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## **AGENDA**

**Committee: DEVELOPMENT CONTROL**

**Date and Time: Tuesday 1<sup>st</sup> April 2014 at 7.30 p.m.**

**Venue: Council Chamber**

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

**Membership: Councillors Brunt (Chairman), Ladzrie (Vice Chairman), Anderson, Barrett, Blackwell, Cross, Mrs Govier, Hart, Mrs King, Mrs Liddiard, Skipp, Smith, and Mrs Wass.**

**Canvey Island Town Councillors : Greig and Ms Swann**

**Officers attending: Steve Rogers – Head of Regeneration and Neighbourhoods  
Fiona Wilson – Head of Legal Services  
Kim Fisher – Chief Development Control Officer**

**Enquiries: Cheryl Salmon, Ext. 2454**

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

**1. Apologies**

**2. Members' Interests**

**3. Minutes**

A copy of the Minutes of the meeting held on 4<sup>th</sup> March 2014 is attached.

**4. Public Speakers**

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

**5. Deposited Plans**

Report of the Head of Regeneration and Neighbourhoods is attached.

<b>Application No.</b>	<b>Address</b>	<b>Page</b>
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<b>6. CPT/214/11/OUT – 101 Point Road Canvey Island (Canvey East Ward)</b>	<b>Report of the Head of Regeneration and Neighbourhoods is attached.</b>	<b>41</b>

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**DEVELOPMENT CONTROL COMMITTEE**

**4<sup>th</sup> MARCH 2014**

**PRESENT:** Councillors Brunt (Chairman), Ladzrie (Vice-Chairman), Anderson, Barrett, Blackwell, Cross, Mrs Govier, Hart, Mrs King, Mrs Liddiard, Skipp, Smith, Mrs Wass and Canvey Island Town Councillor Greig.

Apologies for absence were received from Canvey Island Town Councillor Ms Swann.

**33. MEMBERS' INTERESTS**

There were none.

**34. MINUTES**

The Minutes of the meeting held on 4<sup>th</sup> February were taken as read and signed as correct.

**35. DEPOSITED PLANS**

**(a) CPT/490/13/FUL – 125-127 HIGH STREET, CANVEY ISLAND (NORTH WARD) – ERECTION OF PART TWO/PART THREE STOREY BUILDING CONTAINING 14 NO. 2 BED FLATS WITH ASSOCIATED PARKING – PEMICAN LTD**

The application was considered acceptable in the context of the provisions of the NPPF, adopted Local Plan and Residential Design Guidance. Furthermore the proposed development was considered to offer a reasonable standard of residential accommodation that could be constructed without undue loss of amenity to existing residents. It was therefore recommended for approval.

Mrs Patricia Sparks, a local resident, spoke in objection to the application.

Councillor Mrs Grace Watson, a Ward Councillor, spoke in objection to the application.

During consideration of the item Members raised concern that the application represented overdevelopment of the site, demonstrated by the proximity of the building to the eastern boundary and a lack of private amenity space for the future occupiers. It was also considered that the proposed building would be out of character with the surrounding area.

It was stated that there was inadequate parking on the site and servicing provision which would lead to parking on the highway to the detriment of traffic

flow, highway safety and pedestrians. Members felt that the reliance of a one-way traffic system through the site would lead to an increase in traffic congestion on Barnards Avenue which already experienced problems due to its narrow width.

Some Members were also concerned that due to its close proximity to a petrol filling station and repair garage future occupiers of the site would be exposed to undue noise, fumes and general disturbance.

In light of these concerns the Committee felt that it could not agree the recommendation of approval and therefore made the following decision: -

**Resolved** – That the application be refused for the following reasons:

- Overdevelopment of the site
- Inadequate parking and servicing provision
- Lack of appropriate amenity for future occupiers due to location adjacent to petrol filling station and repair garage
- Lack of amenity space
- Dominance of building
- Poor design, out of character with surrounding area
- Poor access/egress and the implications for Barnards Close
- Proximity of the building to the eastern boundary of the site.

Chairman

## **ITEM 1**

<b>Application Number:</b>	<b>CPT/606/13/FUL</b>
<b>Address:</b>	<b>LAND ADJACENT BRIARS COTTAGE, LEIGE AVENUE, CANVEY ISLAND, ESSEX (Winter Gardens)</b>
<b>Description of development:</b>	<b>2 No. ONE BEDROOMED FLATS AND 4 No. TWO BEDROOMED FLATS IN A TWO STOREY BLOCK WITH ASSOCIATED PARKING</b>
<b>Applicant:</b>	<b>MR. C. LANE</b>

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### **Summary**

The proposal seeks to provide a two storey block accommodating two one bedroomed flats and four two-bedroomed flats. There are no conflicts with the Council's spatial standards.

The application is presented to the Committee at the request of Councillor N. Watson.

The proposal is recommended for APPROVAL.

### **Site Visit**

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

### **Introduction**

The application relates to a site located on the western side of Meppel Avenue and the northern side of Somnes Avenue and straddles the eastern side of the southern end of Leige Avenue. It is a fairly regular shaped plot having a frontage to Somnes Avenue of some 50m, and a depth of some 18m.

The site is comprised of the curtilage of a detached chalet, known as 'Briars Cottage' and an area of undeveloped land which is partially enclosed by a 1.8m high fence. The end of Leige Avenue forms the easternmost part of the site which has a gate which restricts access onto Somnes Avenue. However, there is an existing vehicular crossover from Somnes Avenue which previously provided access to Leige Avenue.

The western boundary of the site is defined by mature cypress trees which are to be retained.

To the east of the site is an area of undeveloped land which currently benefits from planning permission for a two storey block of four flats.

To the north of the site is a plot which is currently being developed with a detached house.

To the south of the site on the opposite side of Somnes Avenue are detached and semi-detached bungalows, all of which have 2 ground floor side windows. None of these properties have access onto Somnes Avenue and the properties and their gardens are screened from the highway by 2m fences and brick walls.

## **The Proposal**

The proposal seeks to provide a two storey pitched roofed block of flats on the site.

The proposed block is shown to have a width of some 21.7m, a depth of some 13.49m and a maximum height of some 8.8m. The proposed block would provide two one bedroomed flats and four 2-bedroomed flats. A refuge area for use by occupiers of the ground floor flats in the event of a flood is provided within the roofspace of the block.

The site is shown to provide access from Leige Avenue with 6 parking spaces provided in total, four on the southern boundary and two on the northern boundary. There is no vehicular access from Somnes Avenue. Amenity area is provided to the western side of the proposed block.

## **Supplementary Documentation**

The application is accompanied by the following documents, which are available to view on the Council's website:

- Planning Statement
- Flood Risk Statement

## **Planning History**

The majority of the application site is comprised of the curtilage of 'Briars Cottage', Leige Avenue. The history of this property concerns extensions and alterations to the existing property, Briar Cottage and is of no relevance to the current application.

The application site also formed part of a larger site which has a more extensive recent planning history which is of relevance to the planning application and is therefore presented below:

- Planning permission was refused in March 2007 for 10 x two bed and 2 x one bed flats in two blocks with associated parking under planning reference CPT/835/06/FUL for the following reasons:
  1. The proposal, by reason of the location and design of the proposed access to the ground floor flats to Block 2, represents a poor form of development which fails to provide an appropriate level of residential security and amenity for the future occupiers of the dwelling, contrary to Policy EC5 and EC2 of the adopted Local Plan.
  2. The proposal, by reason of the lounge windows to the western elevation of Block 1, fails to provide adequate isolation distances to the adjoining properties. If implemented, the proposal would result in a loss of privacy for

the future occupiers of these flats and the adjoining site, to the detriment of the residential amenities of these occupiers, contrary to Policy H17 SPG5, and H9 of the Council's Adopted Local Plan.

3. The proposal is located within an area identified as being at risk from flooding. In order to assess the risk of flooding and the measures that can be incorporated into the development of the site to ameliorate the impact of flooding on the property and the occupiers thereof, a Flood Risk Assessment must be undertaken and the results shall be submitted to, and approved by, the Castle Point Borough Council, in accordance with the guidance contained in Planning Policy Statement Note No. 25, 'Development and Flood Risk'. The current proposal was accompanied by a Flood Risk Assessment, however, further analysis was required. This further analysis revealed that there would not be a safe access/egress route on the site should there be a breach of the defence protecting Canvey Island. Table 13.1 of the joint DEFRA/Environment Agency Research & Development Paper FD/2320/TR2 "Flood Risk Assessment - Guidance for New Development" indicates that the depth/velocity combination of the breach represents a "danger to most" and that as such the proposal is unacceptable.

Furthermore the Environment Agency note that the Flood level quoted in Section 4.2 of the submitted Flood Risk Assessment is incorrect and fails to take into consideration the predicted effects of climate change for the lifetime of the development.

In the face of these objections planning permission cannot be granted for the proposed development.

- Planning permission was refused in March 2006 for 10 two bed and 2 one bed flats in 2 three storey blocks under planning reference CPT/626/05/FUL. The grounds of refusal related to the height, mass, and bulk of the proposal and the likely loss of amenity that would occur to neighbours resulting from increased traffic movements along Leige Avenue. The subsequent appeal was dismissed.
- Planning permission was refused in November 2004 for 6 two bed roomed flats and 6 one bed roomed flats in 2 storey blocks, under Reference CPT/664/04/FUL. The grounds of refusal related to highway matters only.
- Essex County Council approved planning permission for a single detached dwelling and garage, car parking and associated landscaping, under Reference CPT/798/91 & CC/CPT/12/91.
- Planning permission was refused for 4 flats on land immediately to the east of the application site under reference No CPT/498/12/FUL for the following reasons:
  1. The proposal fails to provide adequate on-site parking facilities. As such the development is considered likely to result in on street parking in the adjoining roads to the detriment of the character and appearance of the area, traffic flow and highway safety, contrary to Policy EC2 of the adopted Local Plan.

2. By reason of the limited width of the highway serving the site it is considered that the passage of additional vehicles likely to be generated by the development of this site would have an adverse impact on the amenity of adjoining residents, contrary to Policy EC3 of the adopted Local Plan
3. The proposed development, by reason of its mass and scale would create an overdominant feature in the street scene, detrimental to the amenity of adjoining residents, contrary to Policy EC2 of the adopted Local Plan.

The subsequent appeal was allowed.

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

### National

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance

### Castle Point Borough Council Adopted Local Plan 1998

- EC2 Design
- H13 Location of Flats
- H17 Housing Development – Design & Layout
- EC3 Residential Amenity
- T8 Car Parking Standards

### Residential Design Guidance

- RDG2 Space around Dwellings
- RDG3 Building Lines
- RDG5 Privacy & Living Conditions
- RDG6 Amenity Space
- RDG7 Roof Development
- RDG8 Detailing
- RDG9 Energy and Water Efficiency and Renewable Energy
- RDG10 Enclosures and Boundary Treatment
- RDG11 Landscaping
- RDG12 Parking and Access
- RDG13 Refuse and Recycling Storage
- RDG16 Liveable Homes

## **Consultation**

### Essex County Council – Highways Observations

Essex County Council as the highway authority does not wish to raise objection to the proposals subject to the following conditions being attached:

1. 10 vehicular hardstandings having minimum dimensions of 2.9 metres x 5.5 metres for each vehicle shall be provided.  
Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety.
2. A minimum dimension of 6m shall be provided between the rear of the parking bays within the parking court.  
Reason: To allow sufficient space for vehicles to manoeuvre and turn in the interests of highway safety.
3. Prior to the commencement of the development the details of the number, location and design of cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be secure, convenient and covered and provided prior to occupation and retained at all times.  
Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and amenity.
4. A vehicular turning facility, of a design to be agreed in writing by the Local Planning Authority shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.  
Reason: To ensure that vehicles can enter and leave the highway in a forward gear 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. The existing vehicular access on Somnes Avenue shall be suitably and permanently closed to the satisfaction of the Local Planning Authority, incorporating the reinstatement to full height of the highway footway kerbing, to the satisfaction of the Highway Authority immediately the proposed new access is brought into use.  
Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety.
6. Prior to occupation the maximum height of the fence along Somnes Avenue shall be 600mm.  
Reason: In the interest of highway safety.
7. 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 identified clear of the highway, submitted and approved in writing by the Local Planning Authority.  
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.
8. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.

9. The proposed development shall not be occupied until such time as the vehicle parking area indicated on the approved plans, has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area shall be retained in this form at all times. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the Local Planning Authority.

Reason: To ensure that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety and that appropriate parking is provided in accordance with Policy DMB of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

10. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include 6 All Essex Scratchcard tickets.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport in accordance with policy in F.32 in the Essex Road Passenger Transport Strategy 2006/11

Notes:

I. Under Building Regulations B5, access for fire tenders is required to a point not further than 45 metres from the entrance to the dwelling. Any road or private drive forming part of such a fire access must be no less than 3.7 metres wide between kerbs (this may reduce to 3.1 metres for a gateway or similar short narrowing) and should have a minimum centre line bend radius of 6.55 metres. The access way should be capable of carrying a 12.5 tonne vehicle. A cul-de-sac which is more than 20 metres long must have a turning head of a least Size 3.

II. With reference to the above condition the applicants attention should be drawn to the recent alterations to householder "permitted development" in so far as there is now the need to provide a permeable solution (SUDS) for the hard standing to reduce the cumulative impact of surface water run-off and overloading of sewers. The national advice available may be confusing taking into account the Highway Authority approach to the above conditions and early contact should be made with the Highway Authority to agree an appropriate solution for this site.

III. All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to Essex County Council on 0845 603 7631.

IV. The above is required to ensure the proposal complies with the County Council's Highways and Transportation Development Control Policies February 2011.

Refuse and Recycling Officer

No objection

Canvey Island Town Council

The following comment was submitted using the Council's website.

Following a meeting of the Planning Committee on the 17th December 2013, the Town Council objected to this application as the site opposite although refused by CPBC has received planning permission for a similar development upon appeal and members are concerned that the ingress and egress points for these proposals are not adequate for the size of the developments and will be detrimental to the surrounding residents. The restricted entrance and exit to the site by means of a small road will not only be detrimental to the surrounding residents but will impede traffic movement due to the potential volume of additional vehicles.

## Environment Agency

### **Initial Response**

We have inspected the application, as submitted, and are raising a holding objection on flood risk grounds. Our detailed comments on this are provided below:

### **Flood Risk**

Our Flood Zone Map identifies this site as being located in Flood Zone 3, the high risk zone. Although Canvey Island is defended to a high standard of protection, it is at risk should there be a flood defence failure. This residual flood risk should be considered as although the likelihood of it occurring is low, the consequences should it happen would be very high.

The proposal involves the erection of residential units which are considered to be a 'more vulnerable' land use by the National Planning Policy Framework. It will therefore be necessary for the application to pass the Sequential and Exception Tests and be supported by a site specific Flood Risk Assessment (FRA).

### **Sequential and Exception Tests**

No evidence has been submitted to us to demonstrate that you have applied the flood risk Sequential and Exception Tests. This must be considered before the grant of planning permission.

### **Flood Risk Assessment**

Thank you for submitting your Flood Risk Statement (FRS), reference ABD/470/FRS-2 and dated 2 September 2013. The application is for the erection of 4 two-bed flats and 2 one-bedroom flats, including 3 ground floor flats.

The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore; provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to

1. Fully consider how people will be kept safe from flood hazards identified
2. Consider the effect of a range of flooding events including extreme events on people and property.
3. Fully consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

In light of the above, we are raising a holding objection to the application on flood

risk grounds in the absence of an acceptable Flood Risk Assessment (FRA).

### **Overcoming our objection**

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection.

We ask to be re-consulted with the results of the FRA. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our holding objection will be maintained until an adequate FRA has been submitted

### **Additional information**

The FRS has looked to the Castle Point Strategic Flood Risk Assessment (SFRA) for Breach and inundation maps and, in Section 3 of the Flood Risk Statement has considered the breach outputs of the SFRA up to 2110.

The FRS indicates that flood waters will reach the site less than 1 hour after water starts to flow through a breach in the defences during the 1 in 200 year (0.5%) annual probability tide. The FRA suggests that the 1 in 200 year plus climate change flood depth will be at 500mm, which is based on 1.91mAOD plus 0.5m, less 1.91AOD plus 0.3m, plus an additional 300mm freeboard. However, the breach maps show this area to 0.5-1m breach, not 0.5m as stated in the FRA. Although it is acknowledged that the breach maps in this area do show some of the site located in 0.0-0.5 the site also has some areas of greater depth and this is what must be used to calculate flood depths.

This means that the results of the calculation provided in the FRA is incorrect. It should be  $(1.91\text{mAOD} + 1.0\text{m}) - (1.91\text{mAOD} + 0.3\text{m}) + 0.3\text{m} = 1\text{m}$ . This means that flood waters reach a maximum depth of 1m inside the property for a 1 in 200 year plus climate change event.

The breach maps also show this area to be located in 1-2m for the 1 in 1000 year plus climate change maps. The calculation should therefore be  $(1.91\text{m AOD} + 2\text{m}) - (1.91\text{m AOD} + 0.3\text{m}) + 300\text{mm} = 3\text{m}$ . This means that flood waters reach a maximum depth of 2m inside the property for a 1 in 1000 year plus climate change event.

The breach analyses for the 1 in 1000 year (0.1%) annual probability tide shows that flood waters will again reach the site up to 1 hour after water starts to flow through the breach in the defences.

### **Flood Response**

The proposed development shows three ground floor flats. Whilst we acknowledge that there is a flood response plan and that there is some consideration to ground floor occupants, we do not consider that the proposed safe refuge is sufficient for the ground floor residents. People occupying ground floor flats could have mobility issues and there is no apparent way for people with mobility issues to gain access to the safe refuge.

We advise you to consult closely with your emergency planners, prior to the grant of

any planning permission. This application is heavily reliant on the occupants being willing and able to move to the safe refuge areas provided on the second floors of the apartment blocks. The property, according to the FRS, has the potential to flood for a minimum of 36 hours in an event and the ground floor flats have the potential to flood up to 2m deep (in a 1 in 1000 year breach event plus climate change) within an hour. In addition to this, the emergency planner / LPA will need to consider whether there is enough ground space allocated for this safe refuge if the residents of ground floor flats had to remain in this location for the specified 36hrs. We also question the viability of the occupants being able to obtain insurance for these flats.

We do not normally comment on or approve the adequacy of flood emergency response and evacuation procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/users.

Paragraph 103 of the NPPF and the Planning Policy Statement Practice Guide (paragraphs 7.23 to 7.31) places responsibilities on LPAs to consult their Emergency Planners with regard to specific emergency planning issues relating to new development. In all circumstances where warning and evacuation are significant measures in contributing to managing flood risk, we will expect LPAs to formally consider the emergency planning and rescue implications of new development in making their decisions.

You may wish to append a condition, to any permission you are minded to grant, requiring Flood Resilient construction methods be used for ground floor levels to aid in the reduction of the impacts of a flood should one occur. This would allow the building to recover quickly if subjected to an extreme flood event.

We do not normally comment on or approve the structural stability of buildings during a flood, but nevertheless these are important considerations for managing flood risk for this development. No proof has been provided within the FRA to show that the new building would be able to withstand a flood event. Prior to deciding this application, we recommend that you give due consideration (including checking the details and calculations relating to the structural stability of buildings during a flood) to this issue and consult with the relevant experts where necessary.

## **Second Response**

We refer to the email from ABD Design & Build Ltd, received on 8 January 2014, **and the revised flood risk information submitted.**

We have reviewed these documents **and are able to remove our previous objection** on flood risk grounds, provided you are happy that the development has a tolerable level of safety for occupants for the lifetime of the development and the following conditions are appended to any permission granted.

### Condition

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Statement completed by ABD Design & Build (CI) Ltd, referenced ABD/470/FRS-2 and dated 2 September 2013, and the following mitigation measures detailed within the Flood Risk Statement:

1. Finished ground floor levels are set no lower than 2.21 m above Ordnance Datum

(AOD)

2. Finished first floor levels are set no lower than 4.86m above Ordnance Datum (AOD)

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

1. To reduce the risk of flooding to the proposed habitable development and future occupants.

### **Public Consultation**

2 letters of objection has been received from local residents in respect of the initially submitted plans.

A letter of objection has also been received from Councillor N. Watson

These make the following comments and objections:

- This scheme is similar to others which have been refused in the past.
- Leige Avenue is narrow with no paving or street lighting, and cannot accommodate the levels of traffic proposed.
- Inadequate parking which will compound difficulty that will be experienced as a result of the construction and occupation of the scheme for flats to the east.
- Proposal will result in additional on street parking.
- Development is out of character, overdominant and out of proportion.
- Living condition for existing residents will deteriorate as a result of increased traffic.
- Public transport inadequate to compensate for inadequate parking.
- Emergency vehicles will not be able to access the site.
- Proposal is mean and cramped.
- Flats do not accord with the RIBA recommended living space requirement.

A further 2 letters were received in respect of the revised plans, which raise the same issues and express disappointment that earlier concerns have not been remedied in the revised plans.

### **Comments on Consultation Responses**

- Each proposal must be considered on its individual merits.
- All other relevant planning matters are discussed within the evaluation of the proposal.

### **Evaluation of Proposal**

The main issues here are the design/layout, impact on neighbours, parking implications and the flood risks surrounding the development.

## The Principle of Flatted Development

Policy H9 of the current Local Plan requires the optimum density of development to be achieved on any site, which is the number of dwellings that can be achieved whilst providing an attractive layout and without causing harm to the surroundings. Whilst broadly consistent with para 58 bullet 3 of the NPPF a better test of whether the density of development is appropriate is assessment of the proposal against the Council's Residential Design Guidance as discussed below.

Policy H10 of the current Local Plan states that in all residential developments the Council will seek an appropriate range of dwelling types. This policy is inconsistent with para 50 of the NPPF which requires local planning authorities to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The most up to date local evidence of need in respect of the mix of development on sites is the 2013 Strategic Housing Market Assessment. This identified that in the Thames Gateway South Essex the focus of demand was on entry-level and mid market family housing (2/3 bed), particularly to the south of the A127. The proposed development of one and two bedroomed flats is not considered to provide the family housing that there is considered to be the greatest demand for; however, it is recognised that on sites such as this, in constrained urban locations, it will not always be appropriate to provide single family dwellinghouses.

The provision of one and two bedroomed flats would clearly contribute towards meeting housing need where a historic deficiency in the provision of housing has been identified.

Under the circumstances no objection is raised to the proposal on this basis.

## The Location of the Proposed Development

Policy H13 is concerned with the appropriate location of flats and similar accommodation and requires that such development should not adversely affect the amenity of the adjoining residents. Policy H13 states that proposals for flats should be located on, or near, a main road.

Somnes Avenue is a main road, and there are a number of blocks of flats fronting it, some 180m west of the current application site.

In dismissing the appeal against the Council's decision to refuse permission for four flats on land immediately to the east of the application site, the Inspector considered that the location of flats on that site was acceptable in principle. In the circumstances it is not considered that an objection to the proposal on the basis of its location would be sustained on appeal. No objection is therefore raised to the proposal under Policy H13.

Policy H13 also requires proposals not to adversely affect the amenity of adjoining residents or the character of the area by reason of traffic generation, not have an adverse effect on the character or appearance of the area, provide appropriate building lines, setting and space around the building, car parking, access, amenity

space and landscaping provision as well as according with all other policies in the Local Plan. These matters will be discussed in the following sections.

### The Design of the Proposed Development

Paragraph 56 of the NPPF states that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Furthermore paragraph 60 states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

Policy EC2 details that a high standard of design is expected in relation to new buildings and extensions and alterations to existing buildings. In particular regard is to be had to the scale, density, siting, design, layout and external materials of any development, which shall be appropriate to its setting and which should not harm the character of its surroundings. This is consistent with paragraphs 56 to 58 of the NPPF.

Policy H17 states that in assessing the detailed design aspects of the proposals for housing, the Local Planning Authority will have regard to its adopted residential design guidelines, (RDG). This guidance is considered to be in compliance with the NPPF.

RDG4 is concerned with corner plots and states that all elevations that face the public realm must be provided with articulation and fenestration at all floor levels, and should provide good levels of natural surveillance.

Whilst slightly unusual in its configuration, the proposed development could be described as being on a corner plot created at the junction of Leige Avenue and Somnes Avenue. The scheme however has adequately accommodated the requirements of the guidance, providing windows to all elevations that overlook public areas and articulating the elevations in order to break up the mass of the building. As such it is considered that the proposal meets the requirements of RDG4 and no objection is raised to the proposal on this basis.

RDG7 states that the roof design of any development should be informed by the prevailing character of the area and surrounding forms of roof development. The roof either built as new or extended or altered, should be proportionate to the remainder of the dwelling but must not be top heavy, or appear prominent or dominant.

The proposed two-storey building would reflect the hipped roofed design and character of the neighbouring properties in the vicinity. Although, the proposed block is some 1.1m taller than the adjoining dwelling to the west, it is designed to harmonise with the domestic scale of buildings in the wider area and would reflect the scale and design of the adjoining approved flats. Furthermore, the hipped roof form serves to minimise the bulk and massing of the design and taking into account

the location of the property within the plot and the width of the plot it is not considered that the proposed development would appear so out of character with its surroundings or result in such detriment to the character or appearance of the streetscene that an objection on this basis could be sustained at appeal. No objection is therefore raised to the proposal under RDG7.

RDG8 states that the provision of detailing elements for all developments must be consistent with the overall architectural approach of the dwelling, and the design and siting should be an integral part of the development. Furthermore the design of all development should result in well proportioned and balanced properties.

It is considered that the revised plan now produces a building which is well proportioned and articulated.

It is proposed to use brickwork, render and cement weather boarding with concrete roof tiles on external surfaces.

The surrounding dwellings have a mix of materials and in principle it is not considered that the proposed materials for the flats would appear out of character with this mix. Although, no specific details of the materials have been submitted, a condition requiring such details to be submitted can be imposed on any consent granted.

Subject to such a condition no objection is raised to the proposal under RDG8.

### The Layout of the Proposed Development

RDG2 requires space around new development to be informed by the prevailing character of space around dwellings. Buildings containing flats should provide space equivalent to 25% of the width of the building.

The proposed building would have a width of some 21.7m to the Somnes Avenue frontage and isolation spaces totalling some 28.3m. This level of isolation space would provide an adequate setting for the building which would not lead to the building appearing unduly cramped in this frontage.

No objection is therefore raised to the proposal on the basis of RDG2.

Guidance at RDG3 requires proposals to respect established building lines. The proposed building would be set approximately 3.1m to 4.9m from the boundary with Somnes Avenue. This is consistent with the setting of nearby buildings and under these circumstances it is not considered that there can be an objection to the proposal on the basis of the building lines in the area.

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

The proposed flats will be located immediately to the south of a new dwelling currently under construction on Leige Avenue. Whilst the proposed flats therefore have the potential to overshadow the new dwelling to the north, the relationship between the two is such that any overshadowing is only likely to occur during the middle part of the day and will only affect the side elevation of the adjoining property

which has only a first floor bathroom and hall window in this elevation. Under these circumstances it is not considered that an objection to the proposal based on overshadowing could be sustained on appeal.

In terms of dominance it should be noted that the proposed building has been designed to have a lower height at the rear and would be located between 1.1m and 4.3m from the northern boundary of the site. Whilst it is acknowledged that the building would project some 4.5m beyond the rear elevation of the adjoining property, the flats would be set some 6.8m from the northern boundary and as such it is not considered that an objection based on dominance of the dwelling to the north could be maintained.

The proposed flats are set some 9.5m – 9.7m from the western boundary of the site. This is consistent with the depth of gardens usually associated with two storey development and as such it is not considered that an objection based on the domination of the dwellings to the west could be maintained.

No objection is therefore raised on the basis of RDG3.

Guidance at RDG5 deals with privacy and overlooking. A distance of 9m is required to be provided between first floor windows or balconies and the boundary of the site, to prevent excessive overlooking.

The proposed development would provide adequate separation distances between the proposed building and the western boundary to avoid undue overlooking of dwellings on Hannah Close. However windows and glazed areas would be created in the northern elevation some 1.1m – 2.7m from the northern boundary. These windows and glazed areas provide the opportunity for overlooking the proposed dwelling to the north from close quarters and as such the proposal should attract a recommendation of refusal, however, the applicant has indicated that the glazed panels serving the first floor level of the rear stairwell will be obscure glazed. It is considered however more appropriate to seek to obscure glaze the panel from a height of 1.8m, in order to avoid the occupiers of the adjoining property being potentially overlooked by users of the staircase. Subject to a condition securing this no objection is raised to the proposal on this basis.

Two kitchen windows and a bathroom window are also proposed in the side elevation. Whilst the ground floor kitchen window may be adequately screened the scheme currently provides an opportunity for overlooking from the kitchen and bathroom windows at first floor level. It is considered however, that these windows may be obscure glazed and fixed to a height of 1.8m above the finished floor level of the rooms they serve without unduly compromising living conditions within the proposed flats.

Windows in the eastern elevation would overlook the car park serving the flats and would be some 19m from windows in the side elevation of the proposed flats to the east. At this distance it is not considered that the proposal would result in an undue loss of amenity for the occupiers of these new flats.

Windows in the southern elevation would overlook the highway.

Subject to a condition requiring the obscure glazing of windows and panels in the northern elevation, no objection is raised to the proposal on the basis of overlooking or loss of privacy.

Guidance at RDG6 requires appropriate amounts of amenity space to be provided for all residential development. For flats, 8m<sup>2</sup> of communal amenity space should be provided per habitable room, with a minimum of 25m<sup>2</sup> provided for each dwelling unit. Balconies with a floor area of 5m<sup>2</sup> and depth of 1.5m may be included in the calculation of amenity area provision.

The scheme generates a requirement for 150m<sup>2</sup> of amenity space. The scheme provides amenity area in excess of this requirement. No objection is therefore raised on the basis of RDG6.

Guidance at RDG10 requires means of enclosure not to dominate the public realm and be of high quality materials. The application form states that boundary treatments would be a 1.8m high screen fence with a 600mm high white picket fence, along the Somnes Avenue frontage. Although the location of these are not specifically marked on the site plan, were permission granted, it would be subject to a condition that the location and types of boundary treatments be agreed separately, to ensure that the placement of boundary treatments was appropriate to the location and secured the amenity of adjoining residents.

Guidance at RDG11 requires buildings containing flats to be provided with suitable landscaping. The proposed building is considered to have adequate areas around it that could be used for planting to provide visual softening. Subject to a condition requiring details of planting to be submitted for approval, there is no objection to the proposal on the basis of landscaping.

Guidance at RDG13 requires suitable refuse and recycling storage to be provided. A storage area is proposed within the amenity area, adjacent to the western boundary of the site. The Recycling and Refuse Officer has raised no objection to this provision.

Policy T8 of the current Local Plan requires car parking to be provided in accordance with adopted parking standards. The currently adopted parking standards published by Essex County Council require the provision of two spaces for properties with two or more bedrooms. Within Town Centres this standard may be reduced.

Visitor parking should be provided at a rate of 0.25 spaces per dwelling.

Application of the parking standards to this development of one and two bedroomed flats generates a requirement of 12 parking spaces (10 for the flats and 2 visitor spaces). The proposal would provide 6 spaces and should therefore attract a recommendation of refusal, however, it should be noted that the flats are located in close proximity to a school, open space and a local parade of shops and are located on a public transport route. As such the site represents a relatively sustainable location, the occupiers of which may be less reliant on private vehicle transport.

Furthermore, it should be noted that the adjoining development only one space is provided for each flat. In determining the appeal, the Inspector noted that the Essex County parking standards may be applied with a degree of flexibility, particularly in

on sites within an urban area and on a public transport route. He opined that such an approach was entirely in line with the guidance in paragraph 39 of the NPPF

The Inspector drew attention to the provision of cycle storage facilities on the site and considered that such provision would assist in improving the attractiveness of the site for access by means other than the private car. It should be noted that the current scheme also seeks to provide storage facilities for six bikes.

In determining the previous application on the adjoining site the Inspector concluded that it was reasonable to assume that the limitation on on-site parking would be a factor taken into account by would-be purchasers of the flats and that should it transpire that the occupants owned more cars than space allowed then there would be no alternative but that they be parked on nearby roads. He adduced that Leige Avenue was too narrow for vehicles to be parked without causing an obstruction and that Somnes Avenue by the appeal site, approaching the Meppel Avenue junction, had a central painted 'island' reducing the lane width such that it would not be possible to park there without causing a major obstruction or by illegal parking on the footway, which would be a matter for police enforcement. The alternatives to such on street parking would be parking on Fenwick Way and Meppel Avenue opposite the school. The Inspector observed that on-street parking occurs on both of those roads without causing any highway safety problem and he considered that any additional on-street parking arising from the development, should it occur, would make but a marginal difference. In his view there would be no significant highway safety problem as a result, parked cars were a common feature of residential areas such that there would be no material effect on either the character or appearance of the area in that regard.

On this basis the Inspector raised no objection to the provision of one parking space per flat on the earlier scheme. In the light of this determination it is not considered that another Inspector would demur from the findings of his colleague on such a matter and as such it is not considered that a reason for refusal based on inadequate parking provision could be sustained on appeal.

The parking space dimensions are in accordance with adopted standards and no objection is raised to the proposal on the basis of the car park layout.

Guidance at RDG12 requires parking provision not to dominate the public realm. The parking provision for this scheme would be primarily located adjacent to the highway boundary and would therefore be visible in the street scene. It is not considered however that the presence of four parked vehicles maybe claimed to dominate the public realm, particularly when there is an opportunity to soften such impact as may exist through appropriate, if limited, screening.

No objection is therefore raised to the proposal on this basis.

Policy EC3 of the current Local Plan seeks to protect residents from disturbance from neighbouring development caused by noise, traffic or fumes. Two of the car parking spaces for this development would be located adjacent to the northern boundary of the site and would abut the boundary of the dwelling to the north; however these spaces would be adjacent to the driveway serving the adjoining dwelling and are considered unlikely to detract unreasonably from the amenity of the adjoining property.

The remainder of the parking would be remote from the existing residential development and is not considered likely to adversely affect the amenity of adjoining residents.

Several local residents have raised concerns in respect of traffic using Leige Avenue, and the attendant noise and disturbance such use would generate.

In 2005 this Authority considered an application for the provision of twelve flats on land to the east of the current application site. Planning Permission was refused and an appeal was lodged. In considering local concerns on noise and disturbance generated by traffic associated with the development of part of the site with 12 flats the Inspector was of the view that whilst the traffic associated with 12 flats would cause some disturbance to the existing residents this would not on its own have led him to dismiss the appeal as the loss of pleasant living conditions would not have been so severe that it would outweigh the benefits of making better use of this vacant plot and the adjacent bungalow site.

The current proposal would bring the total number of flats provided across the site to ten. This is fewer than the 12 previously proposed. The traffic associated with 12 flats was not considered so significant in its impact to warrant in isolation refusal of consent. The current scheme secures a lesser number of flats across the site and the traffic associated with such development would logically be similarly diminished. Under the circumstances it is not considered that a reason for refusal based on loss of amenity to adjoining residents arising from noise and disturbance generated by traffic to the site would be supported on appeal. No objection is therefore raised to the proposal on this basis.

It should be further noted that the Highway Agency has raised no objection to the proposal on the basis of traffic flows or impact on highway safety.

The Highway Authority has however requested that a number of conditions be imposed on the grant of any consent.

The first requires provision of ten parking spaces to serve the development. The provision of parking has been discussed above. It is not considered that a reason for refusal based on the failure of the proposal to provide ten parking spaces would be supported on appeal, particularly in light of the adjacent appeal decision and it is not therefore intended to impose this condition on the grant of any consent.

The second requires provision of 6m between the rear of parking bays within the parking court. This provision is shown on the submitted plans and there is therefore no need to impose a condition to this effect.

The third requires details of the number, location and design of cycle parking facilities to be submitted. These details form part of the submitted application and a condition requiring provision and retention of this facility would be sufficient to meet the Highway Authority's needs.

The fourth requires the provision of an appropriate turning area within the site. It is considered that sufficient space exists within the site to enable vehicles to manoeuvre sufficiently to allow egress and access in forward gear. It is not therefore

considered necessary to impose a condition to this effect on the grant of any consent.

The fifth requires closure of the redundant vehicular access to Somnes Avenue which is considered a reasonable requirement.

The sixth requires the provision of 0.6m high fence along Somnes Avenue. These details form part of the submitted application and a condition requiring provision and retention this feature would be sufficient to meet the Highway Authority's needs.

The seventh requires submission of details of an area for the storage of building materials, parking of vehicles etc. during the construction phase, to ensure that the highway is not obstructed. This is considered a reasonable requirement.

The eighth requires submission of details of the means to prevent discharge of surface water onto the highway. The submission indicates the use of a Sustainable Drainage System (SuDS) within the hardsurfaced areas of the site; however, there is no demonstration that the system will be able to cope with potential volumes of water or that the soil conditions are suitable for the system proposed. A condition requiring submission of details of the proposed scheme, including demonstration that the soil conditions are appropriate, is therefore necessary.

The ninth requires the parking area to be laid out and available for use prior to occupation of the development and thereafter retained for parking purposes. Such a condition is considered reasonable.

The tenth requires the developer to provide a Travel Information Pack to new residents including a number of free Essex wide bus tickets, in order to encourage usage of public transport and discourage car use. Given the limited provision of parking provision on the site, such a condition is considered appropriate.

### Flood Risk

The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient and resistant, including safe access and escape routes where required and that any residual risk can be safely managed, including by emergency planning and it gives priority to the use of sustainable drainage systems.

The recently published National Planning Practice Guidance (NPPG) deals with flood risk in more detail and states that development proposals in Flood Zone 3a which have a high probability of flooding should be accompanied by a site-specific flood risk assessment (FRA). The FRA should identify and assess the risks of all forms of flooding to and from the development and demonstrate how these flood risks will be managed so that the development remains safe throughout its lifetime, taking climate change into account.

The proposed development is also required to pass the sequential and exceptions tests as set out in the NPPG in order to steer new development to areas with the lowest probability of flooding. Only where there are no reasonable available sites in Flood Zone 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

The application seeks to provide six flats within the settlement of Canvey Island. For a dwelling to serve the community of Canvey Island it is considered that it would have to be located within that settlement. The settlement of Canvey Island is located entirely within Flood Zone 3. Consequently it is not considered that there are any reasonably available alternative sites with a lower probability of flooding that could accommodate the proposed development. As such, it is considered that the proposal passes the sequential test.

If the sequential test is passed, the proposed must then pass the Exceptions test. For the Exceptions test to be passed:

- It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment
- A site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

It is clear that the provision of further dwellings on Canvey Island would contribute to the housing needs of the Borough. The proposal would result in the creation of small units (one and two bedroomed flats) which are needed within the Borough. The proposal would therefore meet identified needs within the Borough and as a consequence would provide sustainability benefits. Whether these benefits outweigh the flood risk, will be considered in more detail below.

The second point states that the FRA must demonstrate that the development will be safe for its lifetime, without increasing risk elsewhere.

An initial Flood Risk Statement attracted a holding objection from the Environment Agency; however following revisions the Environment Agency has raised no objection to the proposal on flood risk grounds provided that the Local Authority considers that the development has a tolerable level of safety.

The EA has expressed concern at the relationship between the proposed refuge areas and the ground floor flats

The submitted Flood Risk Statement indicates that in the event of a breach of the flood defences, flood waters will reach the site in less than 1 hour and will reach a maximum depth on site of 1.0m AODN. In a 1 in 1000 year event, water would again reach the site in less than one hour, but would reach a maximum depth of 2.0m AODN.

The proposed first floor flats would be above the 1 in 1000 year plus climate change breach and therefore would remain dry in such an event. As such the risk to occupiers of the first floor flats from flooding is very low if they remain on site in accordance with the currently available advice. The ground floor flats would have a finished floor level below the expected 1 in 200 and 1 in 1000 year flood breach levels and would therefore be liable to flooding if a breach was to occur.

Consideration must therefore be given to the safety of persons occupying these flats should a flood occur.

The EA has expressed concerns over the potential for the ground floor flats to be occupied by persons with mobility issues, who may not be able to achieve refuge at third floor level.

Whilst the concern is acknowledged it should be noted that in the event of a flood all residents of Canvey Island will be required to seek refuge above flood levels. This would apply to occupiers of houses as well as occupiers of flats. The issue in respect of mobility is not therefore one which is restricted to flat occupiers and it is not therefore considered that persons with mobility difficulties would be placed a greater risk than any other resident as a result of the proposed development.

Furthermore, future occupiers of the flats will be aware that the site is located within a flood risk area and by virtue of the presence of a Flood Response Plan, will be aware of the appropriate action to take in the event of a flood. Future occupiers may therefore make an informed decision on the suitability of the accommodation given their personal requirements.

On this basis it is not considered that the provision of ground floor flats places residents at undue risk or that the development would not provide a tolerable level of safety. Furthermore, it is considered that resistance measures can be incorporated into the design of the building which could slow inundation within the building and thus offer an opportunity for safe evacuation to the refuge accommodation.

It is noted that the EA has raised concerns that the submitted FRA does not consider the hydrodynamic/hydrostatic pressures which may be placed upon the building in the event of flood or any floor resilient construction methods to assist with the recovery of the building should it ever be affected by flooding. However, it is considered that subject to conditions ensuring the provision of information in relation to the ability of the building to withstand the effects of flooding and appropriate flood resistance measures, adequate measures would be in place to offer an acceptable level of safety on the site.

With regard to the preparation of a Flood Response Plan, a plan has been included within the Flood Risk Statement. The content of this Plan is considered acceptable and should be reproduced as a separate document and issued to all new residents

on occupation. Subject to a condition to this effect, no objection is raised to the proposal on the basis of Flood response.

Given these factors it is considered that the proposal would be sufficiently safe to satisfy the Exceptions Test.

Subject to conditions requiring the continued availability of the first floor refuge room, no objection is raised to the proposal in terms of Flood Risk.

### **Other matters**

Concern has been raised in respect of the size of the dwelling units proposed and reference has been made to the 'requirements' of the Royal Institute of British Architects (RIBA) space standards, the suggestion being that the flats are inadequate in size and should be refused on this basis.

It should be noted that the RIBA document referred to is not a policy document and does not therefore contain 'requirements'. It is a study undertaken to examine the relationship between the size of dwellings identified as desirable in the London Plan (2011) and the size of dwellings constructed by the major house builders. Whilst the report makes for interesting reading and suggests that new houses are generally smaller when compared to dwellings in other countries, this document can have little weight in the determination of this application

The NPPF is silent on the matter of dwelling size, aside from stating that design policies should avoid unnecessary prescription or detail and concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally, however, the Government has recently announced proposed changes to the Building Regulations which will seek to better regulate internal space provision and in a supporting note to the Written Ministerial Statement of the 14<sup>th</sup> March, 2014 confirmed that a new national standard would be developed which would offer a consistent set of requirements with regard to the internal area of new homes. This new standard will have two different sets of specifications, based on a consolidation of existing space standards used by authorities across the country. Application of the standard will be optional for Local Authorities to use and those authorities imposing the standard will need to justify its application according to evidenced needs and subject to Local Plan viability testing.

It should be noted however that whilst this represents Government commitment to improved internal space standards, such provision is not currently in place and as a consequence this statement can have little weight in the determination of this application.

RDG16 attached to the Local Plan currently acknowledge the limited size of new dwellings and the implications of small room sizes on living conditions stating that all new dwellings should provide appropriate internal space and circulation which reflects the character of the area. The guidance does not prescribe minimum room sizes, although it does state that new dwellings should reflect the character of the area and current best practice.

In terms of the character of the area, flats exist to the west of this site, at Ashleigh Court, which fronts Somnes Avenue. These flats are all one bedroomed, two person flats which were constructed in the early 1990s and have a gross internal floor area of some 38m<sup>2</sup>.

Two bedroomed, three person flats are also proposed immediately to the east of the site. These have a gross internal floor area of some 43m<sup>2</sup>.

The following table identifies the gross internal floor area for each proposed flat.

Flat 1 (3 Person)	59m <sup>2</sup> (61 m <sup>2</sup> )
Flat 2 (3 Person)	56 m <sup>2</sup> (61 m <sup>2</sup> )
Flat 3 (2 Person)	40 m <sup>2</sup> (50 m <sup>2</sup> )
Flat 4 (3 Person)	63m <sup>2</sup> (61 m <sup>2</sup> )
Flat 5 (3 Person)	61m <sup>2</sup> (61 m <sup>2</sup> )
Flat 6 (2 Person)	38m <sup>2</sup> (50 m <sup>2</sup> )

Compared to the character of development in the area, that proposed is not inconsistent and indeed represents more generous living space than is currently proposed and provided in similar development in the locality.

In terms of best practice, this is largely specified in the Greater London Plan. This document identifies that a one bedroomed, two person flat should seek to achieve a gross internal floor area of 50m<sup>2</sup> and a three person, two bedroomed flat should seek to achieve a gross internal floor area of 61m<sup>2</sup>.

From the above it can be seen that 4 of the proposed flats do not achieve these provisions. Of these four, two are only marginally below the best practice level.

The proposed one bedroomed flats are significantly below the best practice level, however they are equivalent to other two bedroomed flats in the locality.

Under the circumstances, whilst concern may be expressed in respect of the size of some of the units, in the absence of a current clear national policy supporting the use of minimum floor space standards and in light of the character of similar development in the area, it is not considered that an appeal based on non-compliance with unadopted best practice would be sustained on appeal.

RDG9 is concerned with Energy and Water Efficiency and Renewable Energy. The submitted scheme employs passive energy efficiency and energy conservation by relying on the orientation and design of the building to take advantage of primarily solar energy. This is acceptable in principle and no objection is raised to the proposal under RDG9.

## **Conclusion**

The proposed development would provide two one-bedroomed and four two-bedroomed flats which is considered acceptable in principle. The proposal is considered to provide an increase in the housing stock within the urban area which Members will note alleviates pressure to develop Green Belt Land.

The submitted scheme is considered acceptable in the context of the provisions of the NPPF, adopted Local Plan and Residential Design Guidance.

It is not considered that the proposal would result in undue noise and disturbance to adjoining residents and the parking provisions are adequate given its location in proximity to local services and public transport.

In terms of flood risk, subject to conditions it is considered that the submitted scheme would achieve a satisfactory design response to flood risk issues.

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

My **RECOMMENDATION** is: APPROVAL subject to the following conditions:

1. CON2 – Start within three years
2. The proposed development shall be carried out in accordance with Drawing Nos. ABD/470/105 Rev B, ABD/470/103 Rev C ABD/470/102 Rev B and ABD/470/104 Rev B.  
Reason: In the interests of clarity and for the avoidance of doubt as to the status of the submitted plans.
3. The building hereby approved shall only be constructed in accordance with the approved materials.  
Reason: In the interest of visual amenity.
4. The second floor flood refuge room shown on the approved plans shall be provided and made available for use prior to occupation of the ground floor flats. The door to the room shall not be capable of being locked.  
Reason: To ensure the availability of dry refuge for ground floor occupiers of the building in the event of a flood.
5. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Statement completed by ABD Design & Build (CI) Ltd, referenced ABD/470/FRS-2 and dated 2 September 2013, and the following mitigation measures detailed within the Flood Risk Statement:
  1. Finished ground floor levels are set no lower than 2.21 m above Ordnance Datum (AOD).
  2. Finished first floor levels are set no lower than 4.86m above Ordnance Datum (AOD).The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.  
Reason: in order to ensure an appropriate form of development, minimising flood risk for future occupiers of the site.
6. Prior to commencement of development, a scheme of flood resistance and resilience measures for the flats hereby permitted shall be submitted to and formally approved by the Local Planning Authority. Any flood proofing and

resistance/resilience techniques shall be in accordance with the 2007 DCLG publication "Improving the flood performance of new buildings".

Reason: To minimise damage to the building caused by floodwater and to enable faster recovery following a flood.

7. CON53 – Enactment of flood response plan.
8. CON60 – Demonstration of the ability of the proposed development to withstand hydrostatic and hydrodynamic pressure.
9. The development shall be carried out in accordance with the details approved in relation to condition 8 unless otherwise formally consented to by the Local Planning Authority.  
Reason: To ensure the appropriate protection to occupants of the building in the event of a flood and to enable a faster recovery once floodwaters have subsided.
10. Details of any boundary treatments, with reference to an accurately scaled plan, shall be submitted to and formally approved by the Local Planning Authority prior to their installation.  
Reason: In the interests of visual amenity and the amenity of surrounding occupiers.
11. The proposed refuse storage facilities shall be provided prior to occupation of the development hereby approved and thereafter retained for that use unless otherwise formally consented to by the local planning authority.  
Reason: To ensure the retention of appropriate refuse storage facilities.
12. Prior to occupation of the development the car parking area shall be provided, surfaced and drained. Thereafter this area shall be retained for the parking and manoeuvring of vehicles and not used for any other purpose, without the formal consent of the Local Planning Authority.  
Reason: To ensure the provision of satisfactory off-street parking facilities.
13. Prior to the first occupation of the development hereby approved, the redundant vehicle crossing onto Somnes Avenue shall be closed and the footway kerbing reinstated to full height.  
Reason: To ensure the removal of, and to preclude the creation of, unnecessary points of traffic conflict in the highway in the interest of highway safety.
14. The proposed bicycle store shall be provided prior to first occupation of the development approved and thereafter retained for the storage of bicycles belonging to occupiers of the development hereby approved and for no other purpose, without the formal consent of the Local Planning Authority.  
Reason: To ensure that appropriate cycle parking facilities are provided and retained within the development.
15. Prior to commencement of development, details of areas within the curtilage of the development for the purpose of loading/unloading/reception and storage of building materials and manoeuvring of construction vehicles shall be submitted to and approved in writing by the Local Planning Authority. Such areas as may be approved shall be retained for their specified purpose throughout the construction of the development.

Reason: To ensure that appropriate loading/unloading facilities are available and to ensure that the highway is not obstructed during the construction period, in the interest of highway safety.

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

Reason: To avoid displacement of loose material onto the highway in the interest of highway safety.

17.Prior to commencement of development, details demonstrating the means to ensure the prevention of the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent hazards caused by water flowing onto the highway, to avoid the formation of ice on the highway and in the interest of sustainable drainage.

18.The approved scheme for surface water drainage shall be installed and fully operational prior to occupation of any dwelling.

Reason: In the interest of sustainable drainage.

19.Prior to occupation of the development hereby approved, the proposed windows in the northern elevation at first floor level shall be obscure glazed and fixed to a height of 1.8m above the finished floor level of the rooms they serve, and permanently retained as such.

Reason: In order to protect the privacy of the adjoining residents.

20.Prior to occupation of the development hereby approved, the proposed glazed panel in the northern elevation, serving the stairwell, shall be obscure glazed and fixed above a height of 1.8m from ground floor level and permanently retained as such.

Reason: In order to protect the privacy of the adjoining residents.

21.CON59 – Travel Information Pack.

22.CON100

23.CON102 – Application approved following revisions.

## ITEM 2

**Application Number:** CPT/669/13/FUL

**Address:** 2-26 RUSHBOTTOM LANE, BENFLEET

**Description of development:** DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF NEW RETAIL FOODSTORE WITH CAR PARKING, LANDSCAPING, REPOSITIONING OF VEHICULAR ACCESS TO RUSHBOTTOM LANE AND WORKS TO THE HIGHWAY

**Applicant:** ALDI STORES LTD

**Case Officer:** MR K. ZAMMIT

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### Summary

This proposal for a new food retail store is generally consistent with the provisions of the Adopted Local Plan and National Planning Policy and Guidance. The main issue is considered to be the impact of introducing a right turn facility from the westbound A13 into Rushbottom Lane at the existing signal controlled junction. It has been identified that this will lead to some additional queuing at weekends, but the benefits of the development are considered to outweigh the marginal adverse impact on the capacity of the junction.

It is therefore recommended that permission be granted subject to an Agreement under Section 106 of the Town and Country Planning Act, as detailed at the end of this report.

### Site Visit

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

### Introduction

The application relates to a 0.7ha site on the east side of Rushbottom Lane, on the northern edge of the Tarpots shopping area. The site currently contains a building formerly used as a retail warehouse, together with areas of car parking and a public lavatory.

### The Proposal

Permission is sought to demolish the existing retail warehouse building and lavatory building and redevelop the site with a supermarket with a public convenience facility. Alterations to the existing car park are proposed together with replacement of the two existing vehicular access points to Rushbottom Lane with a single vehicular access which will provide sole access to the site.

The proposed building would have a depth of some 55.6m and a width of 30.5m. The building would have a gross floor area of some 1,702m<sup>2</sup> of which 1,254m<sup>2</sup> would be for retail sales. The overall height of the building would be some 5.6m.

### **Supplementary Documentation**

The application is accompanied by the following documents, which are available to view on the Council's website:

- Design and Access Statement
- Transport Assessment
- Travel Plan
- Contaminated Land Report
- Statement of Community Involvement
- Environmental Noise Report
- Planning and Retail Assessment
- Arboricultural Impact Appraisal and Method Statement
- Sustainability statement

### **Planning History**

Permission was granted for a supermarket in 1974 (BEN/963/73/OUT). This application was not pursued.

In 1980, an application for a supermarket on the site was refused due to highway impacts (CPT/972/80/OUT). This was subsequently allowed on appeal but not implemented.

Planning permission for a retail warehouse (DIY Store) was granted on the site in 1984. (Ref: CPT/1202/84/FUL)

In 2011 permission was granted for the waiving of a condition attached to the original consent to allow the sale of food products (CPT/1202/84/VAR/A).

A further approval was granted in 2011 for subdivision of the unit into two retail units with mezzanine floors (CPT/362/10/FUL). This has not been implemented.

Planning approval was granted in 2012 for the demolition of an outbuilding at no. 7 Lambeth Road and the incorporation of the land into the curtilage of the DIY store, with refurbishment works to the retail unit (CPT/319/12/FUL).

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

#### National Planning Policy Framework:

Paras: 23, 39, 56 – 58, 118, 120, 125

National Planning Policy Guidance

#### Adopted Local Plan

EC2 – Design

EC3 – Residential Amenity

EC22 – Retention of Trees, Woodlands and Hedgerows  
S1 – Location of Retail Development  
S5 – Parking and Servicing

## **Consultation**

### County Highways

No objection subject to conditions.

### Environmental Health

Conditions recommended relating to equipment noise, car park operation and service yard activity.

## **Public Consultation**

One comment received in support of the proposals.

One letter received expressing concerns relating to:

- the refrigeration block at the back of the proposed store and stating the hope that it would be brick enclosed with trees around it, and
- concerns over the security of the site and the hope that there would be gates installed at either end of the building to prevent access to adjacent properties.

## **Comments on Consultation Responses**

All relevant matters are considered in the evaluation of the proposal.

## **Evaluation of Proposal**

The main issues for consideration are the principle of retail development on this site, the design of the building, the impact on nearby residential properties and parking/traffic implications.

### The principle of retail development

Policy S1 of the adopted Local Plan states that retail development will be permitted within the defined boundaries of town centres and local shopping parades, subject to any other relevant policies. This is consistent with paragraph 23 of the NPPF.

The site is located within the Tarpots Town Centre as identified in the adopted Local Plan Proposals Map. The redevelopment of this site for retail purposes is consistent with its local plan allocation and therefore acceptable in principle

No objection is therefore raised to the proposal on this basis.

### Design

Policy EC2 of the adopted Local Plan requires a high standard of design in all new buildings, which is consistent with paragraphs 56 to 58 of the NPPF.

The proposed supermarket building is a flat roofed, one and a half storey high structure displaying significant levels of glazing to the western elevation, overlooking Rushbottom Lane and the southern elevation, overlooking the carpark. The glazed areas are to be set within 'anthracite coloured frames and the remainder of the building is to be finished in white render above a blue brick plinth. The elevations are punctuated by grey steel operational doors and the delivery door to the rear of the site will have a PVC covered steel roller door in 'anthracite'. The design is typical of the Aldi 'brand' and the use of consistent colour treatments across the site will help to pull the design together and lighten its impact in visual terms. The proposed design is considered to be of an acceptable standard which would be visually appropriate to its function, having regard to its location in a shopping centre. It is not considered that the design would be visually harmful to the surroundings, and no objection is therefore raised to the proposal on the basis of Policy EC2.

Policy EC2 also requires the enhancement of areas around buildings with landscaping. Policy EC22 requires the retention of trees, woodlands and hedgerows wherever possible, as part of development. This is broadly consistent with paragraph 118 of the NPPF.

The proposal would require the removal of 13 trees. These have been assessed and found to be of poor quality. The applicant intends to replace these trees with a high quality landscaping scheme which would include shrub and replacement tree planting. It is considered that the proposed planting scheme would provide an appropriate level and form of landscaping to the site which would soften the impact of the building and create an attractive setting for the new store. No objection is therefore raised to the proposed landscaping scheme.

Within the wider area, the applicants have offered a fixed financial contribution towards public realm enhancements for the walk way leading from London Road to the site at the side of the Co-op retail store. This contribution would be the subject of a S106 agreement.

The proposed enhancements would include new paving and the general improvement of this pedestrian linkage. This is welcomed in principle and would be of benefit to Tarpots Shopping Centre by creating a more attractive pedestrian environment and formalising the pedestrian link between the site and the wider retail area. Officers are currently seeking confirmation that the works proposed could be completed for the amount offered. The outcome of this will be reported at the meeting.

#### Impact on nearby residential properties

Policy EC3 of the adopted Local Plan seeks to prevent detriment to the residential amenity of the surrounding area from disturbance caused by traffic, noise, fumes and other forms of disturbance. This is generally consistent with paragraphs 120 to 125 of the NPPF.

The proposal seeks to make relatively minor alterations to the existing car park. The principle of the provision of a car park in this location is already established and it is not therefore considered that an objection could be raised to the provision of a car park in this location.

In terms of the use of the car park, this not restricted under the previous consent and was extensively used to serve the Town Centre as well as the DIY Store. The proposed use intends to maintain the facility for public use of the car park and whilst the nature of the retail use is different from that previously present on the site, it is not considered that the level of use and thus the impact on adjoining residents would not significantly different. It should be noted that the Council's Environmental Health Officer (EHO) has raised no concerns in respect of the use of the car park during normal operational hours. He has however commented that the car park could attract antisocial behaviour when the store is closed, which would be detrimental to the amenity of surrounding residents. The submitted application identifies that the proposed store opening hours of 08:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and Bank Holidays. The EHO has requested that a condition be imposed on the grant of any consent requiring the car park to be secured/locked when the store is closed. This request has been discussed with the applicant's agent who has advised that Aldi will not accept a condition requiring the car park to be closed, as they secure their car parks by other means, for example CCTV coverage and by recording the registration numbers of vehicles entering and leaving the car park through 'Parking Eye', which would be used to enforce the intended 90 minute maximum stay. Whilst these methods might not totally rule out the possibility of antisocial behaviour, it is considered that three measures, together with police powers, would be effective in dealing with such problems should they arise. Under the circumstances it is not considered that a planning condition would be necessary to secure the desired objective. No proposal is therefore raised to the proposal on this basis.

The proposed store seeks to provide a refrigeration plant area to the rear of the building, adjacent to residential development on Elgar Close. There is the potential for noise disturbance from this enclosure.

The noise report submitted with the planning application states that the precise details of the mechanical services plant and refrigeration equipment are not known at this stage but taking into account existing background noise levels in the area, it should be possible to install equipment that would not cause undue disturbance to existing residents. The Council's Environmental Health Officer has recommended that the rating level of the noise emitted from the mechanical services plant not exceed the existing background noise level (LA90) by more than 2 dB at any time. As such the daytime rating level should not to exceed 49 dB  $L_{Aeq, 1hr}$  and the night time rating level should not to exceed 41dB  $L_{Aeq, 5min}$ . A condition requiring the installation of sufficient mitigation measures to achieve these levels may be imposed on the grant of any consent. Subject to such a condition no objection is raised to the proposal on the basis of noise generated by the proposed refrigeration plant.

Servicing the site will occur at the eastern end of the building in proximity to dwellings on Lambeth Road. The applicant has identified that deliveries will take place between 07:00 and 23:00 Monday to Saturday and 09:00 to 22:00 on Sundays.

The acoustic report accompanying the application states that as long as deliveries do not take place before 07:00 or after 23:00 there should not be an adverse impact on surrounding residents from noise.

The EHO has commented that whilst he does not wish to restrict delivery times to shorter hours than those sought, vehicles with reversing alarms should not be used outside the hours of 08:00-22:00 Mondays to Saturdays and 09:00-18:00 Sundays and Bank Holidays.

It is common for all large vehicles where the driver's rear view is restricted to have a reversing alarm, therefore such a condition would effectively restrict the period for deliveries to the site which the EHO has stated he would not wish to do.

Under the circumstances it is considered that the restriction requested by the EHO would unreasonably restrict the operation of the site. It is not therefore intended to impose this condition on the grant of any consent.

Similarly conditions requiring not more than one delivery vehicle to be in the yard at any one time and vehicles and refrigeration units to be turned off when stationary and unloading would be unenforceable. It is not therefore intended to impose this condition on the grant of any consent.

It would, however, be reasonable to require the provision of acoustic fencing along the eastern boundary of the site where it runs close to the delivery bay. A condition to this effect can be attached to the grant of any consent.

It is also considered appropriate to impose a condition on the grant of any consent limiting the delivery hours to those sought in the application. It is considered however that the identified hours should be modified in respect of Bank Holidays which should be restricted to Sunday delivery hours in order to provide local residents with some respite from normal activity on the site.

There will inevitably be some noise and disturbance from construction, but this would be a transitory situation and incapable of forming a robust reason for refusal. No objection is therefore raised to the proposal on this basis.

In terms of overlooking and the potential for any loss of privacy for adjoining residents, the proposed building would only contain two doors in the northern elevation leading from the warehouse and staff areas, and two low level windows serving a staff room and meeting room. The east elevation would have no openings. There is a small flight of external steps and a landing near the loading bay, but this would be at ground floor level as the ramp to the service area slopes down, to allow the level transfer of goods into the building (avoiding the need for tail lift use). It is therefore not considered that there is potential for nearby properties to suffer loss of privacy.

The existing building has a maximum height of some 9m. The proposed building would have a maximum height of some 5.6m. It would also be smaller in footprint than the existing building. As such it is considered that the proposed building would have less of an impact on surrounding residents by way of obtrusiveness or dominance than the existing one and no objection is therefore raised to the proposal on this basis.

The comment regarding unauthorised access to adjoining properties via the site is noted, however, the northern elevation of the building is punctuated by fire exits. It is important that access from the building via the fire exits is unimpeded by gates or

fences and it is not therefore considered appropriate to require the provision of fences or gates in this area.

### Parking

Policy S5 of the current Local Plan sets out a requirement for retail developments to make provision for parking and servicing in accordance with the Council's adopted vehicle parking standards. This is consistent with paragraph 39 of the NPPF which requires local planning authorities to set such standards reflecting local circumstances.

The current standards require a maximum of 1 space for each 14m<sup>2</sup> of gross floorspace. The gross floor area of the proposed store is 1,702m<sup>2</sup> therefore a maximum of 122 spaces are required. The proposal would provide 104 spaces. As the parking standards are expressed in terms of maxima, such provision would be compliant with the parking standards.

Cycle parking is provided in accordance with the parking standards.

There is consequently no objection to the proposal on the basis of parking provision.

### Highway Implications

The application seeks to provide a facility for a right hand turn from the westbound A13 into Rushbottom Lane, which is currently a prohibited manoeuvre. The Highway Authority has commented that whilst the proposed works would result in an improvement in traffic flows on some arms of the junction, there would also be a slight increase in delays at the junction at the weekend. It is evident however; that the Highway Authority does not consider that this impact on traffic flows would be so detrimental to junction capacity that it wishes to raise an objection to the proposal on this basis.

It should be noted that initially discussions were held with the applicants to determine whether an alternative access to the site from Lambeth Road would be acceptable. The applicants rejected this option advising that it did not suit their purposes and would in any case result in similar disruptions to eastbound traffic flows as well as adversely impacting on the amenity of adjoining residents. The applicant has stated that the absence of a right turn facility at the Rushbottom Lane junction would call into question the viability of the site for an Aldi Store.

The local planning authority acknowledges that there will be some impact on the junction at weekends as a result of the alterations to the highway network however; this negative impact must be balanced against any benefits that may be derived from the scheme.

The site has been unoccupied since the vacation of the site by Focus DIY in 2011. This has had a negative impact on the Tarpots Shopping Centre in terms of the image of the area, the loss of parking capacity, loss of employment opportunity and loss of the opportunities for linked shopping trips.

Redevelopment of the site would remove a derelict building from the street scene and frustrate opportunities for antisocial behaviour. This would be of significant benefit, particularly to local residents.

The redevelopment of the site, by reason of the proposed improvements to the walk way between the site and the London Road may also encourage further investment in other areas and will provide employment opportunities. This is to be encouraged.

The redevelopment of the site with an Aldi supermarket will bring shoppers into the centre. Aldi have pointed out in their submission that they do not sell tobacco, lottery tickets, newspapers or magazines and would provide a retail offer that complements rather than competes with existing shops in the centre. As such it is not considered that the provision of an Aldi store on this site would adversely impact on the vitality or viability of the existing retail offer.

Furthermore, Aldi have offered to make their car park available as short-stay parking for the general public. This would support local businesses and is considered to show commitment to the successful operation of the Town Centre. The car park is currently closed and therefore the amount of car parking serving Tarpots Shopping Centre is limited. Shoppers may be deterred from using the centre due to lack of parking provision. The provision of a short stay car park for general use by shoppers would therefore be of significant benefit to the centre.

On balance, whilst a negative traffic impact has been identified in the provision of a right turn facility at the Tarpots junction, this is considered to be outweighed by the wider benefits that would accrue to the Tarpots Shopping Centre in terms of regeneration, employment and retail and parking capacity. No objection is therefore raised to the proposal on the basis of highway impact.

The Highway Authority has requested that a number of conditions be imposed should planning permission be granted.

The first requires provision of vehicular access visibility splays of 2.4m by 43m. This condition is considered reasonable in the interest of highway safety. The arrangement of footways is such that these areas are unobstructed.

The second requires details to be submitted of a vehicular turning facility within the site. The car park is considered to have adequate turning space within it so such a condition is considered unnecessary.

The third requires areas within the site to be identified for construction vehicles, loading and unloading of materials *et cetera*. The site has a car park which is being retained and it is considered that this would provide ample room for such activities during the construction period. Such a condition is therefore unnecessary.

The fourth requires closure of the existing vehicular access points to Rushbottom Lane. It is considered that this is a reasonable requirement in the interest of highway safety.

The fifth requires submission of details of the means to prevent the discharge of surface water onto the highway. It can be seen from the plans that the applicant proposes to drain surface water to the existing surface water sewer in Rushbottom

Lane via an existing connection. This secures the objective of keeping water from discharging onto the highway. As this is an existing car park, it is not considered that there would be a significant change in levels of surface water runoff from the site, so a condition requiring submission of alternative arrangements is considered unnecessary.

The sixth is similar to the third, and requires submission of details of areas for unloading of construction materials and the like. As mentioned, it is considered that the car park area provides opportunity for such activity so it is not necessary to specifically require submission of such details. It is, however, considered reasonable to require submission of details of vehicle wheel and underside cleaning facilities or a programme of sweeping the road so that mud on the road does not become an issue.

The seventh requires provision of the car parking area before occupation of the store and thereafter retention of the car park for the purpose of vehicle parking. This is considered reasonable so that the car park is all in place and laid out before the store starts trading. It is noted that the Highway Authority suggests that use of the car park is limited to vehicles associated with the development. As has been discussed, the applicant wishes to make the car park available as a general short stay car park. This aspect of the proposal is considered worthy of support and it is not therefore considered that such a restriction should be imposed on use of the carpark.

The eighth requires provision and retention of the bicycle parking facilities. This is considered reasonable so that sustainable travel is encouraged, particularly by staff.

The ninth requires the modifications to Tarpots junction to be made prior to occupation of the store. It is considered that this condition needs to be applied so that the junction works are finished before the store opens. In this form the condition is considered necessary and reasonable.

The tenth relates to works to improve the public realm (the alleyway adjacent to the Co-op) through the provision of new paving. As this involves third party landowners it is more appropriately dealt with by way of a legal agreement.

## Conclusion

The provision of a food store on the application site would be consistent with the provisions of the adopted Local Plan and National Planning Policy Framework and Guidance. A minor detrimental impact on traffic flows and queuing at the Tarpots junction has been identified from the applicant's proposed introduction of a right turn facility but it is considered that the regenerative benefits of the proposal outweigh this adverse impact.

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

My **RECOMMENDATION** is: APPROVAL, subject to a Section 106 Agreement in relation to the following matter:

- the provision of a suitable financial contribution for public realm enhancements

and the following conditions:

1. CON2 – Start within three years
2. CON18 – To be built in accordance with the approved materials
3. The landscaping works shall be completed in the first available planting season following completion of the development. Thereafter, any planting dying, becoming diseased or being destroyed or uprooted within five years of completion of the development shall be replaced in the first available planting season with the same species or such other species as may be agreed in writing with the local planning authority.  
Reason: To ensure a satisfactory standard of landscaping in the interest of visual amenity.
4. Prior to installation of any mechanical services plant or refrigeration equipment, details of that plant or equipment shall be submitted to and approved in writing by the local planning authority. Such details shall include the predicted noise levels from the equipment, which shall not exceed the lowest daytime and night time background noise levels at the nearest noise sensitive premises by more than 2dB. If this noise level can only be achieved through the provision of acoustic fencing, such fencing, shall be provided before the plant is operational and thereafter retained at all times.  
Reason: To protect the amenity of surrounding residential occupiers.
5. Prior to the commencement of trading, details of the acoustic fencing to the eastern boundary of the site adjacent to the loading bay shall be submitted to and approved in writing by the local planning authority. The submission shall demonstrate that the acoustic fencing is of such a standard that noise emissions from loading and unloading activities are attenuated to a level where nuisance will not be caused to surrounding residential properties.  
Reason: To protect the amenity of surrounding residential occupiers.

6. Such fencing as may be approved in relation to condition 5 shall be installed before the store begins trading and shall thereafter be retained at all times.  
Reason: To protect the amenity of surrounding residential occupiers.
7. Prior to use of the new vehicular access, that access shall at its centre line be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the north and south, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall thereafter be retained free of any obstruction at all times.  
Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety
8. Prior to the commencement of trading, the existing vehicular accesses to Rushbottom Lane shall be permanently closed and the footway and kerbing reinstated to the satisfaction in writing of the Local Planning Authority.  
Reason: To ensure the removal of and to preclude the creation of unnecessary points of traffic conflict in the highway in the interests of highway safety
9. Prior to the commencement of construction work, including the demolition of the existing building, details of the means to prevent mud and other detritus from the site from causing poor conditions on the highway shall be submitted to and approved in writing by the local planning authority. Such measures shall include facilities for cleaning the wheels and undersides of vehicles before they leave the site and/or a programme of street sweeping and cleaning to ensure that any material transferred to the highway from the site is removed.  
Reason: To ensure that loose materials and spoil are not brought out onto the highway in the interests of highway safety.
10. Prior to the commencement of trading, the car park shall be laid out, marked and drained in accordance with the approved plans. Thereafter, the car parking area shall be retained for the purpose of car parking and service deliveries and for no other purpose, without the formal consent of the Local Planning Authority.  
Reason: To ensure that on-site parking and delivery facilities are available so that on street parking of vehicles in the adjoining streets does not occur in the interests of highway safety.
11. Prior to the commencement of trading, details of the proposed cycle parking facilities shall be submitted to and approved in writing by the local planning authority.  
Reason: The details submitted are insufficient for consideration of this aspect of the proposal.
12. Such cycle parking facilities as may be approved shall be provided prior to the commencement of trading and thereafter retained at all times.  
Reason: To ensure the provision of appropriate cycle parking facilities to encourage sustainable travel.

13. Prior to the commencement of trading, details of the proposed changes to the carriageway and signal arrangement at the junction of the A13 and Rushbottom Lane to provide a right turn facility from the westbound A13 into Rushbottom Lane as shown in principle on Connect Consultants DWG A1-12076-SK140312.2 shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: To make adequate provision within the highway for right turn movements from the A13 westbound into Rushbottom Lane.
14. Prior to the commencement of trading, the works approved in relation to condition 13 shall be completed and the right turn facility from the westbound A13 into Rushbottom Lane provided to the satisfaction of the Local Planning Authority.  
Reason: To make adequate provision within the highway for the right turn movement from the A13 westbound into Rushbottom Lane.
15. The store shall not be open to the public other than between the hours of 08:00-22:00 on Mondays to Saturdays and 10:00-16:00 on Sundays and Bank or Public Holidays.  
Reason: To protect the amenity of surrounding residential occupiers.
16. No deliveries to the site shall be received other than between the hours of 07:00-23:00 on Mondays to Saturdays and 09:00-22:00 on Sundays and Bank or Public Holidays.  
Reason: To protect the amenity of surrounding residential occupiers.
17. Prior to the commencement of development, details of the proposed enhancement works to the walkway between the site and the London Road shall be submitted to and approved by the Local Planning Authority.  
Reason: In order to ensure appropriate improvements to the public realm, in the interests of the amenity of the area.
18. Within one year of the commencement of trading on the site, the scheme approved pursuant to condition 17 above shall be completed to the satisfaction in writing of the Local Planning Authority.  
Reason: In order to ensure appropriate improvements to the public realm, in the interests of the amenity of the area.

**Note:**

Pursuant to the provisions of the town and country planning (fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013, it should be noted that if the Section 106 Agreement has not been completed by all parties by 13<sup>th</sup> June 2014, planning permission be refused for the following reason:

- The applicant has failed to submit an appropriate scheme for the enhancement of the Public Realm and the proposal is therefore considered to be contrary to the principle of public space enhancement as set out in paragraph 69 of the National Planning Policy Framework and the Essex Design Guide Urban Space Supplement

**Standard Conditions**

<b>CON1</b>	Outline Time Limit and Reserved Matters
<b>CON2</b>	Full Application Time Limit
<b>CON3</b>	Vehicular Access Visibility Splay
<b>CON4</b>	Junction Visibility Splay
<b>CON5</b>	Screen Wall / Fencing
<b>CON6</b>	Submission of Evergreen Hedge details
<b>CON7</b>	Implementation of Evergreen Hedge
<b>CON8</b>	Retention of Trees
<b>CON9</b>	Submission of Landscaping Scheme
<b>CON 10</b>	Implementation of Landscaping Scheme
<b>CON 11</b>	Maintenance of Landscaping Scheme
<b>CON 12</b>	Submission of Tree Planting Scheme
<b>CON 13</b>	Implementation of Tree Planting Scheme
<b>CON 14</b>	Maintenance of Tree Planting Scheme
<b>CON 15</b>	Schedule of External Surfaces
<b>CON 16</b>	Materials to Harmonise With Existing
<b>CON 17</b>	Submission of Materials
<b>CON 18</b>	Implementation of Materials
<b>CON 19</b>	Submission of Hardsurfacing Details
<b>CON 20</b>	Implementation of Hardsurfacing
<b>CON 21</b>	Pd Rights Removed Small Site
<b>CON 22</b>	Pd Rights Removed Relationship With Other Buildings
<b>CON 23</b>	Pd Rights Removed Green Belt
<b>CON 24</b>	Demolition of Existing Dwelling
<b>CON 25</b>	Forecourt Depth Unclassified Roads
<b>CON 26</b>	Forecourt Depth Classified Roads
<b>CON 27</b>	Protection of Trees
<b>CON 28</b>	Retention of Parking Spaces
<b>CON 29</b>	Obscure Glazed Non Opening Windows
<b>CON 30</b>	Luminance Control Highway Safety
<b>CON 31</b>	Luminance Control Residential Amenity
<b>CON 32</b>	Levels Submission
<b>CON 33</b>	Levels Implementation
<b>CON 34</b>	Filter Details Submission
<b>CON 35</b>	Filter Details Implementation
<b>CON 36</b>	Ecological Survey Submission
<b>CON 37</b>	Ecological Survey Implementation
<b>CON 38</b>	Badger Survey Submission
<b>CON 39</b>	Badger Survey Implementation
<b>CON 40</b>	Bat Survey Submission
<b>CON 41</b>	Bat Survey Implementation
<b>CON 42</b>	Balcony Terrace Screen
<b>CON 43</b>	Annexe Only Not Independent Dwelling
<b>CON 44</b>	Extension Only Not Independent Dwelling
<b>CON 45</b>	Vehicular Crossover Widening
<b>CON 46</b>	New Vehicular Crossover
<b>CON 47</b>	Tree Works In Accordance With British Standards
<b>CON 48</b>	Tree Works Supervision

<b>CON 49</b>	Environment Agency Desktop Study
<b>CON 50</b>	Environment Agency Implementation of Pollution Control
<b>CON 51</b>	Storage of Building Materials within the site.
<b>CON52</b>	Submission Of Flood Response Plan.
<b>CON53</b>	Enactment Of Flood Response Plan
<b>CON54</b>	Provision Of Badger Ramp.
<b>CON55</b>	Badgers - Hand Digging Of Foundations.
<b>CON 56</b>	Protection Of Badgers - Changes In Levels.
<b>CON57</b>	Badgers – Pathways.
<b>CON58</b>	Badgers - Security Fencing.
<b>CON59</b>	Travel Scratch cards.
<b>CON60</b>	Hydrodynamic and Hydrostatic Pressure
<b>CON61</b>	Flood resistant and resilient construction
<b>CON62</b>	Flood resistance and resilience measures – Implementation

### **Informatives**

<b>CON 100</b>	Party Wall Etc. Act Note.
<b>CON101</b>	Application Approved Without Amendment
<b>CON102</b>	Application Approved Following Revisions
<b>CON103</b>	Application Refused Following Discussion - No Way Forward
<b>CON104</b>	Application Refused With Discussion - With Way Forward
<b>CON105</b>	Application Refused Without Discussion



**DEVELOPMENT CONTROL COMMITTEE**

**1<sup>st</sup> April 2014**

**Subject: CPT/214/11/OUT – 101 Point Road, Canvey Island (Canvey East Ward) – Demolish all Buildings and construct 16 houses and 83 flats with estate road and parking – Canvey Wharf Co Ltd**

**Report of the: Head of Regeneration and Neighbourhoods**

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**1. Purpose of Report**

1.1 To advise on progress since the Committee resolution to grant consent subject to a Planning Obligation (Section 106 Agreement) in October 2012.

**2. Planning Application update**

2.1 At its meeting on 2<sup>nd</sup> October 2012, the Committee considered a report on outline planning application reference CPT/214/11/OUT, which proposed to demolish all buildings and construct 16 houses & 83 flats with estate road and parking, on land at 101 Point Road Canvey Island. A copy of the officer's main and supplementary reports to that Committee meeting is available on the Council's website and on deposit in the Members' rooms.

2.2 The Committee resolved that outline planning permission should be granted subject to a Section 106 Agreement covering the following Heads of Terms:

- A contribution of 30% affordable housing on site.
- A financial contribution of £20,000 towards passenger transport infrastructure in the vicinity of the site along Point Road to include appropriate real time information and associated infrastructure as deemed necessary by the highway engineer.
- The provision of Residential Travel Information Packs to each residential dwelling on first occupation, approved by Essex County Council, to include 10 (Ten) All Essex Scratch card tickets, as well as information on bus, train and other sustainable travel modes.
- The provision of a footway from the eastern end of the site along the northern side of Point Road to the existing roundabout, with the provision of dropped kerbs where required at a continuous width of 2m

- A financial contribution of £144,367 towards the provision of indoor sports and recreation facilities, as calculated using the Council's Developer Contributions Guidance SPD.
- A financial contribution of £64,859 towards the enhancement of access, improved signage and general street furniture, and footpath and cycleway connections along the Inland Esplanade and Thames Estuary Waterside as calculated using the Council's Developer Contributions Guidance SPD.
- A financial contribution of £27,866 towards the Essex County Council library services on Canvey Island, as calculated using the Essex County Council's Developers' Guide to infrastructure Contributions.
- A financial contribution of £63,328 for the provision and 10 years maintenance of 2 CCTV cameras in the vicinity of the application site
- A financial contribution towards health care on Canvey Island as advised by South East Essex Primary Care Trust.
- A financial contribution of £23,859 towards the provision of adult social care, as calculated using the Essex County Council's Developers' Guide to infrastructure Contributions.
- A financial contribution of £73,744 towards post-sixteen education services to be provided at the Canvey Skills Campus, as calculated using the Essex County Council's Developers' Guide to infrastructure Contributions.
- A financial contribution of £9,645 towards adult education services to be provided at the Canvey Skills Campus, as calculated using the Essex County Council's Developers' Guide to infrastructure Contributions.
- A scheme for the involvement of local businesses during the construction of the proposed development.
- A scheme for the involvement of apprentices during the construction of the proposed development.
- The management of public landscaping and open space provided within the scheme.
- The provision, continued access, and maintenance and management of the proposed medical centre / refuge proposed in flat Block B.
- When called upon to do so by the Council the owner will allow for the improvement of and make a contribution towards the access road to the east of the site linking Point Road to the Marina

- 2.3 Shortly after that resolution, the planning agent for the application asked that no action be taken on the proposed Section 106 Agreement until further notice. Regular contact has been maintained with the planning agent over the intervening months. Officers were advised that the applicants had concerns regarding the viability of the scheme, particularly with the extent and nature of the planning obligations being requested. The most recent meeting with the planning agent took place on 6<sup>th</sup> February 2014, when a schedule was produced purporting to show that the development had a negative value.
- 2.4 However no further information has been received since that meeting. Given the length of time that has now passed since the original resolution of the Committee it is considered appropriate to seek fresh instructions from the Committee on this case
- 2.5 The Committee will be aware that government advice regarding planning obligations is contained in the National Planning Policy Framework (NPPF). Paragraphs 203 to 205 state:
- 203 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*
- 204 Planning obligations should only be sought where they meet all of the following tests:*
- necessary to make the development acceptable in planning terms;*
  - directly related to the development; and*
  - fairly and reasonably related in scale and kind to the development.*
- 205. Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.*
- 2.6 In this case, the planning obligations recommended for this development are in accordance with the Council's policy as set out in its Supplementary Planning Document, and also meet the three tests as set out in the NPPF. So far no evidence has been submitted demonstrating that, in rising market conditions, the obligations are preventing planned development from proceeding.
- 2.7 Accordingly there are three options available to the Committee:
1. Discussions on the outline planning application continue on the basis of the original resolution and the Heads of Terms.
  2. The Committee reviews the Heads of Terms and indicates which of those it would be prepared to forego, notwithstanding Council policy
  3. The Committee resolves to refuse permission for the development on the basis of its failure to satisfactorily provide for the matters set out in the Heads of Terms

### **3. RECOMMENDATION**

- 3.1 It is not good practice to allow unfulfilled resolutions to remain unexamined over an extended period of time. In this case, the applicant has had a period of 18 months to make progress and complete the required planning obligation. A further period of time could be considered acceptable if agreement was close to being reached, but that does not appear to be the case here.
- 3.2 Furthermore it is not possible to identify any Heads of Terms which may no longer be necessary. Although the draft New Local Plan which the Council published for consultation in January 2014 suggests a 15% proportion for affordable housing on sites on Canvey Island, this is not formal adopted Council policy and can carry only limited weight.
- 3.3 I therefore recommend that the previous resolution regarding this case be replaced by the following;

#### **REFUSE PERMISSION, for the following reasons;**

1. The applicant has failed to demonstrate the provision of an appropriate level of affordable housing, on the site, contrary to the provisions of Policy H7 of the adopted Local Plan and Government guidance as set out in the NPPF.
2. The applicant has failed to demonstrate the provision of appropriate transport infrastructure, Sport and Leisure facilities and Library provision commensurate with the needs of the proposed development, contrary to the provisions of Policy CF1 of the adopted Local Plan and Government guidance as set out in the NPPF.
3. The applicant has failed to demonstrate the provision of appropriate health care, post 16 and adult education facilities commensurate with the needs of the proposed development, contrary to the provisions of Policy CF1 of the adopted Local Plan and Government guidance as set out in the NPPF.
4. The applicant has failed to demonstrate the provision of appropriate enhancement of access, improved signage and general street furniture, and footpath and cycleway connections along the Inland Esplanade and Thames Estuary Waterside facilities commensurate with the needs of the proposed development, contrary to the provisions of Policy CF1 of the adopted Local Plan and Government guidance as set out in the NPPF.
5. The applicant has failed to submit an appropriate scheme for the provision and maintenance of CCTV cameras commensurate with the needs of the proposed development, contrary to the provisions of Policy EC5 of the adopted Local Plan and Government guidance as set out in the NPPF.
6. The applicant has failed to submit an appropriate scheme for the provision, maintenance and management of the proposed Medical Centre and refuge facilities commensurate with the needs of the proposed development, contrary to the provisions of Policy CF1 of the adopted Local Plan and Government guidance as set out in the NPPF.

7. The applicant has failed to submit an appropriate scheme for the management of public landscaping and open space provided within the scheme contrary to the provisions of Policy EC2 of the adopted Local Plan and Government guidance as set out in the NPPF.
8. The applicant has failed to submit an appropriate scheme for the involvement of local businesses during the construction of the proposed development contrary to the provisions of Government guidance as set out in the NPPF.
9. The applicant has failed to submit an appropriate scheme for the involvement of apprentices during the construction of the proposed development contrary to the provisions of Government guidance as set out in the NPPF.
10. The applicant has failed to submit appropriate commitment to the improvement of the access road to the east of the site linking Point Road to the Marina.