



## **TOWN AND COUNTRY PLANNING ACT 1990**

### **SECTION 78 APPEAL**

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**Appellant:** This Land Development Limited

**Site Address:** Land east of Rayleigh Road, Thundersley, SS7 3NL

**Development Description:** “Outline planning application for the development of up to 455 new homes, a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved **except access.**”

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**Planning Inspectorate Reference:** APP/M1520/W/24/3338797

**Local Authority Reference:** 23/0085/OUT

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### **STATEMENT OF CASE**

**CASTLE POINT BOROUGH COUNCIL**

**April 2024**

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## 1 Introduction

- 1.1 The proposal is for residential development of up to 455 dwellings and community facilities on a site in the Green Belt ('the appeal site'). This appeal relates to an outline planning application with all matters, excluding access, reserved for future consideration ('the application') which is the subject of an appeal against the refusal of planning permission. The application (Ref. 23/0085/OUT) proposed:

"Outline planning application for the development of up to 455 new homes, a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved except access."

- 1.2 The Council determined to refuse planning permission. A public inquiry into the appeal is scheduled to open on 4 June 2024.
- 1.3 The reason for refusal is outlined in the Officer Report at **Appendix 1** and is set out below:

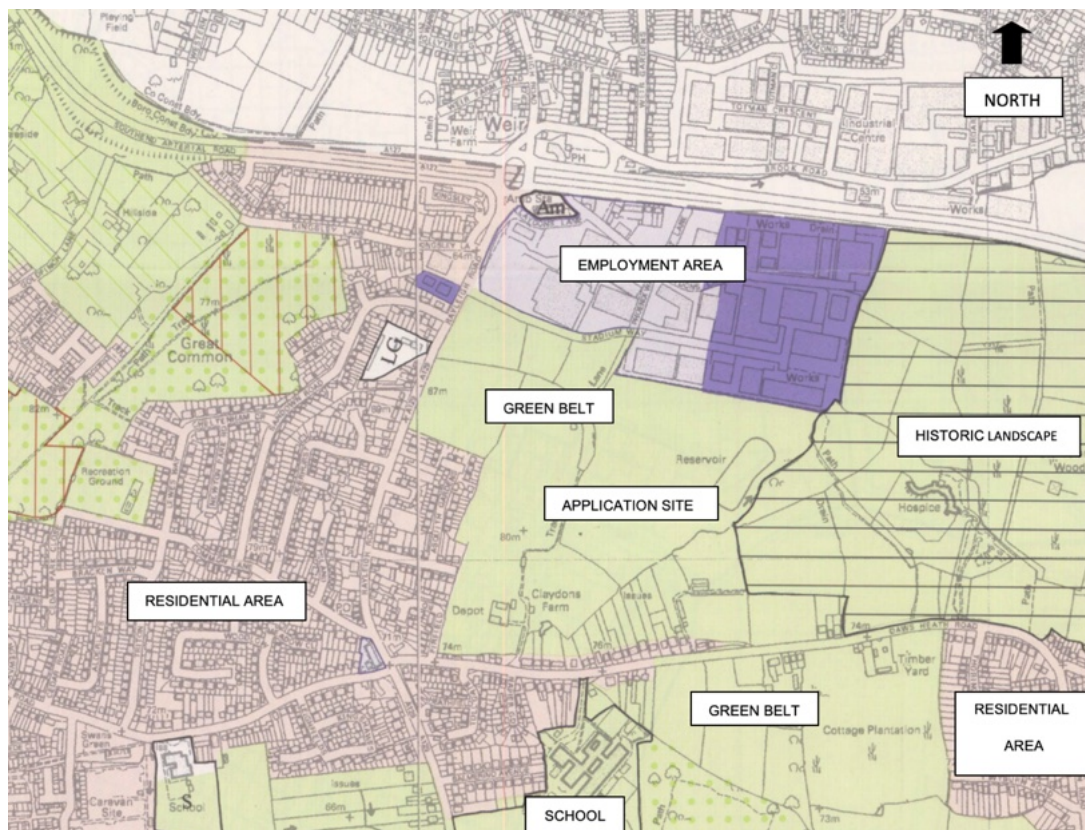
*"The proposal represents inappropriate development in the Green Belt as defined in the National Planning Policy Framework. Such development will only be permitted if very special circumstances exist to justify its inappropriateness. No other considerations have been found, either in isolation or in combination, to outweigh the harm to the Green Belt so very special circumstances do not exist and the proposed development is contrary to Government advice as contained in the National Planning Policy Framework."*

- 1.4 A copy of the Officer Report is attached at **Appendix 1** and comprises part of the Council's Case and should be read in conjunction with this statement.
- 1.5 The National Planning Policy Framework (NPPF) was updated in December 2023 but its approach to Green Belt harm and decision making, countryside character and beauty and decision making remains materially unchanged from the previous version.
- 1.6 This is an outline application with only access to be considered at this stage. The application plans includes a number of parameters plans but none of these can fix details required pursuant to the reserved matters submissions such as pertaining to the layout, scale or appearance of the proposed development or the landscaping of the site, and these matters remain reserved.
- 1.7 It is common ground, as will be agreed in the Statement of Common Ground, that the Council cannot demonstrate a five year supply of deliverable housing land and their Housing Delivery Test Score is below 75% and as such the so-called tilted balance pursuant to paragraph 11(d) of the NPPF is engaged in the first instance.

- 1.8 However, the site is in the Green Belt, the proposal leads to Green Belt harm, and the application of policies in the Framework provide a clear reason for refusal. Therefore, the Council will demonstrate that the presumption/ tilted balance is disengaged.
- 1.9 The Parties will agree 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 will also set out matters of agreement as well as matters of disagreement. As well as agreeing Heads of Terms. It is considered that a Section 106 Agreement to mitigate the impacts of the development is necessary.
- 1.10 A failure to provide a suitable section 106 undertaking to address the infrastructure requirements of the appeal site as well as the impacts of the proposed development on European sites and RAMSAR sites will lead to additional objections to the scheme the subject of this appeal.

## 2 Site and Surroundings

- 2.1 The Council will describe the appeal site noting it comprises land extending to a total of 27.9 hectares. Whilst having four irregular boundaries, it is broadly square shaped with the boundaries broadly facing north, south, east and west.
- 2.2 The appeal site is located to the east of the Rayleigh Road (A129), south of Stadium Way and the Rayleigh Weir Retail Park which fronts the Southend Arterial Road (A129) and north of Daws Heath Road. Development along Daws Heath Road in the area of the appeal site is largely ribbon in character set within a wider area of open countryside.
- 2.3 To the east of the appeal site lies open countryside including Little Haven Nature Reserve, a hospice, Wyburns Wood, Tile Wood and Pound Wood Nature Reserve.
- 2.4 The appeal site lies within an area of countryside that runs north south separating Daws Heath and Thundersley as well as Leigh on Sea and east to west separating Thundersley and Daws Heath from Rayleigh.
- 2.5 The appeal site lies outside any settlement within and forming part of a wider area of countryside that separates Thundersley/ Rayleigh/ Daws Heath. The appeal site lies within the Green Belt in the administrative area of Castle Point Borough Council.



**Green Belt Boundary Around Daws Heath Road and Rayleigh Road**

- 2.6 The Council will describe the site including the extent of open undeveloped land, the location of a pond and the extent of fields used for agricultural purposes, any woodland and that left as open grassland. We will also observe that the western most two fields within the appeal site comprise part of an historic landscape as identified on the Proposals Map.
- 2.7 The development site comprises a number of small historic fields, with dense natural hedgerows with trees, bushes, and flower rich acid grassland. The site forms part of an important wildlife corridor which runs into the urban area and is part of the historical Daws Heath Woodlands, which span from Hadleigh Great Wood in the east. A stream runs through the site to the south-east of the large pond which is located to the northeast of the site. There is a small car park south of the pond including a small single storey club house used by anglers.
- 2.8 The Council will describe the topography of the site and immediate area and note the extent of existing on site vegetation and planting. The Council will describe the neighbouring land uses.
- 2.9 The Council will note the northern boundary to the fire station and Stadium Way is defined by a strong tree belt that provides a well-defined and easily understood legible boundary between the settlement edge and countryside/ Green Belt.
- 2.10 The Council will describe the landscape qualities of the area noting that the site and area lies within Landscape Character Area ('LCA') 4<sup>1</sup>: an attractive area of rolling small valleys featuring well maintained pasture, woodland and hedgerows with field boundary trees. We will describe the historic landscape area to the east of the appeal site as well as identifying the area of Ancient Woodland.
- 2.11 The opportunities and constraints for the area identified in the LCA are:
- *Opportunities to enhance existing landscape character through management and additional planting to the north of the site to more clearly define the green belt boundary with the trading estate*
  - *Constraints to development are primarily the designation of ancient woodland and rolling topography to the north*
- 2.12 The Council will describe the attractive open character of the landscape character area and the contribution the appeal site makes to the area.
- 2.13 The landscape sensitivity is high as is the visual sensitivity of the area.
- 2.14 The Council will address the LVIA that accompanied the application the subject of this appeal.

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<sup>1</sup> Green Belt Landscape Assessment 2010 – Essex Landscape Design

- 2.15 The Council will also describe the local highway network, pavements alongside that network and the public footpaths in the area including FP7 BENF which runs from Stadium Way along the northern site boundary and then south to Daws Heath as well as FP8 BENF which runs north south to the east of the appeal site. The Council will also describe Bridleway 85 BENF, a circular route to the south of the appeal site and Daws Heath Road
- 2.16 The appeal site is detached from any settlement and falls in the open green space between Thundersley and Rayleigh as well as the green space between Thundersley, Daws Heath and Leigh on Sea.
- 2.17 The Council will describe the location of identified habitats the subject of recreational pressure from new housing development as well as the zone of influence of eleven statutory designated sites and nineteen non-statutory designated sites of local importance.
- 2.18 The site is located within 300 metres of Thundersley Great Common SSSI, which is to the northwest, 1500 metres of Great Wood and Dodds Grove SSSI to the southeast; and 1800 metres of Garrold's Meadow SSSI to the east.
- 2.19 We will also describe the location of the site within the zone of influence of the Benfleet and Southend Marshes SPA and Ramsar sites, the Blackwater Estuary SPA and Ramsar site and the Foulness SPA and Ramsar site.

### **3 The Application and Planning History**

- 3.1 The application is set out in the Introduction above.
- 3.2 A number of illustrative masterplans have been provided with the application the subject of this appeal including:
- Indicative Road layout
  - Pedestrian and Non- Vehicular Access Parameter Plan
  - Building Scale Parameter Plan
  - Open Space Parameter Plan
  - Phasing Parameter Plan
- 3.3 The responses of consultees are summarized in the committee report at Appendix 1. Copies of the 945 public responses from third parties have been provided with the Council's questionnaire and a summary of their objections are included at pages 60 – 61 of the committee report at Appendix 1.
- 3.4 A draft s106 undertaking was submitted with the application the subject of this appeal and subject to agreement on Heads of Terms and successful execution this avoids the need for a reason for refusal relating to infrastructure and impact on European sites etc..
- 3.5 The mix and property sizes would be determined at reserved matters stage.
- 3.6 The provision of custom self-build houses or plots (CSB) can be secured in the section 106 undertaking and thus has been included in the Council's overall weighting of the benefit of providing housing.

#### Planning History

- 3.7 The committee report at Appendix 1 lists the limited relevant planning history.
- 3.8 The Council will note the previous application at the site submitted in 2010 proposing 237 dwellings and note that it was the subject of an appeal against non-determination that was withdrawn by the Appellant ahead of any decision.
- 3.9 The Council will also note the application for residential development south of Daws Heath Road which was refused planning permission and is the subject of an appeal to be heard on 30 April and 1 May 2024 (APP/M1520/W/23/3329585). The extent of the appeal site and the neighbouring appeal site are shown on the aerial image below:





**Appeal Sites North and South of Daws Heath Road**

## 4 Planning Policy

- 4.1 The development plan comprises the Castle Point Local Plan 1998 (CPLP) together with the Essex and Southend on Sea Waste Local Plan (2017).
- 4.2 The adopted Local Plan Proposals Map identifies the appeal site as Green Belt land.
- 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 and replicated national policy. As a consequence, in accordance with the approach at the time of the direction the Council has since applied Government policy when considering development in the Green Belt as currently set out in Chapter 13 of the December 2023 National Planning Policy Framework (the NPPF).
- 4.4 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 as being out of date when assessed against Paragraph 11 of the NPPF.
- 4.5 The following saved policies of the CPLP are relevant to consideration of the application the subject of this appeal.

- EC2 Design
- EC3 Residential Amenity
- EC4 Pollution
- EC13 Protection of Wildlife and their Habitats
- EC14 Creation of new Wildlife Habitats
- EC16 Protection of Landscape
- EC19 Ancient Landscapes
- EC22 Retention of Trees Woodlands and Hedgerows
- H9 New Housing Densities
- H10 Mix of Development
- T2 Intensification of Access Use
- T8 Car Parking Standards
- RE4 Provision of Children's Playspace and Parks
- CF1 Social and Physical Infrastructure and New Developments
- H13 Location of development
- CF14 Surface Water Disposal

- 4.6 CPBC has adopted relevant supplementary planning documents including:

- Developer Contributions Guidance SPD
  - Affordable Housing March 2023
  - Healthcare Facilities March 2023
  - Highways, Travel, Education, Libraries, Flooding and Drainage Infrastructure March 2023
  - Playing Pitches and Indoor Built Facilities March 2023

- Residential Design Guidance SPD 2012
- Recreational Disturbance Avoidance and Mitigation Strategy (Essex RAMS Strategy July 2019 and SPF May 2020)

4.7 Other guidance adopted by the Council includes:

- Essex Vehicle Parking Standards 2010
- Guidance for Assessing Planning Applications in the Green Belt in Castle Point (November 2023)

4.8 The appeal site is located within a Community Infrastructure Levy (CIL) charging zone, as set out in the Council's adopted. CIL is non-negotiable and is calculated at the time planning permission is granted. The charge is based on the net increase of gross internal floor area of the proposed development, and payment of CIL is due upon commencement of the development,

4.9 The Council has previously embarked on a replacement plan process, that draft Local Plan had undergone examination and was subject to the Examining Inspector's Report that had found it sound subject to Main Modifications. The Council withdrew that Local Plan on 15 June 2022.

4.10 The policies of the withdrawn Local Plan are no longer relevant. However, it is accepted that some of the evidence base documents may remain relevant alongside the Examining Inspector's Report dated 3 March 2022.

4.11 Work is underway on the Castle Point Plan. The Castle Point Plan is intended to guide development in Castle Point to 2050.

4.12 The agreed timetable for the preparation of the Castle Point Plan is set out below. Details are published within the approved Local Development Scheme January 2024 (LDS).

Castle Point Plan Timetable		
Stage	Time Period	Engagement Activity
Issues Identification	January 2023 - August 2023	4 - 6 months engagement on issues with partners, the community, local businesses and other stakeholders. The <a href="#">Initial Engagement Outcomes Report 2023 [pdf] 4MB</a> has the key outcomes from this engagement.
Options Development	September 2023 - June 2024	Feedback on how the Council is addressing the issues raised. Some informal engagement may occur.
Developing the Plan	June 2024 – December 2024	2- 3 months Options Engagement with partners, the community, local businesses and other stakeholders. (Formal regulation 18)
Publication	January 2025 – March 2025	Formal consultation with partners, the community, local businesses and other stakeholders (Formal regulation 19)
Submission	April 2025	
Examination	June 2025 – December 2025 (Estimated, dependent on Examiner)	
Adoption	March 2026 (Estimated, dependent on Examiner)	

- 4.13 Given its early stage of preparation the emerging Local Plan can only carry very limited weight.

#### National Planning Policy Framework (NPPF)

- 4.14 The Framework was revised in December 2023 and sets out the Government’s economic, environmental and social planning policies for England. These policies articulate the Government’s vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. In terms of the most relevant sections for this appeal Section 13 relates to Protection of the Green Belt. Section 2 includes the presumption in favour of Sustainable Development. Section 5 relates to the delivery of a sufficient supply of homes. Section 12 relates to achieving well-designed places and Section 15 relates to conserving and enhancing the Natural Environment.
- 4.15 Paragraph 11 sets out the approach to the presumption in favour of sustainable development. Paragraph 11d advises that the presumption means, for decision-making:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

- 4.16 The NPPF has been revised and in the circumstances of CPBC where a plan has yet to reach regulation 18 stage with a policy map accompanying it, the Council is tasked with demonstrating a five year supply of deliverable land. It is common ground that the Council cannot demonstrate a five-year supply of deliverable housing land and also via its HDT results.
- 4.17 Footnote 8 states that in the situation where a Local Planning Authority is unable to demonstrate a five-year supply of deliverable housing land and/ or the HDT results are below 75% then the policies which are most important for determining the application are deemed to be out of date.
- 4.18 Paragraph 11(d)(i) and Footnote 7 provides (so far as relevant) that the tilted balance is disengaged in circumstances where the application of policies of the Framework which protect assets of particular importance provide a clear reason for refusing permission. Footnote 7 clarifies that:

*“The policies referred to are those in this Framework (rather than those in development plans) relating to: [...] land designated as Green Belt; [...]”*

- 4.19 As such, when considering planning decisions relating to land in the Green Belt it is necessary to determine whether the application of the Green Belt policies in the Framework provide a clear reason for refusal under paragraph 11(d)(i). If they do, the presumption/ tilted balance is disengaged.
- 4.20 Paragraph 154 of the Framework provides that “the construction of new buildings” is “inappropriate development” in the Green Belt, unless one of the stated exceptions applies. The proposal for up to 455 dwellings and access roads and other development to facilitate the proposed housing comprise inappropriate development. It is agreed that that the development does not fall within any of the exceptions and that the proposed development comprises inappropriate development.
- 4.21 The Framework advises that inappropriate development is, by definition, harmful to the Green Belt should not be approved except in very special circumstances (paragraph 152). Paragraph 153 states:

*“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green belt unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.”*

- 4.22 The appeal site comprises land outside any designated settlement and thus comprises part of the countryside. Although not a “footnote 7 policy”, paragraph 180(b) of the Framework directs that decisions on planning applications should contribute to and enhance the natural and local environment by:

*“recognising the intrinsic character and beauty of the countryside ...”*

- 4.23 The *Cawrey*<sup>2</sup> judgment establishes that the recognition of the intrinsic character and beauty and character of the countryside necessarily imparts a degree of protection to those matters.
- 4.24 The Framework seeks to achieve well designed places and as set out at paragraph 135(f) seeks to provide high standards of amenity for existing and future users and being sympathetic to context including landscape setting (135(c)).
- 4.25 Section 15 requires the protection and enhancement of biodiversity (185 - 186).

National Design Guide (NDG)

- 4.26 The National Design Guide notes:

*“The National Planning Policy Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. [...]”*

- 4.27 The NDG as referenced in the PPG sets out 10 characteristics and states that good design considers how a development can make a positive contribution to all 10 characteristics. The NDG notes the importance of context in achieving well-designed places.
- 4.28 The first of the ten characteristics is context within which the role of good design is to enhance the surroundings. The NDG advises that well designed new development responds positively to the surrounding context and details a number of physical features including existing built development including layout form, scale etc.

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<sup>2</sup>

i.e. paragraph 49 of **Cawrey Ltd and SoSCLG and Hinkley and Bosworth BC** [2016] EWHC 1198 (Admin)

## 5 The Council's Case

- 5.1 The Council will present evidence under the following broad topic headings, namely:
- a. Green Belt, openness and purposes;
  - b. Countryside, landscape character and visual impact;
  - c. Impact on Habitats including SSSIs, wildlife sites and the ability to deliver BNG;
  - d. Infrastructure;
- 5.2 We will then consider whether any *other considerations* raised by the Appellant clearly outweigh the harm by way of inappropriateness and any other harm such that very special circumstances exist.

### Green Belt – Inappropriate Development

- 5.3 It is common ground that the proposal comprises inappropriate development. Harm by way of inappropriateness and any other Green Belt harm is harm that is attributed substantial weight in the planning balance.
- 5.4 Inappropriate development should not be approved except in very special circumstances. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.5 The application of NPPF paragraph 152 provides a clear reason to refuse permission under NPPF 11(d)(i), and it would only be through the exercise of the Green Belt planning balance in NPPF para. 153 wherein other considerations are demonstrated to clearly outweigh the harm by way of inappropriateness and any other harm thus amounting to very special circumstances that permission could be granted.

### Green Belt - Openness

- 5.6 The Framework (para. 142) identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to keep land permanently open and thereby prevent urban sprawl.
- 5.7 The concept of openness means the state of being free from built development; the absence of built form as opposed to the absence of visual impact<sup>3</sup>. However, the word “openness” is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if the proposed development occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents<sup>4</sup>.

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<sup>3</sup> *R (Lee Valley RPA) v Epping Forest DC* [2016] EWCA Civ 404, Treacy, Underhill, Lindblom LJ, para. 7

<sup>4</sup> *Turner v SSCLG* [2016] EWCA Civ 466, Arden, Floyd and Sales LJ CD12.03

5.8 The Government updated the PPG in July 2019 (Para 001; ID 64-001-20190722) in respect of openness and it now states:

*“Assessing the impact of a proposal on the openness of the Green Belt, where it is relevant to do so, requires a judgment based on the circumstances of the case. By way of example, the courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:*

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- the degree of activity likely to be generated, such as traffic generation.”*

5.9 In **Samuel Smith**,<sup>5</sup> the Supreme Court found that the visual component of openness is capable of being a material consideration, but it is not necessarily a consideration in every case. The Council will note that the spatial element of openness is always a consideration in assessing openness.

5.10 With this in mind the Council will describe the lawful baseline for the site. The appeal site comprises open land with no meaningful permanent development present. It is completely open both spatially and visually.

5.11 The Council will identify the area and volume of any limited built development at the appeal site. The Council will also show that the site is located in a wider area of open countryside and attractive landscape.

5.12 The Council will show that the appeal site is open in both a spatial and visual sense and that the development existing on site is extremely limited in its scope and impact.

5.13 In comparison the proposed scheme includes up to 455 dwellinghouses of two and two and three storey height as well as a range of healthcare, education and community buildings. These will be shown to have substantially greater impacts on openness than the existing use of the site.

5.14 Overall, the Council will demonstrate that having regard to the baseline the proposal would lead to a very substantial and permanent loss of openness in both a spatial and visual context.

5.15 The Council will demonstrate that in addition to the substantial increase in permanent development as proposed, the scheme will significantly reduce the visual perception of openness of the site and this part of the Green Belt as well as leading to significant degrees of activity across the site and impact from light, activity and noise.

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<sup>5</sup>

R (**Samuel Smith Old Brewery (Tadcaster) & Ors v N. Yorks CC**) [2020] UKSC 3 CD12.02



### Green Belt - Purposes

- 5.16 The purposes of the Green Belt are set out in NPPF at paragraph 134:
- a) *“to check the unrestricted sprawl of large built-up areas;*
  - b) *to prevent neighbouring towns merging into one another;*
  - c) *to assist in safeguarding the countryside from encroachment;*
  - d) *to preserve the setting and special character of historic towns; and*
  - e) *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*
- 5.17 The Council commissioned an independent Green Belt Review to inform future plan-making. The Green Belt Review 2018 – Part 1 sets out findings and identifies that a number of the areas reviewed were considered to contribute least toward the purposes of including land in the Green Belt. The contribution to the purposes was measured having regard to a scale ranging from none to minor to moderate to strong to very strong.
- 5.18 The appeal site falls within parcel 4 which performed very strongly against purposes (a) to (c). It is one of 19 parcels (out of 47) that performed very strongly against the three purposes.
- 5.19 In addition to its strategic importance in the context of Castle Point and South Essex Parcel 4 is located to the east of Thundersley, south of Rayleigh and is identified as part of the Daws Heath Ring alongside parcels 5, 7, 8 and 9, these parcels were found to make *a very strong contribution to the holistic purpose of the Green Belt.*
- 5.20 The Council will show conflict with the first three purposes noting that parcel 4 performs very strongly (i.e. at the very top of the hierarchy) in terms of its contribution to these purposes.
- 5.21 The Council will show that the proposals will lead to the sprawl of large urban areas comprising Thundersley/ Rayleigh/ Hadleigh with a residential development of up to 455 dwellings and incidental development such as health, education and community buildings, car parks, access roads etc. The quantum of development is substantial in the context of this important gap and leads to substantial harm.
- 5.22 The Council will show that the proposal will lead to the merging of neighbouring settlements including Daws Heath/ Thundersley and Rayleigh with residential development of up to 455 dwellings and incidental development such as health, education and community buildings, car parks, access roads etc. The loss of open space between these settlements closes the gap between them and leads to continuous development alongside Rayleigh Road. The closing of this part of the gap by the substantial quantum of the development leads to substantial harm.

- 5.23 The Council will show that the proposals will encroach into the countryside with residential development of up to 455 dwellings and incidental development such as health, education and community buildings, car parks, access roads etc. The degree of encroachment both in terms of the spread of development and the quantum of development is substantial and leads to substantial harm.
- 5.24 The Part 2 report assesses a number of sites for release in the now withdrawn local Plan. The appeal site, now labelled SH07, is located within a parcel that was found in the Part 1 Report to perform very strongly against each of purposes (a) – (c), it is unclear why a site was selected in such a well performing area of Green Belt ahead of areas that performed less well against purposes (a) – (c). No explanation is provided in the Local Plan evidence base for such an approach.
- 5.25 Having noted the very strong contribution of Parcels 4 and 5 in the Part 1 report the Part 2 report then considers the release of part of that parcel in Draft Allocation SH07 (now withdrawn)<sup>6</sup>. It found this part of Parcel 4 to have a moderate contribution to purpose (a), a very strong contribution to purpose (b) and a strong contribution to purpose (c). These contributions equate to degrees of harm with moderate harm to purpose (a) very strong harm to purpose (b) and a strong harm to purpose (c).
- 5.26 The Part 2 Report notes:

*There is however a significantly negative impact in relation to the merging of urban settlements as the strategic gap between Thundersley and Daws Heath will be significantly reduced in general, as well as narrow by approximately two thirds at the point where it is currently the narrowest. Development would act to exacerbate the perception of coalescence of the urban settlements in this area and reduce the contribution the Green Belt makes to the identified locally strategic priority of preventing the urban coalescence of Thundersley, Daws Heath and Hadleigh.*

- 5.27 The Council will invite the Inspector to attribute substantial weight to the harm to three purposes of the Green Belt.

#### **Other Harm – Countryside, Landscape character and visual impact**

##### *Landscape character harm*

- 5.28 The LCA identifies an open character featuring small field patterns of the LCA which it also identifies as having good condition and thus its strategy and guideline for managing change is to *enhance existing landscape character through management and additional planting to the north of the site to more clearly define the green belt boundary with the trading estate.*
- 5.29 The Council will describe the existing attractive open character of the landscape character area and the contribution the appeal site makes to the area.

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<sup>6</sup> The site became Allocation Policy H07 in the withdrawn Draft Local Plan

- 5.30 The appeal site is set within areas of open countryside that provides physical separation between settlements and exhibits a countryside character.
- 5.31 The site is also located within views that include settlement edges. However the site is also part of an area of a wider area of open countryside including woodland and grassland that is clearly defined as separate from the sprawl of neighbouring settlements.
- 5.32 The landscape sensitivity of the site and area is high.
- 5.33 The proposed illustrative layout shows the Appellant's best estimate at how 455 dwellings can be accommodated on the appeal site. The Council will contrast this with the prevailing open countryside character of the area. The proposal is to development the site for up to 455 dwellings and other service buildings, car parks and access roads. The parameter plans show parcels of dense two and three storey estate style housing layout.
- 5.34 The development will be noticeable and result in the introduction of an urban form of development on a currently open countryside site.
- 5.35 The opening up of the site through the creation of the new vehicular accesses from Daws Heath Road to the south and Stadium Road to the north would have significant adverse impacts on the countryside character of Daws Heath Road and will open up the commercial development in the north as part of a continuous development area to spread south and include the appeal site. Such change would be to the detriment of the rural character of the appeal site and area.
- 5.36 The Council acknowledge the proximity to existing settlement edges, but these do not overwhelm the current relative tranquillity that is felt within the site (notwithstanding its proximity of the road network). The landscape impacts that occur would be in the context of an existing site that is open with a strong countryside character but is influenced by settlement edge.
- 5.37 The proposed development would harm and not safeguard or enhance the local landscape character in accordance with the identified opportunities in the Landscape Character Area.
- 5.38 The proposals will not recognise the intrinsic character and beauty of the countryside.
- 5.39 Recognition of the intrinsic character and beauty of the countryside necessarily imparts a degree of protection (after *Cawrey*) and the development of 455 dwellings would fail to recognise the character and beauty of the appeal site and wider countryside of which it forms part.
- 5.40 This failure to respect context, deliver high quality design and have proper regard to setting and the character of the area together with the loss of existing attractive landscape would comprise harm that weighs against the grant of planning permission.

- 5.41 The proposal would not make a positive contribution to local character and the identified harm would lead to conflict with 135 b), 135 c), 139 as well as 180(b) of the Framework.

*Visual harm*

- 5.42 The appeal site is open and visible to a number of receptors including housing development to the west and ribbon and intermittent housing to the south, users of parts of Rayleigh Road, Asquith Gardens and Firfield Road to the west and Daws Heath Road to the south. In addition, users of the public rights of way network that run alongside the north and east boundaries of the site have clear views across the open appeal site.
- 5.43 In terms of visual sensitivity, the visual sensitivity of the area is high.
- 5.44 In terms of visual receptors, occupiers of neighbouring dwellings and gardens are receptors that are normally held to be highly sensitive to change. Neighbouring rights of way exist and are used by walkers, cyclists and horse riders. All such leisure users are normally held to have a high sensitivity to change. Likewise pedestrians passing along Daws Heath Road and Rayleigh Road who are residents of the area of recreational users would also have a high sensitivity to change. The Council acknowledge that occupants of vehicles are likely to have a lower sensitivity to change.
- 5.45 The proposals will be visible and will affect the current baseline adversely as they would be visually intrusive. The change on the appeal site will be evident and impact significantly on passers-by (leisure users and residents) as well as neighbouring residents.
- 5.46 Existing passers-by along Rayleigh Road perceive the gap on the east side of the road between the development to the north comprising the fire station and related development and the suburban housing to the south. That gap will be lost and that sense of countryside punctuating the built area of Thundersley and Rayleigh will be lost.
- 5.47 The visual impacts will also include those associated with the new accesses onto Stadium Way and particularly Daws Heath Road. These works will include removal of existing trees and vegetation and cutting back other plants, trees and shrubs to accommodate these proposed changes. In the context of Daws Heath Road the proposals will introduce a 12.25 metre wide hardsurfaced access corridor with 10 metre radius resulting in a total opening to Daws Heath Lane of 24 metres. In terms of Stadium Way similar gaps would be opened up in the dense planting that separates the commercial development from the open countryside. These will give rise to significant impacts on visual receptors around the appeal site.

- 5.48 That the site is currently seen in the context of some existing development is only of limited relevance, it will extend much denser and more prominent development to the south and east and infill presently open land to the north of Daws Heath Road and west of existing nature reserve and woodland.
- 5.49 Overall, in terms of the harm to the character and appearance occasioned by the development of the site for 455 dwellings the degree of harm would be permanent, substantial and irreversible and attracts significant weight in the planning balance.

#### **Other issues**

- 5.50 The failure to provide a satisfactory mechanism to deliver necessary infrastructure to service the proposed development, and also secure the proposed affordable housing, would add to the Council's reasons for refusal.
- 5.51 However, it is anticipated that a section 106 obligation can address the provision of necessary infrastructure, the securing of affordable housing, and the provision of biodiversity enhancements.
- 5.52 The Heads of Terms should include:
- Affordable Housing
  - Biodiversity Net Gain
  - Provision of Play Space and its management
  - Healthcare General Medical contributions
  - Education (Early years and Primary) contributions
  - Library Services Contribution
  - Youth Services contribution
  - Highway Improvement and Sustainable Transport measures
  - Monitoring fees
  - Travel Plan monitoring fee
  - Custom Self Build Housing Plots
- 5.53 The Council will demonstrate that the contributions sought meet the Regulation 122(2) tests as well as those set out in the NPPF.

## **6 The Appellant's "Other Considerations" under NPPF para. 153**

- 6.1 The Council will assess the other considerations relied on by the Appellant and consider whether they are capable of clearly outweighing the harm identified. The Council will comment on whether certain matters relied on by the Appellant comprise benefits of this scheme.
- 6.2 The Appellant relies on a number of factors<sup>7</sup> which can be summarised as:
- The provision of housing in an area of housing need (including 40% affordable housing)
  - Delivering 10% BNG
  - The draft allocation of the site in the abandoned Local Plan
  - Economic benefits
  - Landscaping
  - Community Infrastructure
- 6.3 The Council will analyse each matter and attribute weight recognising the housing need position in Castle Point and the need for affordable housing.
- 6.4 It is common ground that the provision of housing including affordable housing and custom self-build plots carries substantial weight in the planning balance.

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<sup>7</sup>

See Statement of Case in particular at paragraph 5.2.2

## 7 Planning Balance

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 The Framework is a material consideration in the determination of these appeals. Under paragraph 11(d), the policies most important for the determination of the appeals are deemed to be out of date by reason of the HDT results and housing land supply shortfall: see footnote 8. This requires the decision-maker to consider whether the application of policies in the Framework provide a clear reason for refusing the proposal. One of the key sets of policies in the Framework are the policies protecting Green Belt land.<sup>8</sup>
- 7.3 The proposed development constitutes “inappropriate development” in the Green Belt. This is, by definition, harmful, and should not be approved except in “very special circumstances”. Substantial weight must be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is “clearly outweighed” by other considerations.
- 7.4 The other Green Belt harm by loss of openness and harm to the purposes of the Green Belt leads to substantial harm and must carry substantial weight.
- 7.5 Added to this is “any other harm” arising from the character and appearance matters considered above.
- 7.6 The Council carry out its Green Belt balancing exercise assuming that a satisfactory obligation is presented to address the provision of affordable housing, Custom Self Build Plots and other infrastructure associated with the application the subject of this appeal.
- 7.7 The weight of factors against the grant of permission present a high hurdle for the Appellant to demonstrate that these harms, taken together, are “clearly outweighed” by other considerations such that “very special circumstances” exist. This high bar is illustrated in an appeal decision in St Albans<sup>9</sup> wherein the Inspector notes:

*“The determination of whether very special circumstances exist is a matter of planning judgement based on a consideration of all relevant matters. However, very special circumstances cannot exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. Consequently, for the appeal to succeed, the overall balance would have to favour the appellants case, not just marginally, but **decisively**.”* Emphasis added

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<sup>8</sup> i.e. section 13 and footnote 7 of the National Planning Policy Framework 2023

<sup>9</sup> APP/ B1930/W/19/3235642 at Burstons Garden Centre

- 7.8 Overall, notwithstanding the benefits of the scheme taken together, the Council will show that they do not “clearly outweigh” the Green Belt and other harms and demonstrate “very special circumstances” to justify inappropriate development in the Green Belt for the purposes of paragraph 153 of the Framework.
- 7.9 As such, the application of the Green Belt policy provides a “clear reason for refusing” the development proposal under NPPF paragraph 11(d)(i). Thus the presumption in favour (the so called “tilted balance”) is disengaged.
- 7.10 The policies of the Framework provide clear reasons to refuse permission, and material considerations would not justify the grant of permission.
- 7.11 Therefore, the Council will invite the Inspector to dismiss the appeal.



# Appendix 1

## **Council's Committee Report 23/0085/OUT**



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



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

## **AGENDA**

**Committee: DEVELOPMENT MANAGEMENT**

**Date and Time: Wednesday 13<sup>th</sup> December 2023, at 7.00pm**

**Venue: Council Chamber, Council Offices**

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

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

**Substitutes: Councillors Barton-Brown, Fuller, Mountford, A. Thornton and Withers.**

**Canvey Island Town Councillor: S. Sach**

**Officers attending: Stephen Garner – Assistant Director Development Services  
David Bland – Chartered Legal Executive Lawyer (Fellow)**

**Enquiries: Ann Horgan, ext, 2413**

### **PART I (Business to be taken in public)**

#### **1. Apologies**

#### **2. Members' Interests**

#### **3. Public Speakers**

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

#### 4. Deposited Plans

The report is attached.

	Application No	Address	Page No
1	23/0085/OUT	Land East of Rayleigh Road, Thundersley, Essex, SS7 3UB (Victoria Ward)	1

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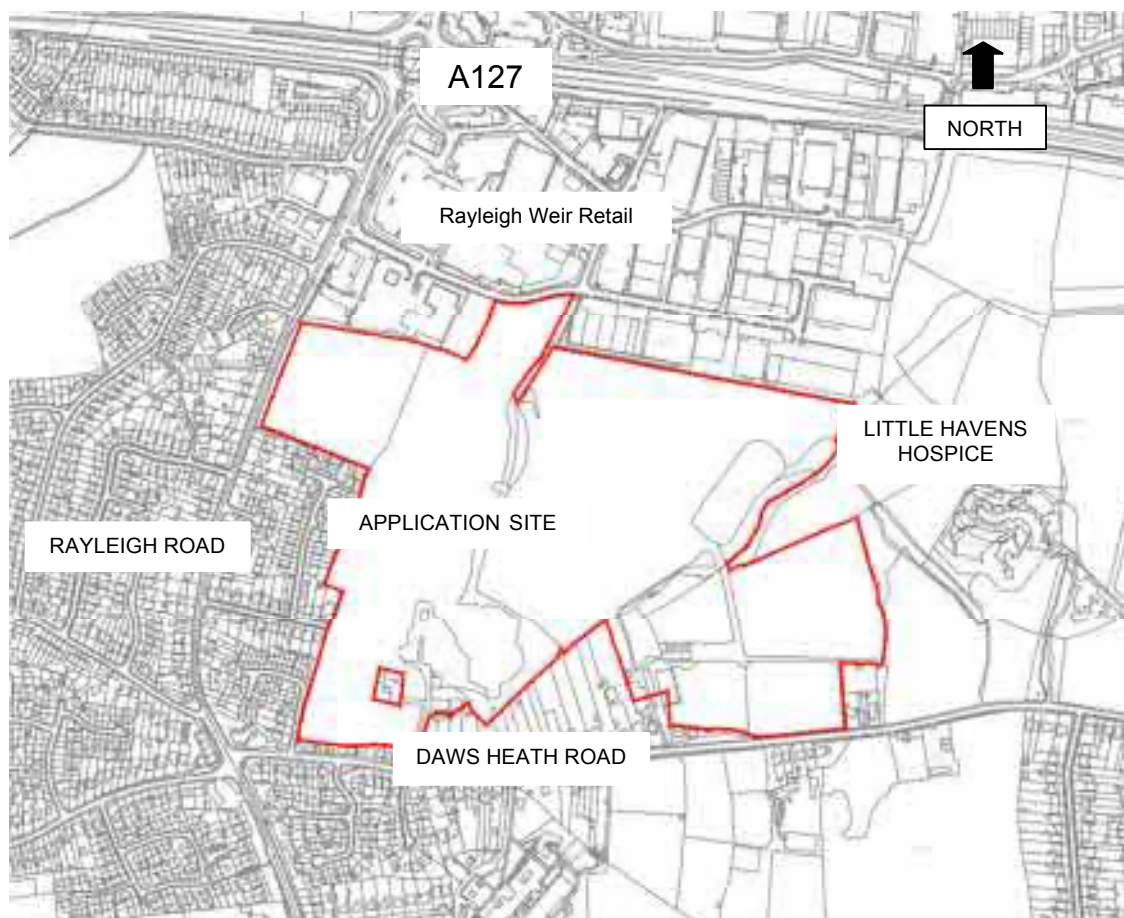
## ITEM 1

<b>Application Number:</b>	<b>23/0085/OUT</b>
<b>Address:</b>	<b>Land East of Rayleigh Road. Thundersley, Essex, SS7 3UB (Victoria Ward)</b>
<b>Description of Development:</b>	<b>Outline planning application for the development of up to 455 new homes, a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure. All matters reserved except access.</b>
<b>Applicant:</b>	<b>This Land Development Limited</b>
<b>Case Officer:</b>	<b>Terrence Garner</b>
<b>Expiry Date:</b>	<b>4<sup>th</sup> July 2023</b>

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### Summary

This application concerns the development of an irregularly shaped area of land, covering approximately 68.92 acres (27.89ha). The site is located south of the A127, east of Rayleigh Road and is south of both Stadium Way and Weir Retail Park. It also lies to the north of Daws Heath Road and is west of Little Havens Childrens Hospice and Nature Reserve. See Fig 1.



**Fig: 1 – Site Location plan.**

The applicant is seeking outline planning approval for access and the principle of residential development for up to 455 dwellings and associated facilities, with all other matters to be reserved for subsequent planning approval.

The principle of development is for up to 455 dwelling units, new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way and Daws Heath Road, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping, and associated infrastructure.

There are to be two vehicular access ways into the site, one is proposed to be from the north via Stadium Way and Rayleigh Road, the second from the south via Daws Heath Road, see Fig: 2.



**Fig: 2 – Aerial view of site from the southeast showing irregular small historic field pattern with dense dividing hedgerows.**

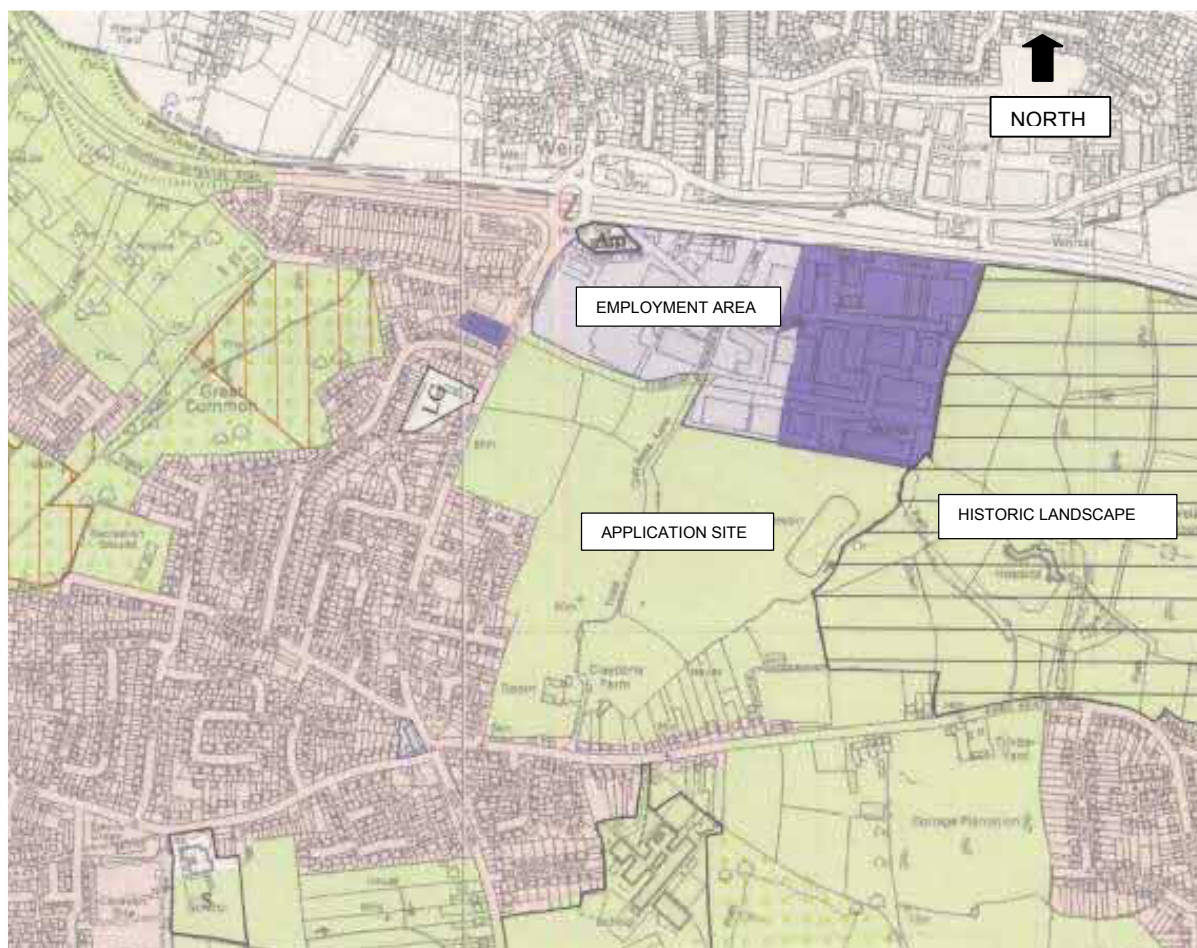
The site is unallocated for development on the development plan for Castle Point and lies within the designated Green Belt as shown on the proposals map accompanying the adopted Local Plan (1998). See Fig:3.

The area of Green Belt pertaining to the application site, includes for the whole of the application site. It should also be mentioned that Fig: 3 identifies an area of Historic Landscape (horizontally hatched area) and incorporates Little Havens Childrens Hospice.

Furthermore, it is evident that the Council is unable to demonstrate a five-year housing land supply, which triggers the consideration of the 'tilted Balance'.

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.





**Fig: 3 – Extract of Castle Point Local Plan Proposals Map (Adopted 1998)**

Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

The harm that will result from this development to the Green Belt and open countryside has been found to be substantial and unacceptable, which would trigger the 'tilted balance' consideration. The provisions of the NPPF, Green Belt and adopted Local Plan (1998), establishes that the development constitutes '*inappropriate development in the Green Belt,*' which could only be justified if '*Very Special Circumstances*' are identified, either individually or cumulatively, which would '*clearly*' outweigh the harm to the Green Belt, and those interests of acknowledged importance.

The Government attaches great importance to Green Belts, (Para 137 of NPPF). The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

In this case, it is necessary to consider the 'tilted balance' under paragraph 11d of the NPPF, which states that if the most relevant Local Plan policies for determining a planning application are out of date (or the Local Plan is silent on a matter), the application should be approved unless it is in a protected area (as defined by the NPPF) or the harms caused by the application would significantly outweigh its benefits.

if the most relevant Local Plan policies for determining a planning application are out of date (or the Local Plan is silent on a matter), the application should be approved unless it is in a protected

area (as defined by the NPPF) or the harms caused by the application significantly outweigh its benefits.

In seeking to identify 'very special circumstances' for this development. It is considered necessary to evaluate the application against the 'tilted balance' argument under paragraph 11d of the NPPF. However, the harm that will result to the Green Belt and openness of the countryside as a result of this development will be significant and unacceptable.

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

Further, there has been no evidence to show that the number of dwellings and facilities proposed through this application can only be achieved through the development of this Green Belt site.

In the absence of clear demonstration that the identified housing need could not be met elsewhere within the Borough, it is not considered that this circumstance nor any others suggested by the applicant, either individually or cumulatively would justify this inappropriate development in the Green Belt.

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

The proposal is therefore considered to be contrary to the adopted development plan and Government guidance as contained in the NPPF. Furthermore, in the context of Government advice and the continuing work on the preparation of a new Local Plan, together with a new Green Belt Assessment Framework which has recently been developed and which is being used on all new residential development in the Green Belt, the proposal is considered to be premature to future policy development and prejudicial to the development of the new future development plan strategy and the Green Belt policy.

The proposal has been assessed to have an unmitigated harmful impact on identified habitats sites resulting from recreational disturbance contrary to Government guidance as contained in the NPPF and the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (2020). However, suitable contributions to mitigate this identified harm have been agreed to be paid by the applicant as part of a S106 agreement if permission is to be granted. Subject to such a contribution, no objection is raised to the proposal on this basis.

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

In addition, Benfleet, and Southend Marshes Special Protection Area (SPA) and Ramsar sites, are located some 3.0km south of the site.

Ecological surveys were undertaken on-site and have found the following:

- The Site comprises improved grassland with some scattered scrub, hedgerows, treelines, and ancient woodland.
- The Site contains habitats which could support the following protected species or species groups; bats (roosting, foraging and commuting), nesting birds, hazel dormice and reptiles.

- Further surveys for reptiles, roosting bats and hazel dormice were undertaken which returned a negative result, as such, these species groups are considered likely absent from the Site.
- Further surveys for foraging and commuting bats found an assemblage of seven species, the majority common and widespread species, this assemblage of bats was assessed as being of local importance.

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

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

It should be noted that should Members seek to depart from this recommendation, by virtue of the provisions of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No 595), the application is identified as one which must be referred to the Secretary of State, in order that they might consider whether this is an application they wish to call in for their own determination.

If such an application were called-in by the Secretary of State, once that determination has been received, this matter would be presented to a further meeting of the Development Management Committee in the light of the Secretary of States final decision.

### **Site Visit**

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

### **Introduction**

As mentioned above, this application is for the development of 68.92acres (27.89ha) of agricultural land, formerly known as Claydon Farm, which was originally a small arable farm.

The location of the development site is also immediately south of the A127 and Rayleigh Weir Retail Park. Rayleigh Weir Retail Park has its southern boundary fronting directly on to the application site.

The existing Rayleigh Weir estate comprises several commercial developments, warehouses and workshops, together with a Sainsbury's retail store and a car sales showroom. To the north-western edge of the application site, towards the junction of Stadium Way and Rayleigh Road and lying to the south of Sainsburys, there is the Essex County Fire and Rescue Station.

From the junction with Stadium Way and Rayleigh Road, the western boundary for the site is defined by Rayleigh Road itself and existing residential development along its route south, towards Daws Heath Road junction.

The southern boundary to the application site follows the route formed by Daws Heath Road running from its junction with Rayleigh Road travelling east towards Little Havens Childrens Hospice.

The eastern boundary for the site is formed by field boundaries associated to Little Havens Nature Reserve and the Little Havens Childrens Hospice which is a step back from the application boundary.



There are a number of shops and commercial premises at the Woodman's junction, where Daws Heath Road, Hart Road and Rayleigh Road intersect in close proximity to the site and Thundersley Village is located approximately 0.7 miles to the west of the site where more shops are located.

More widely, Rayleigh town centre is located approximately 1.2 miles (1.9km) north of the application site and Hadleigh town centre is approximately 1.4 miles (2.25km) southeast of the site. There are several local facilities in both Rayleigh and Hadleigh town centres, including schools, leisure, retail and employment. These meet many of the day-to-day needs of existing residents in Hadleigh and Rayleigh, reducing the need to travel outside of the Borough.

The development site principally comprises a number of small historic fields, having dense natural hedgerows with trees, bushes, and flower rich acid grassland. The site forms part of an important wildlife corridor which runs into the urban area and is part of the historical Daws Heath Woodlands, which span from Hadleigh Great Wood in the east.

A stream runs through the site to the south-east of the large pond which is located to the northeast of the site. There is a small car park south of the pond including a single storey club house used by anglers.

The current access into the site is via an existing farm access from Daws Heath Road to the south of the site.

To the southwest of the site lies Thundersley and to the southeast lies Daws Heath, both are local centres, providing some services to the local community.

In addition, the site is located within 300-400m of Thundersley Great Common SSSI, which is to the northwest, 1.5km (0.9miles) of Great Wood and Dodds Grove SSSI to the southeast; and 1.8km (1.1miles) Garrold's Meadow SSSI, which is further to the east.

The application site is within the Zone of Influence (ZOI) identified within the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (2020) (RAMS) for the Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater Estuary SPA and Ramsar site, and the Foulness SPA and Ramsar site.

Within this ZOI, residents of new housing are considered more likely to regularly visit relevant designated sites for recreation and therefore potential harm these important habitats.

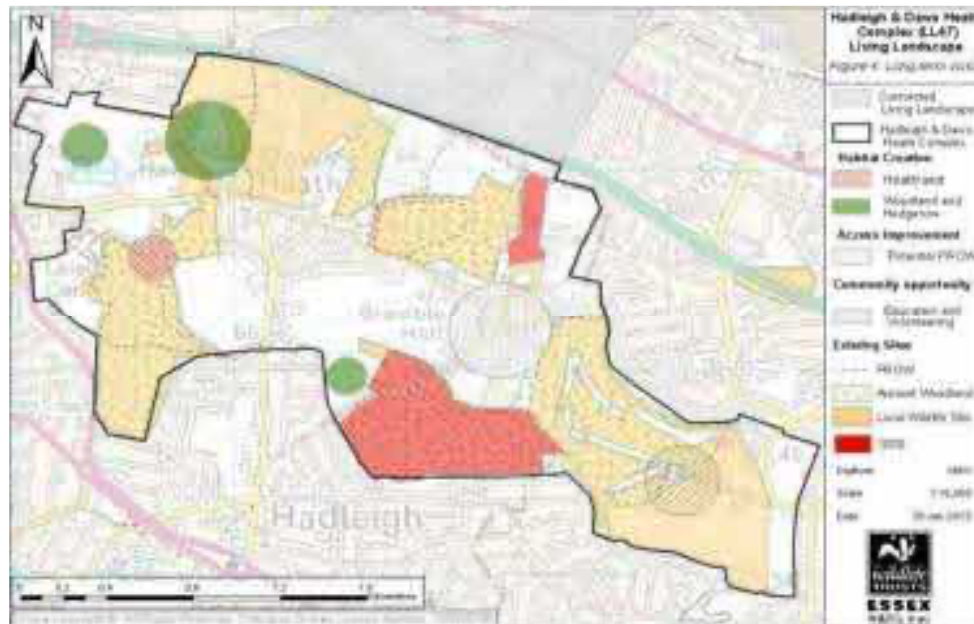
The application is considered by Castle Point Borough Council to be "relevant development" in the context of the RAMS document and so requires further consideration through the Appropriate Assessment stage to secure any mitigation measures necessary to avoid adverse effects on site integrity.

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

These two areas have within them or close by, a wide variety of flora and fauna. Little Havens Nature Reserve also has an important Historic Landscape within it.

There are also several protected species in and around these woodlands some of which are listed under the priority species mentioned in the post 2010 bio-diversity framework. These include the Heath Fritillary butterfly, which was close to extinction in 1970, and the Southern Wood Ant, which only survives in this immediate area. These aspects are discussed in more detail later in the report.

The site also falls within the Hadleigh and Daws Heath Complex Living Landscape (Fig: 4), an area identified for its network of wildlife-rich habitats. It covers an area of 470 Hectares (Ha), of which 182 Ha Are Woodland, 235 Ha are open Land and 53 Ha built up areas<sup>1</sup>.



**Fig: 4 - Hadleigh and Daws Heath Complex Living Landscape**

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

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

<sup>1</sup> Essex Wildlife Trust, 2010

- Provide management advice to farmers and landowners that would lead to enhancement of the landscape.

Ecological surveys undertaken on the application site found the following:

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

Regarding the protection of wildlife within the Daws Heath Complex Living Landscape area, it is evident that badgers are present on site following the surveys that have been undertaken.

Essex Badger Protection Group have emphasised that Badgers are fully protected by Badger Protection Act 1992 and the Wildlife and Countryside Act 1981.

The application site has thirteen badger setts located within it, with a large percentage said to be active. The proposed development requires for a number of these to be removed and/or relocated, including the largest main sett.

## **The Proposal**

The application is for outline planning permission for a residential development of up to 455 dwellings, new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way and Daws Heath Road, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure.

All matters are to be reserved except the principle of development and the means of access.

Whilst the application is in outline, there are a number of illustrative masterplans included with the application, these have been put together in the light of the following documents and policies of the council.

An indicative road layout for the site shown on Fig: 5, shows the main road running through the site, but it is proposed that only buses will be able to drive through the whole site using this road. In addition, this plan provides information on the general location for the proposed medical centre, community sports hall and an early year's centre. The plan also shows the general area for development across the site, as well as the multifunctional open spaces.



**Fig: 5 An indicative road layout for the site**

Another figure has been submitted highlighting the pedestrian and non-motorised vehicle access through the site as shown on Fig: 6.

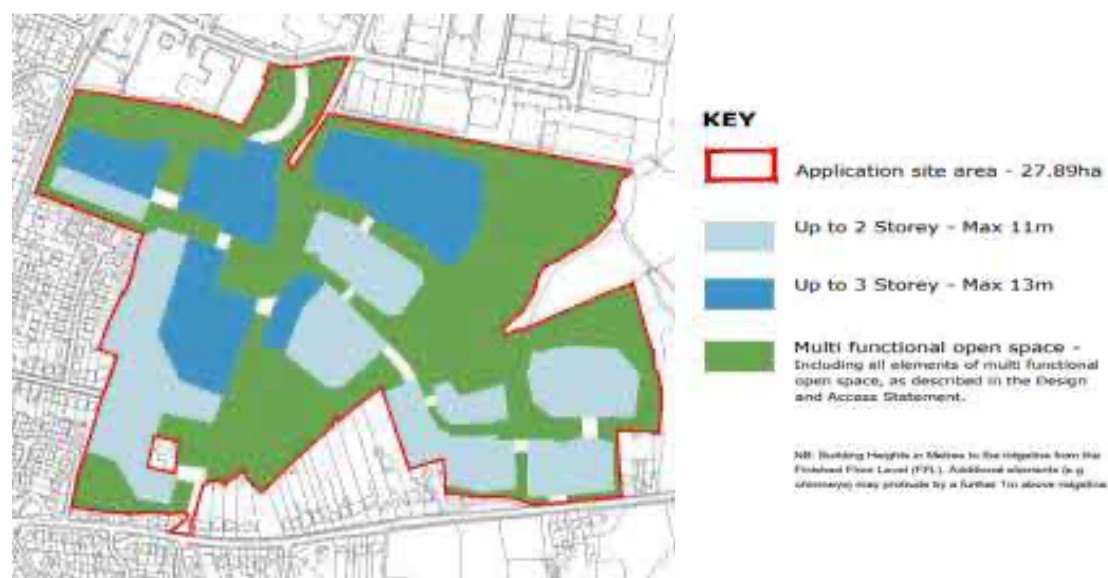


**Fig: 6 – Parameter Plan: Pedestrian and Non - Vehicular Access**

Included with the information supporting the outline application, is a further parameter plan Fig: 7, below, which relates to the scale of the proposed buildings on the site. The proposed buildings are to be between 2 and 3 storeys in height, with the majority of the 3 storey buildings being



located to the northern and central area of the site. The two storey buildings are to be principally located to the southern side of the site towards Rayleigh Road and Daws Heath Road.



**Fig: 7 - Parameter plan: Building Scale**

The figures 7 and 8 highlight the provision of multifunctional open space for the site which Fig 8 illustrates outlines the proposed biodiversity on the site including, woodlands, hedgerows, grassland, orchard and ornamental lake.



**Fig: 8 – Parameter Plan - Multi Functional Open Space**

An indicative phasing plan has also been provided as shown in Fig 9, which shows the development being delivered in four phases.



**Fig: 9 – Parameter Plan - Development Phasing (Option 3)**

## Supplementary Documentation

**Table 1 – Supplementary Documents and Drawings**

DRAWING/DOCUMENT DESCRIPTION.	DRAWING/ DOCUMENT NUMBER	DATE OF SUBMISSION			
		2023	2023		
		02	04		
		03	21		
REVISIONS					
APPLICATION FORM		✓			
OWNERSHIP CERTIFICATES		✓			
SITE LOCATION PLAN AS EXISTING	34580-101	B			
PLANNING STATEMENT		✓			
DESIGN AND ACCESS STATEMENT		✓			
DRAWINGS					
SITE ACCESS DRAWING – STADIUM WAY. PROPOSED SITE ACCESS	47268/5501/001	P 12			
SITE ACCESS DRAWING – DAWS HEATH ROAD PROPOSED SITE ACCESS	47268/5501/002	P8			
PROPOSED PARAMETER PLAN – LAND USE AND VEHICULAR ACCESS	34580-301	L			
PROPOSED PARAMETER PLAN – NON-VEHICULAR ACCESS	34580-304	C			
PROPOSED PARAMETER PLAN – MULTI-FUNCTIONAL OPEN SPACE	34580-303	G			
PROPOSED PARAMETER PLAN – BUILDING SCALE	34580-302	J			
PROPOSED DEVELOPMENT PHASING OPTION 3	34580-403	A			
APPLICATION REPORTS					
FLOOD RISK ASSESSMENT	47268/4003				
DRAFT SECTION 106 HEADS OF TERMS		✓			

HEALTH IMPACT ASSESSMENT		✓			
STATEMENT OF COMMUNITY INVOLVEMENT		✓			
NOISE IMPACT ASSESSMENT	ACO002	✓			
AIR QUALITY ASSESSMENT	REV .04	✓			
ECOLOGICAL IMPACT ASSESSMENT	REPORT	D			
BIODIVERSITY NET GAIN DESIGN STAGE REPORT	REPORT	D			
BUILT HERITAGE STATEMENT	JAC26510	✓			
DESK BASED ARCHAEOLOGICAL ASSESSMENT	JAC26510	✓			
ARBORICULTURAL IMPACT ASSESSMENT	REPORT	C			
ENERGY STATEMENT	REPORT	01			
INFILTRATION ASSESSMENT	TN-GEO-02	✓			
TRANSPORT ASSESSMENT	DOC-REF-01	✓			
TRAVEL PLAN		✓			
PRELIMINARY GROUND INVESTIGATION TECHNICAL NOTE	TN-GEO-01	✓			
PHASE 1 GROUND CONDITIONS ASSESSMENT	332210105/350/R-GEO-00	✓			
UTILITIES APPRAISAL		✓			
LANDSCAPE AND VISUAL IMPACT ASSESSMENT	R004f_2014	✓			
HABITATS REGULATIONS ASSESSMENT	REPORT	C			
ADDENDUM TO ECOLOGICAL IMPACT ASSESSMENT	REPORT		✓		

The applicant has also submitted a draft S106 Agreement, intended to secure contributions towards the provision of affordable housing, open space, multi-use community hall, recreational avoidance mitigation (RAMS), health contribution, land for the provision of a healthcare facility, monitoring fees, land for standalone early years and childcare nursery, education contributions and residential travel plan. Together with ECC infrastructure contributions, Mid & South Essex NHS Infrastructure, Sports and open-air recreation contributions.

## Planning History

The site has been subject to the following previous planning applications and appeals:

- CPT/356/10/OUT – Application submitted by Barton Willmore (on behalf of Barratt Strategic) on 3 June 2010, for a residential development of up to 239 dwellings, new access infrastructure, parking, landscaping and green spaces. This was not determined by Castle Point Borough Council.
- The applicant subsequently appealed for non-determination after a failure of CPBC to give notice of its decision within the appropriate period. (APP/M1520/A10/2138342)
- The appeal was withdrawn by the agent on 16 December 2010, no reason for the appeal withdrawal given.
- A retrospective planning application was submitted for the use of the land and lake to the northeast of the site as a fishing club; (retaining a caravan and storage building). This retrospective planning application received planning permission on 19 May 1998. Should this use continue, following any planning approval for the residential development, the schedule of conditions for the fishing club are felt not to conflict with the planning approval being sought with this current planning application.

- In addition to the above, a formal request for a *Screening Opinion* was submitted on 16 April 2021. The formal Screening Opinion was provided on 6 May 2021, see **Appendix 5**. The Screening Opinion concluded:

*“From an analysis of the information submitted by the applicant, the Local Planning Authority is of the opinion that the proposed development, either independently or cumulatively with the development of other sites, is unlikely to have such significant effects on the environment that an EIA should be carried out and an Environmental Statement submitted. For the above reasons, it is determined that an Environmental Statement is not required for the above development.”*

## **Pre-Application Engagement**

The preapplication work undertaken as part of the development of the application entailed the use of the developing policies associated to the now withdrawn Local Plan 2018 – 2033, and this together with discussions with officers were undertaken without prejudice.

The masterplan submitted in support of this application was discussed and prepared in partnership with CPBC, and officers of the planning policy and development management teams. This partnership approach was integral to the preparation of the planning application to ensure that the proposals reflected CPBC’s key aims and policy requirements, in the light of the Local Plan 2018 – 2033, but also to ensure that the development reflected national planning policy and guidance which seeks the creation of beautiful places. Public engagement has also been critical to the preparation of the site wide masterplan.

The planning application was aimed at developing proposals which achieve the key principles of the new national design code and associated guidance with the NPPF. The applicants submitted Design and Access Statement demonstrates how the site has responded to its local and wider context, reflecting key characteristics in the local area.

## **Public Engagement by the Applicant**

Community engagement by the applicant has been included with the planning application and with the preparation of the masterplan. The covid-19 pandemic limited the applicant’s ability to undertake in person public engagement early in the preparation of the masterplan.

In light of the inability to engage in person with members of the local community during the pandemic, the agents worked with the applicant to create an online webpage which enabled direct engagement with local residents. The website was designed to enable regular updates regarding the preparation of the masterplan, with dedicated questions to assist the applicant’s consulting team.

The applicants submitted a Statement of Community Involvement which included a detailed overview of the public engagement undertaken in the preparation of the masterplan and application, including how the proposals have responded to requests made by the local community.

## **Local Plan Allocation**

Green Belt



## Relevant Policies and Government Guidance

National Planning Policy Framework (NPPF, 2023)

Planning Practice Guidance (PPG)

Adopted Local Plan (1998)

EC2	Design
EC3	Residential Amenity
EC4	Pollution
EC13	Protection of Wildlife and their Habitats
EC14	Creation of new Wildlife Habitats
EC22	Retention of Trees Woodlands and Hedgerows
H9	New Housing Densities
H10	Mix of Development
T2	Intensification of Access Use
T8	Car Parking Standards
RE4	Provision of Children's Playspace and Parks
CF1	Social and Physical Infrastructure and New Developments
H13	Location of development
CF14	Surface Water Disposal

Residential Design Guidance (RDG, 2013)

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

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

Technical Housing Standards – National Described Space Standard (DCLG, March 2015)

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (Essex County Council, 2020)

Guidance for Assessing Planning Applications in the Green Belt in Castle Point (November 2023)

#### Other relevant Documents,

- Habitats Regulations Assessment (Screening Report and Appropriate Assessment) Sept 2020.
- Safer Places: The Planning System and Crime Prevention 2004
- Developer Contributions Guidance SPD – Adopted March 2023
- Community Infrastructure Levy
- Castle Point Open Space Appraisal Update 2012
- Parking Standards: Design and Good Practice (Essex County Council, 2009)
- South Essex Economic Development Needs Assessment (2017) South Essex Retail and Leisure Study (November 2017)
- South Essex Strategic Flood Risk Assessment (April 2018)
- South Essex Strategic Housing Market Assessment (2020)
- South Essex Strategic Housing Market Assessment (SHMA, 2016)

#### **Community Infrastructure Levy (CIL)**

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

This proposal is CIL a CIL liable development.

#### **Consultation**

##### Essex County Council (Ecology)

No objection subject to securing:

- a) ecological mitigation and enhancement measures; and
- b) visitor management measures towards the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater SPA and Ramsar site & Essex Estuaries SAC, in line with the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy.

We have reviewed the submitted documents for this scheme, including the following documents relating to the likely impacts of development on designated sites, protected and Priority species & habitats:

- Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023)
- Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023)
- Response to Essex Wildlife Trust (EWT) comments regarding ecological surveys and assessments (Southern Ecological Solutions Ltd, June 2023)
- Project Level Habitats Regulations Assessment (Southern Ecological Solutions Ltd, November 2022)

In addition, we have reviewed the Biodiversity Net Gain Design Stage Report (Southern Ecological Solutions Ltd, January 2023) and the associated Biodiversity Metric – Calculation Tool 3.1, submitted to demonstrate how measurable biodiversity net gains can be achieved be achieved for this application, based on the proposed outline landscape masterplans.

We are satisfied that there is sufficient ecological information available for determination.

This provides certainty for the LPA of the likely impacts on protected and Priority species/habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

The mitigation measures identified in the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023) should be secured and implemented in full, as this is necessary to conserve Protected and Priority Species. As a result, finalised mitigation measures should be outlined within a Construction Environmental Management Plan (CEMP: Biodiversity) to be secured as a precommencement condition of any consent. The CEMP: Biodiversity must outline the finalised measures for Badger to be secured under via mitigation licence (A24) with Natural England and must also be informed by up-to-date pre-commencement surveys for mobile species.

In addition, we note that the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) recorded a Common Pipistrelle day roost within ‘building 1’ and a Soprano Pipistrelle day roost within ‘building 5’, following surveys carried out in 2020/21. These surveys were updated in 2022 as part of the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023) and confirmed that only ‘building 1’ contained a Common Pipistrelle day roost. Therefore, we agree that that if the roost feature is still suitable for bats for ‘building 5’, the proposed mitigation and measures outlined within the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) are still applicable, regardless that bats were not confirmed in the updated surveys. As the two roost sites contain small numbers of common and widespread bat species, a registered consultant with a Bat Mitigation Class Licence (CL21) could be used to undertake the works under their licence. Alternatively, a traditional bat mitigation licence (A13) could be applied for this application. A copy of the licence application or evidence the site has been registered under a Bat Mitigation Class Licence should be supplied to the LPA prior to commencement of any works that will affect the known roost sites with ‘building 1’ and building 5’.

Furthermore, we note that reptile survey carried out in 2022 identified an increase of reptile populations, with a ‘good’ population of Common Lizard (peak count 24) and a ‘low’ population of Slow-worm (peak count 2), based on standard methodology<sup>1</sup>. Previous surveys carried out in 2020 identified ‘low’ populations of both species with a peak count of five Slow-worm and two Common Lizard. The Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) outlines that large areas of multifunctional use land will be created or enhanced for reptiles, including rough grassland, species-rich other neutral grassland and scrub. In addition, it was outlined that the majority of the suitable habitat for reptiles lies on boundary edges of the modified grassland (SES Ltd pers comm, October 2023) and that the majority modified grassland is unsuitable. As a result, based on the submitted on Appendix 5 - Proposed Habitat Post Development within the Biodiversity Net 1 Froglife (1999) Froglife Advice Sheet 10: reptile survey. Froglife, London. Gain Design Stage Report (Southern Ecological Solutions Ltd, January 2023), we are satisfied that appropriate reptile habitat can be delivered within the red line boundary to support the on-site population. However, it is indicated that the mitigation strategy proposed within the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) will need to be updated within the CEMP to a ‘60 days translocation scheme or Common Lizard present. In addition, we recommend that the Landscape and Ecological Management Plan should be provided to outline how the site will be enhanced to support the known reptile populations.

In addition, we have the following further comments for this application:

International and European designated sites:

It is also indicated that the application falls within the Zone of Influence (ZOI) for the Blackwater Estuary Special Protection Area (SPA) & Ramsar site, the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site and the Essex Estuaries Special Area of Conservation (SAC). As a result, measures are required to demonstrate how adverse impacts to site integrity will be avoided upon the indicated international and European designated sites (either alone or in combination with other plans and projects) from increased recreational disturbance.

A Project Level Habitats Regulations Assessment (Southern Ecological Solutions Ltd, November 2022) has been submitted by the developer. This demonstrates that there will be a total of 14.60ha of informal open space that will provide a range of different experiences for new residents. This includes a lake, woodlands, orchards, wet grasslands, scrub grasslands and meadow grasslands which are all interlinked. The provision of this informal open space provision is greater than 8.74ha required in line with Natural England Thames Basin Heaths guidance on SANGs, which recommends 8ha per 1,000 persons. This is based on the conclusion that the development will likely support 1092 new residents (based on 2.4 people/dwelling - UK 2011 Census Data).

In addition, it indicates that the developer is happy to provide recreational opportunities for a 2.7km daily walking route for new residents, away from nearby Local Wildlife Sites, with dogs off lead areas and dog waste bins. This will be promoted by the way of leaflets and signage, with the finalised measures secured via a s.106 agreement or condition of any consent.

Furthermore, a financial contribution (£156.76 per dwelling – 2023/2024) should be sought from the residential development, in line within the Essex Recreational Avoidance and Mitigation Strategy (RAMS) to demonstrate recreational disturbance will be avoided from this application in combination with other plans and projects. This financial contribution will also be required to be secured via a s.106 agreement.

A Habitat Regulations Assessment (HRA) – Appropriate Assessment Record has been prepared by Place Services on behalf of the Council (as the competent authority), which has been approved by the developer. This has been submitted to Natural England on the 27 th October 2023 to review and we note that no concerns were raised in Natural England's initial consultation response (March 2023, ref. 425626). As a result, we are satisfied that appropriate measures will be undertaken for international and European designated sites for this application.

Non-statutory designated sites:

We note the close proximity of the site to Little Haven/Tile Wood Complex Local Wildlife Site (LoWS), which has been designated due to its mosaic of ancient, coppiced woodlands, hedgerows, hay meadows and acid grassland, with the site supporting populations of Heath Fritillary and Hazel Dormouse.

However, we are satisfied that the proposed measures outlined within the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) will ensure that direct impacts will not be caused upon the LoWS, with finalised measures to be secured via the Construction and Environmental Management Plan.

Will acknowledge that there will likely be increased visitor usage of the Local Wildlife Site. However, the developer has implemented significant measures to minimise impacts from daily recreational needs of new residents, via the inclusion of 14.27ha of multi-functional open space, a commitment of an advertised 2.7km walking route away from the LoWS. In addition, there will be no direct access to the LoWS from the new development with thorny scrub and grassland provided on the boundary of the LoWS to deter unrestricted / unmanaged access to the reserve.

The Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and subsequent further walkover surveys recorded no evidence of Common Cow Wheat within the hedgerows and on-site woodland (SES Ltd pers comm, October 2023), which is the primary larva food plant of Heath Fritillary. In addition, the butterfly was not recorded during the invertebrate surveys. Furthermore, Hazel Dormouse surveys in line with standard methodology<sup>2,3</sup> was carried out for this scheme and likely absence was confirmed for the species.

As a result, we are satisfied that sufficient measures have been undertaken to minimise impacts upon the Little Haven/Tile Wood Complex Local Wildlife Site (LoWS). No other non-statutory designated sites are expected to be impacted by the proposed development, with consideration of the submitted ecological information.

#### Foraging and Commuting Bats:

We support the conclusions of the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023) in regard to foraging and commuting bats. As a result, a wildlife friendly lighting scheme should be provided for this application to be secured as a condition of any consent prior to occupation, which follows the ILP & BCT 2023 guidelines. Therefore, it is highlighted that a professional ecologist should be consulted to advise the lighting strategy for this scheme. In addition, the following measures should be indicated to avoid impacts to foraging and commuting bats:

- Light levels should be as low as possible as required to fulfil the lighting need.
- Environmentally sensitive zones should be established within the development, where lighting could potentially impact important foraging and commuting routes for bats.
- Lux levels should be directed away from environmentally sensitive zones and kept as low as possible. This should preferably demonstrate that the boundary features and Environmentally Sensitive Zones are not exposed to lighting levels of approximately 1 lux (equivalent to twilight), via the provision of contour plans / isolux drawings.
- Lighting should have a maximum correlated colour temperature of 4000K. However, warmwhite light (<3000K) should be used if lighting is required near to Environmentally Sensitive Zones. This is necessary as lighting which emit an ultraviolet component or that have a blue spectral content have a high attraction effect on insects. This may lead in a reduction in prey availability for some light sensitive bat species.
- Light columns should be as short as possible as light at a low level reduces the ecological impact.
- The provision of motion sensors and timers should also be considered to minimise the amount of 'lit time'.

#### Badger:

In regard to Badgers, it is indicated that we are satisfied with the proposed measures outlined within the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023). This demonstrates that the proposed new development will provide sufficient land to support the known Badger population within the site. The scheme has been designed to ensure the foraging and commuting options will be maintained. However, as the main sett will be impacted by proposed works, as a result we agree that a new artificial sett replacement will be required in line with mitigation measures proposed within the Ecological Impact Assessment. The finalised details and location of the artificial sett should be secured within a separate method statement as part of the CEMP.

#### Invertebrates:

We note that the invertebrate surveys identified the presence of Shrill Carder Bee (*Bombus sylvarum*) and Small Heath (*Coenonympha pamphilus*), which are both Priority species under

S.41 of the NERC Act 2006 (as amended), with the Shrill Carder Bee also being Nationally Scarce. Cinnabar (*Tyria jacobaeae*) was also identified, but this is a Priority species for research purposes only. In addition, a nationally Scarce beetle (*Mordellistena neuwaldeggiana*) as well as Stag Beetle (*Lucanus cervus*), but consideration should be made on the choice of logs, as the larvae are only associated with Oak sp., Hornbeam, Alder sp. and Hazel. The finalised details of the loggeries can be secured as part of a Biodiversity Enhancement Strategy

It is indicated that Shrill Carder Bee is associated with tall, but open sward grassland and requiring flower-rich areas of foraging, whereas Small Heath is associated with short swards and bare grounds, with the larva foodplant being fine-leaved grassland (e.g. Fescue sp.).

As a result, the proposed tussock grassland and scrub will likely be suitable for Shrill Carder Bee. However, there will likely be a need for the planting schedule and Landscape and Ecological Management Plan to incorporate some habitat creation and aftercare suitable for Small Heath Butterfly. The proposal to provide loggeries within the woodland will further enhance the Nationally Scarce beetle (*Mordellistena neuwaldeggiana*) as well as Stag Beetle (*Lucanus cervus*), but consideration should be made on the choice of logs, as the larvae are only associated with Oak sp., Hornbeam, Alder sp. and Hazel. The finalised details of the loggeries can be secured as part of a Biodiversity Enhancement Strategy.

#### Biodiversity Net Gain:

We welcome the provision of the Biodiversity Net Gain Design Stage Report (Southern Ecological Solutions Ltd, January 2023) and the associated Biodiversity Metric – Calculation Tool 3.1. These calculations state that a net gain of 11.69 habitat units(10.48%) and 2.49 of hedgerow units(11.99%). We note that calculations submitted use the Governments Biodiversity Metric 3.1 and indicate that Biodiversity Metric 4.0 is currently available. Nevertheless, we are aware that the calculations have already been updated from 2.0 to 3.1 and it is up to the Local Planning Authority to indicate whether they wish the most recent metric to support this application.

We generally support the submitted calculations which reflect the habitat baseline and postintervention habitat proposals, and we are generally satisfied that measurable biodiversity net gains can be achieved for this application. However, we wish to highlight the following points in regard to the habitat creation and enhancement measures:

- We note that 0.05ha (0.65 habitat units) of Lowland mixed deciduous woodland will be lost to the proposal to create the access of the site and that impacts will be off-set by habitat enhancement to remaining Lowland mixed deciduous woodland. However, the proposal to enhance the habitat from moderate – fairly good has not been justified via the use of condition criteria. In addition, it is highlighted that it is difficult for all woodland to achieve a 'good' condition score based on the criteria and we acknowledge that the use of intermediary condition criteria has been provided to reflect this difficulty. As a result, further evidence within the Landscape and Ecological Management Plan must be provided to demonstrate how this will be achieved, to allow the LPA to demonstrate compliance with the S.40 of the NERC Act 2006.
- We note that 95 moderate sized 'urban trees' are proposed to be created, which provides a total of 10.64 Habitat units. Therefore, it is highlighted that it is necessary to demonstrate that the growth rate of trees will achieve a >30cm DBH (Diameter at Breast Height) in line with version 4 of the Biodiversity Metrics. (i.e. tree species, tree vigour, geography, soil conditions, sunlight, precipitation levels and temperature). Therefore, it would be beneficial to have some additional clarification from the applicant's ecologist / landscape consultant at reserved matters stage on this matter, to ensure that the measurable biodiversity net gains can be achieved.

- We note that the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) outlines that there is running water present within the Phase 1 Habitat Map. However, this is not referenced within the Appendix 5 - Proposed Habitat Post Development within the Biodiversity Net Gain Design Stage Report (Southern Ecological Solutions Ltd, January 2023). Therefore, query why Watercourse units have not been incorporated into this metric.

As a result, it is recommended that finalised biodiversity net gain plan is secured as a condition of any consent alongside the reserved matters scheme (at each phase, if applicable). The planting specifications / schedules and a Landscape Ecological Management Plan must be secured in line with aims and objectives of the updated Biodiversity Metrics, with the LEMP reflecting the target condition criteria for the proposed habitat creation / enhancement. The biodiversity net gain plan should include a monitoring strategy to assess whether the objectives of the soft landscaping is on track to reach the proposed habitat creation / enhancement proposals. This is necessary to demonstrate that measurable biodiversity net gains can be achieved in line with paragraph 174d of the NPPF 2023 and compliance with the NERC Act 2006 (as amended).

Additionally, we support the proposed bespoke biodiversity enhancement measures contained within the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and indicate that a finalised strategy should be provided via Biodiversity Enhancement Strategy to be secured by a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006.

Impacts will be minimised such that the proposal is acceptable subject to the conditions below based on BS42020:2013.

Submission for approval and implementation of the details below should be a condition of any planning consent.

### *Recommended conditions*

**1. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**  
A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority, in line with the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and the Addendum to Ecological Impact Assessment (Southern Ecological Solutions Ltd, April 2023).

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.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

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).

## 2. PRIOR TO COMMENCEMENT: BADGER METHOD STATEMENT

"A Badger Method Statement shall be submitted to and approved in writing by the local planning authority. This will contain finalised mitigation measures and/or works to reduce potential impacts to Badger during the construction phase, including the finalised location and details of the artificial badger sett.

The measures and/works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter."

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).

## 3. PRIOR TO COMMENCEMENT OF ANY WORKS WHICH WILL IMPACT THE RESTING PLACE OF BATS: BAT LICENCE

"Any works which will impact the resting place of bats, shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) evidence of site registration supplied by an individual registered to use a Bat Mitigation Class Licence; or
- c) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence."

Reason: To conserve protected 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 s17 Crime & Disorder Act 1998.

## 4. PRIOR TO COMMENCEMENT: LANDSCAPE AND ECOLOGICAL MANAGEMENT PLAN

"A Landscape and Ecological Management Plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority prior to commencement of the development.

The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan in line with the finalised biodiversity metric).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the longterm implementation of the plan will be secured by the developer with the management body(ies)



responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.”

Reason: To 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)

#### 5. CONCURRENT WITH RESERVED MATTERS: BIODIVERSITY NET GAIN PLAN

Concurrent with reserved matters, a finalised Biodiversity Net Gain Plan shall be submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the agreed Biodiversity Metric as applied in the area in which the site is situated at the relevant time.

The content of the Biodiversity Net Gain Plan should include the following:

- a) Proposals for the on-site biodiversity net gain;
- b) A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Net Gain Plan.

Reason: To allow the development to demonstrate measurable biodiversity net gains and allow LPA to discharge its duties under the NPPF and s40 of the NERC Act 2006 (Priority habitats & species).

#### 6. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

“Prior to any works above slab level, a Biodiversity Enhancement Strategy for bespoke biodiversity enhancements, prepared by a suitably qualified ecologist in line with the recommendations of the Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023), shall be submitted to and approved in writing by the local planning authority.

The content of the Biodiversity Enhancement Strategy shall include the following:

- a) Purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs or product descriptions to achieve stated objectives;
- c) locations, orientations and heights of proposed enhancement measures by appropriate maps and plans (where relevant);
- d) persons responsible for implementing the enhancement measures; and
- e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.”

Reason: To enhance protected and Priority species & habitats and allow the LPA to discharge its duties under the NPPF 2021 and s40 of the NERC Act 2006 (Priority habitats & species).

#### 7. PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME A lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats

and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory.

All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: To 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)

Optional – dependent on s.106 agreement wording

#### 8. PRIOR TO OCCUPATION: DELIVERY OF ONSITE MEASURES IN LINE WITH THE APPROVED HABITATS REGULATIONS ASSESSMENT

“On site measures to avoid impacts from the development alone from recreation disturbance to the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater SPA and Ramsar site & Essex Estuaries SAC shall be submitted to, and be approved in writing by, the local planning authority prior occupation of the development. The content of the of the onsite measures will be in line with the approved Habitats Regulations Assessment and shall include the following:

- a) Purpose and conservation objectives for the proposed measures;
- b) Detailed designs of the interpretation board and leaflets;
- c) Timetable for implementation demonstrating that measures are aligned with the proposed phasing of development;
- d) Locations of proposed interpretation boards by appropriate maps and plans; and
- e) details of initial aftercare and long-term maintenance.

The measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.”

Reason: To avoid Adverse Effects on the Integrity to the Foulness Estuary SPA and Ramsar site, Benfleet and Southend Marshes SPA and Ramsar site, the Blackwater SPA and Ramsar site & Essex Estuaries SAC and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended).

#### Essex County Council (Historic Environment)

The applicant has confirmed that the majority of the existing Historic hedgerows will be preserved within the proposed development as defined within the design and access statement, which will retain the historic pattern of hedges, although the housing will detract from the overall agrarian nature of the present landscape. If the development receives permission archaeological work would be required on any hedge and ditch lines that need to be crossed. The following condition, as identified in the original response, is based on the advice given in the new National Planning Policy Framework paragraph 194 and 205.

#### RECOMMENDATION:

An Archaeological Programme of Trial Trenching followed by discussion on preservation or Open Area Excavation of deposits identified.

1. No development or preliminary groundworks shall commence until a programme of archaeological trial trenching has been secured and undertaken in accordance with a Written Scheme of Investigation which has previously been submitted by the applicant, and approved by the planning authority.
2. A mitigation strategy detailing the excavation/preservation strategy for any archaeological deposits shall be submitted to the local planning authority following the completion of this work.
3. No development or preliminary groundworks can commence on those areas containing archaeological deposits until the satisfactory completion of fieldwork, as detailed in the mitigation strategy, and which has been previously approved by the local planning authority in consultation with its historic environment advisors.
4. The applicant shall submit to the local planning authority a post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Planning Authority). This will result in the completion of post-excavation analysis, preparation of a full site archive and report ready for deposition at the local museum, and submission of a publication report.

Essex County Council (Infrastructure Planning Officer) – 03/04/2023

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

When estimating the number of children that a new housing development will generate, and that will require a school place (yield), ECC takes account of the number of houses and flats that are suitable to accommodate children. One-bedroom units and some dwellings, such as student and elderly accommodation, are excluded from the education calculation.

With reference to the details above, a development of this size can be expected to generate the need for up to 40.9 Early Years and Childcare (EY&C) places; 136.5 Primary School places, and 91 Secondary School places.

Please note that any developer contribution figures referred to in this letter are calculations only, and that final payments will be based on the actual dwelling unit mix and the inclusion of indexation.

*Early Years and Childcare*

Essex County Council has a statutory duty under the Childcare Act 2006 to ensure that there is sufficient and accessible high-quality early years and childcare provision to meet local demand and parental choice. This includes provision of childcare places for children aged between 0-5 years as well as wrap around provision for school aged children (5-11 or up to 19 with additional needs).

The proposed development is located within, according to latest available childcare sufficiency data, there are 5 early years and childcare providers within the ward. Overall, a total of 2 unfilled places were recorded for this ward.

The data shows that there is insufficient provision to meet the additional demand created by this development. It is therefore proposed that a new facility is required within a 3-mile radius and therefore we request a suitable piece of land (minimum 0.13 hectare) and a financial contribution to facilitate a new 30 place early years and childcare provision and additional contribution for remaining places.

The demand generated by this development would require a contribution towards the creation of additional places. A developer contribution of £839,803 index linked to [Q1- 2020], is sought to mitigate its impact on local Early Years & Childcare provision. This equates to [£20,508] per place.

### *Primary Education*

This development would fall within the Priority Admission Area of Thundersley Primary School, which has a Published Admission Number of 60 pupils per year. As at the census in October, the school had 443 pupils on role. This number includes a 'bulge' group of 87 pupils in Year 4. Although there are fluctuations in demand, which means there is pressure in some years, there is generally a suitable balance in the area between capacity and the number of children for whom this is their closest school. A development of around 455 homes would likely alter that balance. Looking at the wider area, forecasts set out in the Essex School Organisation Service's Ten-Year Plan suggest that there may be a need for additional capacity in the Thundersley, Benfleet and Hadleigh areas during the second half of the Plan period. The outcome of this application and greater clarity over Castle Point's new Local Plan will be key determinants in crystalising ECC's response to pressure on school places.

A developer contribution of £2,357,087 index linked to Q1- 2020, is sought to mitigate its impact on local Primary School provision. This equates to £17,268 per place.

### *Secondary Education*

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

### *Post 16 education.*

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

### *School Transport*

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

### *Libraries*

ECC may seek contributions to support the expansion of the Library Service to meet customer needs generated by residential developments of 20+ homes. The provision of a Library Service is a statutory duty under the 1964 Public Libraries and Museums Act and it's increasingly become a shared gateway for other services such as for accessing digital information and communications.

The suggested population increase brought about by the proposed development is expected to create additional usage of Hadleigh Library which is approx. 2 miles away from this development. A developer contribution of £35,399 is therefore considered necessary to improve, enhance and extend the facilities and services provided. This equates to £77.80 per unit, index linked to April 2020.

## *Monitoring Fees*

To secure the delivery of the various infrastructure improvements and to meet the needs arising from development growth, ECC needs to monitor Section 106 planning obligations to ensure they are fully complied with on all matters. ECC has a resultant obligation to ensure the money is received and spent on those projects addressing the needs for which it was sought and secured. To carry out this work, ECC employs a staff resource and charges an administration/monitoring fee towards funding this requirement. The Monitoring Fee will be charged at a rate of £550 per obligation (financial and otherwise). On large developments the Monitoring Fee will be calculated using a bespoke approach.

## *Employment and Skills*

Both Central and Local Government have a crucial role to play in identifying opportunities to maximise employment, apprenticeships, and to invest in skills to realise personal and economic aspirations.

ECC has a role to play in supporting Local Planning Authorities and helping to ensure that the development industry has the necessary skills to build the homes and communities the county needs. ECC supports Castle Point Council in securing obligations which will deliver against this crucial role in supporting employment and skills in the district.

In the current economic climate and national skills shortage, ECC supports Castle Point Council in requiring developers to prepare an 'Employment and Skills Plan' (ESP) seeking to drive forward an increase in construction employability levels and workforce numbers. These plans will help to address negative perceptions of the sector and develop a strong future pipeline. This is referred to as the 'development phase'. ECC also supports Castle Point Council in requiring landowners to produce an ESP for commercial developments, to enable wider employment opportunities for those requiring additional support to enter the job market. This is referred to as the 'end-use phase'. Additionally, ECC encourages Castle Point Council to consider the inclusion of other requirements, including financial contributions, to support appropriate employment and skills outcomes because of this development.

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

The contributions requested have been considered in connection with the CIL Regulations 2010 (as Amended) and are CIL compliant. Our standard formula s106 agreement clauses that ensure the contribution would be necessary and fairly and reasonably related in scale and kind to the development are available from Essex Legal Services.

If your council were minded refusing the application, ECC request that we are automatically consulted on any appeal or further application relating to the site. Thank you for consulting this authority in respect of this application.

Essex County Council (Green Infrastructure Team) 21/03/2023

ECC currently provides advice on green infrastructure schemes (GI) for major developments. ECC have been consultees on GI since 2018. Although there are no statutory requirements for GI, the 25 Year Environment Plan and emerging Environment Bill will place significant importance on protecting and enhancing GI, accessibility, and biodiversity net gain.

In providing advice we look to ensure that adequate provision, protection, and improvements of high-quality GI comply with the objectives and planning principles set out in the following documents:

- Local Planning Authorities (LPA) Green Infrastructure Strategy/ SPD or equivalent green and open space strategies provide further guidance on the LPA's Local Development Plan policies regarding the Council's approach to green infrastructure provision in the local authority area.
- Essex Green Infrastructure Strategy, 2020, aims to enhance the urban and rural environment, through creating connected multi-functional GI that delivers multiple benefits to people and wildlife. It meets the County Council's aspirations to improve GI and green spaces in our towns, city, and villages, especially close to areas of deprivation.
- Essex Green Infrastructure Standards, 2022, provide clear guidance on the requirements on both planning policy and planning application and processes.

### Essex County Council (Green Infrastructure)

Having reviewed the Planning Statement/Design and Access Statement/EIA/ Arboriculture Impact Assessment/Biodiversity Net Gain Design Stage Report/Masterplans and the associated documents which accompanied the planning application, we do not object to the granting of (23/0085/OUT) based on the following:

Condition 1 - The ECC GI Team welcomes the commitment to strategic GI elements such as green corridors, green open space, links to active travel, and planned retention and enhancement of existing GI. It is positive to see that the proposal is positioning GI at the heart of the development, however, we believe there is an opportunity to incorporate this into a Green Infrastructure/Landscape Strategy, based on the Essex Green Infrastructure Strategy (2020) and the Essex GI Standards (2022). This would build upon the Multifunctional Green Infrastructure Strategy that is introduced on p66 of the DAS.

Therefore, we recommend that no works shall takes place until a detailed Green Infrastructure Strategy/ Landscape Strategy for the site, based on the Essex Green Infrastructure Strategy 2020 and Essex GI Standards 2022 and an assessment of the ecological context of the development, has been submitted to and approved in writing by a landscape specialist form the local planning authority. The scheme should include but not be limited to:

- The development should be designed to deliver Biodiversity Net Gain and wider environmental net gains, that forms an important component of nature recovery networks and the wider landscape scale GI network.
- Demonstrate that the development site/setting has been reviewed for multiple functions and benefits (listed in the Essex GI Strategy (chapter 5.1, page 35) and ensure that green/open spaces are designed to ensure multi- purpose and functional use.
- Travel Infrastructure should consider use of GI features to ensure accessibility across the site.
- Ensure there are good accessible links for all from the development to existing settlements, urban centres, rural areas, active travel networks and green spaces.
- Demonstrate how the GI has been designed to provide recreational facilities for different user and age groups. It should deliver social inclusive processes that are open to all and incorporate the knowledge and needs of diverse parties.

Reason: GI and its connectivity are to be at the heart of decision making at every stage in the planning and design process for all developments from the outset, thus GI is integral to place shaping. Planning and design of GI will ensure individual building, street, neighbourhood, and landscape scale intervention features contribute to a coherent, meaningful, and practical network of high-quality and multi-functional GI, that will provide multiple environment, social and economic benefits within the development and wider area. By ensuring good early design considering the local context and including local policy context, the GI will more effectively meet local priorities and needs.

The National Planning Policy Framework 2021 paragraph 8c sets environmental protection and enhancement as one of the 3 objectives of the planning system. Paragraph 98 states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and can deliver wider benefits for nature and support efforts to address climate change.

Condition 2 - The ECC GI team welcomes the commitment to provide a CEMP prior to development (paragraph 8.3.5 of the planning statement and 4.4 of the Ecological Impact Assessment). We recommend that the CEMP forms part of a Green Infrastructure Plan and that no development shall take place until this Green Infrastructure Plan has been submitted to and approved in writing by the Local Planning Authority. The submitted Plans shall include:

- Details of advance planting around construction sites; and
- The timescale for the implementation of each aspect of Green Infrastructure within that phase of development and details of the quality standard of construction and maintenance.
- Set out how retained GI, such as trees, hedges, and vegetation, as well as any nature designated sites (e.g., SSSI's etc.) will be protected during construction.

The development shall be carried out and thereafter maintained in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: Strategic elements of the GI framework are brought forward in phase one of the development, to create a landscape structure or evidence is shown that substantive GI is secured as early as possible in initial phases of delivery to allow early establishment. The phased implementation of new GI of the development construction will allow for the GI to mature and it will provide further benefit of reducing/buffering the aesthetic impact from the construction work.

Condition 3 - The planning statement paragraph 8.3.5 and the Biodiversity Net Gain Design Stage Report 8.1 recommends a Landscape and Ecology Management Plan is submitted prior to development. We support this and recommend that this also includes the planned maintenance of the site. Therefore, no development shall take place until there has been submitted to and approved, in writing, by SuDS and landscape specialists at the Local Planning Authority a landscape ecological management and maintenance plan and work schedule for a minimum of 10 years.

Details should include who is responsible for GI assets (including any surface water drainage system) and the maintenance activities/frequencies.

We would also expect details on how management company services for the maintenance of GI assets and green spaces shall be funded and managed for the lifetime of the development to be included.

Reason: To ensure appropriate management and maintenance arrangements and funding mechanisms are put in place to maintain high-quality value and benefits of the GI assets. Failure

to provide the above required information before commencement of works may result in reducing the value of the development, becoming an undesirable place to live that may increase the impacts from climate change, such as flood risk or air pollution from the site.

Condition 4 - 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 GI 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 the high-quality and multi-functional benefits of GI assets.

### *Biodiversity Net Gain*

The ECC GI Team welcomes the use of Biodiversity Metric 3.1 and the ambition to achieve 10.48% BNG onsite. We recommend that 10.48% is the minimum BNG the development aims to achieve, and wherever possible, if the opportunity arises, the development should seek to achieve further Biodiversity Gain. Please see below further comments and advice regarding Biodiversity Net Gain.

At present, the Environment Act identifies a minimum 10% gain required in biodiversity. The Environment Bill received Royal Assent on 9 November 2021, meaning it is now an Act of Parliament. Mandatory biodiversity net gain will become law in November 2023 including the following key components:

- Minimum 10% gain required calculated using Biodiversity Metric and approval of net gain plan
- Habitat secured for at least 30 years via obligations/ conservation covenant
- Habitat can be delivered on-site, off-site or via statutory biodiversity credits
- There will be a national register for net gain delivery sites
- The mitigation hierarchy still applies of avoidance, mitigation, and compensation for biodiversity loss
- Will also apply to Nationally Significant Infrastructure Projects (NSIPs)
- Does not apply to marine development
- Does not change existing legal environmental and wildlife protections

The following guidance has already been produced to assist the calculation and delivery of biodiversity net gain:

- an updated Biodiversity Metric 3.1 was published in April 2022.
- It is anticipated that a new Biodiversity Metric 4.0 will be published prior to November 2023.
- CIEEM, IEMA and CIRIA have set out Good Practice Principles for Development and an associated Practical Guide and Case Studies.
- a British Standard on biodiversity net gain and development projects: BS 8683:2021 Process for designing and implementing Biodiversity Net Gain ECCs GI team expects this development site to deliver Biodiversity Net-Gain (BNG) in line with the Environment Act. The delivery of BNG is expected to take place on-site where possible, via the protection and retention of existing GI and provision of new features. However, it is recognised that this might not always be conceivable, and that off-site delivery could provide additional benefits and be used to protect areas of land that are of local natural and wildlife value.

### *Biodiversity Gain Plan*



We recommend that in addition to the 'Biodiversity Net Gain Design Stage Report', a Biodiversity Gain Plan is submitted prior to development. Planning applications subject to mandatory BNG shall require a Biodiversity Gain Plan to be submitted to and approved in writing by the local planning authority. The Environment Act sets out that the biodiversity gain plan should cover:

- How adverse impacts on habitats have been minimised.
- The pre-development biodiversity value of the onsite habitat.
- The post-development biodiversity value of the onsite habitat.
- The biodiversity value of any offsite habitat provided in relation to the development.
- Any statutory biodiversity credits purchased; plus
- Any further requirements as set out in secondary legislation.

Reason: Biodiversity Gain Plans (subject to guidance made available) sets out the key ecological considerations relevant to the development proposals, the biodiversity management principles for new habitat creation areas and the enhancements that are likely to be achieved through such management. Like Landscape and Ecology Management Plan it aims to:

1. Verify the ecological baseline features of interest.
2. Identify ecological mitigation requirements; and,
3. Identify management and enhancement requirements relevant to the application area.
4. To enhance Protected and Priority Species/habitats and allow the LPA to discharge its duties under the s40 of the NERC Act 2006 (Priority habitats & species).

### *Play and Natural Play*

ECCs GI team supports the consideration of natural play and natural play design features. For this, we would expect play strategies to be formed by the character and function of the green spaces. It should be imaginatively designed using landforms, level changes and water, as well as natural materials such as logs or boulders, which create an attractive setting for play.

### *Essex Forest Initiative*

Moving forward, ECCs GI team recommends that Tom Moat, Senior Forestry and Woodland Officer is consulted in relation to trees and woodland. There are opportunities to work with the Essex Forestry Initiative to assist in tree planting for new development, including funding and advice.

For more information, please contact [REDACTED] who would be very interested in discussing further.

Any questions raised within this response should be directed to the applicant and the response should be provided to the Essex GI Team for further consideration. If you are minded approving the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

### *Informative:*

- Any GI features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- It is not within the scope of the GI team to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of green infrastructure and the information submitted on planning applications based on the key documents listed within this letter. However, any relevant information relating to green infrastructure submitted as part of any previous applications should be submitted with the updated information.

- The GI consultation responses provide a high-level review of the proposals onsite. However, the relevant specialists e.g ecology and landscape specialists should still be consulted on the information submitted. It should be noted that detailed discharge of condition applications should be referred to technical specialists rather than the GI planning team.
- Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

### Essex Wildlife Trust – 05/05/2023

Essex Wildlife Trust has significant concerns regarding the principle of development at this location for the following reasons:

- This is an ecologically sensitive location supporting protected species including bats and Badgers.
- development of the site would result in increased disturbance and recreational impacts on nearby designated local wildlife sites/EWT nature reserves.
- wireless site was included as an allocation [HO13] in the Castle Point local plan [2018 - 2033] this document has now been withdrawn, providing an opportunity to reconsider the suitability of the site for development.

Essex Wildlife Trust's core charitable objectives are the protection of wildlife and securing nature's recovery in Essex. The current climate and nature emergency and the accompanying alarming decline in wild species and natural habitats is now widely recognised. Almost half of all UK wildlife is in long term decline and 15% of species are at risk of extinction. The climate emergency is hastening, this destruction of the natural environment, damaging habitats and disrupting ecosystems. Yet it is these very habitats that have the potential to lock up carbon and fight back against rising global temperatures. Nature's recovery is vital for tackling climate change, nature fundamentally underpins a thriving and sustainable economy and a healthy society. It is essential that we not only protect natural and semi natural spaces but let them thrive for the benefit of people, wildlife and the planet.

#### 1. EWT Little Haven Nature Reserve

The application site lies directly adjacent to the little haven/tile wood complex local wildlife site [LOWS]. Essex Wildlife Trust manages little haven as a nature reserve for our partners, havens hospices. The nature reserve comprises a rich mosaic of ancient woodland hedgerows meadows and flower rich acid grassland it forms an important wildlife corridor in an urban area and is part of the historical doors heath Woodlands which spans from Hadley great wood in the east to Valerie Wells wood in the West.

The nature reserve supports a thriving population of Heath Fritillary butterflies, which extends east along the pile rides to the Pound Wood LoWS. The Heath Fritillary is one of our rarest butterflies and was on the brink of extinction in the late 1970s. It is protected in

the UK under the wildlife and countryside act 1981 and is listed as a priority species under the UK post 2010 biodiversity framework.

Given the scale of the proposed development and its proximity to the Little Haven Nature Reserve it is inevitable that the reserve will be subject to increased recreational disturbance, including increased trampling of vegetation along the woodland rides, which provide essential habitat for the continued successful conservation of the Heath Fritillary butterflies. This poses a risk of harm, not only to the conservation effort to conserve the Heath Fritillary but also to the wider biodiversity of the reserve.

## 2. EWT Valerie Wells Wood Nature Reserve

The application site lies near Cottage Plantation and Rag Wood LoWS. Cottage plantation is managed by Essex Wildlife Trust how's the Valerie Wells Wood nature reserve. The reserve supports the Southern Wood Ant, which is listed as a priority species under the UK post 2010 biodiversity framework. Given the scale of the proposed development and its proximity to the Valerie Wells Wood nature reserve, it is inevitable that the reserve will be subject to increase recreational disturbance, which poses a risk of harm to the biodiversity of the reserve.

In addition to these concerns, it is inevitable many of the new residents occupying the proposed development will own cats. It is widely recognised that domestic cats can have a serious impact on wildlife through the predation of mainly small mammals and birds, although they will also kill insects, reptiles, and amphibians. Studies have also shown that the mere presence of cats close to bird nesting sites can result in reduced provision of nestlings by parent birds, with impacts on nestling condition and survival. Alarm calling by blackbirds in response to the presence of a cat close to their nest site has also been shown to attract increased predation of nestlings by corvids.

## 3. Badgers

The application site supports A notable population of Badgers, as evidenced by the presence of many active sets, including a very substantial main set in the centre of the site. This set would be destroyed under the development proposals and a compensatory artificial set constructed on the southern boundary of the application site the proposed development would also result in a significant loss of suitable badger foraging habitat in the form of rough grassland.

We note that badger mitigation and enhancement measures outlined in the ecological impact assessment [EcIA) (SES Jan 2023). These include landscape enhancements such as dense scrub thickets providing connectivity to existing areas of suitable habitat to ensure the continued provision of sheltered foraging habitat. Traffic control measures are also proposed to be included within the scheme to reduce the risk presented by increased traffic on the new road network and badger underpasses will be installed to facilitate movement corridors.

While we welcome these mitigation and enhancement proposals, we remain concerned that the impacts of the development will result in considerable perturbation of this badger clan leading to potential conflict between new residents and Badgers, if the animals access new gardens in attempts to find food.

#### 4. Provision for Nesting Birds

We note that the developer has proposed the provision of four integral Sparrow terraces, ten integral house Martin nests and 20 swift bricks as part of the development. This provision is insufficient, given that the development would comprise 455 dwellings. Best practice guidance is to provide an average of 1 nest box per dwelling. For example, Exeter City Council was the first to adopt this as a standard. A useful guide is to install 2 to 4 Swift bricks on a medium to large house, from 4 to 10 on a small block of flats and 10 to 40 or more on a large site like a school, hospital or warehouse, or a major apartment development.

#### 5. Allocation of the Site for Housing

The application site was included in the now withdrawn Castle Point Local Plan (2018 to 2033). The local plan included the site as an allocation under policy HO13, which allocated the site for “around 455 new homes”. However, this allocation would require removal of the sites Greenbelt designation.

We acknowledge that during examination of the now withdrawn local plan, the planning inspector concluded, regarding site HO13, “whilst there would be harm to the Greenbelt, the policy requirements would serve to reduce that harm. Overall, the need for housing which cannot be accommodated within the existing urban area, and subject to my recommendations, there are exceptional circumstances for releasing this site from the Greenbelt”.

However, given that the local plan was subsequently withdrawn by Castle Point DC in response to considerable opposition from residents, we take the view that this presents an opportunity to reconsider the suitability of the site for housing. The current habitats already provide excellent connectivity linking the nature reserves at Little Haven and Valerie Wells Wood and have the potential to form part of a Nature Recovery Network in the district, delivering considerable gains in biodiversity. The site also offers good potential for some ‘rewilding’.

We acknowledge that under the current outline application boundary habitats would be largely retained and the additional habitats to be created and enhanced would include woodland, orchards, hedgerow, scrub and grassland. These measures are proposed to mitigate for the loss of existing habitats and to provide a biodiversity net gain of 10.48%. We also recognise that the master plan offers habitat connectivity throughout the development and care has been taken to provide buffer habitats to protect Little Haven Nature Reserve.

Unfortunately, biodiversity net gain calculations do not account for the indirect impacts of a development on nearby habitats. The application site lies in a very sensitive location between areas of high value for wildlife and biodiversity. The indirect impacts of recreational disturbance, cat predation, noise, artificial lighting, and increased traffic pose a risk of harm to Little Haven and Valerie Wells Wood nature reserves resulting in a reduction in the biodiversity resource of these sites.

#### 6. National Planning Policy Framework

##### Paragraph 174

Planning policies and decisions should contribute to and enhance the natural and local environment by:

- d) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures:

#### Paragraph 179

To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife rich habitats and why the ecological networks, including the hierarchy of international, national, and locally designated sites of importance for biodiversity; wildlife corridors and steppingstones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration, or creation; and
- b) promote the conservation restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

#### Paragraph 180

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

- a) If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort compensated for, then planning permission should be refused.

#### Paragraph 185

Planning policies and decisions should also ensure that new development is appropriate for its location considering the likely effects [including cumulative effects] of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- c) limit the impact of light pollution from artificial light from local amenity, intrinsically dark landscapes, and nature conservation

Our position, common sense suggestions are supported by the above NPPF guidelines.

## 7. Local Planning Policy

The policy is related to nature conservation within the Castle Point Borough Council (CPBC) adopted local plan [CPBC 2007] and the CPBC Local Plan (2018) which has now been withdrawn:

#### Policy EC7 - Natural and semi natural features in urban areas

Natural features, semi natural features and open spaces within urban areas shall be retained and enhanced wherever possible to safeguard their physical, visual, recreational and wildlife value.

#### Policy EC14 – Creation of New Wildlife Habitats

The council will encourage proposals for further nature reserves. It will also promote the creation of new wildlife habitats in conjunction with development proposals. In considering planning applications, 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 LP NE8 – Determining applications affecting Ecologically Sensitive and Designated Sites.

3. Proposals which may result in adverse impacts to other sites with biodiversity interest, including those sites was protected species, priority species and/ or priority habitats, will only be supported if they can meet the following requirements:

- a) firstly, the developer must demonstrate that impacts to biodiversity cannot be avoided through the location of development on an alternative site with less harmful impacts

Our position, comments and suggestions are supported by the above local plan policy's.

In conclusion, we reiterate that we would encourage Castle Point BC to reconsider the allocation of this site for housing given its sensitive location, the site offers an ideal opportunity to contribute to the Nature Recovery Network by retaining and enhancing existing habitats, the potential for some rewilding and the creation of a new nature reserve for the considerable benefit of wildlife and the local community.

#### Essex County Council (Lead Local Flood Authority (LLFA)) 28/03/2023

In providing advice this Council looks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

Having reviewed the Flood Risk Assessment and the associated documents which accompanied the planning application, we do not object to the granting of planning permission based on the following:

Condition 1 - No works except demolition 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:

- Limiting discharge rates to 19.1l/s for all storm events up to and including the 1 in 100-year rate plus 40% allowance for climate change subject to agreement with 2 the relevant third party/ All relevant permissions to discharge from the site into any outfall should be demonstrated. Provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event.
- Demonstrate that features are able to accommodate a 1 in 10 year storm events within 24 hours of a 1 in 30 year event plus climate change
- Final modelling and calculations for all areas of the drainage system.
- 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. Medium pollution level should be used for the roads.
- Detailed engineering drawings of each component of the drainage scheme.
- Results of further groundwater monitoring should be provided.
- A final drainage plan which details exceedance and conveyance routes, FFL 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:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development.
- To provide mitigation of any environmental harm which may be caused to the local water environment.
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.

Condition 2 - No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reason - The National Planning Policy Framework paragraph 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.

Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore, the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.

Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.

Condition 3 Prior to occupation 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, has been 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.

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.

Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

Condition 4 - 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.

We also have the following advisory comments:

- As the development is within a critical drainage area we strongly advise the use of water butts for each dwelling.
- We strongly recommend looking at the Essex Green Infrastructure Strategy to ensure that the proposals are implementing multifunctional green/blue features effectively. The link can be found below. [https://www.essex.gov.uk/protecting\\_environment](https://www.essex.gov.uk/protecting_environment)
- Please note that the Environment Agency updated the peak rainfall climate change allowances on the 10 May 2022. planning application with outline approval are not required to adjust an already approved climate change allowance, however, wherever possible, in cases that do not have a finalised drainage strategy please endeavour to use the updated climate change figures Flood risk assessments: climate change allowances - GOV.UK ([www.gov.uk](http://www.gov.uk))

Any questions raised within this response should be directed to the applicant and the response should be provided to the LLFA for further consideration. If you are minded to approve the application contrary to this advice, we request that you contact us to allow further discussion and/or representations from us.

#### *Summary of Flood Risk Responsibilities for your Council*

We have not considered the following issues as part of this planning application as they are not within our direct remit; nevertheless, these are all very important considerations for managing flood risk for this development and determining the safety and acceptability of the proposal. Prior to deciding this application, you should give due consideration to the issue(s) below. It may be that you need to consult relevant experts outside your planning team.

- Sequential Test in relation to fluvial flood risk.
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building.
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

Please see Appendix 1 at the end of this letter with more information on the flood risk responsibilities for your council.

#### INFORMATIVES:

- Essex County Council has a duty to maintain a register and record of assets which have a significant impact on the risk of flooding. In order to capture proposed SuDS which may



form part of the future register, a copy of the SuDS assets in a GIS layer should be sent to [REDACTED]

- Any drainage features proposed for adoption by Essex County Council should be consulted on with the relevant Highways Development Management Office.
- Changes to existing water courses may require separate consent under the Land Drainage Act before works take place. More information about consenting can be found in the attached standing advice note.
- It is the applicant's responsibility to check that they are complying with common law if the drainage scheme proposes to discharge into an off-site ditch/pipe. The applicant should seek consent where appropriate from other downstream riparian landowners.
- The Ministerial Statement made on 18th December 2014 (ref. HCWS161) states that the final decision regarding the viability and reasonableness of maintenance requirements lies with the LPA. It is not within the scope of the LLFA to comment on the overall viability of a scheme as the decision is based on a range of issues which are outside of this authority's area of expertise.
- We will advise on the acceptability of surface water and the information submitted on all planning applications submitted after the 15th of April 2015 based on the key documents listed within this letter. This includes applications which have been previously submitted as part of an earlier stage of the planning process and granted planning permission based on historic requirements. The Local Planning Authority should use the information submitted within this response in conjunction with any other relevant information submitted as part of this application or as part of preceding applications to make a balanced decision based on the available information.

#### *Appendix 1 - Flood Risk responsibilities for your Council*

The following paragraphs provide guidance to assist you in determining matters which are your responsibility to consider.

- Safety of People (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements) You need to be satisfied that the proposed procedures will ensure the safety of future occupants of the development. In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise LPAs formally consider the emergency planning and rescue implications of new development in making their decisions.

We do not normally comment on or approve the adequacy of flood emergency response procedures accompanying development proposals as we do not carry out these roles during a flood.

- Flood recovery measures (including flood proofing and other building level resistance and resilience measures)

We recommend that consideration is given to the use of flood proofing measures to reduce the impact of flooding when it occurs. Both flood resilience and resistance measures can be used for flood proofing.

Flood resilient buildings are designed to reduce the consequences of flooding and speed up recovery from the effects of flooding; flood resistant construction can help prevent or minimise the amount of water entering a building. The National Planning Policy Framework

confirms that resilient construction is favoured as it can be achieved more consistently and is less likely to encourage occupants to remain in buildings that could be at risk of rapid inundation.

Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Further information can be found in the Department for Communities and Local Government publications 'Preparing for Floods' and 'Improving the flood performance of new buildings'.

- Sustainability of the development

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making your decision on this planning application we advise you consider the sustainability of the development over its lifetime.

#### Essex County Council (Social Services) 01/03/2023

This is outside Adult Social Services remit.

#### Essex Fire and Rescue Service 16/03/2023

The Essex Design Guide provides high level direction for new developments which we would like to draw your attention to:

- Continuation of road design to ensure safe and timely access and egress to and from new developments.
- Continuation of road design to include turning circle provision plus future consideration to appliance sizes to ensure adequate space to manoeuvre on a development. Consideration for installation of an approved suppression system with better safety and more design freedom. Sprinkler considerations would help to isolate fire to the source and to ensure better safety for occupants / emergency services / reduce insurance costs. This may also afford developers more design freedom and scope for capacity in respect of distance from buildings to fire appliance access points.
- Continued consultation with Water Authorities for fire hydrant / water main provisions and consideration to ensure sufficient strategically placed resources are made available for operational firefighting and with appropriate water pressure considerations.
- Ensure new fire hydrant installations are fully operational before permitting residents to occupy dwellings.
- Ensuring new fire hydrants are not installed within private driveways / gardens.
- Continuation of at least 3 forms of fire hydrant asset indication. Hydrant indicator plate / post, painted FH cover and painted adjacent kerb. In the absence of a kerb then a thermoplastic yellow road 'H' applied to the road surface.

- Section 106 agreement at planning application stage to ensure that the developer will bear the costs for any new fire hydrant installations deemed necessary by the Fire Authority where the new development exceeds 10 dwellings.
- Where applicable door sets to carry dual certification ensuring compliance with fire and security regulations. Such recommendations align with both the Independent Review of Building Regulations and Fire Safety in the wake of and the review and recommendations resulting from the Grenfell Fire tragedy of 2017.
- Fire resistant cladding considerations that may fall outside of Building Control matters.

*Initial Response to Consultation:*

Having reviewed the consultation document, at this time Essex County Fire and Rescue Service would ask that the following are considered during the continued development of the Land East of Rayleigh Road:

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

	Min. Width of Road between Kerbs	Min. Width of Gateways	Min. Height Clearance	Min. Carrying Capacity	Min. Turning Circle (Kerb to Kerb)	Min. Turning Circle between Walls	Sweep Circle
Pumping Appliance	3.7m	3.1m	3.7m	18 tonnes	17.8m	19.0m	19.0m
High Reach	3.7m	3.1m	4.0m	26tonnes	17.8m	20.0m	

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

Essex County Fire and Rescue Service welcomes the opportunity to continue these conversations as the development progresses to ensure opportunities to reduce risk and improve the emergency service provision are realised.

#### Essex Fire and Rescue Service 27/03/2023

Location: Land East Of Rayleigh Road Thundersley Essex SS7 3UB Thank you for your letter dated 07/03/2023 enclosing drawings showing details of the above proposal. The application has been considered and I draw your attention to the following comments:

##### Access

Access for Fire Service purposes has been considered in accordance with the Essex Act 1987 - Section 13. Although the plans submitted do not show details of the planned layout for the above-mentioned buildings and dwellings, comment can only be made on the access to the site prior to development. In this case it appears to be acceptable subject to satisfactory compliance with Building Regulations B5.

More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

##### Building Regulations

It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. Applicants can decide whether to apply to the Local Authority for Building Control or to appoint an Approved Inspector.

Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance".

Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the building (Approved Inspectors etc.) Regulations 2010 (as amended).

##### Water Supplies

The architect or applicant is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact Water Section at Service Headquarters, [REDACTED].

##### Sprinkler Systems

"There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy.

Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met."

The Essex Design Guide provides high level direction for new developments and infrastructure, and we would like to highlight the following points which acknowledge the strategic principles and Essex Police objectives for the creation of safe and secure communities and sustainable police estate provision:

- To work with Planners, Architects, and developers to ensure that new developments in Essex provide a mix of well-designed homes open spaces and promote neighbourhoods that consider community safety and well-being that provide benefit to all communities.
- That the prevention of crime and disorder is supported through well designed places that includes the provision of a sense of community and safety.
- And shooting secured by design standards and applicable police crime prevention initiatives are incorporated and fully exhausted throughout new development bracket including associated buildings bracket as a minimum whilst maximising opportunities against current and future technological and crime pattern changes linked to digital/cyber offences.
- Encouragement of proactive police service-related communication to new residents and communities that promote public confidence and cohesion.
- incorporating provision of affordable housing for key worker accommodation
- and shooting the old work, education, and public spaces are well designed and promote safe, secure communities and environments.
- To be engaged with master planning for any transport related development, collaboratively working with the relevant authorities to ensure that new developments are planned and designed to improve safety on the various road networks. This will include preventing those killed or seriously injured [KSI] and road traffic collisions were possible.
- To ensure an understanding of the key objectives for managing road infrastructure, improved vehicle design, redesigning speed limits and renewing Essex Police enforcement policy, all of which will be the forefront in Essex Police strategic Rd safety campaigns.
- To engage in the safe system approach 'vision zero' recognise that human beings lives, and health should never be compromised by their need to travel and any fatal or serious injuries that occur within the road system unacceptable. This considered as best practise in road safety according to the World Health Organisation and the organisation of Economic Cooperation and development [OECD].
- To include infrastructure considerations to ensure and develop an efficient policing response in the future. This may include such matters as electric vehicle charging points.
- Promoting the concept of a shared, environmentally sustainable Co located community a state that shares facilities in appropriate locations within the community, creating a more local visible and accessible policing. This offer includes [ball limited 2] police fire healthcare voluntary sector and other key public services where appropriate, efficient, and effective.
- To encourage effective engagement between Essex Police designing out crime and strategic planning teams, local authorities, and developers at the earliest opportunity.
- Implement a crime impact statement within the design and access statement. Such statements are devised to identify specific measures that will be adopted to reduce crime.
- To endeavour to create a collaboration programme with emergency services and other partners that will enhance our ability to achieve service benefits and stretch our property performance targets for the efficiency of the estate.

## *Designing out crime and Secured by Design*

When considering future developments, it is imperative to achieve sustainable reductions in crime to help people live and work in a safer society. Designing out crime officers, [DOCO's] specialise in the application of designing out crime and provide expert advice on crime prevention through environmental design, (CPTED principals] to a wide range of design and build professionals. Their role is fundamental in the development of safe and secure communities. DOCO role is underpinned by national planning policy and home Office agendas. DOCO's recommend developers to consider the foreseeability of crime and maximise on the opportunity to design such issues out, first to prevent the need for bespoke situational crime prevention measures in the future.

Police crime prevention initiatives are a police owned organisation working on behalf of the police service, to deliver a wide range of crime prevention initiatives, of which they promote secured by design [SBD]. Supported by the DOCO, to assist the developer to design out crime by improving the layout and physical security of buildings from the initial conception, construction, and occupation.

The Essex Police DOCO response to this proposal will be provided under separate cover for any queries relating to secured by design and designing out crime matters relating to new developments.

### *Traffic Management considerations*

In the interests of road safety and reducing casualties linked to highways usage, Essex Police believe that developers should contribute to designing out the need for enforcement within the construction of newly built roads. This would apply to estate roads where the introduction of any desired speed limit is largely self-enforcing through design.

For distributor roads we identify more and more roads being built by developers which become roads for distributing high volumes of traffic around new estates and potentially towns. These new roads have the potential to become roads where young drivers may use them as roads to test their ability for travelling at high speeds. For such examples we would look to ensure:

1. speed limits are appropriate and meet the needs of all road users and residents.
2. with an evidenced case, and where possible, a developer is instructed to install average speed detection systems to ensure road user compliance, thereby negating/reducing the need for police presence to enforce speed limits on newly built roads.

Technology exists for red light enforcement at traffic lights and developers should consider enforcement technology as part of any traffic-light systems installed, improving overall safety of the location but also providing an efficient way to enforce the restrictions.

Considering the prevention of crime and to enhance community safety, Essex Police believe that commercial and residential developers should contribute to the costs of installing automatic number plate recognition [LNPR] systems on newly designed roads.

Developers also need to consider how their planning decisions can have a negative long-term impact upon neighbours and communities around simple things such as parking disputes through the lack of available parking, which can be factored into designing out crime.

In terms of road safety, developers should make provision for all road users and the most vulnerable road users, space cyclists and pedestrians. Essex Police Essex Police request developers to engage, educate and enforce on the road network alongside the ethos of the five essential pillars in the safe system approach, ultimately to reach zero Rd related deaths these being.

- safe speeds: road users understand the risks and implications of exceeding the speed limit and therefore, travel at appropriate speeds to the conditions I'm getting posted speed limits.
- Safe road users: road users who know and comply with the rules of the road take responsibility for the safety of themselves and others, especially the vulnerable.
- Safe roads and roadsides: road design encourages safe travel on one that is predictable and forgiving of mistakes.
- Safe vehicles: dot vehicle fleets comprise of well-maintained vehicles that reduce the risk of collisions and, in the event of a collision, reduce the harm to road users, including pedestrians pedal cyclists motorcyclists and vehicle occupants.
- Post collision response and care: provision of a more operative response to collisions by working effectively with all emergency services and the National Health Service. Road victims receive appropriate medical care on rehabilitation to minimise the severity and long-term impact of their injuries. Learnings from collisions are captured and are acted upon. Families of those killed or seriously injured or appropriately supported.

NHS England 02/05/2023

- 1.0 Further to a review of the application details the following comments are made regarding the primary healthcare provision on behalf of the health partners of the Mid and South Essex Integrated Care System (ICS).
- 2.0 Existing Healthcare Position Proximate to the Planning Application Site
- 2.1 The proposed development is likely to have an impact on the services of the Surgeries which operate within the vicinity of the application site. The GP practices do not have capacity for the additional growth resulting from this development and cumulative development in the area.
- 2.2 The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. The ICS would therefore expect these impacts to be fully assessed and mitigated.
- 3.0 Review of Planning Application
- 3.1 The application site was identified for development in the withdrawn local plan with Policy HO13 allocating the land for 45 new homes, land for a new early years/nursery facility, land for a new healthcare centre and a new multi-use community building.
- 3.2 The planning statement submitted in support of the application does not assess the impact of the development on healthcare capacity. However, the health impact assessment submitted states that most primary care facilities in the area do not have space capacity and it refers to the local plan evidence base that identified the need for a new healthcare facility to alleviate pressures on existing healthcare services which might arise due to new development within the local plan. The application includes land for a new health facility.



#### 4.0 Assessment of Development Impact on Existing Healthcare Provision

- 4.1 The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 1,092 new residents and subsequently increase demand upon existing constrained services.
- 4.2 The primary healthcare services directly impacted by the proposed development and the current capacity position are shown in Table 1.

Table 1: Summary of position for healthcare services within a 2km radius of (or closest to) the proposed development

CURRENT GP CAPACITY				
GP SURGERIES WITHIN 2km	Weighted List Size <sup>1</sup>	NIA (m <sup>2</sup> ) <sup>2</sup>	Capacity needed for current weighted list size <sup>3</sup>	Spare Capacity (NIA m <sup>2</sup> ) <sup>4</sup>
AUDLEY MILLS SURGERY	19,127	871.66	1,311.56	-439.90
CHURCH VIEW SURGERY	13,079	592.13	896.84	-304.71
HART ROAD SURGERY	3,531	80.99	242.12	-161.13
EXISTING FLOORSPEACE/DEFICIT		EXISTING DEFICIT OF 905.74SQ MTRS		

**Notes:**

1. The weighted list size of the GP Practice based on the Carr-Hill formula; this figure more accurately reflects the need of a practice in terms of resource and space and may be slightly lower or higher than the actual patient list.
2. Current Net Internal Area occupied by the Practice
3. Based on 120m<sup>2</sup> per 1750 patients (this is considered the current optimal list size for a single GP within the Mid and South Essex STP). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services".
4. Based on existing weighted list size

- 4.3 Table 1 shows that the capacity of primary healthcare facilities in the area of the proposed development is already below the recognised standards of provision for the existing population. Additional population growth in the area resulting from new development would add to the deficit and so would be unsustainable if unmitigated.

#### 5.0 Healthcare Needs Arising from the Proposed Development

- 5.1 Table 2 shows the population likely to be generated from the proposed development, the primary care floorspace needed to support this additional population and the costs of doing so. The land use and access parameters plan include a site measuring 0.31ha for the location of a health centre. The size of the built facility is not stated. The proposal should safeguard the site identified on this site for the construction of a new healthcare facility albeit that alternative options for provision of a healthcare facility to meet the needs of the growing population will be considered.

- 5.3 Using the accepted standards set out below Table 2, the capital required to create additional floorspace for support the population arising from the proposed development is calculated to be £225,500.

Table 2: Capital Cost calculation of additional health services arising from the development proposal.

Additional Population Growth (455 dwellings) <sup>5</sup>	Additional floorspace required to meet growth (m <sup>2</sup> ) <sup>6</sup>	Capital required to create additional floor space (£) <sup>7</sup>
1,092	74.8	225,500

Notes:

5. Calculated using the Castle Point district average household size of 2.4 taken from the 2011 Census: Rooms, bedrooms and central heating, local authorities in England and Wales (rounded to the nearest whole number).

6. Based on 120m<sup>2</sup> per 1750 patients (this is considered the current optimal list size for a single GP within the Mid & South Essex STP). Space requirement aligned to DH guidance within "Health Building Note 11-01: facilities for Primary and Community Care Services".

7. Based on BCIS cost multiplier (£3,015) for new build and extensions to health centres and hospitals using rates for gross internal floor area for the building costs including prelims updated to 01/01/2022 and rebased for Essex, rounded to nearest £100

- 5.4 The development would have an impact on healthcare provision in the area where there is already a deficit of primary care facilities. If unmitigated, the development would be unsustainable. Planning obligations could be used to secure contributions to mitigate these impacts and make an otherwise unacceptable development acceptable in relation to healthcare provision.
- 5.5 The ICS therefore requests that the sum of £225,500 be secured through a planning obligation in the form of a S106 agreement is linked to any grant of planning permission to increase capacity for the benefit of patients of the primary care network operating in the area. The contribution would be used towards the provision of primary healthcare services on the site or nearby for the benefit of patients arising from the development.
- 6.0 Conclusions
- 6.1 The ICS has identified that the development will give rise to a need for additional healthcare provision to mitigate impacts arising from the development and requests that these are secured through a S106 legal agreement attached to any grant of planning permission. In the absence of such mitigation the development would impose an unsustainable burden on local healthcare services.
- 6.2 The terms set out above are considered appropriate having regard to the formulated needs arising from the development and the ICS is satisfied that the basis and value of the developer contribution sought is consistent with the policy and tests for imposing planning obligations set out in the NPPF.
- 6.3 The health partners of the ICS look forward to working with the applicant and the Council to satisfactorily address the issues raised in this consultation response and would appreciate acknowledgement of the safe receipt of this letter.

Natural England 02/11/2023

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for the European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and

Mitigation Strategy ('RAMS'). It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development.

On this basis the development will require an appropriate assessment. Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur because of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

If the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant, it is your responsibility (as the competent authority) to produce the HRA and be accountable for its conclusions. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service.

If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header. Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies. Further general advice on the consideration of protected species and other natural environment issues is provided at **Annex A**.

Annex A – Additional advice Annex A – Additional advice Natural England offers the following additional advice: Landscape Paragraph 174 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system.

This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland, or dry-stone walls) could be incorporated into the development to respond to and enhance local landscape character and distinctiveness, in line with any local landscape character assessments.

Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the Landscape Institute Guidelines for Landscape and Visual Impact Assessment for further guidance. Best and most versatile agricultural land and soils Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply NPPF policies (Paragraphs 174 and 175).

This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in GOV.UK guidance Agricultural Land Classification information is available on the Magic website on the Data.Gov.uk website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, and we recommend its use in the design and construction of development, including any planning conditions.

For mineral working and landfilling separate guidance on soil protection for site restoration and aftercare is available on Gov.uk website. Detailed guidance on soil handling for mineral sites is contained in the Institute of Quarrying Good Practice Guide for Handling Soils in Mineral Workings.

Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.

Protected Species Natural England has produced standing advice<sup>1</sup> to help planning authorities understand the impact of developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a Site of Special Scientific Interest or in exceptional circumstances. Local sites and priority habitats and species You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraphs 175 and 179 of the NPPF and any relevant development plan policy.

There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies. Priority habitats and Species are of particular importance for nature conservation and are included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006.

Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found on Gov.uk. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals). <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>  
Annex A – Additional advice ancient woodland, ancient and veteran trees

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 180 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be considered by planning authorities when determining relevant planning applications.

Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a Site of Special Scientific Interest or in exceptional circumstances.

Biodiversity and wider environmental gains Development should provide net gains for biodiversity in line with the NPPF paragraphs 174(d), 179 and 180. It is anticipated that major development (defined in the NPPF glossary) will be required by law to deliver a biodiversity gain of at least 10% from January 2024 and that this requirement will be extended to smaller scale development in April 2024.

For nationally significant infrastructure projects (NSIPs) it is anticipated that the requirement for biodiversity net gain will be implemented from 2025. Further information on the timetable for mandatory biodiversity net gain can be found [here](#). Further general information on biodiversity net gain can be found [here](#). The Government's Biodiversity Metric should be used to calculate biodiversity losses and gains for terrestrial and intertidal habitats and can be used to inform any development project. For small development sites the Small Sites Metric may be used. This is a simplified version of the Biodiversity Metric and is designed for use where certain criteria are met. We advise you to follow the mitigation hierarchy as set out in paragraph 180 of the NPPF and firstly consider what existing habitats within the site can be retained or enhanced. Where on-site measures are not possible, provision off-site will need to be considered.

Development also provides opportunities to secure wider biodiversity enhancements and environmental gains, as outlined in the NPPF (paragraphs 8, 73, 104, 120, 174, 175 and 180). Opportunities for enhancement might include Incorporating features to support specific species within the design of new buildings such as swift or bat boxes or designing lighting to encourage wildlife. Natural England's Environmental Benefits from Nature tool may be used to identify opportunities to enhance wider benefits from nature and to avoid and minimise any negative impacts. It is designed to work alongside the Biodiversity Metric and is available as a beta test version. Further information on biodiversity net gain, the mitigation hierarchy and wider environmental net gain can be found in government Planning Practice Guidance. Green Infrastructure Natural England's Green Infrastructure Framework provides evidence-based advice and tools on how to design, deliver and manage green infrastructure (GI).

GI should create and maintain green liveable places that enable people to experience and connect with nature, and that offer everyone, wherever they live, access to good quality parks, greenspaces, recreational, walking and cycling routes that are inclusive, safe, welcoming, well-managed and accessible for all. GI provision should enhance ecological networks, support ecosystems services, and connect as a living network at local, regional and national scales. Development should be designed to meet the 15 Green Infrastructure Principles. The Green

Infrastructure Standards can be used to inform the quality, quantity and type of green infrastructure to be provided.

Major development should have a GI plan including a long-term delivery and management plan. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate. GI mapping resources are available [here](#) and [here](#). These can be used to help assess deficiencies in greenspace provision and identify priority locations for new GI provision.

Access and Recreation Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new Annex A – Additional advice footpaths and bridleways should be considered. Links to urban fringe areas should also be explored to strengthen access networks, reduce fragmentation, and promote wider green infrastructure.

Rights of Way, Access land, Coastal access and National Trails Paragraphs 100 and 174 of the NPPF highlight the importance of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails.

The National Trails website [www.nationaltrail.co.uk](http://www.nationaltrail.co.uk) provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts. Biodiversity duty Your authority has a duty to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

#### Natural England 12/10/2023

Thank you to Code DP for reconsulting Natural England on the Agricultural Land Classification Survey. I can confirm that our previous concerns (under 425626) have now been addressed. From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' (BMV) agricultural land. For this reason, we do not propose to make any detailed comments in relation to agricultural land quality and soils, although sustainable soil management should aim to minimise risks to the ecosystem services which soils provide, through appropriate site design / masterplan / Green Infrastructure.

Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources, including the provision of soil resource information in line with the Defra guidance Construction Code of Practice for the Sustainable Use of Soils on Construction Sites. Further guidance is available in The British Society of Soil Science Guidance Note Benefitting from Soil Management in Development and Construction which we recommend is followed to safeguard soil resources as part of the overall sustainability of the development. If, however, you consider the proposal has significant implications for further loss of BMV agricultural land, we would be pleased to discuss the matter further.

#### Essex Badger Protection Group 28/03/2023

The Essex Badger Protection Group wishes to STRONGLY OBJECT to the above Planning Application for the following reasons:

- We are aware of a high amount of badger activity and several very active setts at this location. This can be confirmed in the Ecological Impact Assessment document for the site which has been submitted by SES.

- The current Ecological Impact Assessment document submitted by SES is based on a survey which was carried out in April 2021 and is therefore out of date and no longer valid. Within this document, many sett entrances have been observed to be filled with leaf litter and have been marked as disused. The fact that a sett entrance is filled with leaf litter is not an accurate indicator that the entrance is no longer being used.
- The accepted standard method of surveying a badger sett will involve an extended observation period of at least 21 consecutive days, preferably with the aid of camera traps/trail cameras. It is not acceptable to make any form of judgement as to the level of badger activity at a sett based on a single visual inspection alone. For example, it is not unusual for badgers to rely on leaf litter for bedding, or for that material to be left in entrances when the badgers retreat into the sett after an evening of foraging. It would be dangerous to base any form of planning decision or mitigation plan on the presence of leaf litter in a sett entrance, and to do so may end up facilitating an offence under the Protection of Badgers Act 1992.
- Badgers are dynamic animals, such that the nature and levels of activity throughout their range would be anticipated to vary over time and accordingly, any survey can only provide a snapshot of the current/recent activity to guide consideration of the overall activity levels at a site, with surveys considered remaining valid/up to date for a limited period (no more than 12 months). This is supported by the current Natural England/CIEEM guidance for developments which can be found here: Badgers: advice for making planning decisions - GOV.UK ([www.gov.uk](http://www.gov.uk)) and here: Advice-Note.pdf ([cieem.net](http://cieem.net))
- Furthermore, updated Natural England guidance for local planning authorities, which can be found here: Protected species and development: advice for local planning authorities - GOV.UK ([www.gov.uk](http://www.gov.uk)), states that "you should not usually attach planning conditions that ask for surveys. This is because you need to consider the full impact of the proposal on protected species before you can grant planning permission." An updated survey should be provided before consideration is given to the determination of this application.
- When planning a badger mitigation strategy for this site, serious consideration needs to be given to what changes the development could have on the badgers foraging and living patterns, as well as the effect this could have in the surrounding area. Any sett closures will cause badgers to become displaced, and it is important that a good assessment is made of where these badgers may go. Suitable provisions need to be put in place such as badger corridors to allow them free access between their setts, foraging and water sources. The construction of artificial setts should also be considered if there are no disused setts nearby, they may use or naturally suitable places where they will be able to make their own without causing problems to private or public property. From our own experiences of observing the impact of sett closures in the past, it is impossible to fully predict what the outcome of a sett closure will be. It is very often the case that displaced badgers will try to find new homes and foraging in 2 private gardens and other green spaces in the surrounding area. This nearly always ends up creating major problems for local property owners, as gardens and property get damaged by badgers building new setts or foraging for food. Also, it can lead to an increase in badger road casualties if they end up having to rely on crossing a busy road in order to get to and from their new setts and foraging areas.

Our group closely monitors the badger populations in the whole of the south of Essex. The badger population in this part of Essex is constantly being squeezed out of its natural habitat areas by new developments, and this is causing major problems for both badgers and residents alike. It is vitally important that any development plan fully identifies any issues which may affect badgers and other wildlife so that a workable and well thought through mitigation plan can be created which will work well for both wildlife and residents alike.

In terms of construction related mitigation, the updated survey should confirm the following practices as a minimum, which may need to be adapted should it be found that badgers are still occupying any part of the application site or the immediate surrounds:

- A further badger survey to be conducted by a suitably qualified ecologist as close as practicable, and no earlier than three months, before the commencement of the proposed works. Should the position, in so far as it relates to badgers, have changed, then work should not proceed until such time as a revised mitigation plan has been submitted and approved by planners.
- All workmen on site should be fully briefed concerning the presence of badgers on site and the mitigation measures to be followed.
- Any trenches or deep pits should be securely covered overnight to stop any badgers falling in and becoming trapped. Alternatively, a rough plank can be provided, at an angle no steeper than 45 degrees, to allow any badgers a suitable means of escape.
- Any trenches/pits should be inspected each morning and evening to ensure no badgers have become trapped.
- The storage of topsoil or other 'soft' building materials within the site should be given careful consideration. Badgers will readily adopt such mounds as setts, which would then be afforded the same protection as established setts. To avoid the adoption of any mounds, they should be subject to daily inspections before work commences.
- During the work, the storage of any chemicals should be contained in such a way that they cannot be accessed or knocked over by any roaming badgers.
- Open pipework with a diameter of more than 120 mm should be properly covered at the end of the working day to prevent badgers entering and becoming trapped.
- Fires should only be lit in secure compounds away from areas of Badger activity and should be fully extinguished at the end of the working day.
- Use of noisy plant or machinery should cease at least two hours before sunset to avoid causing a disturbance to badgers.
- Litter and potentially dangerous materials on site should be cleared at the end of the working day. Care should be taken to ensure that there are no sharp metal objects or pointed protrusions on the ground which could seriously injure a badger due to their poor eyesight.
- Security lighting should be kept to a minimum and away from setts, so as not to disturb the badgers on site.
- Adherence to these measures to be confirmed to planners at regular intervals by the project ecologist.

In the UK, badgers and their setts are fully protected by law under the Protection of Badgers Act 1992 & Schedule 6 of the Wildlife and Countryside Act 1981. Also, Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The welfare of badgers therefore needs to be taken into consideration when assessing this planning application and any mitigation measures that are proposed. For the reasons outlined in this letter, we would urge planners to refuse any planning permission to allow development of this site.

#### CPBC Environmental Health 20/03/2023

The site comprises existing agricultural land and is located adjacent to the A129. The site is bound to the north by Rayleigh Retail Park, to the east by open grassland and to the south by existing residential dwellings on Daws Heath Road. With a development such as this we would expect to see the following internal noise standards achieved:



Activity	Location	0700.00 – 23.00	23.00 – 07.00
Resting	Living room	35 LAeq, 16hour	-
Dining	Dining room/area	40 LAeq, 16hour	-
Sleeping (Daytime resting)	Bedroom	35 LAeq, 16hour	30 LAeq, 8hour 45 LAfmax

1. These levels are derived in part from Table 4 of BS8233:2014 and also World Health Organization figures. The figures from BS8233:2014 are themselves derived from World Health Organization values.

2. The notes to Table 4 of BS8233:2014 apply to the interpretation of the above figures.

3. It is also expected that to achieve an acceptable internal noise climate that individual noise events shall not exceed 45 DB LAFmax on a frequent basis. The acceptability of the frequency of events will depend on the level of exceedance of the 45DB LAFmax criteria. Up to 10 events may be acceptable for small exceedances (<5dB) whilst for high exceedances (>=5 dB and 10db) less than five events will be acceptable. Events in excess of 10 DB above 45 DB are not permitted.

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

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

Unless plans show a suitable layout of rooms, enhanced sound insulation between unsuitably stacked/adjoined rooms/areas will be required. An enhanced sound insulation value DnT,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] would be preferred. Given the proximity of the proposed development to neighbouring noise sensitive properties, it is possible that site clearance, preparation and construction noise may impact nearby receptors and will have to be taken into consideration by the applicant and their contractors. Based on the submitted baseline acoustic assessments and results and recommended mitigation measures, the site seems suitable for residential development in relation to noise/vibration considerations. As I would have no objections to a full application. I would suggest the following should you be mindful to grant the application. Suggested conditions:

#### Internal/External noise levels

- A noise assessment shall be submitted to the Council for approval of external noise levels incl. reflected and re-radiated noise and details of the sound insulation of building envelopes, orientation of habitable rooms away from major noise sources and of acoustically attenuated mechanical ventilation as necessary to achieve internal room- and (if provided) external amenity noise standards in accordance with the criteria of BS8233:2014 - Guidance on Sound Insulation and Noise Reduction for Buildings. No dwelling shall be occupied until the approved sound insulation and ventilation measures have been installed to residential development units 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.

- A construction management plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 07:00 – 19:00 Monday to Friday daily, 08:00 – 13:00 Saturdays No works to be undertaken on Sundays or bank holidays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period.

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, vibration, dust, lighting or other emissions from the building site

In respect of any proposed external mechanical plant, the external noise levels emitted from such plant/ machinery/ equipment shall ensure that the rating level of the noise emitted from any proposed installation located at the site shall not exceed the existing background level at any noise sensitive premises when measured and corrected in accordance with BS4142:2014 + A1:2019 “Methods for rating and assessing industrial and commercial sound.”

- Any unforeseen ground contamination encountered during development, to include demolition, shall be notified to the Local Planning Authority as soon as is practicable. Unless otherwise agreed in writing by the Local Planning Authority as unnecessary, an appropriate ground investigation and/or remediation strategy shall be submitted to and approved in writing by the Local Planning Authority, and the approved strategy shall be implemented in full prior to further works on site. Following remediation and prior to the occupation of any building, a Completion/Verification Report, confirming the remediation has been carried out in accordance with the approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any potential risks to human health or the wider environment which may arise as a result of potential land contamination are satisfactorily addressed.

#### CPBC Environmental Health 23/05/2023

The site comprises existing agricultural land and is located adjacent to the A129. The site is bound to the north by Rayleigh Retail Park, to the east by open grassland and to the south by existing residential dwellings on Daws Heath Road.

The main air pollutants of concern during the construction period are emissions of dust and fine particulate matter associated with on-site demolition and construction activities and offsite track out. Additionally, there is the potential for emissions of nitrogen dioxide (NO<sub>2</sub>) and fine particulate matter from construction-related vehicles.

The main air pollutants of concern during the operational period are emissions associated with proposed and existing road traffic.

Adequate mitigation has been discussed within the report to control dust emissions. A package of mitigation measures is proposed which should minimise the risk of elevated PM<sub>10</sub> concentrations and dust nuisance in the surrounding area. With mitigation in place the construction impacts not be significant.

Having reviewed the submitted 'Air Quality Assessment, Project Ref: 332210105/300.001 Rev: Rev.04 dated November 2022. The scope for the air quality assessment was agreed with the local authority (EHO) at CPBC back in 2021. I am happy that submission adequately covers the scope and is in accordance with the requirements of the NPPF, and relevant local and national planning policy and guidance regarding air quality.

#### CPBC Legal Services 10/03/2023

This application will attract a s106 agreement to be in place, if granted. In relation to the merits of the application itself, no observations.

#### CPBC Street Scene 09/03/2023

Having looked through the planning application and in particular the plans, there is a significant amount of multi-functional open space where the control of litter and other waste will need to be managed correctly and of course in the development areas. I could not see in the documents any mention of litter / dog bins, apologies if I have missed it, but these will need to be considered as part of the site if it is approved and developed. I am happy to offer guidance regarding the siting of bins and other street cleansing if it is appropriate.

#### CPBC Housing Manager 01/03/2023

Having reviewed the application, the provision of affordable homes 91 for rent and 91 for home ownership would be welcome within the borough given the level of pressure on the local housing market. We would welcome the opportunity to work with the developer to identify the mix of property sizes required and the delivery of much needed new homes.

#### Essex County Council (Highways Authority)

The work contained within the transport assessment in relation to junction capacity modelling contained very robust positions in relation to traffic growth, development traffic application and unit numbers which when taken together more than cover the change in traffic demands locally during the assessment period.

The highway authority therefore considers the submitted transport assessment to be a thorough and robust analysis of the highway network. Access to the residential development is proposed to be taken from two new access points onto the highway network, these junctions have been designed in accordance with the Essex Design Guide and visibility displays that are compliant with MfS requirements. Mitigation in the form of sustainable transport improvements is also to be secured to offer alternative forms of transport from the development to connect into cycle and walking network and also improvements to the bus service facilities and services in the vicinity of the site.

A comprehensive list of improvements and mitigation measures to promote sustainable travel has been identified within the vicinity of the site. These measures are proposed to mitigate the impact of the development on the highway network and considered acceptable by the highway authority.

From a highway and transportation perspective the proposal is acceptable to the Highway Authority subject to following conditions being applied. All housing developments in Essex which would result in the creation of a new street (more than five dwelling units communally served by a single all-purpose access) will be subject to The Advance Payments Code, Highways Act, 1980. The Developer will be served with an appropriate Notice within 6 weeks of building regulations approval being granted and prior to the commencement of any development must provide

guaranteed deposits which will ensure that the new street is constructed in accordance with acceptable specification sufficient to ensure future maintenance as a public highway.

1. All development shall accord with a Construction Management Plan, including any ground works or demolition, to be submitted to the planning authority. The approved plan shall be adhered to throughout the construction period. The Plan shall provide for:

- I. vehicle routing,
- II. the parking of vehicles of site operatives and visitors,
- III. loading and unloading of plant and materials,
- IV. storage of plant and materials used in constructing the development,
- V. wheel and underbody washing facilities.
- VI. Before and after condition survey to identify defects to highway in the vicinity of the access to the site and where necessary ensure repairs are undertaken at the developer expense were caused by developer.

Reason: To ensure that on-street parking of these vehicles in the adjoining streets does not occur and to ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety and Policy DM 1 of the Highway Authority's Development Management Policies February 2011.

2. Prior to first occupation of the development, the access points at Daws Heath Road and Stadium Way shall be provided as shown in principle on Stantec DWG Proposed general arrangement drawings 47268/5501/002 P8 and 47268/5501/001 rev p12. The vehicular access points 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 junctions are first used by vehicular traffic and always retained free of any obstruction thereafter. All redundant access points 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 DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

3. Prior to commencement of the development, the areas within the curtilage of the site for the purpose of loading / unloading / reception and storage of building materials and manoeuvring of all vehicles, including construction traffic shall be provided clear of the highway.

Reason: To ensure that appropriate loading / unloading facilities are available to ensure that the highway is not obstructed during the construction period in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

4. 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 always retained.

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 DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

5. 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 policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

6. Vehicle parking shall accord with the requirement of the EPOA parking standards and as such each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres. All single garages should have a minimum internal measurement of 7m x 3m, All double garages should have a minimum internal measurement of 7m x 5.5m to be considered in the parking numbers. Visitor Parking shall be provided throughout the development.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

7. Prior to occupation of the proposed residential development the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for every household for sustainable transport, to include 6-day travel ticket for bus travel from the development site, 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.

8. Any tree planting proposed within the highway must be agreed with the Highway Authority. Trees must be sited clear of all underground services and 2m back visibility splays and must be sympathetic to the street lighting scheme. All proposed tree planting must be supported by a commuted sum to cover the cost of future maintenance, to be agreed with the Highway Authority.

Reason: To avoid the interference with visibility splays and lighting of the highway in the interest of highway safety in accordance Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

9. Prior to occupation of the proposed residential development a phased payment financial contribution of £1.150,000 towards bus service enhancements along the Daws Heath Road Corridor (route 3) to improve frequency/accessibility and routing to / from the site to services, facilities, and areas of employment.

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.

10. Prior to occupation of the proposed development, bus infrastructure enhancements shall be provided to upgrade existing facilities on Daws Heath Road to include raised kerbs and shelters with Real Time Information, where necessary, to the east of the access. Both sets of improvements shall be completed at the expense of the developer and to the satisfaction of the Highway Authority.

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.

11. Prior to first occupation of the proposed development, the approved travel plan shall then be actively implemented for a minimum period from first occupation of the development until 1 year after final occupation. It shall be accompanied by an annual monitoring fee of £2817 (index linked), to be paid to 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.

12. Prior to first occupation of the proposed development a parcel of land along the full length of the site on the eastern side of Rayleigh Road shall be transferred, free of charge and easements to the Highway Authority for the future provision of highway related improvements along the Rayleigh Road corridor.

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.

13. Connection to the existing Public Rights of Way network footpath 7 shall be provided both on the northern boundary (providing access to the employment zone) and eastern side (providing access to nature reserve). Both sets of improvements shall be completed at the expense of the developer and to the satisfaction of the Highway Authority with any new planting to be set back at least 2m away from the edge of the footpath to ensure sufficient width is provided for future growth and to prevent unwanted encroachment.

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.

14. Prior to occupation of the proposed residential development a financial contribution towards A129 corridor enhancements to upgrade existing services / creation of new cycling routes as deemed necessary and 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

Informative:

1. All work within or affecting the highway is to be laid out and constructed by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority, details to be agreed before the commencement of works. The applicants should be advised to contact the Development Management Team by email at [development.management@essexhighways.org](mailto:development.management@essexhighways.org) or by post to: SMO3 - Essex Highways, Childerditch Highways Depot, Unit 36, Childerditch Industrial Park, Childerditch Hall Drive, Brentwood, Essex, CM13 3HD

2. The Highway Authority cannot accept any liability for costs associated with a developer's improvement. This includes technical check, safety audits, site inspection, commuted sums for

maintenance and any potential claims under the Part 1 and Part 2 of the Land Compensation Act 1973. To protect the Highway Authority against such compensation claims a cash deposit or bond may be required as security in case of default.

3. Prior to any works taking place in the public highway the developer shall enter into the appropriate legal agreement with the Highway authority under the Highways Act 1980 to regulate the construction of the highway works.

4. Under Section 148 of the Highways Act 1980 it is an offence to deposit mud, detritus etc. on the highway. In addition, under Section 161 any person, depositing anything on a highway which results in a user of the highway being injured or endangered is guilty of an offence. Therefore, the applicant must ensure that no mud or detritus is taken onto the highway, such measures include provision of wheel cleaning facilities and sweeping/cleaning of the highway.

5. Mitigating and adapting to a changing climate is a national and Essex County Council priority. The Climate Change Act 2008 (amended in 2019) commits the UK to achieving net-zero by 2050. In Essex, the Essex Climate Action Commission proposed 160+ recommendations for climate action. Essex County Council is working with partners to achieve specific goals by 2030, including net zero carbon development. All those active in the development sector should have regard to these goals and applicants are invited to sign up to the Essex Developers' Group Climate Charter [2022] and to view the advice contained in the Essex Design Guide. Climate Action Advice guides for residents, businesses and schools are also available.

6. The Public Right of Way network is protected by the Highways Act 1980. Any unauthorised interference with any route noted on the Definitive Map of PROW is a breach of this legislation. The public's rights and ease of passage over PROW network shall be always maintained free and unobstructed to ensure the continued safe passage of the public on the definitive right of way.

7. The grant of planning permission does not automatically allow development to commence. In the event of works affecting the highway, none shall be permitted to commence until such time as they have been fully agreed with this Authority. In the interests of highway user safety this may involve the applicant requesting a temporary closure of the definitive route using powers included in the Act. All costs associated with this shall be borne by the applicant and any damage caused to the route shall be rectified by the applicant within the timescale of the closure.

#### Essex & Suffolk Water

No response from agency.

#### Environment Agency 21/04/2023

Have no comment to make.

#### PROW

No response submitted.

#### Anglian Water

No comment received.

### CPBC Public Open Space Operational Manager

No comment received.

### Cadent Gas

No comment received.

### Castlepoint Wildlife Group

No comment received.

### East of England Ambulance Service

No comment received.

### UK Power Networks

No comment

## **Public Consultation**

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

There were a total of 945 responses received from 809 different addresses which made the following objection comments:

- Noise
- Traffic and highways issues, highways already congested.
- Over population for profit and gain by those who don't have to live here
- destroy habitats for local wildlife and create extra risk for the wild animals that live around the area.
- loss of residential amenity
- loss of open space
- not affordable housing
- first time buyers cannot afford £300,000.00
- more loss of green belt land for profit
- why not use brown field sites or redevelop older estates and improve them
- use redundant office and warehouse sites
- doctors' surgeries oversubscribed.
- schools over occupied
- more of our dwindling wildlife being impacted upon
- more housing and more people cannot be accommodated.
- existing facilities pathetic at present more so with another 450 houses and 1000 cars
- bus services are unworkable, and their frequency is appalling as well as the quality of the service.
- area floods terrible and my garage floods on a regular basis in heavy rain
- my access drive is gridlocked in a morning.
- pollution from cars queuing is terrible our front gardens are polluted by this.
- there are not enough gp surgeries, dentists, schools or hospital for current residents.
- the site is in the middle of a green belt area and abuts 2 local wild life areas



- this green belt site maintains a gap between Castle Point and Rochford, if it is developed it will allow Castle Point to amalgamate with Rochford and it will become one big urban conglomerate.
- no one thinks about the loss of wildlife when development takes place, they lose their habitat, feeding areas and their homes and no one really compensates them, although there are a lot of so-called ecologists employed to say it won't affect wildlife badly and they will mitigate the impact rubbish?
- We are losing our open space at a ridiculous rate, where will we be able to relax in the future when its all been developed.

Supporting responses from 8 residents have been received with the following comments:

- more affordable homes are needed for the younger population this should go some way to helping.

### **Comment by Local Member of Parliament – Rebecca Harris MP**

As the local Member of Parliament, I am writing to object to application 23/0085/OUT on three main grounds.

Firstly - the application constitutes inappropriate development in the Green Belt. National Planning Policy Framework clearly states, "Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans". The Planning and compulsory Purchase Act 2004 states that when determining planning applications such as this, "the decision must be in accordance with the development plan unless material considerations indicate otherwise". The saved policies of the 1998 Castle Point Local Plan identify the site of the application as Green Belt. No 'very special' or 'material' circumstances have been fully evidenced and justified by the developer as part of this application. Even if there were any that the developer wished to advance, the most appropriate course of action would be for them to try and make the case for them during the plan making process for the new Castle Point Local Plan rather than via a speculative planning application.

Secondly - I wish to object on the grounds of the potential for this development to cause flooding for other properties outside of the site area. I do not believe that there is anything wrong with the hydraulic modelling of the site itself and I am pleased to see the intent for a comprehensive SUDs system for the site. However, much of asset capacity data regarding the current drainage network in Castle Point is incomplete or demonstrably inaccurate, and the hydraulic modelling of the said network needs revision. It is therefore impossible for the developer to accurately determine the level of SUDs infrastructure needed for the site to ensure that any outflows into the existing drainage network will not exacerbate flood risk for existing properties. In September 2022, a report under Section 19 of the Flood Water Management Act 2010 was released by Essex County Council, as the Lead Local Flood Authority, into the flooding that occurred across the Borough on the 21st of September 2021. One of the many recommendations in the report was that two key documents that form the basis of the evidence used by council planning officers regarding flood risk in Castle Point, the Local Flood Risk Management Strategy and Surface Water Management Plan (including existing hydraulic modelling), are reviewed and updated, with a particular focus on increasing risk due to climate change. I understand that this work is not yet complete.

Finally - I want to object on the grounds that this development will place unacceptable stress on the local highway network due to extra traffic volumes. All vehicles entering or exiting the proposed development site via the two access points identified by the developer are likely to put further unacceptable congestion on the A129 Rayleigh Road around the Woodman's Arms and Rayleigh Weir junctions. Both junctions are already severely overcapacity at peak times and frequently congested throughout most of the day. Rayleigh Wier is the southern boundary of the

Rayleigh Air Quality Management Area, and several concerns have been raised about the nitrogen dioxide levels in the area. Adding further congestion to Rayleigh Wier and the A129 is only going to exacerbate the problem and I cannot see any specific mitigation measures included in the proposal.

Many residents have already submitted comments containing well-argued and evidenced objections and I urge the Council to consider them carefully. I would also like to draw the Council's attention to the excellent comments in objection made by the Essex Badger Protection Group and urge them to take those, and any other concerns regarding impacts on local wildlife, into account as fully as possible.

Whilst I disagree with the application, I fully appreciate the inclusion of a health care facility, new community space and bus and cycle routes. The proposal also has a good amount of green space and woodland. However, in my mind, this does not outweigh the damage to the Green Belt, the highly likely exacerbation of local flooding issues and the unacceptable increases in local traffic that these proposals would cause.

## **Comments on Consultation Responses**

All material planning considerations raised during the public consultation period will be considered in the body of this report.

## **Evaluation of Proposal**

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

The principle issues that need to be considered in the determination of this application are:

- (i) Principle of Development
- (ii) Design and Layout
- (iii) Density and Housing Mix
- (iv) Highways and Parking
- (v) Noise and Disturbance
- (vi) Contamination
- (vii) Ecology and Trees
- (viii) RAMS
- (ix) Flood Risk and Drainage
- (x) Archaeology

### **(i) Principle of Development**

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

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

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

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

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

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

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

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 towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The principle of development within the Green Belt will be fully and comprehensively assessed within the body of this report. Nonetheless, the Local Planning Authority has also developed an assessment template to aid assessing applications for residential development in the Green Belt.

This template has been developed with the aim to provide a consistent, comprehensive, robust and up-to-date approach to assessing all primarily residential applications in the Green Belt, where all harm resulting from a proposal as well as all benefits are clearly set out, considered and appropriately weighted.

However, it should be noted that the template is not and should not be used as a mathematical approach to applying weight to considerations for and against a development proposal. The balancing exercise is still a matter of planning judgement and not a numerical exercise.

The assessment of this application in accordance with this newly developed template can be found in Appendix 1 to this report.

Paragraph 140 states that once established Green Belt boundaries should only be altered in 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 harmful to the Green Belt and should not be approved, except in very special circumstances and paragraph 148 of the NPPF states that when considering any planning application, planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

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

These exceptions are:

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

This proposed development does not qualify for such exceptions, or those listed under paragraph 150 of the NPPF and is therefore inappropriate development which is by definition harmful to the Green Belt.

Having determined the existence of definitional harm, consideration must also be given to any other harm that might arise from the development of the site as well as whether any benefits of the proposal amount to *'very special circumstances'*.

#### 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 scheme under consideration. Such considerations do not have to be unique or incapable of repetition.

CPBC considers that 'very special circumstances' 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' (Paragraph 148).

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

- I. Castle Point Local Plan (2018-2033) evidence base
- II. Green Belt Review (2018)

- III. Demand for Market and Affordable Housing not being met by current policy
- IV. Lack of five-year housing land supply
- V. Provision of Community facilities

In this regard, the applicant emphasises that the council has an inadequate supply of housing land to meet their future housing needs and has a shortfall in available affordable and market housing stock. The applicant also cites the out-of-date planning policies and development plan, and the provision of new community facilities as reasons for very exceptional circumstances being employed to bring about change in the housing market in the area. They also refer strongly to the evidence base of the now withdrawn Local Plan (2018 – 2033)

The points mentioned by the applicant are put forward as justification for the council to allow for 'very special circumstances' with the view to support new development within a Green Belt area.

### Green Belt Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF at paragraph 12 states that 'the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making'.

The most recently adopted local plan in Castle Point is the Castle Point Local Plan (adopted November 1998). On 20 September 2007, the Secretary of State issued a direction confirming those policies which would be saved and policies which would expire on 27 September 2007.

The applicant suggests that it is pertinent to note policy GB1 (Control of Development) was not included within the list of policies in the saving direction issued by the Secretary of State (September 2007).

However, in the absence of an adopted policy providing guidance for the consideration of new development in the Green Belt, it refers to the guidance contained within the National Planning Policy Framework (NPPF, July 2021). Paragraphs 147 and 148 of the NPPF clarify that inappropriate development should not be approved except where 'very special circumstances' exist which '*clearly*' outweigh the harm.

The applicant relies heavily within their submission that the site was previously allocated within the now withdrawn Local Plan.

On 30 November 2022 the Council took the decision to prepare a new local plan, The Castle Point Plan. This followed the unanimous decision of Council to withdraw the Castle Point Local Plan 2018 to 2033 on 15 June 2022.

The withdrawn plan does not amount to very special circumstances.

The government has announced that it is committed to protecting and enhancing the Green Belt and that national planning policy includes strong protections for Green Belt land and that this policy will remain firmly in place. It has also recently been proposed to strengthen Green Belt policy by making it clear that local authorities are not required to review Green Belt boundaries to meet housing needs<sup>2</sup>.

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<sup>2</sup> Policy paper – Reforms to national planning policy report: government response – 29<sup>th</sup> November 2023

A recent report to Full Council<sup>3</sup> by the Portfolio Holder for Strategic Planning confirms the latest position on the Local Plan, which is proceeding as timetabled. In summary, since the withdrawal, preparation of a new plan has been begun, focusing on four key objectives which are to have a plan that; is based on a robust housing needs assessment, identifies and prioritises brownfield and urban sites, protects the Green Belt and is what the community wants.

As part of this development, a new local housing needs assessment<sup>4</sup> has concluded that the housing need is 255 homes per year, 100 homes less than the standard methodology which the withdrawn local plan was based on (355). This supersedes the evidence contained within the withdrawn Local Plan and has a dramatic impact on the numbers over the intended plan period.

The local planning authority acknowledges that it does not currently have a five-year housing land supply and that this currently sits at 1.86 years<sup>5</sup>. The proposal would offer some benefit in terms of a boost to housing supply within the borough of up to 455 dwellings. It is also acknowledged that the applicant indicates that 40% of the units (182 in total) would be affordable homes. It is considered that cumulatively, a substantial level of weight can be attributed to these factors in favour of the application.

The applicant also asserts that the provision of community facilities, not limited to a new multi-use community hall, land for the provision of a healthcare facility, land for a stand-alone early years and childcare nursery, new vehicular/pedestrian access points from Stadium Way in the north and Daws Heath Road in the south, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure also amounts to very special circumstances. It is considered that a moderate level of weight in favour of the development can be attributed to the proposed community facilities. However, it must be remembered that the provision of these facilities would be a by-product of the provision of market housing on a large scale and this is not an application that is primarily for the provision of community facilities.

It is also evident that the application site is designated Green Belt on the proposals map accompanying the adopted 1998 Local Plan, see Figure 3.

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

It also assists in providing added defensibility to the retention of open land within the green belt as local authorities have a duty to evolve planning policy to focus any new development on brown field land, contaminated land and land that is of poor quality or degraded in order to reduce pressure on green belt land.

This has always been the main philosophy behind Green Belt policy, and it has maintained the openness and permanence of the countryside for a considerable period but is now becoming more under pressure in certain areas and it is essential that the policy is maintained to avoid coalescence of development and loss of open land.

The applicant refers to the 2018 Green Belt Reviews which found this site to form part of a larger parcel which very strongly served the first three purposes of the Green Belt as identified within the Part 1 review. The applicant also references Part 2 of the review which identified that releasing

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<sup>3</sup> Item 12 – Castle Point Full Council Agenda – 29<sup>th</sup> November 2023

<sup>4</sup> Local housing Needs Assessment 2023

<sup>5</sup> Castle Point Authority Monitoring Report 1<sup>st</sup> April 2021-31<sup>st</sup> March 2022

the site from the Green Belt would result in moderate, very strong and strong harm respectively the first three purposes of the Green Belt.

This green belt site clearly maintains a significant separation gap between Rayleigh, Hadleigh, Thundersley and Daws Heath, which is particularly important as this gap represents a separation corridor, which, except for minor sporadic development, forms a substantial, distinct and definitive boundary between these four settlements.

This site specifically forms part of the limited gap between Thundersley and Daws Heath, which is particularly important as this gap represents a narrow north-south corridor of some 440-500m, which, apart from minor sporadic development, forms a distinct and definitive boundary between the two settlements of Thundersley and Daws Heath. The proposal would result in the coalescence of some of the large parts of the sporadic development, notably that of the dwellings to the north of Daws Heath Road which, with the proposed development, would erode this distinctive but narrow north-south separation to less than half its current width at approximately 190m.

It is considered that this area of Green Belt very strongly serves the first three purposes of the Green Belt, which are:

- to check the unrestricted sprawl of large built-up areas,
- to prevent neighbouring towns merging into one another, and
- to assist in safeguarding the countryside from encroachment. (The encroachment of the built form into this Green Belt area would erode its function and purpose of maintaining the separation of Thundersley, Daws Heath, Rayleigh and Hadleigh.)

In consequence, officers do not consider that the long-term philosophy and objectives of the Green Belt, should be relaxed to allow piece-meal development to take place within the Green Belt, especially when its loss in this location would erode the distinctive nature and separation element of the four individual settlements, mentioned above.

The harm to purposes 1-3 and 5 of the Green Belt, are clearly identified with this application when regard is had to the loss of the large open gap, maintained by the existing designated Green Belt, which will result in significant harm to the openness of the countryside. The loss of Green Belt in this locality and the further loss of settlement identity through further urban extension across the green belt within Castle Point Borough, will contribute to an amalgamation of not only the four settlements of Rayleigh, Hadleigh, Thundersley and Daws Heath but a number of other areas within the Borough if the green belt policy is allowed to be overridden.

It is evident that sites are required for future housing development to provide for a 5 year land supply, but there is a need to establish the correct sites for future housing land in a logical, sequential approach, whereby green belt sites should be rigorously scrutinised before being released, with the view that all other brownfield and unallocated land being assessed with a view to release, prior to any green belt land.

Further to the findings of the 2018 Green Belt Review, as part of the new assessment template which has been developed to assess residential development in the Green Belt, a comprehensive, robust and up-to-date assessment of the impact that the proposed development will have has been undertaken. This is akin to the previously conducted Part 2 review, however its assessment can carry much more certainty in its findings due to the submission of the application providing more information and a higher degree of certainty as to the development on site, and therefore the harm that may occur.

The completed assessment framework for this site and application is located at Appendix 1 to this report and will feed into the consideration of the planning balance and assessment of the entire proposal. This up-to-date assessment concludes that the development would result in substantial harm to purposes 1-3 and 5 of the Green Belt which would deem this application to be inappropriate development.

Where the necessary brownfield and unallocated sites are not identified/available, only then should green belt sites be considered for release. Therefore, the circumstances being purported by the applicant at this time do not constitute 'very exceptional circumstances', to allow such an exception and permit development to take place in this area of Green Belt.

Whilst the most recently prepared draft Local Plan (2018-2033) has been withdrawn, in preparing the new Castle Point Plan, the evidence base which underpinned the previous Local Plan has begun to be superseded with newer more relevant and up-to-date assessments and information. This is evident in the publication of a new housing needs assessment which has identified a reduction in 100 homes per annum compared to the previous standard methodology-based calculations, as well as the up-to-date Green Belt assessment attached to this report in Appendix 1. These new evidence documents are material considerations in the determination of speculative applications within the Green Belt and have a definitive impact on the applicant's purported very special circumstances.

### *Openness of the Green Belt*

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

In undertaking an assessment on the openness of the Green Belt, regard needs to be had to the findings of both *Turner v Secretary of State for Communities and Local Government* [2016] EWCA Civ 466 and *Euro Garages Limited v Secretary of State for the Environment* [2018] EWHC 1753.

*Turner* set out that the concept of "openness of the Green Belt" is not narrowly limited to the volumetric approach but is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these factors is how built up the Green Belt is now, how built up it would be if development occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents. Furthermore, the openness of the Green Belt has a spatial aspect as well as a visual impact, and the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result of the location of a new or materially larger building.

The *Euro Garages* decision considers both the *Turner* decision and *Samuel Smith Old Brewery (Tadcaster) v North Yorkshire County Council* [2018] EWCA Civ 489. It considers that where the issue of openness arises the visual impact of the development will generally require consideration, and that should be the case whether there is likely to be a visual impact or if there is no visual impact. It concludes that the open textured approach to visual impact, as well as spatial impact, requires consideration, subject to a margin of appreciation. It is not sufficient to treat any and all change as having a greater impact on the openness of the Green Belt, it is the impact or harm of the changes, if any, that need to be considered.

This is consistent with a recently updated section of Planning Practice Guidance (64-001-20190722) which states that openness is capable of having both spatial and visual aspects meaning the visual impact of the proposal may be relevant, as could its volume.



The visual impact of development on the openness and perceived openness of the Green Belt is a material consideration, as identified in the aforementioned High Court cases.

The proposed scheme has been assessed to represent a significant spatial and visual intrusion within the Green Belt by reason of the large bulk, mass and scale of the proposed development. Whilst an effort has been made in the indicative proposed parameter plan to locate taller 3 storey development within the middle of the site, for the most part, further away from the site boundaries, in the opinion of the LPA it is considered that the development would appear as a large and intrusive feature on this site which is currently undeveloped farmland which contributes strongly to serving the purposes of the Green Belt as set out in paragraph 138 of the NPPF.

Whilst it is acknowledged that many of the plans are purely indicative as this is an outline application, the intended spread and density of development across much of the site is considered to succinctly illustrate these concerns, highlighting the visual intrusion and impact on the openness of the site and the substantial harm to purposes 1-3 and 5 of the Green Belt. Although layout is reserved, it is difficult to envisage a layout that would not impinge upon openness to any significantly lesser degree while accommodating the quantum of development described.

## **(ii) Design and Layout**

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

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

The council has adopted Residential Design Guidance (RDG) as a supplementary planning document. The current application is for outline planning permission only with all matters except access reserved. Consequently, limited details of design are provided currently. Assessment of any detailed layout in light of the council's design guidance would take place at reserved matters stage if outline permission is granted.

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

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

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

RDG4 states that development on corner plots should be designed to turn corners. It also states that all new or replacement dwellings on corner plots should provide active and articulated

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

RDG5 states that for all residential development above ground floor level 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, ensuites and utility rooms. All other rooms are included.

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

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

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

RDG10 provides guidance in respect of boundary treatments and states that the means of enclosure and surface material should be informed by the prevailing character of the area and that any means of enclosure should not dominate the public realm. It also states that in all cases the means of enclosure and surface treatment must be of high-quality materials, appropriate in terms of appearance and ongoing maintenance to the location. The developer will be expected to have regard to the requirements of RDG10 in the preparation of reserved matters. A parameter plan for non-vehicular movement within the site is also included for information purposes, see Fig 6. This indicates the main access points for bicycles and pedestrians to gain access into the site and for the locations for cycle routes and pedestrian routes within and through the site.

RDG11 of the Residential Design Guidance is concerned with landscaping.

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

RDG16 is concerned with the provision of housing which is provided with adequate internal space which reflects current best practice. Current best practice in this regard is considered to be the Technical Housing Standards – National Described Space Standard. Any future

submission would be expected to adhere to these standards and wherever possible and appropriate exceed them.

### **(iii) Density and Housing Mix**

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.

Whilst the plans provided are only indicative, it is nevertheless possible to tell that a gross density of up to 16.3 dwellings per hectare would be provided across the entire site. This is quite low for a new housing development. Some land is given over to non-residential uses but mostly the density is brought down by the large areas of green space indicated. While the desire to maintain a good level of open space around the development is acknowledged, officers question whether this low density of development makes the best use of the site, thereby reducing pressure to develop further green belt sites in the future.

However, from the information available it is considered that the site is capable of hosting the number of dwellings and proposed facilities, however care should be taken in the preparation of any future applications to ensure a suitable density of development which is sympathetic to the surrounding area whilst also balancing the need for open space and other such provisions on the site.

Policy H10 of the adopted Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. Local planning authorities should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The 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.

No details of the proposed housing mix have been provided other than 40% affordable housing. Which is not surprising given the nature of this outline application.

A new Local Housing Needs Assessment is due for publication in early December 2023 which will supersede the current version.

Future applications should seek to take into account the latest assessment of housing need within the borough and factor this in to developing and as a result proportionately setting out the optimum mix of housing size and types.

#### **(iv) Highways and Parking**

Many local residents have expressed concern over the potential traffic implications arising from the proposed development, which proposes vehicular access onto both Stadium Way and Daws Heath Road.

A number of non-vehicular accesses are also shown on indicative plans, however the certainty of these is much less known. These exit onto Rayleigh Road, Stadium Way and Daws Heath Road.

Given that access to the site is not a reserved matter, it falls to consider this matter under this application.

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

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

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

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

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

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

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

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

Detailed parking layouts for the proposed residential development have not been provided, however, if outline permission is forthcoming, the applicant is advised to prepare a parking layout that complies with the council's adopted standards as part of any reserved matters application.

Bicycle parking is required on the basis of one covered and secure space per dwelling. Where houses with garages are provided there is no need for a dedicated cycle storage facility or structure however where houses are provided without garages or in the case of flats then cycle storage needs to be designed into the proposal from the outset and must not be an afterthought.

#### **(v) Noise and Disturbance**

The effect of development on residential amenity is an important planning consideration. Policy EC3 of the adopted Local Plan states that development proposals which would have a significant adverse effect upon the residential amenity of the surrounding area by reason of traffic, noise, fumes, or other forms of disturbance will be refused.

It is inevitable that the development of the application site will generate noise and disturbance during the constructional phase. Such noise is transitory and rarely provides a robust reason for refusal of an application for development of the type proposed. However, development of large sites can extend over significant periods and it is therefore incumbent upon the Planning Authority and the applicant to ensure that the levels of noise and disturbance generated during the constructional period is kept as low as practically possible in the interests of the amenity of residents and the wider environment.

To facilitate this the applicant can submit a CEMP which identifies the hours of operation, the hours of delivery, the location of facilities within the site including wheel washing and storage areas etc. Subject to a condition securing submission and approval of a suitable CEMP, no objection is raised to the proposal on this basis.

#### **(vi) Contamination**

Policy EC4 of the adopted Local Plan seeks to ensure that development which would have a significant adverse impact on health, the natural environment or general amenity by reason of noise, dust, vibration, light or heat will be refused.

Impacts from noise, dust, light or heat arising during the construction phase can be remedied through the provision and implementation of a robust Construction Environment Management Plan.

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.

The Environmental Health Service considered that following review of the submitted Air Quality Assessment that a package of mitigation measures would minimise the risk of elevated PM10 concentrations and dust nuisance in the surrounding area. They are satisfied that the submission proposed mitigation measures which would satisfactorily address any concerns and prevent significant impacts to the surrounding area during construction. This can be secured by way of appropriate worded conditions.

The site has previously been categorised as low risk in terms of contamination. No objection is therefore raised to the proposal based on potential adverse impact on the health of contractors, nearby residents or future occupants.

If unforeseen ground contamination is encountered during development, to include demolition, the LPA will require notification and appropriate ground investigation and/or remediation.

To facilitate this the applicant can submit a construction and environmental management plan (CEMP) which can identify how they will handle and address any issues encountered. Subject to a condition securing submission and approval of a suitable CEMP, no objection is raised to the proposal on this basis.

### **(vii) Ecology and Trees**

Paragraph 180 of the NPPF states:

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

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

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

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

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

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

Details for the proposed landscaping and ecology for this proposal have been reviewed by an independent ecologist. This was undertaken to gauge the value and the ecological significance for the hedgerows and wider area of land.

Whilst it is acknowledged that some biodiversity would initially be lost as a result of this development, the application demonstrates that there will be a total of 14.60ha of informal open

space that will provide a range of different experiences for new residents. This includes a lake, woodlands, orchards, wet grasslands, scrub grasslands and meadow grasslands which are all interlinked. The provision of this informal open space provision is greater than 8.74ha required in line with Natural England Thames Basin Heaths guidance on SANGs, which recommends 8ha per 1,000 persons.

In addition, it indicates that the developer is happy to provide recreational opportunities for a 2.7km daily walking route for new residents.

A Habitat Regulations Assessment (HRA) – Appropriate Assessment Record has been prepared by Essex County Council – Place Services on behalf of the council. As a result, it is considered that appropriate measures will be undertaken for international and European designated sites for this application.

It is acknowledged that there will likely be increased visitor usage of the Local Wildlife Site (LoWS). However, the developer has implemented significant measures to minimise impacts from daily recreational needs of new residents, via the inclusion of 14.27ha of multi-functional open space, a commitment of an advertised 2.7km walking route away from the LoWS.

The Ecological Impact Assessment – Rev D (Southern Ecological Solutions Ltd, January 2023) and subsequent further walkover surveys recorded no evidence of Common Cow Wheat within the hedgerows and on-site woodland (SES Ltd pers comm, October 2023), which is the primary larva food plant of Heath Fritillary. In addition, the butterfly was not recorded during the invertebrate surveys. Furthermore, Hazel Dormouse surveys in line with standard methodology were carried out for this scheme and likely absence was confirmed for the species.

Methods are proposed to provide a wildlife friendly lighting scheme should be provided for this application to be secured as a condition of any consent prior to occupation, which follows the ILP & BCT 2023 guidelines.

In regard to Badgers, the proposed new development will provide sufficient land to support the known Badger population within the site. The scheme has been designed to ensure the foraging and commuting options will be maintained. However, as the main sett will be impacted by the proposed works, it is recommended that a new artificial sett replacement will be required in line with mitigation measures proposed within the Ecological Impact Assessment. The finalised details and location of the artificial sett should be secured within a separate method statement as part of the CEMP.

The applicant has provided a Biodiversity Net Gain Design Stage Report (Southern Ecological Solutions Ltd, January 2023) and the associated Biodiversity Metric – Calculation Tool 3.1. These calculations state that a net gain of 11.69 habitat units(10.48%) and 2.49 of hedgerow units(11.99%). A finalised biodiversity net gain plan can be secured by condition.

Following these findings which are supported by qualified ecologists at Essex County Council, with no objection from Natural England, it is considered that the proposed development aligns with the relevant national and local policies and would be acceptable subject to suitable mitigation strategies secured by condition and where appropriate S106 legal agreement. It is not considered that on the basis of the information submitted that refusing the development on the basis of harm to wildlife or ecology would not be sustainable.

#### **(viii) RAMS**

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

To counter this, the council has, along with other districts in the county, adopted the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) which sets out a tariff applied to all net new residential development within the zones of influence of the habitat sites. For 2023/24 this is £156.76 per dwelling. Once collected this goes into a fund to avoid and mitigate adverse effects from increased recreational disturbance. Alternatively, the developer can commission their own Appropriate Assessment.

This proposal lies within three zones of influence: Benfleet and Southend Marshes, the Blackwater estuary and Foulness. The developer has offered to undertake as part of the S106 agreement to pay a RAMS contribution to mitigate the impact the proposal would have on the habitats sites. Subject to the satisfactory completion of such a legal agreement, no objection is raised to the proposal on this basis.

#### **(ix) Flood Risk and Drainage**

As part of the consultation process for this application, the Lead Local Flood Authority (LLFA) has assessed this application provided advice. The LLFA seeks to ensure sustainable drainage proposals comply with the required standards as set out in the following documents:

- Non-statutory technical standards for sustainable drainage systems
- Essex County Council's (ECC's) adopted Sustainable Drainage Systems Design Guide
- The CIRIA SuDS Manual (C753)
- BS8582 Code of practice for surface water management for development sites.

In considering the development proposal against these documents, the LLFA consider the proposal to be acceptable and have raised no objection to the proposal.

The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF recognises the key role that the planning system plays in helping to mitigate and adapt to the impacts of climate change, taking full account of flood risk and coastal change; this includes minimising vulnerability and providing resilience to these impacts. In making a decision on this planning application it is advised that consideration be given to the sustainability of the development over its lifetime.

The LLFA have not considered the following issues as part of this planning application as they are not within their direct remit; nevertheless, these are all very important considerations for managing flood risk for this development and determining the safety and acceptability of the proposal.

- Sequential Test in relation to fluvial flood risk.
- Safety of people (including the provision and adequacy of an emergency plan, temporary refuge and rescue or evacuation arrangements);
- Safety of the building.
- Flood recovery measures (including flood proofing and other building level resistance and resilience measures);
- Sustainability of the development.

Careful consideration of the proposal and those matters relating to flood risk which are the Local Planning Authorities responsibility. The site is located in Flood Zone 1 with a very low probability of fluvial flooding. Following consideration of the proposal by officers, the proposal is deemed to be acceptable in relation to these matters subject to conditions where necessary.



In the light of the consultation with the LLFA and the advice provided it is considered that there are no objections to the application from a flood risk and drainage aspect.

## **(x) Archaeology**

Paragraph 194 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 195 continues that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

In determining applications, local planning authorities are required to take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The applicant has confirmed that the majority of the existing Historic hedgerows will be preserved within the proposed development as defined within the design and access statement, which will retain the historic pattern of hedges, although the housing will detract from the overall agrarian nature of the present landscape, it is not considered that the proposed development if constructed in line with the indicative plans would result in such harm that the application could be sustainably refused on this basis.

Suitable conditions can be applied to any grant of consent in order to secure suitable archaeological surveys and exploration where any hedge and ditches need to be crossed and no objection is raised to the proposal on this basis.

## **Conclusion**

The Framework sets out at paragraph 11 a presumption in favour of sustainable development, which for decision-taking, means that permission should be granted, unless the harm caused by the proposal clearly outweighs the benefits of the proposal. This is otherwise known as the 'planning balance'.

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

- o approving proposals that accord with an up-to-date development plan without delay; or

- o where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

In this case, the council's development plan is not up to date. Footnote 8 of the Framework explains that, for applications involving the provision of housing, policies most important for determining the application will be out-of-date where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

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

The application site is within the Green Belt which is listed as a protected area at footnote 7 of the Framework.

The NPPF attaches great importance to the Green Belt, attaching substantial weight to any harm to the Green Belt by reason of inappropriateness and any other harm arising from the proposal. The proposed development is inappropriate development and there would be harm to the character, purpose, function and openness of the Green Belt which conflicts with national policies as contained within the NPPF.

Conversely, there is a significant shortfall in overall market and affordable housing supply, which the development would contribute towards, whilst the scheme would also provide some economic benefit through the creation of temporary construction jobs as well as a number of community facilities, and use of existing services and facilities in the local area by new residents. These weigh in favour of the proposal.

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

The totality of considerations in favour of this proposal have been considered which include but are not limited to the supply of market and affordable housing where identified shortfalls exist which carry to substantial weight in favour of the proposal. The proposed new community facilities are also considered beneficial and are attributed moderate weight. However, despite the totality of considerations in favour of the proposal, it is not considered that these considerations clearly and definitively outweigh the combined weight of the harm to the character, purpose, function and openness of the Green Belt, and conflict with national planning policy.

Therefore, it is deemed that the other considerations in this instance do not outweigh the harm identified to the Green Belt. Even if it were a finely balanced argument, the requirement of the

NPPF for other considerations to clearly outweigh the harm highlights categorically that a proposal cannot just tip the scales in favour of development, but needs to do so by some margin in order to clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.

Resultantly, the proposal has been assessed to have an unmitigated harmful impact on Castle Point's Green Belt, and that the harm caused by the proposal to the character, purpose and function of the Green Belt would directly conflict with national planning policy.

The policies in the Framework relating to the protection of the Green Belt provide clear reasons for refusing the development proposed, and criterion (i) of paragraph 11d) of the NPPF applies, meaning that the presumption in favour of sustainable development or the 'tilted balance' is not engaged. No very special circumstances or other considerations are considered to exist that outweigh these concerns.

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

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

#### **Refusal Reason**

- 1 The proposal represents inappropriate development in the Green Belt as defined in the National Planning Policy Framework. Such development will only be permitted if very special circumstances exist to justify its inappropriateness. No other considerations have been found, either in isolation or in combination, to outweigh the harm to the Green Belt so very special circumstances do not exist and the proposed development is contrary to Government advice as contained in the National Planning Policy Framework.

#### **Informatives**

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

## Appendix 1 - Green Belt Assessment

Template for Assessing Green Belt Planning Applications		
Stage	Question	Has this question been answered? Y/N
<b>Stage 1 Proposal</b>	1. Is the development proposal in Green Belt land?	Y
<b>Stage 2 Inappropriate Development</b>	2. Is the development proposal inappropriate development according to NPPF para 149?	Y
	3. Is the development proposal inappropriate development according to NPPF para 150?	Y
<b>Stage 3 Weight of Harm on the Green Belt</b>	4. What are the harms arising from the development proposal on the Green Belt?	Y
	5. What weight is attributed to harm from the development proposal on the openness of the Green Belt?	Y
	6. What weight is attributed to harm from the development proposal on the purposes of the Green Belt?	Y
<b>Stage 4 Other Non-Green Belt Harms</b>	7. Example: What weight is attributed to harm on the character and appearance of the area?	Y
<b>Stage 5 Other Considerations</b>	8. What are the other considerations for the development proposal?	Y
	9. What weight is attributed to the other considerations of the development proposal?	Y
<b>Stage 6 Very Special Circumstances</b>	10. Do very special circumstances exist to clearly outweigh harm to the Green Belt?	Y

<b>Stage 1 Proposal - Template for Assessing Green Belt Planning Applications</b>	
<b>Planning Application (Reference)</b>	<b>Located in the Green Belt? Y/N</b>
23/0085/OUT Land East of Rayleigh Road Thundersley Essex SS7 3UB	Y

Stage 2 Inappropriate Development – Template for Assessing Green Belt Planning Applications		
<p>National Planning Policy Framework Paragraph 149 states: <i>A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.</i> Exceptions to this are listed in the column below. Note that there are qualifications in relation to the exceptions which should be considered noted in this table.</p>	<p>Does the development proposal meet one (or more) of the types of development in paragraph 149?</p> <p>State 'Yes' or 'No' and where answering 'Yes' provide a description in the rows below.</p> <p>Where the development proposal does not meet one (or more) of the types of development in paragraph 149, provide a summary of the development proposal in the Conclusion section below.</p>	<p>Using the answers provided in the rows below, explain why or why not the development proposal is considered to be inappropriate development in the Green Belt.</p> <p>Where the development proposal does not meet one (or more) of the types of development in paragraph 149, provide a summary of the development proposal in the Conclusion section below.</p>
a) <i>buildings for agriculture and forestry;</i>	No	Exception not met
b) <i>the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;</i>	No	Exception not met
c) <i>the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;</i>	No	Exception not met
d) <i>the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;</i>	No	Exception not met
e) <i>limited infilling in villages;</i>	No	Exception not met
f) <i>limited affordable housing for local community needs under policies set out</i>	No	Exception not met

<i>in the development plan (including policies for rural exception sites); and</i>		
g) <i>limited infilling or the partial or complete redevelopment of previously developed land <sup>6</sup> , whether redundant or in continuing use (excluding temporary buildings), which would:</i> <ul style="list-style-type: none"> <li>– <i>not have a greater impact on the openness of the Green Belt than the existing development; or</i></li> <li>– <i>not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.</i></li> </ul>	No	Exception not met
<b>Conclusion:</b>	<b>No exceptions have been identified</b>	
<b>National Planning Policy Framework Paragraph 150</b>	<b>Does the development proposal meet one (or more) of the types of development in paragraph 150, does it preserve the openness of the Green Belt and not conflict with the purposes of including land within it?</b>	<b>Explain why the development proposal is or is not considered to be inappropriate development in the Green Belt?</b>
a) <i>mineral extraction;</i>	No	Exception not met
b) <i>engineering operations;</i>	No	Exception not met
c) <i>local transport infrastructure which can demonstrate a requirement for a Green Belt location;</i>	No	Exception not met
d) <i>the re-use of buildings provided that the buildings are of permanent and substantial construction;</i>	No	Exception not met
e) <i>material changes in the use of land (such as changes of use for outdoor</i>	No	Exception not met

<sup>6</sup> For the definition of Previously Developed Land, refer to the [National Planning Policy Framework, Annex 2: Glossary.](#)

<i>sport or recreation, or for cemeteries and burial grounds); and</i>		
<i>f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.</i>	No	Exception not met
<b>Conclusion:</b>	<b>No exceptions have been identified</b>	



<b>Stage 3 Green Belt Harm - Template for Assessing Green Belt Planning Applications</b>			
<b>What are the harms arising from the development proposal on the Green Belt?</b>			
<p>The applicant is seeking outline planning approval for access and the principles of residential development of up to 455 dwelling units, a new multi-use community hall, land for the provision of a healthcare facility, land for an early years and childcare nursery, vehicular/pedestrian access points from Stadium Way and Daws Heath Road, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure.</p> <p>This land is currently entirely allocated within the Green Belt and no exceptions have been found to exist which might therefore justify this inappropriate development. Therefore, a full consideration of the harm resulting from this development on the Green Belt will be considered.</p>			
<b>Green Belt Harm</b>	<b>Assessment of Harm on the Green Belt</b>	<b>Weight of Harm</b> <i>Limited – Moderate Substantial</i>	<b>Notes</b>
<i>Impact on openness</i>	<p>The proposal would result in the existing site which comprises a patchwork of fields being developed with up to 455 dwellings and other forms of development across the entire site.</p> <p>The proposal would replace open fields with a significant level of built development spread across the entire site, which would substantially erode the openness of the Green Belt by reason of its actual and perceived visual intrusion.</p>	Substantial	<p>Turner, Euro Garages Limited and Samuel Smith Old Brewery cases</p> <p>PPG 64-001-20190722</p>
<b>Green Belt purposes (NPPF, paragraph 138)</b>	<b>Assessment of Harm on Purposes of the Green Belt</b>	<b>Weight of Harm</b> <i>Limited – Moderate Substantial</i>	<b>Notes</b>
<i>a) to check the unrestricted sprawl of large built-up areas</i>	There is limited development within this area and the site is bounded by hard, defensible boundaries to the north by the industrial site, to the south by residential development and Daws Heath Road and	Substantial	

	<p>to the west by further residential development and Rayleigh Road.</p> <p>With the exception of small band of ribbon development along part of Daws Heath Road to the south of the site, the site is free of built-up development which this proposal would change, replacing this area with development, and for this reason it is considered to result in substantial harm to this purpose.</p>		
<i>b) to prevent neighbouring towns merging into one another</i>	<p>The site forms part of a wider area which provides the strategic gap between Daws Heath to the east, Daws Heath and Hadleigh to the south and Thundersley to the west.</p> <p>The site itself forms a crucial part of the separation between Thundersley and Daws Heath in an east-west direction where the proposal would reduce this strategic gap from 440-500m to less than half its current size at approximately 190m.</p> <p>This large development would act to notably decreased the remaining gap between these urban areas and as such the proposal is considered to result in substantial harm to this purpose.</p>	Substantial	
<i>c) to assist in safeguarding the countryside from encroachment</i>	<p>The proposal would result in the existing site which comprises a patchwork of fields being developed with up to 455 dwellings and other forms of development across the entire site, removing its predominant agricultural use.</p>	Substantial	

	<p>Whilst the site has some form of development to the north by the industrial site, to the south by residential development and Daws Heath Road and to the west by further residential development and Rayleigh Road, these represent hard, defensible boundaries which prevent encroachment into the Green Belt and still permit the perception of this site to be one of open agricultural land.</p> <p>The site also forms a valuable part of the wider countryside in all directions.</p> <p>Consequently, the proposal is considered to result in substantial harm to this purpose.</p>		
<i>d) to preserve the setting and special character of historic towns</i>	Not applicable	Not applicable	
<i>e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.</i>	<p>This proposal to build in the Green Belt acts against this purpose where one of the key functions is to direct development to urban areas and assist in urban regeneration through use of previously developed land and other land within urban areas.</p> <p>As a result the proposal is considered to result in substantial harm to this purpose.</p>	Substantial	NPPF Paragraph 11d) i. and Footnote 7

#### Stage 4 Non-Green Belt Harm

<b>What are the Non-Green Belt harms arising from the development proposal?</b>			
<p>The applicant is seeking outline planning approval for access and the principles of residential development of up to 455 dwelling units, a new multi-use community hall, land for the provision of a healthcare facility, land for an early years and childcare nursery, vehicular/pedestrian access points from Stadium Way and Daws Heath Road, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and associated infrastructure.</p> <p>This land is currently entirely utilised for arable farming and is split into smaller parcels of land by historic field boundaries and hedgerows. The proposed development of the site has the potential to detrimentally impact on the local biodiversity of the area as well as wildlife, result in increased traffic, pollution, noise and surface water flooding as well as place additional pressure on existing utilities and community facilities.</p>			
<b>Other Harm</b>	<b>Assessment of Harm</b>	<b>Weight of Harm <i>Limited – Moderate - Substantial</i></b>	<b>Notes</b>
Ecology/Biodiversity	The proposal would result in the loss of some parts of the historic hedgerows where the development proposes to remove sections to facilitate access across the site. There will also be the loss of ecology and biodiversity on the site supported by the removed sections of hedgerow as well as across the wider site which is proposed to be built on.	Limited	
Historic Landscape	There would be the loss of some parts of the historic hedgerows and ditches where the development proposes to remove sections to facilitate access across the site.	Limited	
Wildlife	The development of the site would involve the closure of the existing main badger sett, whilst other setts would remain. The proposal would also impact upon other wildlife such as bats, but not significantly	Limited	Essex Coast Recreational Disturbance Avoidance and

Protected Sites	<p>provided the development is suitably designed and suitable mitigation is implemented.</p> <p>The site lies within the zones of influence for the Benfleet and Southend Marshes, the Blackwater estuary and Foulness Special Protection Areas (SPAs) identified in the RAMS. The applicant has offered, via a S106 agreement, to pay a RAMS contribution to mitigate the harm the proposal would have on these SPAs in line with the guidance contained within the RAMS document. Such a contribution is considered to satisfactorily mitigate the harm resulting from the proposed development and therefore limited harm would arise.</p>	Limited	Mitigation Strategy (RAMS)
Increased Traffic	<p>The proposal would result in the creation of two new vehicular accesses onto Daws Heath Road and Stadium Way. The proposed development for up to 455 dwellings would likely result in additional traffic and pressure on surrounding roads. A transport assessment has been undertaken by the applicant and this has been scrutinised by the Highways Authority along with technical details of the proposed accesses. Subject to conditions, the Highways Authority raise no objection to the proposal and as subject matter experts the proposed accesses and impact on the highway network can in the absence of expert</p>	Limited	

Noise and Disturbance	evidence to the contrary it can be concluded as being acceptable and limited harm would therefore arise.	Limited	
Pollution	<p>The proposal has the potential to result in noise and disturbance during the construction phase, however this can be suitably managed through an appropriate Construction Environment Management Plan (CEMP) which can be secured by condition. It is also not considered that noise and disturbance resulting from the use of the completed development would be harmful to the residential amenity of surrounding residents given the indicative layouts and intended uses of the proposal.</p> <p>The proposal has the potential to result in elevated concentrations of PM10 particles and dust nuisance. Mitigation measures are proposed which could form part of a CEMP which would address this concern and which could be secured by way of condition.</p>	Limited	
Flooding	<p>The proposal by reason of the increased areas of impermeable surfaces resulting from the development has the potential to result in increased levels of surface water runoff which could lead to surface water flooding of the site and nearby areas if not properly managed.</p> <p>Whilst the increase in number of dwellings may place additional pressures on GPs,</p>	Limited	
Oversubscribed Services			

	<p>schools and other community facilities, no objection has been raised to the proposal from the relevant consultees. Subject to relevant conditions and financial contributions to be secured by an appropriate S106 agreement, the harm resulting from the development would be ameliorated and therefore limited harm would occur as a result.</p>		
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<b>Stage 5 Other Considerations – Template for Assessing Green Belt Planning Applications</b>				
<b>What are the other considerations for the development proposal? (see Table 5.2 above for examples)</b>				
<p>The applicant is seeking outline planning approval for access and the principles of residential development of up to 4 dwelling units, a new multi-use community hall, land for the provision of a healthcare facility, land for an early years and childcare nursery, vehicular/pedestrian access points from Stadium Way and Daws Heath Road, new greenways and green links, multi-functional open space, green infrastructure, surface water attenuation, landscaping and a infrastructure.</p> <p>The proposal would result in the provision of 40% affordable housing with the remainder being market housing which would meet an unmet need within the borough. It also proposes a new community hall, land for a healthcare facility, land for a nursery, improved non-vehicular transport links, open space provision and a contribution to the local economy.</p>				
<b>Category</b>	<b>Other Considerations</b>	<b>Assessment of Other Considerations</b>	<b>Weight of Other Considerations <i>Limited – Moderate - Substantial</i></b>	<b>Notes</b>
<i>Social</i>	<i>Unmet housing need</i>	Up to 455 dwellings are proposed as a result of this development. Given the boroughs lack of five-year housing land supply (1.86 years) and the figure calculated within the latest housing needs assessment identifying the need to provide 255 dwellings a year, this site would significantly contribute to meeting that annual figure over the course of the development, providing much needed housing the borough. This consideration is therefore given substantial weight.	Substantial	
	Affordable housing provision	The applicant proposed to provide 40% affordable housing which would amount to up to 182 residents units. Given the boroughs lack of affordable housing provision over recent years this represents a significant contribution to meeting the affordable housing needs of the boroughs residents and is therefore accorded substantial weight.	Substantial	



	Community facilities	A new multi-use community hall, land for the provision of a healthcare facility and land for an early years and childcare nursery is proposed which would serve not only occupants of the development, but also the wider area as a whole and meet the needs of residents of the borough	Moderate	
	Better non-vehicular transport links	A number of non-vehicular accesses are also shown on indicative plans, however the certainty of these is much less known, however these exit onto Rayleigh Road in addition to Stadium Way and Daws Heath Road and would improve accessibility across the site.	Limited	
<i>Environmental</i>	<i>RAMS mitigation</i>	The site lies within the zones of influence for the Benfleet and Southend Marshes, the Blackwater estuary and Foulness Special Protection Areas (SPAs) identified in the RAMS. The applicant has offered, via a S106 agreement, to pay a RAMS contribution to mitigate the harm the proposal would have on these SPAs in line with the guidance contained within the RAMS document. Such a contribution is considered to satisfactorily mitigate the harm resulting from the proposed development and would therefore help to maintain and enhance these local areas.	Limited	
	Open space provision	A large amount of multi-functional open space is proposed as part of the indicative plans submitted accompanying this application. Such spaces contribute positively to both mental wellbeing as well as the environment by creating habitats for wildlife throughout the site.	Moderate	
	Retention of hedgerows	The retention of historic field boundaries and hedgerows wherever possible will contribute to retaining a historical element of the site which has been carefully considered in the indicative layout	Limited	

		of the site. This will also result in retaining a degree of biodiversity and wildlife habitats.		
	Enhancement of biodiversity	It is proposed to provide at least 10% biodiversity net gain on the site through multiple different means as part of the multi-functional spaces provided as part of this development.	Limited	
<i>Economic</i>	<i>Contribution to local employment</i>	The development will create construction jobs which have an acknowledged economic benefit within the local area, however these will be short-lived until the development is completed, so the benefit is limited due to its temporality.	Limited	

<b>Stage 6 Very special circumstances – Template for Assessing Green Belt Planning Applications</b>	
<b>Do very special circumstances exist? Y/N</b>	<b>Explain why very special circumstances do or do not exist.</b>
N	<p>In undertaking this assessment, an initial assessment has been undertaken to ascertain whether any exceptions under paragraphs 149 or 150 of the NPPF are met and justify the development. No such exceptions have been identified and it is therefore considered that the proposal would amount to inappropriate development within the Green Belt which is by definition harmful to the purposes of the Green Belt and should therefore be refused.</p> <p>Inappropriate development should only be permitted where very special circumstances exist which clearly outweigh the harm to the Green Belt. In assessing the harm to the Green Belt, it was considered that the proposal would result in substantial harm to purposes 1-3 and 5 of the Green Belt as set out in paragraph 138 of the NPPF, as well as have a detrimental impact on openness of the Green Belt. Other harms have also been identified on a number of matters which have been attributed limited harm.</p> <p>The proposed scheme has been assessed to represent a significant spatial and visual intrusion within the Green Belt by reason of the large bulk, mass and scale of the proposed development. Whilst it is acknowledged that many of the plans are purely indicative as this is an outline application, the intended spread and density of development across much of the site is considered to succinctly illustrate these concerns, highlighting the visual intrusion and impact on the openness of the site and the substantial harm to purposes 1-3 and 5 of the Green Belt.</p>

	<p>The benefits of the proposal have also been assessed. Most notably the provision of housing in order to meet an unmet housing need, as well as affordable housing provision have both been afforded substantial weight in favour of the proposal with a number of other considerations accorded moderate and limited weight.</p> <p>Despite the totality of considerations in favour of the proposal, it is not considered that these considerations clearly and definitively outweigh the combined weight of the harm to the character, purpose, function and openness of the Green Belt, and conflict with national planning policy.</p> <p>Therefore, it is considered that the other considerations in this instance do not outweigh the harm identified to the Green Belt and even if it were a finely balanced argument, the requirement of within the NPPF to clearly outweigh the harm highlights categorically that a proposal cannot just tip the scales in favour of development, but needs to do so by some margin in order to have clearly outweigh the harm to the Green Belt.</p> <p>Consequently, the proposal has been assessed to have an unmitigated harmful impact on the character, purpose, function and openness of the Green Belt, which is not clearly outweighed by the benefits of the proposal and would directly conflict with national planning policy. Therefore, the very special circumstances necessary to justify the development do not exist.</p>
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