the site, can be adequately mitigated by the implementation of an appropriate Construction Environment Management Plan and a Construction Vehicle Routing Plan. Both may be secured by condition.

#### Light pollution

At the present time the site is unlit at night. New development will necessitate the provision of an appropriate lighting system; however, the applicant will be required to submit a lighting strategy which mitigates the impact of light spill from any lumens provided to an acceptable level.

Lighting required during the construction phase can be adequately mitigated by the implementation of a Construction Environment Management Plan

Light pollution emanating from the proposed development is unlikely to provide a robust reason for refusal, sustainable on appeal.

## **Summary and Conclusion**

Consideration of the proposal under the provisions of the NPPF, the adopted Local Plan and the New Local Plan identifies that the proposal constitutes inappropriate development in the Green Belt, in respect of which no Very Special Circumstances are identified, which either individually or cumulatively, outweigh the harm to the Green Belt.

The proposal is therefore contrary to Government guidance as contained in the NPPF. Further the proposal fails to give adequate consideration of the impact of the proposed development on adjoining land uses – particularly safeguarded waste disposal sites and fails to adequately demonstrate that the impact of adjoining land uses on future occupiers of the site are adequately mitigated.

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

My RECOMMENDATION is: **REFUSAL**, for the following reasons:

1. The 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 any very special circumstances have been demonstrated 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. The proposal fails to adequately identify and consider the impact of the proposed residential and commercial development on safeguarded waste disposal sites within the adjoining Manor Trading Estate, contrary to the provisions of Policy 2 of the Essex and Southend-on-Sea Waste Local Plan 2017 (WLP) and paragraph 187 of the National Planning Policy Framework.
3. The submitted Noise Constraint Survey and Facade Noise Assessments fail to adequately demonstrate a lack of adverse impact arising from the operation of sites within the Manor Trading Estate on future occupiers of the proposed commercial and residential development, contrary to paragraph 187 of the National Planning Policy Framework and Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.

4. The submitted Noise Constraint Survey and Facade Noise Assessments fail to adequately demonstrate a lack of adverse impact arising from the installation of the proposed acoustic barrier on the western boundary of the site on premises and operations within the Manor Trading Estate, contrary to paragraph 187 of the National Planning Policy Framework and Policy 2 of the Essex and Southend on Sea Waste Local Plan 2017.
5. The proposal fails to demonstrate the provision of appropriate parking and cycle parking facilities for the proposed commercial units, contrary to the provisions of the adopted Essex parking standards and the provisions of Policy T8 of the adopted Local Plan and TP8 of the submitted Local Plan. Further, it is not considered that the applicant has adequately demonstrated that the proposed development will adequately mitigate its impact on the existing parking provision within the adjoining Industrial estate in order to ensure that existing operations are not compromised by the proposal.

K. Fisher-Bright 10.05.2022

## **APPENDIX 2**

### **LPA Suggested Conditions**

## APPENDIX 2 – SUGGESTED CONDITIONS

Land east of Manor Trading Estate, Benfleet.

APP/M1520/W/22/3310794

### Section 106

The Local Planning Authority considers that the following are required to be the subject of a S106 Agreement to mitigate the impacts of the development on infrastructure, to provide an appropriate level of affordable housing on the site and to ensure that the adverse impacts on ecology are addressed.

- An appropriate contribution towards the provision of affordable housing, on site.
- An appropriate financial contribution towards the provision of primary school places.
- The provision of an appropriate school car park, which shall be provided prior to the removal of the layby in front of the school, and thereafter permanently retained for the sole use of the school.
- An appropriate financial contribution towards the provision of library services.
- An appropriate financial contribution towards the provision of health services.
- An appropriate financial contribution towards the mitigation of recreational disturbance within European Designated sites (RAMS)
- An appropriate Management Plan for the Public Open Spaces.
- An appropriate plan to secure a minimum 10% increase in biodiversity on the site and the management and monitoring of such measures for a period of no less than 30 years.
- Road Traffic Management Order

### Suggested Conditions

1. The development hereby permitted may only be carried out in accordance with details of the layout, scale and external appearance of the building(s), and the landscaping of the site, (hereinafter called "the reserved matters"), the approval of which shall be obtained from the Local Planning Authority before development is begun.

Application for the approval of the reserved matter shall be made to the local planning authority within three years beginning with the date of this outline permission.

The development hereby permitted shall be begun on or before whichever is the latter of the following dates:

- (a) the expiration of three years beginning with the date of the outline permission; or
- (b) the expiration of two years from the final approval of the reserved matter.

REASON: The particulars submitted are insufficient for consideration of the details mentioned, and also pursuant to Section 92 of the Town and Country Planning Act 1990.

## **Pre- commencement Conditions**

### Construction

2. No development shall take place, including any ground works or demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period and shall provide for:
  - i. The hours of construction and deliveries
  - ii. vehicle routing: All construction vehicles attending the site shall access the site from Brunel Road only
  - iii. the parking of vehicles of site operatives and visitors,
  - iv. loading and unloading of plant and materials,
  - v. storage of plant and materials used in constructing the development,  
All of iii, iv and v shall be provided clear of the highway.
  - vi. Construction Dust Management Plan including wheel washing measures to control the emission of dust and dirt during construction including on the public highway;  
and
  - vii. Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures
  - viii. Before and after condition survey to identify defects to the highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense where caused by the developer.
  - ix. An appropriate construction phase lighting strategy
  - x. a scheme for recycling/disposing of waste resulting from construction works.
  - xi. details showing the means to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works.
  - xii. arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CMS

REASON: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable in accordance with Policy EC2 of the adopted Local Plan and DM 1 of the Highway Authority's Development Management Policies February 2011.

3. No part of the development shall commence, including land clearance, site preparation, groundworks or trial trenching until a Construction Environmental Management Plan (CEMP) (Biodiversity) has been submitted to and approved in writing by the Local Planning Authority.

The CEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.

- g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.
- i) Containment, control and removal of any Invasive non-native species present on site,
- j) the provision of appropriate mitigation measures to prevent harm to wildlife including the secure storage and bunding of materials and chemicals, the covering of being trapped in trenches or other temporary structures on the site and the provision of gates to allow for the passage of wildlife such as badgers and hedgehogs in any security fencing around the site
- k) arrangements by which the developer shall maintain communication with residents and businesses in the vicinity of the site, and by which the developer shall monitor and document compliance with the measures set out in the CEMP

The development shall be carried out in full accordance with the approved CEMP at all times.

REASON: To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (Priority habitats & species).

#### Biodiversity

4. Prior to the commencement of development, including land clearance, site preparation, groundworks or trial trenching, a Biodiversity Net Gain Strategy (including measures for appropriate monitoring and maintenance), targeting in particular those species which currently use, or are likely to use, the application site and demonstrating the achievement of a minimum biodiversity net gain of at least 10% shall be submitted to and approved in writing by the Local Planning Authority.

REASON: In order to protect and enhance the biodiversity value of the site.

5. Prior to the commencement of the development (including any site clearance works, site preparation, groundworks or trial trenching) all trees and shrubs (including hedges) along the northern, and western boundary of the development area and within the southern part of the site shall be protected by fencing in accordance with the provisions of BS5837:2012. No materials are to be stored or temporary buildings erected inside this fence. No changes in ground levels may be made within the crown spread of any tree or within 1m of any hedge or shrub within the identified areas. Such protection measures shall be retained for the duration of the construction of the development.

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

#### Highways

6. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.



REASON: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety to ensure accordance with Policy EC2 of the adopted Local Plan and DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

7. Prior to commencement of the commercial development, details of the access roads for that part of the development, the commercial parking areas and layouts shall be submitted to and approved by the Local Planning Authority. The parking provided to serve the commercial units shall include visitor parking and shall be laid out in accordance with the approved details and shall be hard surfaced, sealed and marked out in parking bays prior to the occupation of any of the commercial units. The commercial parking areas and associated turning area(s) shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the commercial use of the development. No commercial unit shall be occupied until such a time as the access roads serving that unit have been provided.

REASON: To ensure that on street parking of vehicles associated with commercial uses on the site in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policies T8 and EC2 of the adopted Local Plan and DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

#### SUDs

8. No works shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:
  - Provide engineering site layout of the proposed drainage network at the site. This should include the following details: manholes cover levels, invert levels, pipes dimensions, slopes, basin top and base levels, and invert levels both at inlet and outlets, outflow rates, as well as top water level in the attenuation basins/ponds during 100year plus 40percent CC allowance.
  - Provide calculations for the conveyance and storage network for the proposed development. The network should not predict surcharge in 1yr events, and should not predict flooding in 30year events. During 100 year plus 40pc cc event if any marginal flooding is predicted then it should be directed away from the building using appropriate site grading.
  - The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.
  - Detailed engineering drawings of each component of the drainage scheme.
  - A final drainage plan which details exceedance and conveyance routes, Finished Floor Levels and ground levels, and location and sizing of any drainage features.
  - A written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The scheme shall subsequently be implemented prior to occupation. It should be noted that all outline applications are subject to the most up to date design criteria held by the LLFA.

REASON: In order to achieve an appropriate surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development.

#### Noise

9. Prior to commencement of the development, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that all habitable rooms exposed to external noise in excess of 55dBA  $L_{eq\ 16\ hour}$  [free field] during the day [07.00 to 23.00 hours] or 45dBA  $L_{eq\ 8\ hour}$  [free field] at night [23.00 to 07.00 hours] shall be subject to sound insulation measures to ensure that **all** such rooms achieve an internal noise level of 35dBA  $L_{eq\ 16\ hour}$  during the day and 30dBA  $L_{eq\ 8\ hour}$  at night. The submitted scheme shall ensure that habitable rooms subject to sound insulation measures shall be able to be effectively ventilated without opening windows.

No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to that property in accordance with the approved details. The approved measures shall be retained thereafter in perpetuity.

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

10. Prior to commencement of the development, a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the maximum day time noise level in outdoor living areas exposed to external noise shall not exceed 50dBA  $L_{eq\ 16\ hour}$  [free field]. The scheme of noise mitigation as approved shall be constructed in its entirety prior to the first occupation of any dwelling and shall be retained thereafter in perpetuity.

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

11. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of an enhanced sound insulation value  $D_{nT,w}$  [and  $L'_{nT,w}$ ] of at least 5dB above the Building Regulations value, for the floor/ceiling /wall structures separating different types of rooms/ uses in adjoining dwellings, namely [eg. living room and kitchen above bedroom of separate dwelling]. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To ensure that the amenity of occupiers of the development site is not adversely affected by noise

12. Prior to commencement of development a scheme shall be submitted to and approved in writing by the Local Planning Authority to provide that the dwellings are designed and constructed so as to ensure that vibration dose values do not exceed  $0.4m/s^{1.75}$  between 07.00 and 23.00 hours, and  $0.26m/s^{1.75}$  between 23.00 and 07.00 hours, as calculated in accordance with BS 6472-1:2008, entitled "Guide to Evaluation of Human Exposure to Vibration in Buildings", [1Hz to 80Hz]. The dwellings shall be constructed in accordance with the approved scheme.

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

#### Contamination

13. Prior to commencement of development a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be submitted to and approved by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with paragraphs 184 and 185 of the National Planning Policy Framework.

14. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved by the Local Planning Authority.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with paragraphs 184 and 185 of the National Planning Policy Framework.

15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, which shall be submitted to and approved by the Local Planning Authority.

Following completion of the measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the Local Planning Authority in accordance with condition 15.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with paragraphs 184 and 185 of the National Planning Policy Framework.

16. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 10 years, and the provision of reports on the same shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented as approved.

Following completion of the approved measures and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be submitted to the Local Planning Authority. This must

be conducted in accordance the provisions of the Environment Agency's guidance on Land Contamination Risk Management.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with paragraphs 184 and 185 of the National Planning Policy Framework.

### **Prior to Construction**

#### Materials

17. Prior to the construction of any dwelling or commercial unit details or samples of all materials to be used on the external surfaces of the proposed development shall be submitted to, and formally approved by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

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

#### Noise

18. Prior to commencement of the development, details shall be submitted to and approved in writing by the Council, of the external noise level emitted from plant/ machinery/ equipment and mitigation measures as appropriate. The measures shall ensure that the external noise level emitted from any or all of the following proposed:

- Industrial and Manufacturing process
- Fixed Plant and equipment
- Loading and unloading of goods

- Mobile plant and vehicles (these need to be an intrinsic part of the overall sound from premises or process) will be lower than the typical existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014+A1: 2019 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. A post installation noise assessment shall be carried out where required to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To ensure that the amenity of occupiers of the development site/ surrounding premises is not adversely affected by noise from plant/mechanical installations/ equipment.

### **Prior to Occupation**

#### Highways

19. Prior to occupation of the development, the access point at Church Road shall provide a site access road at a minimum of 5.5m in width with 2m wide footways on either side, as

shown on Drawing IT1932/TA/02. The vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway with an appropriate dropped kerb vehicular crossing of the footway with clear to ground visibility splay. Such vehicular visibility splays of 2.4m x 43m in both directions, shall be provided before the road junction is first used by vehicular traffic and retained free of any obstruction at all times thereafter. The existing layby facility on Church Road shall be suitably reinstated with full upstand kerb and footway provision.

REASON: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with Policy EC2 of the adopted Local Plan and DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

20. No dwelling or commercial unit shall be occupied until the existing bus stops on both sides of Church Road to the west of the residential site access have been upgraded to provide shelter / timetable / flagpole and real time passenger information in accordance with details to be submitted and approved by the Local Planning Authority.

REASON: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with Policy EC2 of the adopted Local Plan and policies DM9 and DM10 of the Highway Authority's Development Management Policies, adopted as County Council Supplementary Guidance in February 2011.

21. No dwelling shall be occupied until such time as the access roads and vehicle parking area serving that dwelling have been provided. The vehicle parking areas and associated turning areas shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the residential use of the development.

REASON: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy T8 of the adopted Local Plan.

22. Prior to the first occupation of any dwelling, a 1.5m x 1.5m clear to ground visibility splay shall be provided within the confines of each plot at the junction of any vehicular access and the highway and shall be maintained free of obstruction in perpetuity.

REASON: In the interests of highway and pedestrian safety

#### SUDs

23. Prior to occupation of any dwelling or commercial unit, a maintenance plan detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, shall be submitted to and agreed, in writing, by the Local Planning Authority.

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

The maintenance plan shall be implemented as approved for the duration of the development.

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

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

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

#### Energy Efficiency

25. Prior to the occupation of any commercial unit or dwelling, full details of all energy and water efficiency measures to be incorporated within the development, which shall include the installation of infrastructure for the provision of electric vehicle charge points, shall be submitted to, and approved by, the Local Planning Authority.

The approved measures shall thereafter be installed prior to the first occupation of each dwelling and commercial unit and thereafter permanently retained..

REASON: In order to ensure the achievement of an energy and water efficient development on the site, in the interests of sustainability.

#### Open Space Provision

26. Prior to first occupation of the 44th dwelling, the proposed amenity areas within the residential part of the development shall be made available for use and thereafter permanently maintained.

REASON: In order to ensure the provision and retention of appropriate amenity areas within the site, in the interests of the amenity of future residents.

#### Fencing Details

27. Prior to first occupation of the development hereby approved, details of all fencing, including any acoustic fencing to be provided along the western boundary of the site shall be submitted to and approved by the Local Planning Authority. The fencing shall be constructed in accordance with the approved scheme prior to the occupation of any commercial unit or dwelling.

REASON: In order to protect the amenity of future occupiers of the site in accordance with Policy EC3 of the adopted Local Plan.

#### Lighting

28. Prior to the installation of any lighting for public areas and for the commercial areas, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority.

Where floodlighting is proposed the lighting scheme shall provide that:

- Light into neighbouring residential windows generated from the floodlights shall not exceed 10 Ev (lux) (vertical illuminance in lux).
- Each floodlight shall be aligned to ensure that the upper limit of the main beam does not exceed 70 degrees from its downward vertical.
- The floodlighting shall be designed and operated to have full horizontal cut-off and such that the Upward Waste Light Ratio does not exceed 5%.

The submitted lighting scheme shall include an isolux diagram showing the predicted illuminance in the vertical plane (in lux) at critical locations on the boundary of the site and at adjacent properties.

The approved scheme shall be implemented prior to first use of the lighting and be permanently maintained in that state thereafter.

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

#### Waste

29. Prior to first beneficial use a waste management plan, detailing the means of disposal of all waste generated by the proposed businesses, shall be submitted to and approved in writing by the local planning authority. The approved plan shall be implemented prior to first beneficial use and shall be retained for the duration of the use.

REASON: To ensure that the amenities of occupiers of other premises in the vicinity are protected

#### **Implementation**

30. The Commercial Units hereby approved shall only operate between the hours of 07.30 and 18:30 hours Monday to Saturday and at no time on Sundays and Bank or Public Holidays.

REASON: In the interests of residential amenity.

31. The existing vehicular and pedestrian access to Heston Lodge shall be retained and kept available for use at all times during the construction phase of the development hereby approved and shall be permanently retained as such following the completion of the development.

REASON: to ensure access is available to existing uses at all times.

32. The Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport for every household on first occupation of each dwelling. The Residential Travel Information Pack shall include six one day travel vouchers for bus travel approved by Essex County Council.

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

33. All access roads within the site shall be constructed in a manner suitable to accommodate the weight and turning manoeuvres of a 32 tonne refuse vehicle.

REASON: In order to ensure that an appropriate refuse collection service can be operated within the site.

34. The proposed dwellings shall, as a minimum, meet the requirements of Part M4(2) of the Building Regulations 2010.

REASON: In order to ensure the provision of a range of dwellings capable of meeting the needs of a wide range of users including the elderly and mobility challenged.

35. The proposed development shall be undertaken in accordance with the provisions of the submitted Arboricultural Impact Assessment and Arboricultural Method Statement (Reference: N99 dated February 2021).

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

36. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with EC2 of the adopted Local Plan and policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.