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## **AGENDA**

**Committee: DEVELOPMENT CONTROL**

**Date and Time: Tuesday 5<sup>th</sup> November 2013 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 1<sup>st</sup> October 2013 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>
1. CPT/424/13/HAZ	Oikos Terminal, Haven Road, Canvey Island (West Ward)	1
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**DEVELOPMENT CONTROL COMMITTEE**

**1<sup>ST</sup> OCTOBER 2013**

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

Councillors Burch, Partridge, Sheldon, Tucker and Walter also attended.

Apologies for absence were received from Councillors Hart, Mrs Wass and Canvey Island Town Councillor Ms Swann.

**16. MEMBERS' INTERESTS**

There were no disclosures of interest.

**17. MINUTES**

The Minutes of the meeting held on 3<sup>rd</sup> September 2013 were taken as read and signed as correct.

**18. DEPOSITED PLANS**

**(a) CPT/122/13/OUT – LAND TO THE SOUTH OF JOTMANS LANE, BENFLEET (ST MARY'S WARD) – UP TO 265 DWELLINGS WITH ASSOCIATED ACCESS, PARKING FOOTPATH IMPROVEMENTS, ECOLOGICAL ENHANCEMENTS, OPEN SPACE AND LANDSCAPING – CHARLES CHURCH AND BURROWS DUNN LTD**

The application sought outline permission for the erection of up to 265 dwellings and various associated works on the site, which was allocated for Green Belt purposes.

The proposal represented inappropriate development in the Green Belt in respect of which the applicant had failed to advance any very special circumstances which might justify a departure from normal Green Belt policy. The proposal was therefore contrary to Government guidance as contained in the National Planning Policy Framework. .

In addition within the context of Government guidance and in the light of the Secretary of State's decision of the 26<sup>th</sup> June 2013, it was considered that the current proposal was premature in that it sought to determine the location of future residential development outside the confines of the Examination in Public of the New Local Plan.

Mr Brin, a local resident, spoke in objection to the application.

Mr Fowler, a local resident, spoke in objection to the application.

Councillor Sheldon, a Ward Member, spoke in objection to the application.

Councillor Partridge, a Ward Member, spoke in objection to the application.

During discussion Members raised concerns that the application was premature as it sought to determine the location of future residential development outside the confines of the Examination in Public of the New Local Plan. Members also strongly felt that the development was inappropriate in the location as the site was allocated for Green Belt and the applicant had not demonstrated any special circumstances to justify a departure from normal Green Belt Policy. The Committee therefore agreed with the officers' recommendation and it was:-

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

1. The site is allocated as Green Belt where National Planning Policy as set out in National Planning Policy Framework states that development of this nature is not appropriate and will only be permitted if very special circumstances exist to justify its inappropriateness. It is not considered that any very special circumstances exist or have been demonstrated to justify the proposed development which would be detrimental to the openness, character and strategic function of this part of the Green Belt, contrary to National Planning Policy.
2. Within the context of Government guidance and in the light of the Secretary of State's decision of the 26<sup>th</sup> June 2013, it is considered that the current proposal is premature in that it seeks to determine the location of future residential development outside the confines of the Examination in Public of the New Local Plan. The allocation of land for development on the basis of individual applications would lead to poorly planned growth and would fail to deliver housing in a managed way. To achieve sustainable growth within the borough the decision on which sites to allocate for development should be taken at a strategic level as part of the Local Plan process, which this application seeks to circumvent.

**(b) CPT/287/13/FUL – LAND OFF KILN ROAD, THUNDERSLEY (CEDAR HALL WARD) – REVISED SITE LAYOUT OF 23 DWELLINGS ON PLOTS 66-82 AND 87-92 – DAVID WILSON HOMES**

The application sought permission for revisions to 23 plots in the north eastern corner of the site currently under development with 150 dwellings on the north side of Kiln Road. It was not considered that the proposal would lead to any adverse impacts on the character and appearance of the development or the amenity of adjoining occupiers.

The application was presented to the Committee as the proposed amendments would require amendments to the extant legal agreement for the site.

During discussion some Members stated they were not in favour of the proposal, particularly as the revised layout reflected a decrease in the level of affordable housing to be provided on the site. Other Members, whilst disappointed with the reduction in affordable properties, did not feel there was any material planning reasons to refuse the application.

Following detailed discussion it was:-

**Resolved** – That subject to the satisfactory amendment of the existing S106 agreement, the Head of Regeneration and Neighbourhoods be authorised to approve the proposal subject to the conditions set out in the Planning Officer's report.

**(c) CPT/421/13/FUL – LAND OFF KILN ROAD, THUNDERSLEY (CEDAR HALL WARD) – REVISED SITE LAYOUT OF HOUSES TO PLOTS 25 AND 26 AND GARAGE TO PLOT 25 – DAVID WILSON HOMES**

The application sought amendment to the approved layout, in so far as it related to the proposed dwellings on Plots 25 and 26 within a development of 150 dwellings granted planning permission in January 2013. The proposed revised layout would not materially affect the character of the development as a whole and would not have a detrimental affect on the amenity of existing residents or the area generally.

The application was presented to the Committee as the proposed amendment would require amendments to the extant legal agreement for the site.

**Resolved** – That subject to the satisfactory amendment of the existing S106 agreement, the Head of Regeneration and Neighbourhoods be authorised to approve the proposal subject to the conditions set out in the Planning Officer's report.

**(d) CPT/422/13/FUL – LAND OFF KILN ROAD, THUNDERSLEY (CEDAR HALL WARD) – REVISED LAYOUT TO PLOTS 63, 64 AND 65 AND GARAGE TO PLOT 65**

The application sought amendment to the approved layout, in so far as it related to the proposed dwellings on Plots 63, 64 and 65 within a development of 150 dwellings granted planning permission in January 2013. The proposed revised layout was not considered to raise any significant issues in terms of design or layout.

The application was presented to the Committee as the proposed amendment would require amendments to the extant legal agreement for the site.

**Resolved** – That subject to the satisfactory amendment of the existing S106 agreement, the Head of Regeneration and Neighbourhoods be authorised to approve the proposal subject to the conditions set out in the Planning Officer's report.

**(e) CPT/434/13/FUL – LAND OPPOSITE CHATSWORTH, BENFLEET (CEDAR HALL WARD) – ERECTION OF 1 NO. 5 BEDROOMED DETACHED HOUSE – R & J BUILDING DEVELOPERS LTD**

The application sought permission for one detached house on a plot which already benefited from outline planning permission for a 4/5 bedroomed house. The dwelling was of acceptable design and met the standards for dwellings set out in the Council's Residential Design Guidance.

The site was located close to the Thundersley Plotlands Local Wildlife Site; however the submitted ecological report demonstrated that the site had little ecological value.

Within the context of the adjoining existing and proposed dwellings it was not considered that the proposal would have an adverse impact on the character or appearance of the area. However, for the development to be acceptable it was considered necessary for Swale Road to be made up to provide satisfactory access to and from the dwelling. Such provision would form the subject of a S106 agreement.

Following consideration of the report it was:-

**Resolved** – That subject to the applicants entering into a Section 106 Legal Agreement to secure the provision of acceptable vehicular and pedestrian access, the Head of Regeneration and Neighbourhoods be authorised to approve the proposal subject to the conditions as set out in the Planning Officer's report.

**19. QUARTERLY ENFORCEMENT UPDATE**

A quarterly enforcement update report was presented to the Committee so that Members were aware of all formal planning enforcement action and investigations undertaken by the Council's Planning Enforcement Officer.

The Chairman and Members of the Committee took the opportunity to ask questions on some of the enforcement cases, which were answered by the Chief Development Control Officer.

The Chairman thanked the Enforcement Officer for his hard work in dealing with these cases.

Chairman

**Item No. 1.**

**Application Number:** CPT/424/13/HAZ

**Address:** OIKOS TERMINAL, HAVEN ROAD,  
CANVEY ISLAND (WEST WARD)

**Description of Proposal:** VARIATION OF HAZARDOUS SUBSTANCES  
CONSENT (“HSC”)

**Applicant:** OIKOS STORAGE LTD

**Case Officer:** K. FISHER

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**Introduction to Hazardous Substance Consent applications**

Hazardous Substance Consent (HSC) is required for the presence of a hazardous substance on, over or under land unless the aggregate quantity of the substance(s) present is less than the controlled quantity for that substance as defined by Schedule 1 to the 1992 (Control of Hazardous Substances) Regulations as amended by the Planning (Control of Major-Accident Hazards) (COMAH) Regulations 1999 and the Planning (Hazardous Substances)(Amendment) England Regulations 2009.

The HSC controls are designed to regulate the presence of hazardous substances so that they cannot be kept or used above specified quantities until the responsible authorities have had the opportunity to assess the risk of an accident and its consequences for people in the surrounding area and for the environment. They complement, but do not override or duplicate, the requirements of the Health and Safety at Work etc Act 1974 which is enforced by the Health and Safety Executive (HSE). Even after all reasonably practicable measures have been taken to ensure compliance with the requirements of the 1974 Act, there will remain a residual risk of an accident which cannot entirely be eliminated. HSC controls ensure that this residual risk to persons in the surrounding area and to the environment is properly addressed by the land use planning system.

HSC controls are separate from the requirements of the Control of Major Accident Hazards (COMAH) Regulations 1999, which are enforced by the HSE and Environment Agency (EA).

Local planning authorities, acting as Hazardous Substance Authorities (HSA), are able to exercise a degree of control over those substances through the development control system where the presence of hazardous substances is directly associated with a proposed development. But there are situations, such as is represented by the current application, in which hazardous substances may be introduced onto a site, or used differently within it, without there being any associated development requiring an application for planning permission. The HSC provisions enable specific controls to be exercised over the presence of hazardous substances whether or not associated development is involved. Hazardous Substances Authorities will be able to decide whether, in the light of the residual risk, and having regard to existing and prospective uses of a site and its surrounding environment, the proposed presence of a hazardous substance is an appropriate land use of that site.

## **The Oikos Application**

### **Summary**

Hazardous substances have been stored on the application site for some 80 years. The presence of the site and the principle of its use was therefore established some time before the surrounding area became developed.

The current application seeks to vary the 2012 HSC to enable the storage of substances, not within the remit of the current HSC, to be stored on the site. It is not concerned with the principle of the use of the site for hazardous substance storage. It must be remembered that refusal of this application would not expunge the existing HSC on the site.

The proposed HSC variation is considered appropriate when considered against relevant local policies, societal risk, and environmental protection and adjoining land uses. The proposed amendments to the HSC sought by the application would not affect the use of the site or adjoining land or increase societal or environmental risk. It would enable Oikos to respond to market and regulatory changes and maintain its role in the local and regional economy.

Having regard to both national and local policy and guidance, it is considered that the varied HSC would be appropriate in the context of existing and potential uses of neighbouring land. The proposal is therefore recommended for APPROVAL subject to a condition as required by the HSE.

### **Site Visit**

As the proposal does not involve development it is not considered necessary for Members to visit the site prior to determination of the application.

### **Supplementary Documentation**

The application is accompanied by the following supporting documents:

- (i) Particulars of the existing (2012) Hazardous Substances Consent
- (ii) Hazardous Substances Consent Application Form (Form 2).
- (iii) Site Notice Certificate
- (iv) Landowner Notification Certificate C
- (v) Hazardous Substances Consent Site Map
- (vi) Hazardous Substances Consent Supporting Statement (including Technical Information Appendix, Figure 1 Site and Surroundings and Figure 2 Existing and Proposed HSC Position).

all which have been and are available for viewing on the Council's website.

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

The Oikos facility has a frontage to Haven Road of some 450m and a frontage to the Sea Wall of some 550m. The site currently covers an area of approximately 27.5 hectares and provides storage facilities for various products, including transport fuels,

in a series of storage tanks of different sizes. The site benefits from marine jetties linking the site with the deep-water access channel of the River Thames and from landside connections with two national fuel distribution pipeline networks.

To the north and north east of the site is the Holding & Barnes (HBC) vehicle salvage and storage site, beyond which lies an area of open grazing. Within this open area there is a collection of small farm buildings.

Beyond this open area is the urban area of Canvey Island. To the north, the closest part of the main urban area to the Oikos facility is approximately 250m to 300m away.

To the east of the site lies the storage area of the HBC operation, beyond and to the south of which lies the Liquefied Petroleum Gas (LPG) import facility which is owned and operated by Calor Gas.

To the west of the site is an area of housing, 'Haven Quays' and the Lobster Smack Public House.

Other land to the west is open and accommodates a range of agricultural, recreation and allotment uses. Beyond these uses lies Hole Haven Creek, a tributary which feeds into the River Thames to the south west of the Oikos site.

Haven Road, a single carriageway road, runs immediately to the west of the site between the urban area of Canvey Island to the north and the Lobster Smack Public House to the south.

Access to the Oikos facility is from Haven Road via a security controlled entrance gate. Further emergency access is provided at the western boundary of the site onto Haven Road and via the Calor Gas Terminal on the eastern site boundary.

Direct access from the site to the A130 is now achieved via the recently extended Roscommon Way which meets Haven Road approximately 400m north of the site access to Haven Road.

Immediately to the south of the site there is an existing public footpath and flood defence wall beyond which lies the River Thames. The Oikos jetties extend out over this footpath and sea defence wall facilitating the receipt and distribution of products by ship.

The site is also directly connected to both the Government Pipeline Storage System (GPSS) and the independent United Kingdom Oil Pipeline (UKOP) facilitating the distribution of products by pipeline.

The site can be split into a northern section and a southern section, with the dividing line between these areas consisting of an internal access road that runs roughly through the middle of the site. The site is secured by a metal palisade security fence, which runs around the outer edge of the operational terminal area.

Where it abuts Haven Quays, the boundary of the operational terminal area is marked by a concrete wall that varies in height between 2m and 4m.

The land occupied by the Oikos facility is leased on a long term basis from the freehold owners, the Port of London Authority (PLA) and constitutes port operational land as defined by the Town and Country Planning Act 1990.

The PLA also own the land and river bed over which the jetties and their associated import pipelines are located.

## **Background to the Proposal**

The Oikos facility currently operates under the terms of a HSC granted by the Borough Council in 2012. Under this consent the storage of fuel products with a flash point of less than 21 °c (gasolines and naphthas - category 36(a) products) are restricted to 20 tanks, generally located in the central and eastern areas of the northern part of the facility. The remaining tanks are used to store gas oils including diesel fuels, home heating oils and gas blending streams or are empty or used to store less hazardous materials, not requiring HSC.

As a result of market response to changes in required fuel specifications arising from the Government's Renewable Transport Fuel Obligation (RTFO) and the EU Renewable Energy Directive (RED), extra products now need to be stored on site which are not listed in the 2012 HSC.

The current application therefore seeks to vary the existing HSC to allow Oikos to store the products the market requires in order to meet a range of fuel specifications. It should be noted that the current HSC already permits the import of these additives in gasoline blends. The amendment is required in order to authorise their separate import and storage. Import would be by sea, over the Oikos jetty, as is the current practice.

Oikos also requires the capability to blend butane with gasoline on the site, in order to provide more flexibility to meet market demands from the road fuel industry. To meet this requirement, Oikos propose to take a supply of butane through the adjacent Calor Gas terminal. It should be noted that this does not require Hazardous Substances Consent.

It should be noted that the proposed variation to the HSC would not permit Oikos to store products deemed more volatile under the Planning (Hazardous Substances) Regulations 1992 (as amended) on the site. Nor would it increase the storage capacity of the site.

## **The Scope of the Proposed Variation**

The existing HSC for the site allows for the storage of products falling within product entry 36(a) of Part A of Schedule 1 as amended by the Planning (Hazardous Substances) (Amendment)(England) Regulations 2009, in prescribed areas.

These areas are located generally in the central and eastern areas of the northern part of the site. The permitted products comprise gasolines and naphthas and are deemed the most flammable of substances stored on the site, having a flash point of less than 21°C.

The existing HSC further allows for the storage of products falling within product entry 36(b) and 36(c) of Part A of Schedule 1, across all tanks on the site. Products falling within entry 36(b) comprise kerosenes (including jet fuels), and products falling within entry 36(c) comprise gas oils (including diesel fuels, home heating oils and gas oil blending streams). These products have a flash point of greater than 21°C, and therefore have a lower risk associated with them than products falling under entry 36(a).

In addition to permitting the continued storage of the products listed above, the proposed HSC variation would amend the schedule of approved substances to include:

- Methanol (listed in product entry 24 of Part A of Schedule 1);
- products falling under Category 6 (Flammable) of Part B of Schedule 1;
- products falling under Category 8 (Highly flammable liquids) of Part B of Schedule 1;

and

- products falling under Category 8 (Highly flammable liquids) of Part B of Schedule 1 (Ethanol only).

The Planning (Hazardous Substances)(Amendment)(England) Regulations 2009 (Notes to Part B (3)): defines 'flammable liquids' as:

*'substances and preparations having a flash point equal to or greater than 21°C and less than or equal to 55°C (risk phase R 10), supporting combustion',*

Highly flammable liquids are defined as:

*'(i) substances and preparations which may become hot and finally catch fire in contact with air at ambient temperature without any input of energy (risk phrase R 17);*

*(ii) substances and preparations which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure or high temperature, may create major--accident hazards;*

and

*(iii) substances and preparations having a flash point lower than 21°C and which are not extremely flammable (risk phrase R 11, second indent).*

The variation application seeks to limit the storage of these substances to specified tanks. The application identifies the specific storage layout and the location of these particular substances.

It should be noted that should consent not be granted for the proposed variation of consent this would not invalidate the extant consent which the applicant can continue to utilise without the further consent of the HSA.

## **Relevant History**

The site is within the control or ownership of the Port of London Authority and appears to have been acquired in the 1930s for dock related purposes, primarily concerned with the bulk storage of liquids.

In 1992 an application for deemed consent for the presence of hazardous substances was granted, the applicants (London and Coastal Oil Wharves Ltd – the former name of Oikos Storage), having satisfied the Authority that the regulatory requirements for such deemed consent had been met (HAZ/CPT/2/92).

In 1999, the 1992 Regulations were amended by the Planning (Control of Major Accident Hazards) Regulations 1999 ("the 1999 Regulations"). One of the amendments made was an extension of the type of substances which required HSC, to include less flammable products such as those with a flash point greater than 21°C.

In 2007 Oikos was acquired by 'Challenger', an investment management firm listed on the Australian Securities Exchange. In the supporting statement to the application the applicant stated that in acquiring the facility, Challenger's aim was to ensure that the facility was compliant with all necessary procedures and regulations. In this regard significant investment was made at the terminal in the form of a repair, renewal and maintenance programme to the tank storage and associated infrastructure located in the northern part of the terminal. Upon completion of this programme these elements of the terminal became compliant with the most up to date recommendations for such facilities as defined in the HSE publication 'Safety and Environmental Standards for Fuel Storage Sites - Process Safety Leadership Group - Final Report' (December 2009).

In 2012 HSC was granted for the alteration of the type of substance stored on the site. The new consent limited the storage of high risk products, which previously had been stored across the site, to some 20 tanks only located in the central and eastern parts of the northern half of the site. These tanks had a total capacity of some 151,045 cubic metres.

Less flammable materials were permitted to be stored in a further 21 tanks having a capacity of 141,192 cubic metres.

The proposal resulted in a net reduction in the quantity of hazardous substances stored on the site.

Other products not requiring HSC were to be stored in the remaining tanks and a number of new safety measures were introduced in order to reduce the likelihood of large scale vapour escapes.

Following approval of this consent the earlier HSC was revoked.

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

The site is allocated for oil storage purposes in the adopted Local Plan.

The following Local Plan policy is of relevance:

Policy ED9 – HAZARDOUS INSTALLATIONS

## **Consultation**

### Health and Safety Executive

There are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.

### Essex County Council Head of Planning

No comment.

### Canvey Island Town Council

The Town Council has objected to the proposal on the grounds of insufficient technical information being provided to support the application:

### Essex County Council Fire and Rescue Service (ECFRS)

Have visited the site to view the arrangements for the fire main, fixed fire fighting systems, monitors, foam stocks and emergency response plan.

Can report that there was no suggestion that this proposal would reduce our capabilities in the event of a fire or other incident and therefore there are no significant reasons, on safety grounds, for refusing the hazardous substances consent.

### Essex County Fire and Rescue Service Basildon and Castle Point Community Command

No response

### Essex County Council Deputy County Emergency Planning Officer

No response

### Environment Agency

Comments awaited

### National Grid

No objection

Eastern Power Networks

No response

Medway Council

No objection

Kent County Council

No response

Thurrock Borough Council

No objection, subject to appropriate consultation being undertaken.

Kent and Medway Fire and Rescue Authority

No response

Medway Council – Emergency Planning

No response

Thurrock Council – Emergency Planning

No response

Thurrock and Brentwood Community Command

No response

Natural England

No response

Port of London Authority

The PLA believes the amendments within the application will result in increased levels of flexibility for the terminal to meet market demands whilst maintaining safety and therefore reinforce its strategic role within the UK's infrastructure network. As such, it supports the application.

**Public Consultation**

Site Notices were displayed on and around the site and 735 letters were sent to local homes and businesses in proximity to the site. In addition notices were placed in the Press.

20 letters of objection have been received. This correspondence raised the following concerns:

- Health and Safety
- Site is too close to residential areas and a school
- Canvey is the wrong place for chemical storage
- Highway issues
- Increased traffic
- Irresponsible to add more hazardous substances into the area.
- Concerns over impact potential incident at site.
- Concerns over increased number of aeroplanes flying over Canvey and the potential for an accident
- Determination of application should await findings of Essex County Council Scrutiny Report on Top Tier COMAH Sites.
- Concern arising from limited local Fire and Police Service provision.
- Concern over the standard of the site's infrastructure and emergency procedures
- Flooding
- Impact on residential amenity
- Effect on house prices
- The adequacy of the consultation process
- Concern over the emergency procedures operated within the site.

The applicant has submitted a response to each comment received as follows:

### **Applicant's Response to Consultation Comments**

#### **Health and Safety Executive**

The HSE advises CPBC that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.

In its application, Oikos identifies the need to modify Condition 2 on the current consent, which requires conformity with the requirements set out in the 2012 application documentation. The HSE has advised that this condition, updated as Oikos suggests, should be attached to any consent given.

Oikos agrees with this conclusion and otherwise has no observations on the HSE's response.

#### **Medway Council**

The Council raises no objection to the application proposal, but draws CPBC's attention to Circular 00/04, which advises the authority to consult the HSE, the Environment Agency and other relevant bodies.

Specific reference was made to the need to consult Natural England as the area of Medway closest to the site is designated as part of a SSSI and SPA/RAMSAR site.

Other than to note that these bodies mentioned by Medway have all been consulted, Oikos has no observations on the Council's comments.

#### **Thurrock Council**

Thurrock Council raises no objection to Oikos's application, subject to consultations being carried out in accordance with Circular 04/00. It highlights the need to consult

the HSE, the Environment Agency and other relevant bodies and considers that the impact on wildlife and wildlife habitats needs particular consideration due to the proximity of sites of nature conservation interest around the estuary and in neighbouring authorities.

The bodies mentioned by the Council have all been consulted. Natural England, which advises the Government on the natural environment, was consulted as a Regulation 10 organisation, and its response is noted below. Oikos considers that the proposals in its application have no significant implications for the natural environment in general or specifically for the designated sites in the areas.

### **Environment Agency**

The EA was consulted as a Regulation 10 organisation. Its response merely notes that the facility is a 'top tier' establishment under the COMAH Regulations and identifies the notification procedures required under Regulation 6. These procedures include notifying the COMAH Competent Authority (HSE and EA) under a range of circumstances, by way of a notification or revision to the Safety Report. The EA advises that the local HSE and/or EA are contacted to discuss the proposal and 5 COMAH implications, although the EA notes that the HSE have been consulted.

Oikos acknowledges the procedural matters identified by the EA. Both the HSE and EA were consulted under the requirements of Regulation 10 of the Planning (Hazardous Substances) Regulations 1992 (as amended). The HSE were also contacted prior to the submission of the HSC application, and discussions informed the storage locations proposed. Oikos will continue to work closely with the relevant authorities and modify the Safety Report for the site as required.

### **Essex County Fire and Rescue Service**

ECFRS visited the Oikos site during September 2013 to view arrangements for the fire main, fixed fire fighting systems, monitors, foam stocks and emergency response plan. Oikos understands that the site visit formed part of routine safety checks and was also in response to the application to vary the HSC.

In its response ECFRS states that 'there was no suggestion that this proposal would reduce our capabilities in the event of a fire or other incident and therefore there are no significant reasons, on safety grounds, for refusing the hazardous substances consent'.

ECFRS's analysis of the position corresponds to Oikos's own analysis.

### **Essex County Council**

The Mineral Planning Authority has no comments to make on the application. Oikos has no observations on the County Council's position.

### **Natural England**

Natural England has no comments on the application, other than to note that if the proposal were to be amended in a way that significantly affects its impact on the natural environment, then Natural England should be consulted again. Oikos has no observations on Natural England's comments.

### **Canvey Island Town Council**

Following a meeting of its Planning Committee, the Council resolved to object to Oikos's application on the grounds that not enough technical information has been provided detailing the risks of the proposed additional hazardous substances. The (Town) Council has not identified the missing information.

Oikos has submitted a Supporting Statement with the application documentation, which explains the purpose of the application and provides the technical information required to enable the HSE to advise the Borough Council. Section 5 of the Statement sets out Oikos's own analysis of safety considerations and risk. The company believes that the technical information provided enables sound conclusions to be reached regarding risk.

The HSE, with the EA, is the Competent Authority for COMAH and thus regulates Oikos's operations and those of similar facilities countrywide. It has independently advised CPBC on the basis of its own analysis and has not indicated that it has been provided with insufficient information. Other than supplying the required technical information, Oikos has played no part in the HSE's analysis. No other statutory consultee has found the information supplied to be inadequate.

### **National Grid**

National Grid, which has infrastructure in the area, does not object to the proposal in principle. It has requested that a number of matters relating to safeguarding the Grid's infrastructure and pipeline safety be taken into consideration.

Oikos acknowledges the points made by National Grid, which are generally applicable to the safe operation of the terminal and the Grid's own infrastructure, and confirms that it will maintain the close liaison arrangements already in place between the two concerns.

### **Applicant's comments on responses from individuals**

22 individual representations to the proposals have been received.

These representations included responses from the PLA, which owns the freehold of the land to which the site relates, and from HBC Vehicle Services, who run the neighbouring vehicle salvage facility. HBC have no objection to the proposals. The PLA which, in addition to its role as landowner is the statutory body responsible for navigation, supports the application, and considers that the proposals will reinforce the facility's strategic role within the UK's infrastructure network. Oikos welcomes both responses.

The remaining 20 representations raise objections to the application. Analysis identifies the following common themes:

#### **i. Health and Safety Risk and Impact**

The main concern of most respondents is that the variation applied for would increase the risk to local residents. They allege that more dangerous chemicals would be stored on the site as a result of the HSC variation. The Buncefield explosion is referred to.

Oikos's general response to the points made on risk is that the company has taken full account of safety in preparing the application to vary their existing HSC, and it continues to invest heavily in improving infrastructure at the site to ensure that it complies with the best modern safety standards. Ongoing regulation as a top tier COMAH site requires it to maintain those standards

The Supporting Statement explains that, contrary to the assertions made by several respondents, the proposals would not allow Oikos to store any products on the site that are more volatile than those already stored under the current HSC. As already noted, a variation to the current HSC is required to allow Oikos to store the products the market requires to enable it to meet the range of fuel specifications specified in recent legislation on bio-fuels. The current HSC already permits the import of these products in gasoline blends. The amendment is required in order to authorise their separate import and storage. This drives the requirement to vary the HSC.

Varying the HSC would not affect the locations used to store the most flammable hazardous fuel products. The number and location of tanks which could be used to store the most flammable hazardous fuel products, namely gasolines and naphthas, would continue to be significantly restricted, as in the existing HSC. These products will continue to be stored some 100 metres further from dwellings than the minimum separation distance normally specified by the Health and Safety Executive.

The submitted application has now been subject to review by the HSE, which has taken account of the type and proximity of surrounding land uses and has advised CPBC that that 'there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent'.

One objector has asked that CPBC withhold a decision before it finalises its view on Essex County Council Scrutiny Panel's report on top tier COMAH sites produced in February 2013. Given the responses received from both ECC (no comment) and ECFR 8 (no significant reasons on safety grounds for refusing consent) Oikos does not see any justification for delay, which would run counter to the Government's well recorded wish to avoid delay in making planning decisions (see, for example, paragraph 14 of the National Planning Policy Framework).

## **ii. Inappropriate location**

A number of respondents question whether Canvey Island is an appropriate location for storing hazardous substances. They raise concerns over the proximity of residential properties and schools, and Oikos's location next to the Holding and Barnes and Calor Gas operations.

In response, Oikos draws CPBC's attention to Section 13 of the Hazardous Substances Act 1990, which deals with amendments to HSCs and restricts Hazardous Substances Authorities to consider 'only the question of the condition subject to which hazardous substances consent should be granted' [s13(2)]. The Council's discretion thus does not extend to reviewing whether the original consent should or should not have been granted. Variation of an HSC is a standard procedure, in this case driven by the need to meet changing demands in the fuel market reflecting changes in European requirements.

Notwithstanding the above, Oikos notes that a fuel import and storage facility has operated safely from Hole Haven Wharf since the 1930s. The site is within a location allocated for oil storage in the statutory development plan. The planning authority has controlled development in the area around the Oikos facility in the knowledge of its operations and with advice from the HSE.

The location is uniquely suited to fuel storage, being accessible by-ocean-going vessels, close to the mouth of the Thames and major centres of population, and on both national distribution pipeline networks. The Oikos facility is a significant element of national energy infrastructure, the more so in the light of the rapid decline in UK refining capacity. Oikos proposes to continue to invest in the terminal's infrastructure.

Oikos has taken the nature and character of the surrounding uses into account in drawing up its application. The adjoining Calor facility is also within the jurisdiction of the HSE, which has concluded that 'there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent'.

### **iii. Detail of substances proposed to be stored**

A number of questions have been raised with regards to the substances proposed to be stored, including how they will be stored, and whether specific equipment, materials and training will be implemented specifically in response to storing methanol. Clarification on how ethanol is proposed to be stored was requested. Respondents have highlighted that the physical and chemical properties of methanol are unique and not the same as ethanol and gasoline, and cathodic protection and regular inspection of tanks is vitally important. One respondent detailed the dangers of methanol poisoning.

Concern is also raised over the storage of substances classified as highly flammable liquids under Part B Category 8 of The Planning (Hazardous Substances) Regulations 1992 (as amended). One respondent queried the designation of methanol and ethanol 9 as minimal risk. Clarification on what hazardous substances are stored was also requested.

Oikos simply points out that the hazardous substances, quantities and locations proposed for storage are provided in the application documentation, including on the application form, in Section 4 of the Supporting Statement and on drawing no. OSL/1015/HSC/AH/04/A (Figure 2: Existing and proposed HSC position).

The overall position is that hazardous substances, and their controlled quantities, are classified in The Planning (Hazardous Substances) Regulations 1992 (as amended). Methanol is classified as a Part A category 24 product, whilst ethanol falls under Part B category 8. Neither methanol nor ethanol is deemed more volatile under the Regulations than products already stored on the site, namely gasolines and naphthas (Part A category 36(a) products). The HSE is responsible for advising the hazardous substances authority on the nature and severity of the risk arising from the presence of a hazardous substance. The Council will doubtless seek advice from HSE if it has residual questions.

Oikos is confident that the locations on the terminal proposed for storage are considered to be the safest, both in terms of their position on the site, and because the

tanks and infrastructure to be used will all have been through Oikos's renewal, repair and maintenance programme, which included modernising tank structures, adding stronger bunds and ongoing maintenance of the tank system. All tanks proposed for storage comply with current recommended standards.

#### **iv Emergency Planning**

Some respondents raise concerns about emergency planning, and query what evacuation procedures are in place in the event of an incident at the site and how residents are informed.

The position, which is outlined in the Supporting Statement, is that the terminal operates in full compliance with the Control of Major Accident Hazards ("COMAH") Regulations 1999, as amended. Over the years, reflecting advances in technology and the understanding of risk, increasingly rigorous standards have been required and met. In accordance with the regulations, Oikos has carried out a thorough risk and consequence analysis, which is regularly reviewed, and has effective procedures in place to handle potential emergency scenarios. The onsite emergency plan is regularly tested and consultation takes place with the regulators and local emergency service agencies, also a regulatory requirement.

Responsibility for the preparation of contingency plans for major incidents or disaster at Canvey Island lies with Essex Civil Protection & Emergency Management (Essex County Fire & Rescue Service in Partnership with Essex County Council), which is a Category 1 Responder under the Civil Contingencies Act 2004. Its role includes the preparation of off site plans and flood plans.

The Civil Contingencies Act 2004 requires local Responder bodies to co-operate in preparing for and responding to emergencies through a Local Resilience Forum. The Essex Resilience Forum's purpose is to ensure that there is an appropriate level of preparedness to enable effective multi-agency response to emergencies. Its Executive Programme Board membership includes the British Transport Police, Essex Ambulance Service, Essex County Fire & Rescue Service, Essex Police, Health Protection Agency, and the Maritime & Coastguard Agency.

Oikos is committed to working with Essex Civil Protection & Emergency Management and the Essex Resilience Forum, alongside ensuring the Company's own stringent approaches to emergency planning in accordance with regulatory requirements.

Oikos notes that respondents' concern over the ability of the Fire Service to continue to provide an appropriate level of response to an incident is not shared by the Essex County Fire and Rescue Service (see above for their response to consultation).

Oikos agrees with CFRS's analysis of the position, and remains committed to ensuring the highest standards of fire prevention and safety are met. Onsite fire protection and advanced fire fighting systems have been upgraded significantly in recent years as part of the renewal works to meet the latest recommendations published by the Health and Safety Executive.

#### **v. Security and terrorist threats**

It is claimed that the Oikos site is a terrorist threat due to its proximity to the River Thames and Oikos should have 24-hour security.

Since 2007, Oikos has made substantial investment in the physical infrastructure of the terminal. Works have included enhancing site security measures to meet the most stringent modern standards and regulatory requirements. The Oikos facility is within a high-security controlled compound, and access is only via a security controlled entrance gate. The site is subject to 24 hour monitoring through a CCTV surveillance security and alarm system. The site is manned 24/7.

In full compliance with the COMAH Regulations effective procedures are in place to handle potential emergencies. The onsite emergency plan is regularly tested and consultation takes place with the regulators and local emergency service agencies, also a regulatory requirement.

#### **vi. Distrust**

Some respondents are concerned that Oikos has a 'hidden agenda,' and question why the company needs to meet changing fuel specifications two years later. It is claimed that residents find it difficult to believe Oikos's reassurances, and an element of distrust is noted.

Oikos finds these comments disappointing. The company has been open and transparent during the preparation and submission of the application. A Supporting Statement was submitted as part of the application documentation in an effort to set out the purpose of the application, and alleviate the legitimate concerns of the local Community.

The need for the application is fully explained in Section 3 of the Supporting Statement submitted with the application and summarised above in paragraphs 1.5 - 1.6 of this report.

Oikos's investment at the terminal has included a repair, renewal and maintenance programme to tank storage and associated infrastructure. Works have included modernising tank structures; adding stronger bunds required by legislation to cope in the event of tank failure; introducing advanced fire fighting systems; enhancing site security measures, and ongoing maintenance of the tank system.

The facility is run by Oikos Storage Ltd, which is wholly owned by Challenger Financial Services Group Limited, an investment management firm that bought Oikos in 2007. Oikos's repair, renewal and maintenance programme is evidence of Challenger's commitment to maintaining Oikos's excellent process safety record and improving the facility so that it meets the most up to date safety and environmental standards and complies with all relevant procedures and regulations.

#### **vi. Limitations of the Consultation procedure**

Some respondents have suggested that prevailing SW winds across the Island mean that all of the residents of Canvey should be notified.

The facts so far as Oikos is aware are as follows. In its role as the Hazardous Substances Authority, CPBC carried out consultation in accordance with statutory consultation procedures set out in the Town and Country Planning (Development Management Procedure) (England) Order 2010 and The Planning (Hazardous Substances) Regulations 1992. The Council may also have followed their own set standards of consultation; however Oikos is not in a position to comment on consultation procedures undertaken by CPBC.

As the applicant, Oikos was required to follow consultation procedures set out in The Planning (Hazardous Substances) Regulations 1992. In accordance with these regulations, notices of the application were placed around the perimeter of the Oikos site, and a notice was also published in the Castle Point Echo on Tuesday 6<sup>th</sup> August 2013. A copy of the application documentation was made available, and remains available, to view at Canvey Island Library and also at the Council offices, and is also available to download on Oikos's website.

Copies of notices and certificates relating to the requirements of the regulations are contained in the application documentation.

The application received press coverage during the statutory consultation period, in both the Echo newspaper and on their website. Whilst this coverage, which was not initiated by Oikos, may have increased awareness of the application it unfortunately contained misleading information about the facts of the application that may have led to avoidable anxiety.

## **Planning Authority's Expansion of and Comments on Consultation Responses**

### Health and Safety

Concern has been raised over the Health and Safety implications of the proposed variation. The HSE has advised that the risks to the surrounding population arising from the proposed operations are so small that there are no significant reasons, on safety grounds, for refusing HSC.

In the absence of any objection from the HSE to the proposed variation it is not considered that a reason for refusal on the grounds of public safety could be sustained on appeal.

### Highway Issues

There are no highway implications arising from the proposed variation of the existing HSC.

### Concern arising from the proposed reduction in Fire Service provision

Concern has been raised to the proposal on the basis of the limited availability of Fire Service provision on the Island and the ability of the Fire Service to continue to provide an appropriate level of response to an incident. This objection is not supported by ECFRS.

Oikos has confirmed that on-site fire protection and fire fighting systems have been upgraded significantly as part of the renewal works to meet the latest recommendations published by the HSE.

#### Requests for clarification of the content of the HSC application

The technical information to support the application has been available for inspection at the Council Offices and on the Council's website. Information on the type of product to be stored and the locations where the product would be stored were provided in the application documentation. The application gives details of the tanks and the products proposed to be stored in them. The Substance Location Plan identifies the location on the site of the tanks referred to in the application form. Figure 2 of the application supporting statement shows the locations where different hazardous substances are proposed to be stored. This is illustrated alongside the current situation permitted under the terms of the existing HSC.

#### Concern over the standard of the site's infrastructure

Concern over the quality of the infrastructure on the site is a recurring theme in the comments received. In this regard it should be noted that significant investment has been made at the terminal in the form of a repair, renewal and maintenance programme to the tank storage and associated infrastructure within the site. Upon completion these elements of the terminal will be compliant with the most up to date recommendations for such facilities as defined in the HSE publication 'Safety and Environmental Standards for Fuel Storage Sites - Process Safety Leadership Group - Final Report' (December 2009).

#### Flooding

The HSC application relates to the type and location of hazardous substances that can be stored on site. The application itself does not consent any development that will alter the flood risk position.

#### Proximity to surrounding land uses

It should be remembered that the site currently benefits from HSC. The current application does not seek to increase the quantity of hazardous substances present on the site or place more volatile products on the site. The HSE has confirmed that there are no significant reasons, on safety grounds, for refusing Hazardous Substances Consent.

#### Impact on residential amenity

Concern has been raised about the impact of the proposal on residential amenity, specifically traffic. It should be noted that the HSC application is not a planning application and does not seek consent for development. The purpose of HSC is to regulate the storage of hazardous substances on the site, by stipulating the type, volume and storage location of hazardous substances. Such an application cannot permit development. Consequently there is no construction activity arising as a result of this HSC application, and therefore no implications for residential amenity in this respect.

Furthermore the applicants have made it clear that the quantities of materials stored on the site will not be increased and that use will be made of the existing distribution pipeline networks to distribute products. It is not therefore considered that the proposal will have a significant impact on traffic levels to or from the site.

Furthermore it should be noted that following the construction of the extension to Roscommon Way traffic no longer has to pass through residential areas.

No objection can therefore be sustained to the proposal on the basis of traffic.

#### Effect on house prices

The Committee will be aware that impact on house prices is not a material planning consideration.

#### The adequacy of the consultation process

Before an application for HSC is made, publicity has to be given to the application by way of a notice in a local newspaper, a site notice and a notice to any persons, other than the applicant, who is an owner of the land in question. The notices have to be in accordance with forms prescribed at Schedule 2 to the 1992 Regulations.

Before determining a consent application, the HSA is required to consult the HSE, the EA and the other bodies as set out in Regulation 10. These include fire and civil defence authorities, other relevant planning authorities and public utilities. Where it appears to the HSA that an area of particular natural sensitivity or interest may be affected, Natural England must be also consulted. The HSA must give consultees not less than 28 days to comment.

All consultations in respect of this application have been carried out in accordance with the statutory requirements and the provisions of the Council's Statement of Community Involvement.

It should be noted that 735 local residents and businesses were consulted on the proposal and that the proposal was the subject of both Press and Site Notices.

17 responses to this consultation have been received.

#### Emergency procedures

The operations at the Oikos facility are controlled and regulated by the HSE and the Environment Agency under the Control of Major Accident Hazards Regulations 1999 (COMAH), as amended. The Oikos facility is a top tier COMAH site and is required to undertake and regularly review risk and consequence analysis and to have in place procedures to handle potential emergencies. Control of such procedures lies beyond the remit of the HSA and it should be noted that neither the HSE nor the EA has indicated that appropriate emergency procedures are not available.

## Evaluation

An application for variation of a HSC is NOT an application for planning permission and different considerations fall to be examined than would be the case if this were an application for a new hazardous substances storage facility.

In considering this proposal issues concerning the principle of the location of this facility on the site are of no weight. The only matters for consideration are those concerning the proposed revised storage regime.

The role of the HSE and the EA in the consideration of this application is to offer advice to the HSA on the risks arising from the presence of hazardous substances. The HSE has the expertise to assess the risks arising from the presence of a hazardous substance to persons in the vicinity; the EA has the expertise to assess and advise upon the likely risks arising to the environment. However, the decision as to whether the risks associated with the presence of hazardous substances, either to persons or to the environment, are tolerable in the context of existing and potential uses of neighbouring land rests with the Borough Council acting as HSA.

In responding to consultation on the application, the HSE has advised that the risks to the surrounding population arising from this proposal is so small that they would not justify refusing HSC.

The EA and Natural England have indicated that the proposal, as presented, would not present any risk to the environment.

The matter therefore turns on whether the HSA considers that the variation of the hazardous substances to be stored on the site is tolerable in the context of existing and potential uses of neighbouring land.

In determining the application it must be remembered that a refusal of consent will not result in the cessation of activities on the site which will continue to operate by virtue of the existing HSC for the land.

Section 9(2) of the Planning (Hazardous Substances) Act 1990 directs how HSAs should discharge their responsibilities when determining applications for HSC.

*“(2)In dealing with such an application the hazardous substances authority shall have regard to any material considerations and, in particular, but without prejudice to the generality of the foregoing—*

*(a) any current or contemplated use of the land to which the application relates;*

*(b) the way in which land in the vicinity is being used or is likely to be used;*

*(c) any planning permission that has been granted for development of land in the vicinity;*

*(d) the provisions of the development plan; and*

*(e) any advice which the Health and Safety Executive have given following consultations in pursuance of regulations under section 7(2)".*

The position in respect of the considerations identified in Section 9(2) of the Act is summarised below.

- (a) The site is lawfully used for the storage of hazardous substances. No change of use is contemplated either now, or in the foreseeable future, by the applicant.
- (b) Existing land uses in the immediate vicinity of the site are compatible with the application. There are no proposals for land use change in the vicinity of which the Borough Council as the HSA is aware, which would be directly affected by the proposed variation of the HSC.
- (c) There is no record of any relevant unimplemented planning permission in the vicinity of the site.
- (d) Apart from the jetty, which is outside the limits of terrestrial planning controls, the whole of the application site is identified for oil storage on the Proposals Map of the Adopted Local Plan. Policy ED9 of the adopted Local Plan expresses the Council's intention to refuse planning permission for the expansion or intensification of this use in cases where no national interest can be identified. This application is not for planning permission and furthermore does not intensify or expand the use of the site. The question of national interest therefore does not arise.
- (e) The HSE's advice is summarised in this report. This advice has been taken into account in the preparation of the recommendation.

It is clear that market now demands a variety of fuel types which require the availability of different materials. In the light of this it is reasonable for the applicants to seek a variation to the current HSC to ensure that the Oikos facility retains the ability to store the substances required by market conditions in response to changes in regulatory requirements and customer demand. In view of its strategic significance as an element of the country's transport fuel supply network, and its local role as part of the Canvey economy it is considered particularly important that the Oikos terminal remains able to respond to market demand.

The strategic importance of this facility and the economic need to meet market demands provide material planning considerations that weigh in favour of the proposal in the absence of any sustainable objection on the basis of safety.

It is proposed to locate the new substances on those parts of the site which are considered to be the safest, both in terms of their position on the site, and because the tanks and infrastructure to be used will all have been through the renewal, repair and maintenance programme, and therefore comply with current recommended standards. This analysis is supported by the HSE which has not raised an objection to the proposed location of the identified substances.

It should further be noted that Oikos would not be storing any products on the site that are more volatile than those already stored under the current HSC.

## Conclusion

Hazardous substances have been stored on the application site for some 80 years. The presence of the site and the principle of its use was therefore established some time before the surrounding area became developed.

The current application seeks to vary the 2012 HSC. It is not concerned with the principle of the use of the site for hazardous substance storage. It must be remembered that refusal of this application would not expunge the existing HSC on the site.

The proposed HSC variation is considered appropriate when considered against relevant local policies, societal risk, environmental protection and adjoining land uses. The proposed amendments to the HSC sought by the application would not affect the use of the site or adjoining land or increase societal or environmental risk. It would enable Oikos to respond to market and regulatory changes and maintain its role in the local and regional economy.

Having regard to both national and local policy and guidance, it is considered that the varied HSC would be appropriate in the context of existing and potential uses of neighbouring land.

## Recommendation

Without prejudice to the hazardous substances authority's general power to impose conditions, it should be noted that any condition relating to how a hazardous substance is to be kept or used may only be imposed if the HSE has advised that any consent should be subject to such condition(s).

It is however the responsibility of the Hazardous Substances Authority to enforce such conditions.

My recommendation is that a variation to the extant **HAZARDOUS SUBSTANCE CONSENT** as identified in application CPT/424/13/HAZ be **GRANTED** subject to the following condition, advised by the HSE:

1. The hazardous substances shall not be kept or used other than in accordance with the application particulars provided on the application form, nor outside the areas marked for storage of the substances on the plans that formed part of the application (ref: Drawings OSL/1015/HSC/AH//02/A dated 01/08/2013 and OSL/1015/HSC/AH/04/A/B dated 02/08/2013).

Hazardous substance 36(a) Petroleum products (gasolines and naphthas) shall be stored only in the following designated tanks: 18, 19, 21, 22, 29, 37, 44 to 55, 58 and 59.

Hazardous substances Part A(24) Methanol shall be stored only in the following designated tanks: 18 to 37, 44 to 55, 58 and 59.

Hazardous substance Part B(8) Highly flammable liquids shall be stored only in the following designated tanks:18 to 23, 25 to 27, 29, 37, 44 to 55, 58 and 59.

Hazardous substance Part B(6) Flammable liquids shall be stored only in the following designated tanks:18 to 37, 44 to 55, 58, 59, 100 and 101.

Ethanol (Part B(8)) shall be stored only in the following designated tanks: 100 and 101.

REASON: This condition is necessary to achieve an acceptable level of risk on the site.

*INFORMATIVE. The applicants attention is drawn to Section 29(1) of the Planning (Hazardous Substances) Act 1990 which makes clear that nothing in this consent shall require or allow anything to be done in contravention of any of the relevant statutory provisions or any prohibition notice or improvement notice served under or by virtue of any of those provisions.*

## Item No.2

<b>Application Number:</b>	<b>CPT/446/13/FUL</b>
<b>Address:</b>	<b>LAND ADJ. TO 134 CEDAR ROAD, CANVEY ISLAND. (CENTRAL WARD)</b>
<b>Description of development:</b>	<b>ERECTION OF 1 NO. 3 BED CHALET AND TWO DETACHED GARAGES</b>
<b>Applicant:</b>	<b>MR. RAY CROSS</b>
<b>Case Officer:</b>	<b>I SHETH</b>

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### Summary

The application seeks permission for a detached two bedroomed chalet.

The dwelling is of an acceptable design and meets the criteria as set out in the Residential Design Guidance. Furthermore, it would, albeit in a small way, help in contributing towards the housing needs of the Borough.

The proposal is therefore recommended for APPROVAL.

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

### Site Visit

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

### Supporting Documentation

The application was supported by a Design and Access Statement and a Flood Risk Statement, both of which have been and are available for inspection on the Council's website.

### Introduction

This application relates to a site which currently forms the side garden of No. 134 Cedar Road, located at the junction of Cedar Road and Cherry Close. The application site has a frontage of some 14.6m to Cedar Road and a return frontage of 35m to Cherry Close.

The character of the area in the vicinity of the application site is a mix of semi-detached bungalows and chalets and semi-detached and terraced houses.

### The Proposal

This is an application for planning permission for one two bedroomed detached chalet and two garages.

The proposed dwelling is pitched roofed having maximum dimensions of some 5.5m by 11.6m with a maximum height of some 6m.

The proposed dwelling would provide a lounge, kitchen/breakfast area, W.C. and hallway at the ground floor level and two bedrooms and a bathroom at the first floor level. It is proposed to construct the dwelling of brickwork and concrete roof tiles.

A new 0.9m high picket fence is proposed to be provided on the eastern and part of the northern boundary; the remainder of the northern boundary being defined by a 1.8m high screen fence. A vehicular access serving the proposed garages is provided adjacent to the western boundary.

A garage block comprising 2 garages is proposed at the western boundary of the application site; one garage would serve the proposed dwelling and the other the host dwelling at No. 134 Cedar Road. The proposed pitched roofed garage measures some 7.2m by 6.3m and has a maximum height of some 4.1m.

### **Relevant Planning History**

CPT/552/12/FUL - 1 No. 4 bedroom detached chalet with detached double garage. Refused on 1<sup>st</sup> March 2013 for the following reasons:

1. The proposal would result in the creation of a mean and cramped form of development which would detract from the setting of No. 134 Cedar Road and the character and appearance of the junction of Cedar Road/Cherry Close in general, contrary to Policy EC2 of the adopted Local Plan, RDG1, RDG2 and RDG4 of the Residential Design Guidance and Government Guidance as stated in National Planning Policy Framework.
2. The proposed dwelling by virtue of its location forward of the building line within Cherry Close coupled with its mass and bulk and proximity to the northern boundary would create an overdominant and visually intrusive form of development, contrary to Policy EC2 of the Council's Adopted Local Plan, Policy RDG3 of the Residential Design Guidance and Government Guidance as stated in National Planning Policy Framework.
3. It is not considered that the applicant has demonstrated that the dwelling would be safe in flood risk terms for the lifetime of the building. The proposal is therefore contrary to advice as contained in the National Planning Policy Framework.

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

#### National

National Planning Policy Framework (NPPF)

Castle Point Borough Council Adopted Local Plan 1998

EC2 – Design

H17 – Housing Development – Design & Layout

T8 – Car Parking Standards  
Residential Design Guidance

RDG1 – Plot size  
RDG2 – Space around Dwellings  
RDG3 – Building Lines  
RDG4 – Corner Plots  
RDG5 – Privacy and Living conditions  
RDG6 – Amenity Space  
RDG12 – Parking and access

Essex Planning Officers Association Vehicle Parking Standards

**Consultation**

Legal Services

No objection

Canvey Island Town Council

Following a meeting of the Planning Committee on the 23<sup>rd</sup> September, agreed that although there was no objection to the development of this plot there were concerns that the site was being developed in an area deemed as high flood risk.

Environment Agency

No objection provided that the Local Authority is happy that the development has a tolerable level of safety for occupants for the lifetime of the development. Recommends conditions are appended to any permission granted.

Flood Risk (tidal)

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 NPPF. 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 Test

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

## Flood Risk Assessment

A Flood Risk Assessment (FRA), referenced ABD/794/FRS (Rev A) and dated 31 July 2013, from ABD Design & Build Ltd has been received. If the LPA is satisfied with the safety of the development then the following conditions should be appended to any planning permission granted.

### Condition

The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (referenced ABD/794/FRS (Rev A) and date 31 July 2013 completed by ABD Design and Build Ltd) and the following mitigation measures and the following mitigation measures detailed within the FRA:

1. Finished first floor levels are set no lower than 4.21m 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

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

### Additional Information

A topographic survey of the site has been carried out confirming the site lies within Flood Zone 3a (site levels are at 1.35mAODN).

Please note the proposed finished first floor levels on the front page of the FRA is 4.21mAOD, although in the report itself it is stated to be 4.22mAOD. The lower level given would still be acceptable as a 1 in 1000 year breach event would result in a level of 3.65mAOD.

### External flooding

The FRA has considered the breach outputs of the Castle Point Strategic Flood Risk Assessment (SFRA) up to 2110.

The FRA indicates flood waters will reach the site less than 1-4 hours after water starts to flow through a breach in the defences during the design 1 in 200 year (0.5%) annual probability tide. At this point flood waters reach a maximum depth on site of up to 1m (2.35m AODN).

The breach analyses for the extreme 1 in 1000 year (0.1%) annual probability tide shows that flood waters will again reach the site less than 1-4 hours after water starts to flow through the breach in the defences. At this point flood waters reach a maximum depth of 2.0m (3.35m AODN) on the site.

## Flood Mitigation

The FRA has highlighted that the ground floor level is set at 1.35m AODN which is below the design and extreme breach levels. It also advises that the building design will have a refuge level set at 4.30mAODN. This is above the 1 in 1000 year (0.1%) breach level inclusive of climate change. You may wish to consider appending a condition to the planning permission requiring the refuge level to be incorporated into the development.

Further, we recommend that consideration be given to use of flood proofing measures to reduce the impact of flooding when it occurs. Flood proofing measures include barriers on ground floor doors, windows and access points and bringing in electrical services into the building at a high level so that plugs are located above possible flood levels. Consultation with your building control department is recommended when determining if flood proofing measures are effective.

Additional guidance can be found in our Floodline Publication 'Damage Limitation'. A free copy of this is available by telephoning 0845 988 1188 or can be found on our website [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk) click on 'flood' in subjects to find out about, and then 'floodline'.

## Emergency Flood Warning and Evacuation Plan

An emergency Flood Response Plan needs to be agreed and finalised with your authority prior to the granting of planning permission.

The FRA suggests that during a flood safe refuge will be provided above the 1 in 1000 (0.1%) year breach tidal level on the first floor level. You will need to seek advice from the emergency response organisations on whether this, and the capabilities of the emergency responders, is sufficient to provide a tolerable level of safety for this development. You must then make the decision as to whether the development will be safe for its proposed usage.

We suggest the safety of people is reliant upon whether evacuation is possible prior to flood waters reaching the site and whether refuge is practicable and manageable over the likely duration of the flood event should evacuation not have occurred. We therefore suggest the following points need to be considered: the suitability of the advice given in the applicant's Emergency Flood Response Plan, the potential for emergency responder led evacuation strategies to assist occupants at the site, and the acceptability of refuge as a fallback.

## Emergency Planning Officer

No objection

## Highway Authority

No objection subject to the following conditions:

1. Prior to commencement of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be

provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

2. The garages shall be sited a minimum distance of 6m from the highway boundary.  
Reason: To ensure that the vehicles to be garaged may be left standing clear of the highway whilst the garage doors are opened and closed, in the interests of highway safety.
3. The existing vehicular crossing on Cedar Road 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.
4. Prior to occupation of the development the vehicular hardstandings shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the hardstandings at the junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.  
Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.
5. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.
6. Prior to commencement of the development details showing the means to prevent the discharge of surface water from the development onto the highway shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety prior to the access becoming operational and shall be retained at all times.  
Reason: To prevent hazards caused by water flowing onto the highway and to avoid the formation of ice on the highway in the interest of highway safety.
7. Prior to the commencement of works on site the applicant shall indicate in writing to the Local Planning Authority an area within the curtilage of the site for the reception and storage of building materials clear of the highway.  
Reason: To ensure that the highway is not obstructed during the construction period in the interests of highway and pedestrian safety.
8. Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport, approved by Essex County Council.  
Reason: In the interests of promoting sustainable development and transport in accordance with policy in F.32 in the Essex Road Passenger Transport Strategy 2006/11.

## **Comments on Consultation Responses**

- In respect of condition No. 2 recommended by the Highway Authority, it should be noted that the proposed garages are located at a distance of 6m from the highway boundary; this condition is therefore not necessary.
- This application is only for one dwelling and it is not considered appropriate to impose condition No. 8 recommended by the Highway Authority for such a scheme.
- The other conditions recommended by the Highway Authority can be attached to any consent granted.
- The issues in respect of flood risk are discussed in the evaluation section.
- The conditions recommended by the Environment Agency can be attached to any consent granted.

## **Evaluation of Proposal**

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.

Local Plan Policy H17 states that in assessing design aspects of the proposals for housing, the Local Planning Authority will have regard to its adopted design guidelines.

The Council's Residential Design Guidance became effective on the 1st January 2013.

The streetscene in this location is somewhat mixed in terms of dwelling types and design. The proposal seeks to provide a detached chalet. Chalets are present elsewhere in the area and in the context of the surrounding development it is not considered that a two storey dwelling in the form of a chalet would be inconsistent with the character and appearance of the area. No objection is therefore raised to the principle of a chalet in this area.

Policy RDG1 states that within existing built up areas, the plot sizes for all new development should be informed by the prevailing character of plot sizes. Where there is no clear pattern of plot sizes, the size of the plot should be proportionate to the size of the dwelling occupying it.

RDG2 states that the space around all new development should be informed by the prevailing character of space around dwellings. Where there is a distinct character of development which creates an exceptionally strong pattern, development must not result in a disruption to this pattern.

RDG3 states that within the existing built up area all new development should be informed by the prevailing building lines to the public realm it faces; however, it must not repeat poor forms of development.

The proposal seeks to provide a plot size of some 9.4m by 32.6m. Whilst this is comparable to the plot sizes of other dwellings in the vicinity, it should be noted that the application site is a corner plot. The other corner plots in the vicinity of the application site provide more generous plot widths of some 11m to 14m. In determining the previous application (CPT/446/13/FUL), it was considered that the proposed dwelling would, as a result of its location close to the northern boundary of the site, result in an uncharacteristically tight form of development which would unreasonably and unattractively diminish the generally spacious setting that the corner plots in the area provide. Under the current proposal, the proposed dwelling would seek to provide 3m isolation to the northern boundary compared to the previously provided isolation space of some 1.9m. This revised location is considered to provide a more acceptable setting for a dwelling than previously proposed.

Furthermore, the previously refused application comprised of a dwelling having a height of some 7.1m with front and rear dormers. However, the dwelling proposed as a part of this application is much reduced in scale and mass with no dormers proposed and a maximum height of some 6m. This reduced height and the reduced bulk of the building significantly reduces the impact of the dwelling on the character and appearance of the area.

Under the circumstances, it is considered that the current proposal now achieves a much better relationship in terms of its setting and the character and appearance of the surrounding area.

In respect of building lines, dwellings on corner plots within the surrounding area generally achieve flank building lines of some 2 – 6m within the boundaries of the site. Where only 2m isolation is achieved this is usually supplemented by the provision of a wide grass verge which creates isolation spaces of up to 7m between flank wall and public footways. This creates a character of relatively small dwellings set in a spacious and open context.

In the case of the current application, the proposed dwelling is set back some 9.55m from the Cedar Road frontage, consistent with the other dwellings along this part of Cedar Road. This aspect of the proposal does not result in any disruption to the established building line.

However the proposed dwelling is located some 2.6m forward of the building line established to Cherry Close, which is generally characterised by dwellings set some 6m from the highway boundary.

The previously refused application raised similar issues but in that case the larger dwelling was some 3.9m forward of the established building line in Cherry Close and achieved less than 2m isolation from the highway boundary resulting in a mean and cramped appearance and a form of development which failed to reflect or respect the more open character of the surrounding area.

The current proposal seeks to achieve a minimum isolation of 3m from the highway boundary in Cherry Close. Although this isolation is greater than previously achieved, it should be noted that the proposed dwelling would still project forward of the established building line in Cherry Close.

RDG3 is clear in its requirement to ensure that the setting of new was informed by the prevailing building lines to the public realm it faces. In this case the setting of the proposal would not be informed by the building line established to Cherry Close, which has all of the dwellings on the southern side set some 6m from the highway boundary. The proposal should therefore attract a recommendation of refusal. However, the proposed dwelling and those in Cherry Close would share only a loose relationship with some 16m being maintained between dwellings. In addition the proposed dwelling is orientated to Cedar Road and is not read in the context of the dwellings in Cherry Close, the context of the proposed dwelling being more strongly created by the dwellings on Cedar Road.

Under these circumstances it is not considered that a robust reason for refusal based on disruption to the existing building line could be sustained on appeal.

It is also noted that the submitted 'Design and Access Statement' the applicant identifies that the basis of the proposed layout of the design has been 'borrowed' from a plot at the junction of Birch Close and Sycamore Close, approximately 107m from the application site.

In the previously refused proposal, it was recognised that the dwelling referred to, (3a Sycamore Close) was developed as a new dwelling in the side garden of an existing dwelling and to that extent the proposals are similar. However, it was considered that 3a Sycamore Close was a much smaller dwelling, having a maximum height of 5.8m (compared to the proposal at 7.1m) and achieved a minimum building line of 3m to the return frontage, compared to the refused proposal which would provide only 1.9m.

Furthermore it was considered that the design of No 3a Sycamore presented a very simple and low rise elevation to Sycamore Close and it was therefore considered unreasonable for the applicant to suggest that the two schemes were comparable.

However, the current proposal closely reflects the scale and character of the dwelling on Sycamore Close and under the circumstances it is not considered that a refusal on the basis of the non-compliance to the building line in Cherry Close could be successfully sustained on appeal, particularly in the light if the identified need for two bedroomed dwellings.

No objection is therefore raised to the proposal under Policy EC2 of the Council's Adopted Local Plan and RDG1, RDG2 and RDG3 of the Residential Design Guidance.

RDG3 also states that proposals which would result in excessive overshadowing or overdominance will be refused.

The proposed dwelling would project some 2.7m beyond the rear of the host dwelling to the south, No. 134 Cedar Road.

It is not considered that a projection of this size would result in a dominant structure to the neighbouring dwelling at No. 134 Cedar Road. Furthermore, taking into consideration the relative orientation of the properties it is not considered that the proposed dwelling would result in any overshadowing to No. 134.

All other dwellings are considered too remote to be adversely affected on the basis of dominance or overshadowing.

RDG4 states that all new or replacement dwellings on corner plots should provide active frontages to all elevations that face the public realm. Such elevations must be provided with articulation and fenestration at all floor levels.

The proposed dwelling provides fenestration in all the elevations and provides the active frontages required. As such, no objection is raised to the proposal under RDG4.

RDG5 states that for all development above ground floor level a distance of 9m shall be provided between windows, edges of balconies or raised amenity space and the boundary it directly faces at first floor level.

First floor windows/roof lights are proposed in the front, rear and western elevations. The proposed roof lights at first floor level in the front elevation would overlook the public realm in Cherry Close and would not result in loss of privacy or overlooking.

The proposed window in the eastern elevation would overlook the public realm in Cedar Road and would not result in issues of privacy or overlooking.

The proposed window in the western elevation provides a distance of some 15.6m to the western boundary and is therefore in compliance with the guidance.

It is noted that the roof lights proposed in the southern roof slope would be located less than the requisite distance from the boundary. However, these windows and roof light serve a bathroom and a landing area. These areas of the dwelling are unlikely to be used of significant periods of time and/or require high levels of privacy when in use. As such it is considered that the imposition of a condition on any grant of consent requiring the use of obscure glazed and fixed windows is unlikely to result in unacceptable living conditions within the dwelling and will maintain the privacy and amenity of the adjoining occupiers. Subject to such a condition, no objection is therefore raised to the proposal under RDG5.

Policy RDG6 is concerned with the provision of private amenity area so that the outdoor needs of the family are provided for. It states that all residential development involving individual dwellings should be provided with at least 15m<sup>2</sup> of amenity space per habitable room.

The proposal seeks to provide 5 habitable rooms and would require the provision of 75m<sup>2</sup> of amenity area. The proposed development seeks to provide a garden area in excess of the requirement. However, given the limited size of the plot and the proximity of the site to the highway boundary to Cherry Close it is considered appropriate to impose a condition restricting permitted development rights under Classes A, B, C, D and E.

The host dwelling would also retain an adequate amenity area of some 153m<sup>2</sup>. No objection is therefore raised under Policy RDG6.

Policy RDG12 states that the size and layout of all forms of parking should reflect current adopted vehicle parking standards. The Council requires all single garages to have internal dimensions of 7m by 3m and be served by 6m deep forecourts.

The proposed garages and forecourts are of the requisite size and no objection is therefore raised to the proposal on this basis.

Policy T8 requires adopted parking standards to be taken into account. In this case, the current standards are the vehicle parking standards as set out by the Essex County Council.

The proposed development seeks the provision of a dwelling with 2 bedrooms; 2 car parking spaces would therefore be required.

The application provides two garages with forecourts to the western boundary of the application site. One of these garages and forecourts will serve No. 134 Cedar Road; the other will serve the proposed dwelling. The proposal therefore provides the requisite car parking. However, no details of the proposed hardsurfacing to the front of the garage have been provided. Subject to a condition requiring the submission of these details, no objection is raised to the proposal on the basis of parking provision.

The design of the garages is considered acceptable.

Turning to matters of flood risk, under the provisions of Government guidance as contained in the NPPF, all proposals for new dwellings in areas at risk of flooding are required to be accompanied by a site-specific Flood Risk Assessment in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood.

The proposal is required to pass the sequential and exception tests as set out in the Technical Guidance to the NPPF, in order to determine whether sites of lower flood risk probability exist which may be more suitable for the type of development proposed.

The applicant has submitted a Flood Risk Statement. The Environment Agency has stated that sequential and exception tests must be considered before any grant of planning permission.

With regard to the sequential test, the proposal seeks to provide a dwelling within the settlement of Canvey Island. For residential development to serve the community of Canvey Island it is considered that it would need to be located within that settlement.

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

Having passed the sequential test, the proposal must then pass the exception test. In order to meet the requirements of the exception test as described in paragraph 102 of the NPPF the proposal must demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and 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.

In response to the first criterion, in a very broad sense, the continued development of Canvey Island is necessary to sustain the local community and prevent the social and economic blight of the settlement. However, in assessing whether these benefits outweigh the flood risk, the flood risks surrounding the development must be considered in more detail.

The second criterion requires that the applicant demonstrate that the development is safe and where possible will reduce flood risk overall. The applicant has provided a FRA and the Environment Agency (EA) has confirmed that should the defences breach during a 1 in 200 year storm event the depth of flood water on site could reach up to 1m (2.35m AODN) with the site being inundated with water within 1-4 hours of the breach. In a 1:1000 year event water levels on the site will reach 2m (3.35m AODN) in the same period.

The EA states that the proposal places bedrooms at first floor level at a minimum of 4.21m AODN which will be above the depth of water at ground floor level in any flood event and can therefore provide an area of refuge for the occupiers of the dwelling. The EA has recommended that a condition is attached to any consent granted that the finished first floor levels are set no lower than 4.21m above Ordnance Datum. Such a condition can be attached to any consent granted.

It is also considered necessary to ensure that any future occupiers of the property are aware of what to do in the event of a flood. A Flood Response Plan has been submitted with the application. This offers advice on what to do in the event of a flood but the advice appears inconsistent in some areas; for example at para 4.3 it states that occupiers should stay inside for as long as it is safe to do so, whilst at para 4.12 it advises that occupiers should only attempt to evacuate if advised to do so by the emergency services. Such conflicting information may give rise to confusion in the event of a flood and it is considered that a clearer Flood Response Plan which emphasises the advice of para 4.12 should be provided.

The EA has recommended that consideration should be given to the use of flood proofing measures to reduce the impact of flooding when it occurs. These details have been provided as a part of the application in the submitted Design and Access Statement. Subject to these measures being implemented, no objection is raised to the proposal on the basis of inadequate flood recovery measures.

It is considered that the flood response measures proposed are sufficient to ensure that the development will be safe for future occupiers. The proposal has therefore passed the Exceptions Test.

Paragraphs 4.57 and 6.29 of the Practice Guide requires that the developer considers the hydrodynamic/hydrostatic pressures which may be placed upon the building in the event of a flood. The submitted Flood Risk Statement does not include consideration of these matters. Given the speed and depth of inundation at the site and the design of the property it is considered essential that the hydrodynamic/ hydrostatic impact of flood water on the structure be assessed and the design demonstrated to be robust in the event of a 1 in 200 and 1 in 1000 year flood event prior to the commencement of development. It is considered that a condition attached to the grant of consent requiring such demonstration would be sufficient to overcome this consideration.

## **Conclusion**

The application seeks permission for a detached two bedroomed dwelling and a pair of garages to serve both the existing and proposed dwelling.

The proposed dwelling and garages are of an acceptable design and satisfy the criteria as set out in the Residential Design Guidance. Furthermore, it would albeit in a small way help in contributing towards the housing needs of the Borough.

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

My **RECOMMENDATION** that the application be APPROVED subject to the following planning conditions:

1. CON2
2. CON17
3. CON19
4. CON20
5. CON22
6. CON28
7. No doors, windows, openings or other glazed areas shall be provided in the southern elevation at first floor level, without the prior formal consent of the Local Planning Authority.  
Reason: In order to protect the privacy and amenity of the adjoining occupiers.
8. CON46
9. Prior to commencement of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of each vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.  
Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

10. The existing vehicular crossing on Cedar Road 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 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.
11. Prior to occupation of the development the vehicular hardstandings shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the hardstandings at the junction with the highway shall not be less than 3 metres and shall be provided with an appropriate dropped kerb vehicular crossing of the footway.  
Reason: To ensure that vehicles can enter and leave the highway in a controlled manner in the interest of highway safety.
12. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.  
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety.
13. All materials and equipment associated with the development of the site shall be stored and retained within the boundaries of the site and shall not be left on the highway.  
Reason: To ensure that the highway is not obstructed during the construction period in the interests of highway and pedestrian safety.
14. Prior to the commencement of development, a revised Flood Response Plan shall be submitted to, and formally approved by, the Local Planning Authority.  
Reason: In order to ensure the appropriate protection of occupiers of the building in the event of a flood.
15. Upon occupation of the dwelling, the approved Flood Response Plan shall be enacted and thereby maintained at all times that the dwelling is occupied. Any revisions to the plan shall be submitted to and formally approved by the Local Planning Authority.  
Reason: To ensure the appropriate protection to occupiers of the building in the event of a flood.
16. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (reference ABD/794/FRS (Rev A), dated 31<sup>st</sup> July 2013, prepared by ABD Design and Build (CI) Ltd.). 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: To reduce the risk of flooding to the proposed habitable development and future occupants.

17. The approved flood proofing measures as set out in the submitted Design and Access Statement shall be fully implemented unless otherwise agreed in writing with the Local Planning Authority.  
Reason: To reduce the impact of flooding to the proposed habitable development.
18. Prior to the commencement of development, a scheme demonstrating the ability of the proposed structures to withstand the hydrostatic and hydrodynamic pressures likely to be acting on the buildings in a 1 in 200 year and 1 in 1000 year flood event shall be submitted to and formally approved by the Local Planning Authority.  
Reason: To ascertain the ability of the approved building to withstand the effects of flooding in the interests of the safety of the future occupiers of the site.
19. The development shall be carried out in accordance with the details approved in relation to condition 15 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.
20. CON100
21. CON102

### **Item No.3**

**Application Number:** CPT/459/13/FUL

**Address:** 'BONHOLM', 'BONDINA' & FORMER SURGERY,  
VANDERWALT AVENUE, CANVEY ISLAND  
(NORTH WARD)

**Description of development:** DEMOLITION OF EXISTING BUILDINGS AND  
CONSTRUCTION OF 8 DWELLINGS

**Applicant:** BOWRIDGE HOMES LTD

**Case Officer:** MR K. ZAMMIT

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### **Summary**

The application seeks permission for the replacement of two dwellings and a former doctors' surgery with eight two storey dwellings. Whilst the proposal would provide much needed housing it is considered that the proposed layout is cramped, car dominated and of poor design and would be detrimental to the character and appearance of the area. It is therefore recommended that planning permission be REFUSED.

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

### **Site Visit**

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

### **Introduction**

The application site is made up of the curtilages of two dwellinghouses, 'Bonholm' and 'Bondina', together with the site of a former doctors' surgery located at the eastern end of Vanderwalt Avenue. The site has a maximum depth of some 37m and a maximum width of some 50m.

Residential development lies to the north, east and south of the site. To the west lies a car park serving a two storey building containing commercial uses at ground floor and residential uses at first floor fronting the High Street.

### **The Proposal**

Permission is sought for the removal of the existing buildings on the site and the erection of a three detached three bedroomed houses, one detached two bedroomed house and two pairs of semi detached three bedroomed houses. Each dwelling would have two off-street parking spaces, providing either in front of the dwellings or partially in undercrofts.

## **Supplementary Documentation**

The application is accompanied by details of weatherboarding, bricks and tiles, a Flood Risk Assessment and a flood warning and evacuation plan, which can be viewed on the Council's website.

## **Planning History**

In July 2012 an application for a replacement dwelling was approved at 'Bonholm' (CPT/203/12/FUL)

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

The site is allocated for residential use on the proposals map accompanying the adopted Local Plan.

### National Planning Policy Framework

Sections 6, 7 and 10

### Current Local Plan

EC2 – Design

H9 – New Housing Densities

H10 – Mix of Development

T8 – Parking Standards

### Residential Design Guidance

RDG1- Plot size

RDG2 – Space around dwellings

RDG3 – Building lines

RDG5 – Privacy and living conditions

RDG6 – Amenity space

RDG10 – Enclosure and boundary treatment

RDG12 – Parking and access

RDG13 – Refuse and recycling storage

## **Consultation**

### County Highways

Originally objected due to a lack of turning facilities and due to parking spaces for plot 1 overhanging the highway but following submission of amended plans the Highway Authority now has no objection to the proposal subject to conditions.

### Refuse and recycling

No comments

### Canvey Town Council

No objection but concerned that the site is being over developed. Request that contractor considers recycling materials arising from demolition of existing dwellings.

### Environment Agency

Comments awaited

## Emergency Planner

Comments awaited

### **Public Consultation**

Three responses have been received, which make the following comments:

- raised possibility of flood risk
- proximity to adjacent property - dominant
- increase in traffic, noise, pollution
- concerns over turning space
- development does not comply with privacy standards
- drainage inadequate
- don't object in principle but consider there to be too many houses in a small space

### **Comments on Consultation Responses**

Matters related to flood risk and impact on nearby properties are discussed in the evaluation of the proposal.

### **Evaluation of Proposal**

The main issues here are the principle, design, the impact on surrounding residential properties, parking implications and flood risk.

#### Principle

As the land is allocated for residential use in the adopted Local Plan there can be no objection to the principle of residential development on this site.

Policy H10 seeks a mix of development with an appropriate range of dwelling types. This is however not entirely consistent with the provisions of paragraph 50 of the NPPF which states that the LPA should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The most up to date evidence of need for the mix of development on this site is the 2008 Strategic Housing Market Assessment – as updated 2010. This identified that in the Thames Gateway South Essex area, the focus of demand was on entry level and mid market family housing (2/3 bed), particularly to the south of the A127.

The proposal would provide two and three bedroomed housing which would therefore meet an identified need.

Policy H9 seeks to provide the optimum density of development on a site. This is broadly consistent with bullet 3 of paragraph 58 of the NPPF.

An assessment of whether the proposal achieves optimum density on the site can only be achieved following detailed consideration of the proposal against the Council's Residential Design Guidance as discussed below.

## Design

Policy EC2 of the current Local Plan seeks a high standard of design in all new buildings. This is consistent with paragraphs 56 to 58 of the National Planning Policy Framework (NPPF). The NPPF states that the Government attaches great importance to the design of the built environment and that good design is indivisible from good planning and should contribute positively to making places better for people. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Within the Council's Residential Design Guidance Supplementary Planning Document RDG1 requires plot sizes to reflect those in the surrounding area.

RDG2 requires space provided around dwellings to be informed by the prevailing character of space around dwellings in the area.

The character of the development surrounding the site is mixed but with a significant level of two storey development present. In this context there can be no objection to the principle of providing two storey dwellings in this location.

In terms of the detailed design of the proposed dwellings, these appear awkward and unresolved. The pair of dwellings on plots 1 and 2 is unbalanced and the car parking beneath buildings on plots 3, 5, 6 and 7 is unattractive and will lead to the creation of dark voids and visual weakness in the appearance the structures. The dwelling on plot 4 is heavy and clumsy in appearance and will be difficult to access on foot when there are vehicles parked on its driveway, as will the dwelling on plot 8. As a whole, the development would look cramped and car dominated and would not represent the high quality of design that the NPPF strives for.

Whilst the widths of the proposed plots themselves at 8m to 11m appear to reflect those in the surrounding area, the plot depths are short and the dwellings on Plots 5,6 and 7 would be provided with rear gardens of less than 9m in depth, compounding the cramped and overdeveloped appearance of the site. Whilst it acknowledged that neighbouring development might have taken place in the area on similar sized plots in the past the NPPF clearly states that poor design should not be replicated. It is considered that the attempt to place further two storey dwellings on shallow plots represents poor design which would be inconsistent with Government guidance.

It is noted that care has been taken to ensure that windows placed the rear elevations of those properties on Plots 5, 6 and 7 serve only hallways, bathrooms or en-suites, which may be obscure glazed and fixed in order to mitigate overlooking concerns, the need to rely on such contrivances and to deprive the future occupiers of the dwellings of any outlook over their rear gardens at first floor level, is considered to demonstrate the poor form of development proposed. Such development fails to achieve the high standard of design that the Government has expressed a desire for. It is not considered that surrounding development represents justification for the form of development proposed on the application site.

Whilst the planning authority would not necessarily raise an objection to the degree of isolation space provided around the dwellings, which is generally at least 1m and

reflective of isolation spaces provided to dwellings in the surrounding urban area, this is insufficient to redeem the proposal. It would not divert attention away from the fact that the development would look cramped, centred on a private drive hemmed in by buildings and dominated by cars. It would be detrimental to the visual amenity and character of the area and an objection is raised accordingly.

Guidance at RDG3 requires proposals to respect established building lines. The scheme does not have a strong visual relationship with existing built development and cannot therefore readily conform to the layout of the surrounding area. The site therefore offers an opportunity for the development to create its own building line.

To the north and south the number of dwellings proposed is insufficient to create a building line, the setting of the dwellings being largely determined by the need to provide on-site parking. However an opportunity does exist to create a building line along the eastern frontage, (Plots 4 – 8). The applicant has sought to provide the dwellings a maximum of some 1.8m from the private drive. The provision of two storey dwellings in such close proximity to the highway will emphasise the mean and cramped nature of the development and would fail to provide appropriate setting for the dwellings.

An objection is therefore raised to the proposal on this basis.

RDG6 requires appropriate amounts of outdoor amenity space to be provided. 15m<sup>2</sup> should be provided per habitable room.

Plot No.	Required m <sup>2</sup>	Actual m <sup>2</sup>
1	75	86
2	75	75
3	75	88
4	75	100
5	75	82
6	75	75
7	60	70
8	75	86

The proposed dwellings would each have between four and five habitable rooms, and would have an appropriately sized rear garden for the level of accommodation provided. No objection is therefore raised to the proposal on the basis of amenity space provision.

RDG10 requires public and private spaces to be clearly defined without forms of enclosure dominating the public realm. The plans indicate that the site perimeter fencing would be replaced as necessary with close boarded fencing with a minimum height of 2m. Were permission granted it would be necessary to require approval of details of this fencing by condition as fencing higher than 2m could be harmful to the amenity of nearby residents.

There are only scant details provided of fencing within the application site; however the setting of the proposed dwellings is so tight and dominated by cars that the opportunity for further fencing is limited. Nevertheless, the details of any further

enclosure provided would need to be approved by the LPA if permission were to be granted, to ensure that it was visually appropriate.

### Impact on surrounding residential properties

RDG3 requires proposals not to cause excessive overshadowing or dominance to adjoining properties. The proposed dwellings are considered to be sufficiently distant from existing properties in Yamburg Road and Westerland Road that no significant adverse impact through obtrusiveness or dominance would occur. The proposed dwelling on plot 3 is considered to be positioned such that it would not cause an undue amount of shadowing or dominance to the existing dwelling at 'Bondville'. The flats above the commercial premises on High Street are also considered to be set far enough away from the proposed development that no adverse impact would occur.

The disposition of proposed dwellings in relation to the south eastern boundary of the site is, however, less sympathetic and it is considered that the provision of the house on plot 8 at a distance of 1m from the boundary with No.15 Yamburg Road would be obtrusive, overpowering and detrimental to the amenity of the occupiers of that property. Similarly on the north western side of the site the provision of the house on plot 4 at a distance of 1m to 2m from the boundary with the neighbouring houses at Nos.4 and 6 Voorburg Road would be overpowering to the occupiers of those dwellings. It is noted that the proposed house on plot 4 has been designed with the roof pitching down to a low eaves of 2.5m high on this side with only a dormer providing headroom for the stairs and an ensuite shower room; however the roof is steeply pitched and it is not considered that the reduction in eaves height provides adequate mitigation for the bulk and mass of the proposed dwelling.

It is noted that the existing dwelling at 'Bonholm' is sited some 2.5m to 3.5m from the north western boundary but is a bungalow with a shallow pitched roof and does not have a dominant impact on the Voorburg Road dwellings in the way that this proposal would.

It is further noted that the existing houses in Voorburg Road have their main rear walls set approximately 6m from their rear boundaries which is much less than would be considered acceptable today. The applicant might argue that the houses on Voorburg Road should not be offered the degree of protection normally afforded due to this existing deficiency; however the replication of poor forms of development is inconsistent with Government guidance in the NPPF, a key message of which is that opportunities should be taken to improve the quality of an area.

The proposed development is therefore considered to cause loss of amenity to surrounding residents by being obtrusive and dominant and an objection is raised to the proposal on this basis.

Guidance at RDG5 deals with privacy and overlooking. It states that for development at first floor level, a distance of 9m should be provided between first floor windows and the boundary of the site. Obscure glazed and fixed windows may be used to protect adjacent residents' privacy where this distance cannot be achieved but only where the windows concerned serve areas of the dwelling which are not occupied for significant lengths of time and/or require a high degree of privacy.

The proposed development has been designed so that it would not cause overlooking of existing residential properties through the use of obscure glazed windows at first floor level and careful arrangement of habitable rooms internally.

Within the development, it is considered that the relationship between plot 2 and plot 7 is poor as there would be window to window overlooking at a distance of some 7.5m between bedrooms.

In addition the window serving the first floor bedroom on Plot 2 will be afforded views into Plot 7's lounge. Obscure glazing would not be suitable as the windows involved serve primary accommodation. The proposal would therefore offer poor living conditions for future occupiers and an objection is raised on this basis.

### Refuse and recycling storage

Guidance at RDG13 requires development to be provided with suitable refuse storage facilities that are not visually harmful to the area. As these houses would have gardens there is not considered to be a need for any form of communal refuse storage. The Council's Refuse and Recycling collection service has advised that there would be no problems collecting the refuse from this development.

### Parking

Policy T8 of the current Local Plan requires car parking to be provided in accordance with the adopted parking standards. These require the provision of two spaces for properties with two or more bedrooms. Unallocated visitor parking is to be provided at a rate of 0.25 visitor spaces per dwelling, rounded up to the nearest whole space. Parking spaces must have dimensions of 2.9m by 5.5m. Guidance at RDG12 requires car parking not to dominate the public realm.

The proposal would provide two car parking spaces for each dwelling. These are generally of acceptable dimensions. No unallocated visitor parking is shown; however given that the site is in a sustainable location with good access to public transport on High Street and within walking distance of Canvey Town Centre, it is not considered that an objection on this basis would be sustainable on appeal.

The layout of the parking spaces however is poor. The parking beneath first floors of buildings is unattractive in design terms, the development would look car dominated and it is difficult to see how visitors could get to the front door of plot 4 without trespassing on Plot 5 when there are cars parked in Plot 4's parking spaces. A similar situation would be created for Plot 8. It is considered that this represents a poor layout that does not achieve the high standard of design sought by the NPPF.

### Flood Risk

Turning to matters of flood risk, Government guidance as contained in the NPPF requires all proposals for new dwellings in areas at risk of flooding to be accompanied by a site-specific Flood Risk Assessment in order to demonstrate that the occupiers of the proposed development would not be placed at unacceptable risk in the event of a flood. The proposal is also required to pass the sequential and exception tests as set out in the Technical Guidance to the NPPF, in order to determine whether sites of

lower flood risk probability exist which may be more suitable for the type of development proposed.

With regard to the sequential test, the proposal seeks to provide dwellings within the settlement of Canvey Island. For residential development to serve the community of Canvey Island it is considered that it would need to be located within that settlement. Since the settlement of Canvey Island is located entirely within Flood Zone 3 it is not considered that there are reasonably available alternative sites within the area with a lower probability of flooding that could accommodate the proposed development. Under the circumstances it is considered that the proposal passes the sequential test.

Having passed the sequential test, the proposal must then pass the exceptions test. In order to meet the requirements of the exceptions test as described in paragraph 102 of the NPPF, the proposal must demonstrate that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and 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.

In response to the first criterion, in a very broad sense, the continued development of Canvey Island is necessary to sustain the local community and prevent the social and economic blight of the settlement. However, in assessing whether these benefits outweigh the flood risk, the flood risks surrounding the development must be considered in more detail.

The second criterion requires that the applicant demonstrate that the development is safe and where possible will reduce flood risk overall.

The applicant has provided a Flood Risk Assessment. This document identifies that during a 1 in 200 or 1 in 1000 year flood event, the site would be inundated by water to a depth of up to 1m (3.3mAOD) within one hour of the breach/overtopping event. The finished ground floor level of the properties would be 2.15mAOD and 2.3mAOD. The ground floor of the properties would therefore be liable to flooding. As evacuation of the area would not be practical in such a situation it is essential, if permission were to be granted for the proposed development, that appropriate refuge is available above flood water levels and that future occupiers are aware of the need to obtain such refuge at the earliest opportunity in the event of a flood.

The current proposal seeks to provide first floor accommodation at 4.9mAOD. This is above the modelled 1 in 1000 year flood level inclusive of climate change and as such can provide safe refuge if such refuge is supported by a robust Flood Response Plan (FRP).

A key feature of any FRP would be a statement discouraging self evacuation once water starts to appear around the site as it may be more dangerous to try to wade or drive through floodwaters in evacuating the site than remaining within the building. The submitted FRP does contain a statement on page 10 that if a severe flood warning is issued or flood water starts to appear around the site then residents should seek refuge on the first floor unless advised to evacuate by emergency services. However, changes are needed because the plan also contains statements

encouraging evacuation ahead of seeking refuge, for example at bullet 1 on page 10 of the Flood Response Plan and under Flood Risk Management Measures at 2.5 and 2.6 within the FRA.

The FRP also contains vague statements such as “it is a good idea to prepare a grab bag” which are not adequate. The plan must contain positive statements that the specified actions are to be carried out e.g. the residents must prepare a flood kit.

Paragraphs 4.57 and 6.29 of the Practice Guide require that the developer considers the hydrodynamic/hydrostatic pressures which may be placed upon the building. The FRA states that water above 2.3mAODN (ground floor level) will be allowed to enter the building in order that excessive forces are not placed upon it; however the flood water can still impact on the structural stability of the building and in light of this it is considered essential that the hydrodynamic/hydrostatic impact of flood water on the structure be assessed and the design demonstrated to be robust in the event of a 1 in 200 and 1 in 1000 year flood event prior to the commencement of development. It is considered that a condition attached to the grant of any consent requiring such demonstration would be sufficient to overcome this consideration.

It is further noted that there is provision for flood risk mitigation measures in relation to the building through the use of flood resilient construction methods for wall finishes and raised services as briefly mentioned on drawing BHL/AGC/02 Rev A. These methods are essential to assist with the recovery of the building should it ever be affected by flooding in its lifetime. Although the measures mentioned are acceptable in principle, statements such as “boiler to be located as high as possible” do not demonstrate adequate commitment to delivering such measures and therefore submission of a new scheme of specific flood resistance and resilience measures is required, should planning permission be granted.

## **Conclusion**

Although the principle of residential development is acceptable in this location, the submitted scheme is considered to represent overdevelopment of the site resulting in a cramped and car dominated layout exhibiting examples of poor design and being obtrusive and dominant towards existing residential properties. It is therefore recommended that permission be refused.

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

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

1. The proposed development represents overdevelopment of the site as is demonstrated by the poor design of the dwellings, the unduly shallow plots, the domination of cars in the streetscene and the mean and cramped setting that would be created by the proximity of the buildings to the highway boundary. In combination these factors would fail to achieve the high standard of design required by the NPPF and would be contrary to Policy EC2 of the Castle Point Local Plan.

2. The proposed development would be obtrusive and dominant towards existing residential properties at 4 and 6 Voorburg Road and 15 Yamburg Road, to the detriment of the amenity of the occupiers and contrary to the guidance at RDG3 within the Council's Residential Design Guidance Supplementary Planning Document and Government guidance as expressed in the NPPF.
3. The proposed development would not provide acceptable levels of privacy between the dwellings on proposed plots 2 and 7 and would provide unsatisfactory living conditions for future occupiers. It would therefore fail to achieve the high standard of design required by the NPPF and would also be contrary to the guidance at RDG5 within the Council's Residential Design Guidance Supplementary Planning Document.
4. The proposed development relies on the use of obscure glazed windows in the rear elevations at first floor level to Plots 5, 6 and 7 in order to mitigate the potential for overlooking of adjoining properties at first floor level. This necessitates an internal layout which ensures that any views from the properties are restricted to unattractive, car dominated street views to the detriment of the amenity of the future occupiers of the dwellings. As such the proposal fails to demonstrate the creation of high quality living conditions for future occupiers, contrary to Government Guidance as set out in the NPPF
5. The proposed car parking for plots 4 and 8 would impede pedestrian access to the dwellings and is considered to represent poor design contrary to the guidance at RDG12 within the Council's Residential Design Guidance Supplementary Planning Document and Government guidance in the NPPF.

## Item 4

<b>Application Number:</b>	<b>CPT/461/13/FUL</b>
<b>Address:</b>	<b>15-17 RICHMOND AVENUE, BENFLEET (ST. MARY'S WARD)</b>
<b>Description of development:</b>	<b>DEMOLITION OF 15 RICHMOND AVENUE AND ERECTION OF TWO STOREY REAR AND SIDE EXTENSIONS TO AND REFURBISHMENT OF 17 RICHMOND AVENUE TO PROVIDE 14 No. TWO BED FLATS AND ASSOCIATED PARKING</b>
<b>Applicant:</b>	<b>MARDEN HOMES LTD</b>
<b>Case Officer:</b>	<b>MR K. ZAMMIT</b>

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### Summary

Members will recall that at the Development Control Committee meeting of the 2<sup>nd</sup> April 2013, permission was granted for the part demolition and extension and refurbishment of the former care home at 15 – 17 Richmond Avenue to provide 14 two bedroomed flats. This permission was subject to conditions which required, inter alia, the submission of details of the materials and landscaping to be submitted prior to commencement of development.

The applicant submitted details of materials and landscaping for approval to which there was no objection in visual terms, however submission appears to have been post commencement and it was not therefore possible for the conditions to be discharged.

In order to regularise the situation, the applicant has chosen to submit a new planning application for the development specifying the materials and landscaping.

At the time of writing this report however an appropriate landscaping scheme had not been received.

This application proposes the same size of building and level of accommodation as the approved scheme, save for a change to the layout of flat 2 at ground floor level. The change does not alter the number of bedrooms to this flat which would remain at two.

### Site Visit

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

### Introduction

The application relates to a rectangular site with a frontage to Richmond Avenue of some 31m and depth of some 76m. It was formerly occupied by two vacant two storey

buildings that had been used as a care home. The northern one (No.15) has been demolished and the southern one (No.17) is in the process of being extended and converted to flats.

To the south the site is abutted by the South Benfleet Playing fields whilst to the north and west the site is abutted by residential development. To the east is the 'Goldenleys' Housing scheme.

The site lies within an area allocated for residential purposes in the adopted Local Plan.

## **The Proposal**

Permission is sought for the demolition of 15 Richmond Avenue, the building that was closest to Richmond Avenue itself, and the provision of extensions to number 17 to provide a building that would contain 14 self-contained two bedroomed flats.

The main extension to the building would be to the south, in the direction of the playing field. It would have a width of some 26.3m and depth of some 11.7m with a roof to match the existing building. A smaller two storey extension with a width of some 5.8m and depth of some 4.4m (3.5m at first floor) would be provided to the western elevation.

The existing building would be refurbished providing new windows and door openings. The building as extended would be finished in cream render, brick and 'Hardiplank' siding.

Car parking would be provided to the north side of the building, accessed from Richmond Avenue.

## **Supplementary Documentation**

The application was accompanied by a Design and Access Statement, which can be viewed on the Council's website.

## **Planning History**

The site has a history of alterations to the former care home, none of which is of direct relevance to the current proposal.

In April 2013 permission was granted for the part demolition and extension and refurbishment of the former care home on this site to provide 14 two bedroomed flats (CPT/644/12/FUL). The application represents a revision to that proposal.

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

### National Planning Policy Framework

Paras 29 to 41, 47-55, 56-68, 109 and 120

### Local Plan

EC2 – Design

H7 – Affordable Housing  
H9 – New Housing Densities  
H10 – Mix of development  
H13 – Location of Development

Residential Design Guidance

RDG2 – Space around dwellings  
RDG3 – Building lines  
RDG4 – Corner plots  
RDG5 – Privacy and living conditions  
RDG6 – Amenity space  
RDG11 – Landscaping  
RDG12 – Parking & access  
RDG13 – Refuse and recycling storage

**Consultation**

Legal

No objection

County Highways

No objection subject to conditions

Refuse and Recycling

There must be a dropped kerb between the path to the bin area and the car park.

County Planner

To be reported

Essex Police Architectural Liaison Officer

To be reported

**Public Consultation**

No responses received to neighbour notification, press and site notices.

**Evaluation of Proposal**

The main issues for consideration are the principle of providing flats on this site, design, impact on neighbours and parking implications.

The principle of providing flats on this site

The land is allocated for residential purposes in the current Local Plan. As such there can be no objection to the use of the building for residential accommodation.

Policy H13 of the adopted Local Plan states that proposals for flats and sheltered accommodation, nursing and rest homes will be permitted within areas allocated for residential development, subject to the following criteria:-

- (i) The development proposed shall not adversely affect the amenity of adjoining residents or character of the area by reason of traffic generation:
- (ii) The scale, siting and design of the proposed building should not have an adverse effect upon the character or appearance of the area;
- (iii) The development proposed shall provide appropriate building lines, setting and space around the building, car parking, access, amenity space, and landscaping provision, and shall accord with all other policies contained in this plan;
- (iv) In the case of sheltered accommodation, nursing and rest homes, the development proposed shall be located close to areas where public transport, shopping and community facilities are readily available.

In addition the development shall be located on or near a main road site.

This is generally consistent with paragraphs 29 to 41, 58, 109 and 120 of the NPPF.

Issues of amenity, scale, siting and design, building lines, setting and space around the building, car parking, access, amenity space, and landscaping provision will be considered later in this report. Of key consideration at this point is determining the appropriateness of the location for the provision of flats.

Policy H13 clearly states that flats will only be considered acceptable on sites located on or near a main road. Richmond Avenue is not a main road and the site is somewhat removed from the High Road. In principle therefore this would not appear to be an appropriate site for the provision of flats. However, the site has been used as a care home in the past and it is considered that the intensity of occupation likely to be generated by the proposed use of the site for flats would not be significantly different from that experienced by the use of the site as a care home.

Furthermore it is considered that in the context created by the adjoining development to the east, the proposal would represent an acceptable scale and form of development, which whilst divergent from the scale and form of the more traditional dwellings to the west, is not so dissimilar to the current development on the site that it would represent a particularly obtrusive or dominant feature in the street scene.

In terms of proximity to local services, whilst it is recognised that the proposed flats are not on a main route, they are within a reasonable walking distance of all local amenities. Against this background it is not considered that a reason for refusal based on the provisions of Policy H13 could be sustained on appeal. No objection is therefore raised to the principle of the provision of flats on this site.

Policy H10 seeks a mix of development with an appropriate range of dwelling types. This is however not entirely consistent with the requirement of paragraph 50 of the NPPF. This states that the LPA should plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.

The most up to date evidence of need for the mix of development on this site is the 2008 Strategic Housing Market Assessment - as updated 2010. This identified that in

the Thames Gateway South Essex area, the focus of demand was on entry level and mid market family housing (2/3 bed), particularly to the south of the A127.

The proposal would provide only two bedroomed flats which on the face of it does not provide the family housing for which there is an identified need. However on a small site it is recognised that it would not be practical to provide, for example, individual dwellings as well as flats, and the provision of two bedroomed flats would still make a contribution towards meeting general housing need in the Borough; therefore no objection is raised to the proposal on the basis of Policy H10.

Policy H7 deals with affordable housing and states that where appropriate the Council will seek to negotiate a proportion of affordable housing for rent, shared ownership or outright sale, where appropriate to the scale of development schemes. This is consistent with paragraphs 50 and 173 of the NPPF. The Council's Developer Contributions Supplementary Planning Document states that affordable housing will only be appropriate for schemes of 15 or more dwellings. As the proposal is for 14 units, there is no policy basis for requiring the provision of affordable housing as part of the development at the present time.

Policy H9 seeks to provide the optimum density of development on a site. This will mean the maximum number of dwellings that can be accommodated whilst ensuring that the development is not cramped or harmful to the character of the area. This is broadly consistent with bullet 3 of paragraph 58 of the NPPF.

Such an assessment is only possible as part of consideration of the proposal against the Council's Residential Design Guidance as discussed below.

### Design

Policy EC2 of the current Local Plan seeks a high standard of design in all alterations and extensions to existing buildings. This is consistent with paragraphs 56 to 58 of the NPPF.

The former buildings on the site were considered to be of poor aesthetic quality therefore there is no objection to the demolition of number 15. Number 17 is to be extended and refurbished with the use of, for example, Hardiplank siding and cream render which it is considered will improve its appearance. The extensions are considered to be of satisfactory design and form in relation to the existing building. The materials that have been used in their construction are considered acceptable. There is no objection to the proposal on design grounds.

Within the Council's Residential Design Guidance Supplementary Planning Document guidance at RDG2 states that buildings containing flats should seek to provide isolation spaces equivalent to 25% of the width of the building. The building would have a width, as measured to the Richmond Avenue frontage, of some 26.3m, therefore isolation spaces totalling some 6.6m should be provided. The isolation spaces provided would total 4.8m at the narrowest points. This is below the figure of 6.6m; however, the existing part of the building which is closer to Richmond Avenue provides more generous isolation space and given that the building, more particularly the extended part, is set to the rear of the site adjacent to the playing fields, it is not

considered that it would lack adequate setting or appear otherwise cramped. No objection is therefore raised to the proposal on this basis.

RDG3 states that development should be informed by the prevailing building lines to the public realm it faces. The building as altered would be set well behind the general building line of Richmond Avenue and would not appear unduly prominent in the streetscene. No objection is therefore raised to this aspect of the proposal.

RDG4 deals with development on corner plots, requiring development to 'turn the corner' and avoid the use of blank elevations or high boundary screening to return frontages. The proposal is not strictly on a corner plot however it is located adjacent to the access to a public car park. The western elevation of the extended building provides an active frontage facing the car park and as such it is considered that the presentation of the building to the public realm would be acceptable. No indication of boundary treatment is given however this could be the subject of a planning condition were permission granted.

RDG5 requires schemes for flats to have appropriate landscaping schemes. Following discussions with the applicant on the original application the layout was revised in order to facilitate the provision of an appropriate landscaping scheme. As currently presented the proposed layout would include adequate space for landscaping around the car parking area and the perimeter of the building. No specific details have been submitted; however this can form the basis of conditions should planning permission be granted. No objection is therefore raised to the proposal on the basis of landscaping.

RDG6 requires appropriate amounts of amenity space to be provided. For flats, 8m<sup>2</sup> of amenity space per habitable room should be provided, with a minimum of 25m<sup>2</sup> for each flat. The proposal provides 14 flats, each with 3 habitable rooms, making a requirement of some 336m<sup>2</sup> of amenity space. The proposal would provide some 750m<sup>2</sup> of amenity space around the building which is considered acceptable.

RDG13 requires the refuse storage area not to dominate the public realm and be conveniently located for both residents and refuse collectors. The proposed refuse store would be a detached structure in front of the building, but set well back from the highway. It is not considered that this would be visually intrusive in the streetscene. The plans indicate that the car park area would be able to take the weight of a refuse collection vehicle. The location would involve a short walk from the flats entrance but it is in the car park so would still be reasonably convenient for residents to use. Materials to match the existing building are proposed to be used in its construction.

The Council's Refuse and Recycling service has commented that there will need to be a dropped kerb between the path to the bin area and the car park so that bins can be easily transported. It is recommended that a condition is imposed to ensure that this takes place. Subject to such a condition, no objection is raised on the basis of refuse storage provision.

#### Neighbour impact

RDG3 also requires proposals not to cause loss of amenity to adjacent residents through obtrusiveness or dominance. The proposed extension to the rear of the

building, which is the larger of the proposed extensions, would be located some 1.1m from the boundary with the adjacent care home, which although close, given the position of the neighbouring care home on its plot, it is considered that there would be sufficient separation between the proposed extension and neighbouring building that no undue loss of amenity through obtrusiveness or dominance would occur. The smaller two storey extension to the western side of the building would be too remotely sited from any nearby dwellings to cause loss of amenity through obtrusiveness or dominance. Other neighbouring properties are too remote to be significantly affected by way of dominance. Overall it is considered that the area benefits from the removal of No.15 and the refurbishment of the retained building.

Guidance at RDG5 deals with privacy and overlooking. It states that windows at first floor level should be located a minimum of 9m from the boundary of the site to avoid overlooking unless they are secondary light sources in which case obscure glazed/fixed windows may be used. The proposed windows at first floor level in the eastern elevation would be located some 1.1m and 6.5m from the boundary of the site. This is below the guideline figure and may lead to overlooking of the adjoining site. However, in the proposed extension the window in question at 1.1m from the boundary would be a secondary light source to a living area so could be obscure glazed and fixed to 1.7m from internal floor level to prevent overlooking without leading to unsatisfactory living conditions within the room.

The windows located 6.5m from the eastern boundary would be located in what is the original building. These would generally be primary windows to bedrooms, with the windows at the northern end serving a living area. Whilst primary windows to bedrooms would not normally be accepted in such close proximity to the site boundary, the former use of the building also had bedrooms with windows in this location. Given this factor it is not considered that the proposal would offer significantly greater opportunities for overlooking of the adjacent site than the previous use and no objection is therefore raised to this element of the proposal.

The windows to the western elevation would overlook the car park and access road and would not lead to loss of privacy. The windows to the south would overlook the playing fields. To the north, the car park area provides sufficient buffer between the proposal and existing dwellings that overlooking would be acceptably mitigated.

Subject to a condition requiring identified windows serving living rooms in the eastern elevation at first floor level to be obscure glazed and fixed to a height of 1.7m, it is not considered that undue overlooking of nearby properties would occur as a result of the proposal.

### Car Parking

Policy T8 of the current Local Plan requires car parking to be provided in accordance with adopted parking standards. These require the provision of one space for properties with one bedroom and two spaces for properties with two or more bedrooms. Parking spaces are required to have dimensions of 2.9m x 5.5m. Visitor parking should be provided at a rate of 0.25 spaces per dwelling, rounded up. RDG12 requires the car parking not to dominate the public realm.

The proposed car parking would be located in front of the building and in the original scheme dominated the setting of the building. Discussions with the applicants enabled a reduction in parking provision in order to create a better landscaping scheme. This has softened the impact of the car park and hard surfacing in the street scene.

Whilst the scheme now provides 17 spaces which is just over half of the parking standard requirement (34) the benefit gained in the street scene is considered to outweigh the loss of parking.

It should be noted that this location has good access to local public transport routes, public car parks and services and under these conditions it is considered that a lower level of parking provision can be accepted. No objection is therefore raised to the proposal on the basis of car parking.

The highway authority has raised no objection to the proposal but has requested that a number of conditions be imposed should permission be granted. Where appropriate, these have been incorporated into the recommendation.

## **Conclusion**

The proposal is considered to provide residential units in a sustainable location and there are no issues that can be identified that would justify a refusal of planning permission.

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. Prior to the occupation of the development hereby approved a landscaping scheme shall be submitted to and formally approved by the Local Planning Authority. Such a scheme shall include planting plans, written specifications, including cultivation and other operations associated with plant and grass establishment, schedules of plants, noting species, plant sizes and proposed numbers / densities.  
Reason: To ensure a satisfactory development incorporating a degree of natural relief, in the interests of the amenities of the site and the surrounding area.
2. CON10
3. CON11
4. The external surfaces of the development hereby approved shall be treated in accordance with the submitted schedule of finishes from which there shall be no departure without the prior formal consent of the Local Planning Authority.  
Reason: To ensure a satisfactory form of development in sympathy with the existing development and the character of the surrounding area.
5. Prior to the erection or replacement of any boundary walls or fences, details of those walls or fences shall be submitted to and formally approved by the local planning authority, with reference to an accurately scaled plan.

Reason: In the interest of visual amenity.

6. Prior to first occupation of the development, the windows marked OBS on the approved plans shall be obscure glazed to at least level 3 on the Pilkington scale and fixed shut to a height of 1.7m from the finished floor level of the room in which the window is installed.  
Reason: To prevent loss of privacy and amenity to occupiers of the adjacent building.
7. No flat shall be occupied until the refuse storage building has been provided in the location shown on the approved plans.  
Reason: In the interest of visual amenity.
8. Prior to occupation of the development, the refuse storage building shall be provided with appropriate dropped kerb provision between the path leading to the refuse area and the car park.  
Reason: To ensure the provision of satisfactory access to the refuse storage area for collections.
9. No flat shall be occupied until the car parking area has been provided, surfaced and drained. Thereafter the car parking area shall be kept available for the parking of vehicles of occupiers of and callers to the building and for no other purpose whatsoever without the former consent of the planning authority.  
Reason: To ensure the provision and retention of satisfactory off-street parking facilities.
10. Prior to provision of the car park, details of the hard surfacing material(s) to be used in its construction, including details of the means to prevent the discharge of surface water onto the highway, shall be submitted to and formally approved by the local planning authority.  
Reason: In the interests of visual amenity and sustainable drainage and to prevent highway hazards caused by water and ice.
11. The car park shall only be constructed in accordance with the approved drainage details.  
Reason: In the interest of sustainable drainage and to prevent highway hazards caused by water and ice.
12. No unbound material shall be used in the construction 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.
13. Prior to first use of the car park, properly constructed vehicular access to the highway shall be provided in the location shown on the approved plan.  
Reason: To ensure satisfactory access to the off-street parking facilities.
14. Prior to first use of the car park, 1.5m x 1.5m pedestrian visibility splays, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any

obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between users of the access and pedestrians in the adjoining public highway in the interest of highway safety.

15. The amenity and landscaping areas surrounding the building shall be retained as a communal area and shall not be subdivided or assigned to particular flats.

Reason: To ensure the provision of adequate amenity and open space around the building commensurate with the needs of all occupiers of the flats.

16. 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 10 All Essex Scratchcard Tickets.

Reason: In the interests of reducing the need to travel by car and promoting sustainable development and transport.

17 CON100

18 CON101

### 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

- CON 48** Tree Works Supervision
- CON 49** Environment Agency Desktop Study
- CON 50** Environment Agency Implementation of Pollution Control
- CON 51** Storage of Building Materials within the site.
- CON52** Submission Of Flood Response Plan.
- CON53** Enactment Of Flood Response Plan
- CON54** Provision Of Badger Ramp.
- CON55** Badgers - Hand Digging Of Foundations.
- CON 56** Protection Of Badgers - Changes In Levels.
- CON57** Badgers – Pathways.
- CON58** Badgers - Security Fencing.
- CON59** Travel Scratch cards.

### **Informatives**

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