

Southend-on-Sea Borough Council

Agenda
Item

Report of the Corporate Director of Place
To
Development Control Committee
On
13th April 2016

Report(s) on Pre-Meeting Site Visits

A Part 1 Agenda Item

WARD & TIME	APP/REF NO.	ADDRESS	PAGE
Leigh	16/00073/FUL	9 Hadleigh Road Leigh On Sea	3
Chalkwell	15/02084/FUL	Toulouse Restaurant Western Esplanade	20
Chalkwell	16/00328/FUL	The Shore 22 - 23 The Leas	30

Depart Civic Centre at: 11.00am

DEVELOPMENT CONTROL COMMITTEE

SITE VISIT PROTOCOL

1. Necessity

A site visit is only likely to be necessary if either:

- (i) The proposed development is difficult to visualise from the plans, photographs and supporting material; or
- (ii) There is good reason why the comments of the applicant and / or objector(s) cannot be expressed adequately in writing; or
- (iii) The proposal is particularly contentious; or
- (iv) A particular Member requests it and the request is agreed by the Chairman of DCC.

2. Selecting Site Visits

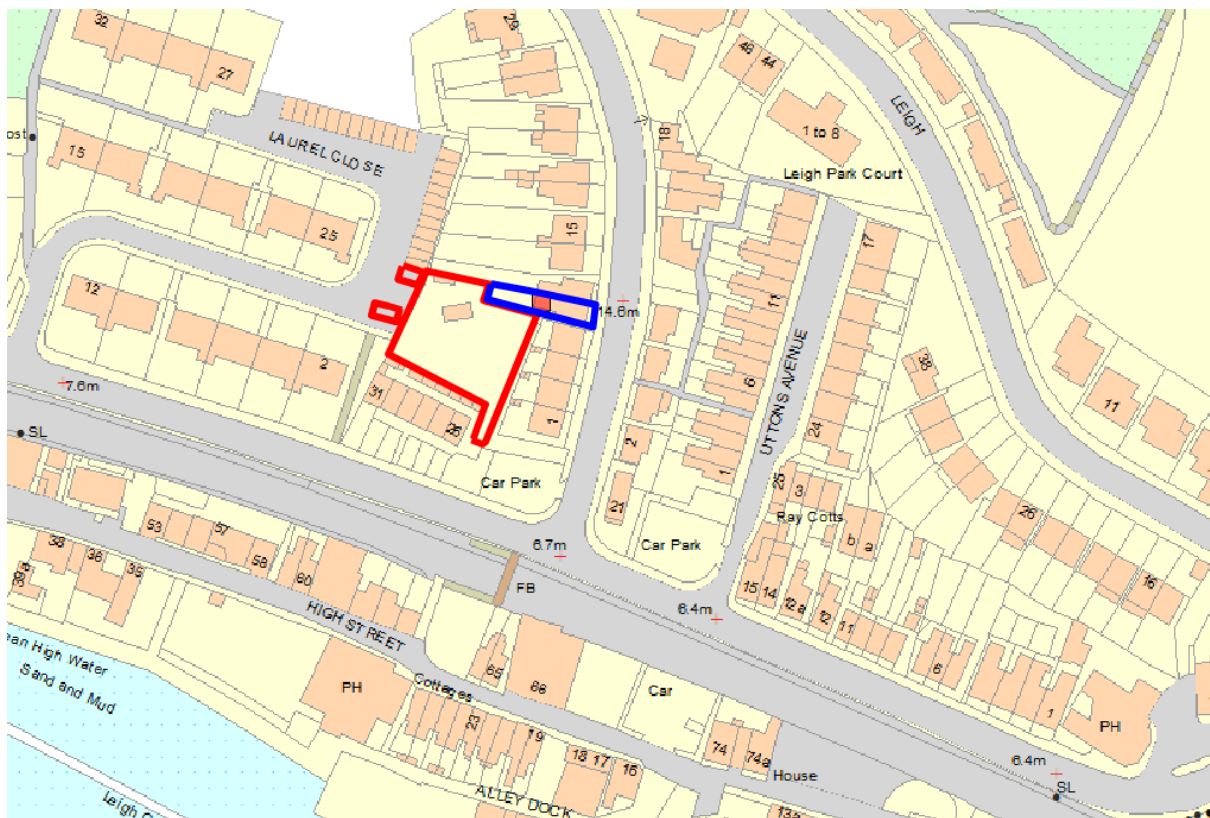
- (i) Members can request a site visit by contacting the Head of Planning and Transport or the Group Manager for Planning; providing the reason for the request. The officers will consult with the Chairman.
- (ii) If the agenda has not yet been printed, notification of the site visit will be included on the agenda. If the agenda has already been printed, officers will notify Members separately of the additional site visit.
- (iii) Arrangements for visits will not normally be publicised or made known to applicants or agents unless access is required to be able to go on land.

3. Procedures on Site Visits

- (i) Visits will normally take place during the morning of DCC.
- (ii) A planning officer will always attend and conduct the site visit, and will bring relevant issues to the attention of Members. The officer will keep a record of the attendance, and a brief note of the visit.
- (iii) The site will normally be viewed from a public place, such as a road or footpath.
- (iv) Representations will not be heard, and material will not be accepted. No debate with any party will take place. Where applicant(s) and/or other interested person(s) are present, the Chairman may invite them to point out matters or features which are relevant to the matter being considered having first explained to them that it is not the function of the visit to accept representations or to debate.

Version: April 2016

Reference:	16/00073/FUL
Ward:	Leigh
Proposal:	Demolish existing garage and erect 4 dwellinghouses with balconies to rear, layout amenity space, parking and form new vehicular access onto Laurel Close
Address:	9 Hadleigh Road, Leigh-On-Sea, Essex, SS9 2DY
Applicant:	Mr Frank Ebdon
Agent:	SK Architects
Consultation Expiry:	08.03.2016
Expiry Date:	16.03.2016
Case Officer:	Janine Rowley
Plan Nos:	P01-Site and Block Plan; P04- Proposed site plan; P03-Proposed elevations and floorplans; P05-streetscene and sections
Recommendation:	REFUSE PLANNING PERMISSION



1 The Proposal

- 1.1 Planning permission is sought to demolish the existing garage at 9 Hadleigh Road and erect 4 dwellinghouses in a terraced block with balconies to rear, layout amenity space, parking and form new vehicular access onto Laurel Close.
- 1.2 The four proposed properties are within one terrace block but with varying frontages, each part of the block contains two houses and is 9.1m to 9.4m wide x 10.6m to 11m deep and 8.7m in height.
- 1.3 The four dwellings would provide the following internal floorspace and a total amenity area including balconies to the first and second floor:

House	Bedroom	Internal Floorspace	Garden/balcony
1	3 bed	115sqm	42.7sqm /3sqm/8sqm
2	3 bed	115sqm	44.7sqm/3sqm/8sqm
3	3 bed	115sqm	36.8sqm/3sqm/8sqm
4	3 bed	115sqm	144sqm/3sqm/8sqm

- 1.4 One off street parking space is proposed per dwelling and refuse/cycle storage will be located to the rear of each dwelling. Refuse storage is shown adjacent to the parking spaces.
- 1.5 The proposed materials to be used in the construction of the development include brick and render to the external walls, clay roof tiles, upvc windows and doors.
- 1.6 The application is accompanied by a Design and Access Statement including heritage information.

2 Site and Surroundings

- 2.1 The application site has an existing garden area to 9 Hadleigh Road and contains a garage serving no. 9 Hadleigh Road with a vehicle access to Laurel Close. The site lies within Leigh Conservation Area. A defining characteristic of this conservation area is its topography and position on the steep cliff slope facing the estuary, which is covered with modestly scaled housing especially to the lower section of the slope. Main routes up the cliff tend to take a transverse route across the landscape but the general pattern of development outside these routes is for terraced development stepping up the hillside.
- 2.2 The site is surrounded by modestly scaled 2 storey properties arranged in short terraces. To the south is a row of small probably fisherman's cottages (26-31 New Road) on a slightly raised position and angled to face the main street and estuary beyond. West of these is the 1970s development at Laurel Close, which is modern in its design but generally, maintains the scale and form of the short terraces in this area, and continues to the north west of the site in two further rows facing the main street. To the east an Edwardian terrace of modest houses faces east and steps up the slope of Hadleigh Road. To the south east of the site is a small car park which used to be the site of another short terrace of cottages also angled slightly to face the road.

This arrangement of lines of parallel stepped modestly scaled terraces facing the estuary and main street is a key characteristic of Leigh Conservation Area generally and particularly evident in the historic street pattern seen at Church Hill and Billet Lane.

3 Planning Considerations

- 3.1 The main considerations in relation to this application are the principle of the development, design and impact on the Leigh Conservation Area, and impact on neighbouring properties, living conditions for existing/future occupiers, traffic and parking issues, CIL, sustainable construction SUDs.

4 Appraisal

National Planning Policy Framework; DPD1 (Core Strategy) policies KP1, KP2, CP4, CP8; DPD2 (Development Management) policies DM1, DM3, DM5, DM7, and the Design and Townscape Guide SPD1 (2009)

- 4.1 This proposal is considered in the context of the National Planning Policy Framework 2012 and Core Strategy Policies KP2 and CP8. The NPPF states that "Housing applications should be considered in the context of the presumption in favour of sustainable development".
- 4.2 Policy DM3 of the Development Management Document states: "All development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:
- (i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or
 - (ii) Conflict with the character and grain of the local area; or
 - (iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or
 - (iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.
- 4.3 Paragraph 201 of the Design and Townscape Guide SPD1

"Infill sites are development sites on the street frontage between existing buildings. These areas are usually spaces left over after earlier development or the redevelopment of small industrial units or garages. The size of the site together with an analysis of local character and grain will determine whether these sites are suitable for development. In some cases the site may be too small or narrow to accommodate a completely new dwelling (including usable amenity space and parking) and trying to squeeze a house onto the site would significantly compromise its design quality and be detrimental to neighbouring properties and local character. In these circumstances, unless an exceptional design solution can be found, infill development will be considered unacceptable. Other options, such as an extension to an adjacent building or a garage may be more achievable. However, in certain situations, where the density, grain and openness of an area are integral to its special character, infill development of any kind will not be appropriate in principle".

- 4.4 Each of the points detailed in Policy DM3 and the aforementioned policies are discussed below. Whilst residential development is not objected to per se in this location, there is concern that the proposed development constitutes overdevelopment of the site by reason of the number of units proposed and limited size of the site, relationship with surrounding properties, impact on local character and urban grain would be detrimental to the character and appearance of the area.
- 4.5 Policy DM5 of the Development Management Document states that all development proposals that affect a heritage asset will be required to include an assessment of its significance, and to conserve and enhance its historic and architectural character, setting and townscape value. It is considered in this instance, the proposed development would fail to conserve or enhance the historic character, setting and townscape.

Design and impact on the character of the area

National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4; DPD2 (Development Management) policies DM1, DM3 and the Design and Townscape Guide SPD1 (2009)

- 4.6 The existing site is a garden area serving no. 9 Hadleigh Road with a garage and vehicle access from Laurel Close. Following a review of Council records, historic mapping shows that in the past there were 2 larger buildings and two smaller ancillary buildings on the northern section of the site on the same line as the cottages to the south. They were not terraced but their orientation angled towards the street was compatible with the grain of the wider conservation area. These buildings were replaced some time ago with the existing garage and the surrounding area formed an extended garden to 9 Hadleigh Road. The proposed development fails to align with surrounding development failing to be compatible with the grain of the area.
- 4.7 The overall site is rather constricted as it is surrounded by residential gardens on three sides with its only access being from Laurel Close to the west. The site therefore has a very limited street frontage facing Laurel Close; however, its elevated position means that there are clear views of the site from New Road across the open car park to the south east. The other main constraint of the site is its sloping topography, although this should enable sea views across the tops of the houses further down the cliff to the south.
- 4.8 It is considered, that the proposed development by reason of its height at 8.7m and scale, bulk and 'box' form will result in an inappropriate development in this area, given the surrounding properties are characterised by more modest two storey pitched roofed properties. The overall massing at the upper level combined with the elevated position of the site results in the properties appearing overly dominant to the surrounding properties and appear out of place in the streetscene.
- 4.9 Furthermore, the houses are arranged as a staggered terrace, have a depth of approximately 10.6m to 11m, which is out of character with the modest developments to the east and south of the site, with smaller plan forms. The overall alignment of the dwellings has maximised the site potential in terms of floorspace, but fails to respond to the local character resulting in a form out of context with the local pattern of development.

- 4.10 There are also significant concerns with the detailed design of the proposal. The roof will include a mansard and parapetted form, which results in a conflict of styles with some modern and traditional elements. The overall appearance results in an unresolved and unbalanced elevation failing to achieve a cohesive high quality. The veranda features and canopies also conflict with the modern fenestration.
- 4.11 It appears from the submitted drawings the applicant seeks to level the land creating a high retaining wall to all sides. Although sections have been submitted it is unclear how this will work but, the parking spaces appear at a higher land level than shown for the houses without any space for ramping. This is very contrived arrangement.
- 4.12 A concern is also raised in regard to the Laurel Close frontage where it is proposed to enclose the development with a high wall and gate, effectively creating a secure gated development. This is out of character with the area and would not enhance the streetscene.
- 4.13 In relation to the materials proposed, they include white render, aluminium windows, lead canopies and eternit artificial slates. Whilst render is found in the area, brickwork is the original and predominant material for the surrounding historic properties and in the conservation area the use of alternative materials would help any proposal to integrate into the streetscene however, this could be dealt with by condition if the application is deemed acceptable. High quality aluminium windows might be acceptable subject to details. Artificial slates do not always have the appearance of natural slate and maybe not appropriate in the Leigh Conservation Area. It is also noted that whilst curved canopies can be found in the conservation area these are only in properties in the northern section of Leigh Hill some distance from the site and therefore remote from the site.
- 4.14 Overall the proposal fails to respect the grain, scale and character of the conservation area and is not producing a high quality cohesive design. This is a prominent site in the conservation area and a well-considered proposal which preserves and enhances the conservation area is necessary.
- 4.15 In light of the above, the development would appear incongruous and out of keeping within the streetscene to the detriment of the appearance and character of the Leigh Conservation Area in which it is located and represents overdevelopment of the site contrary to the National Planning Policy Framework; Policies KP2 and CP4 of the Core Strategy DPD1; Policies DM1, DM3 and DM5 of the Development Management Document DPD2 and advice contained within the adopted Design and Townscape Guide (SPD1).

Living conditions for future occupiers

National Planning Policy Framework, Development Management Document policy DM8, The National Technical Housing Standards DCLG 2015 and Design and Townscape Guide (SPD1)

- 4.16 On the 1st October 2015 the National Housing Standards were adopted. The four dwellings would include three levels of accommodation. Current policy requires 108sqm internal floorspace to be provided and all four dwellings would be in excess of this policy. All houses will have sufficient outlook and daylight for future occupiers in all habitable rooms.
- 4.17 Policy DM8 (iii) states that all new dwellings should meet the Lifetime Home Standards, unless it can be clearly demonstrated that it is not viable and feasible to do so. Lifetime Home Standards has now been superseded by the National Technical Housing Standards and all new dwellings are required to meet building regulation M4 (2)- 'accessible and adaptable dwellings'. The applicant has not submitted information demonstrating that the three dwellings meet the building regulation M4 (2) requirements and which demonstrates that the four dwellings can be accessible and adaptable for older people or wheelchair users, an objection is raised on that basis.
- 4.18 Policy DM8 of the Development Management Document DPD2 states that all new dwellings must make provision for useable private outdoor amenity space for the enjoyment of intended occupiers.
- 4.19 Paragraph 143 of the Design and Townscape Guide, 2009 (SPD1) states:
- "There is no fixed quantitative requirement for the amount of amenity space as each site is assessed on a site by site basis according to local character and constraints. However, all residential schemes will normally be required to provide useable amenity space for the enjoyment of occupiers in some form..."*
- 4.20 The proposed development will be sited within the existing garden area serving no. 9 Hadleigh Road however, 58sqm is to be retained. On balance taking into account that 9 Hadleigh Road is a two bedroom property the character of the surrounding properties particularly to the south, with smaller gardens serving existing properties it is considered the garden area to be retained is sufficient to meet the needs of the occupiers of that property, and not out of character with those existing or similar properties in the vicinity.
- 4.21 The level of amenity space proposed is detailed in paragraph 1.3 above whereby the following areas are proposed:
- Plot 1- 42.7sqm;
Plot 2-44.7sqm;
Plot 3-36.8sqm;
Plot 4-144sqm

- 4.22 Whilst no objection is raised to the amenity space proposed for plot 4, and notwithstanding all four dwellings would benefit from balconies at first and second floor, the garden areas serving plots 1-3 are considered undersized to meet the needs of the 3 bedroom family sized accommodation proposed. It is therefore, considered that the limited amount and nature of amenity space proposed would be to the detriment of the living conditions of the future occupiers contrary to policy DM8 of the Development Management Document DPD2 and indicative of overdevelopment.
- 4.23 Refuse storage is proposed to the side of the buildings with access from Laurel Close, although this is distant from the easternmost dwelling there is also space for waste within the gardens, which is welcomed and further details can be sought by condition if this application is deemed acceptable to ensure the bin storage is enclosed to protect amenities of surrounding residents and character of the area.

Traffic and Transport Issues

National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4, CP3; policy DM15 of the DPD2 (Development Management Document) and the Design and Townscape Guide SPD1.

- 4.24 The existing site contains a garage and vehicle access from Laurel Close to the rear of no. 9 Hadleigh Road. The application will include the demolition of the existing garage and creation of four parking spaces. Two will be within the site and two accessed from Laurel Close.
- 4.25 Policy DM15 of the Development Management Document states that 2 parking spaces per dwelling are required. The policy goes on to states that residential vehicle parking standards may be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and where the rigid application of these standards would have a clear detrimental impact on local character and context. The application site is located in close proximity to Leigh railway station and walking distance to Leigh centre. The proposal will include only one off street parking space per dwelling and will result in the loss of parking to the existing occupiers at no. 9 Hadleigh Road. Although one space is to be retained within the existing garages on the eastern boundary of Laurel Close and given the family type of accommodation proposed and the existing streets surrounding the site suffer from car parking stress, the provision of only one parking space per dwelling in this location is not acceptable and contrary to policy DM15 of the Development Management Document.
- 4.26 Cycle provision can be successfully accommodated within the rear gardens and dealt with by condition.

Impact on residential amenity

National Planning Policy Framework; DPD1 (Core Strategy) policy CP4, policy DM1 of the DPD2 (Development Management Document) and the Design and Townscape Guide SPD1.

- 4.27 Policy DM1 of the Development Management Document states that any new development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Paragraph 343 of SPD1 (under the heading of Alterations and Additions to Existing Residential Buildings) states, amongst other criteria, that extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties.
- 4.28 The proposed dwellings would be set off the boundary, 2.7m to the north, 8.2m to 10.2m to the southern boundary abutting properties in New Road (26 through to 31) and 3.7m to 5.6m away from the rear boundary of properties in Hadleigh Road to the east. To the west of the site are existing garages. Back to back separation distances include 10.1m to the east with no. 3, 5, 7 Hadleigh Road and 11.7m to 13.5m to the properties in the south along New Road. It is considered that the proposed development by reason of both limited separation distance, overall height of 8.7m taking into account the varying site levels and due to the siting of the dwellings would result in an unreasonable sense of enclosure to properties to the east and south of the site.
- 4.29 Furthermore it is considered that the development would result in a material loss of daylight and sunlight to the detriment of the amenities of occupiers of these properties contrary to the provisions of Policy CP4 of the Core Strategy, policies DM1 and DM3 of the Development Management Document and the Design and Townscape Guide.
- 4.30 In terms of overlooking and loss of privacy, given the siting of the development windows to the first floor of the proposed dwellinghouses will result in direct overlooking to the private amenity spaces serving existing properties along this part of Hadleigh Road. Furthermore, windows and balconies at first floor and second floor would result in loss of privacy to the rear of properties in New Road through unmitigated overlooking.

Sustainable Construction

NPPF, Core Strategy Policy KP2, Development Management Document policy DM2 and SPD1

- 4.31 Policy KP2 of the DPD1 and the SPD1 require that 10% of the energy needs of a new development should come from onsite renewable resources, and also promotes the minimisation of consumption of resources. Policy DM2 of the Development Management Document states that all new development should contribute to minimising energy demand and carbon dioxide emissions. The Design and Townscape Guide advises that options for renewable power must be considered at the beginning of the design process so that they are an integral part of the design scheme. The applicant has confirmed that four houses will be equipped with individual Combined Heat Power units (CHP) and photovoltaic panels (pvs) on east and west facing slopes outside public view are proposed to meet the 10% renewables requirement.

Given that this site is within the Leigh Conservation Area and the roof is exposed to extensive public views it is considered the proposed technologies could have a significant impact upon design, scale and overall appearance of the development together with impact on Leigh Conservation Area given the site location of this site and therefore in this instance these matters should not be left to condition. No details plans showing the design and location of the photo voltaic panels or how the CHP will be accommodated have been provided. This is contrary to the National Planning Policy Framework, Policy KP2 of the Core Strategy (DPD1) and the Design and Townscape Guide, 2009 (SPD1).

- 4.32 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk. The applicant contends the hardstanding surface to be installed will be constructed from a permeable paving however, no further details have been provided to ensure the proposed development will not result in surface water runoff, however this can be dealt with by condition if the application is deemed acceptable.
- 4.33 Policy DM2 of the Development Management Document part (iv) requires water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (1110 lpd) when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting. Whilst details have not been submitted for consideration at this time, this can be dealt with by condition.

Other issues

Badgers

- 4.34 No evidence has been provided to indicate badgers are living at the site. The NPPG states that local planning authorities should only require ecological surveys where clearly justified, for example if they consider there is a reasonable likelihood of a protected species being present and affected by development. Badgers are protected by other legislation and it is an offence to damage or destroy a breeding or resting place of any badger or to deliberately capture, kill or disturb a badger.

Fire Access

- 4.35 If the application is deemed acceptable an informative will be added to the permission to ensure access for Fire Service purposes have been considered in accordance with the Essex Act 1987 - Section 13. In addition, the applicant will be required to ensure the development if deemed acceptable complies with the Fire Service in terms of building regulations and water supplies.

Community Infrastructure Levy (CIL) Charging Schedule.

- 4.36 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application may also be CIL liable.

5 Conclusion

- 5.1 The principle of residential development on this site is considered acceptable. However, the proposed development by reason of its size, number of units, siting, design and scale is out of character with the surrounding area and will result in overdevelopment out of keeping with the Leigh Conservation Area.
- 5.2 Furthermore, the proposed development will result in a sense of enclosure and overbearing form of development and loss of privacy through unmitigated overlooking to the detriment of the amenities enjoyed by existing occupiers to the east in Hadleigh Road and New Road to the south. The level of parking provision is unacceptable and will result in the loss of parking to the existing 9 Hadleigh Road and increase on street parking in an area that already suffers parking stress.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework
- 6.2 Development Plan Document 1: Core Strategy policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance) and CP8 (Housing)
- 6.3 Development Management Document 2: Development Management Document policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and effective use of land), DM5 (Historic Environment Southend on Sea), DM7 (Dwelling Mix, size and type), DM8 (Residential Standards), DM14 (Environmental Management), DM15 (Sustainable Transport Management)
- 6.4 Supplementary Planning Document 1: Design and Townscape Guide 2009
- 6.5 Waste Management Guide
- 6.6 Community Infrastructure Levy CIL Charging Schedule

7 Representation Summary

Design and Regeneration

- 7.1 The proposal seeks to erect a terrace of 4 houses. There is no objection in principle to residential development on this site subject to an appropriate form and a high quality design.

The houses are 3 storeys with 3 bedrooms on the ground and 2nd floor and living space at 1st floor. They have a steeply pitched mansard roof form behind a parapet, maximising space and views space at the top level.

It is considered that this scale and box like form is inappropriate in this area which, as noted above, is characterised by more modest two storey pitched roofed properties. The massing at the upper level combined with the elevated position of the site will mean that these properties will be dominant of the surrounding properties and appear out of place in the streetscene generally. It is considered that the proposal should be reduced to predominantly two storeys. It is noted that there may be some scope for modest accommodation in the roofspace however dormers are not a feature of this section of the conservation area and therefore rooflights, modest gables or possibly cut in terraces may be more appropriate than projecting dormers.

The houses are arranged as a staggered terrace, have deep plan forms and are orientated on a much straighter alignment than the houses in New Road which are angled to face the road. It seems that the alignment has been chosen to maximise the site potential in terms of floorspace but it would be more responsive to local character if they were aligned with the terrace to the south, parallel to New Road. (This would angle the SE corner of the terrace towards the open car park aspect and present an opportunity for a design feature in this location.) The staggered arrangement of the proposal also conflicts with local character where the predominant pattern of development in the area is also for terracing with a consistent front and rear building line and this too should be reflected in the development proposal.

It is also noted that the proposal results in a truncated garden to number 9 which contrasts with the general grain of the properties in Hadleigh Road which are characterised by their long gardens. (note number 9 will be reduced to 58m² which is low for family house)

Therefore, as proposed it seems that the orientation and arrangement of the houses conflicts with the historic street pattern of the area.

There are also significant concerns with the design detail of the proposal. Aside from the inappropriateness of the mansard and parapetted form the development as noted above, there seems to be a conflict of styles which includes some modern and some traditional elements, resulting in confused and unbalanced elevations. This seems to be driven but the desire to maximise views south and minimise overlooking but with little regard for achieving a cohesive high quality development which compliments the surrounding conservation area.

Particular concern is raised regarding the traditional veranda features and canopies conflicting with the modern fenestration, the extent of glazing to the south elevation and the lack of a street frontage.

In response to the slope of the site it seems that the intention is to level the land creating a high retaining wall to all sides. (*note it would be helpful to have sections of the existing topography to see how this has changed.*) Looking at the sections provided for the proposed development it is unclear how this will work with the parking spaces which seem to be coming in at a higher land level than shown for the houses without any space for ramping. The only option can be if there is a mistake on the section and the parking level is higher right up to the edge of the property but this would mean that the land level comes part way up the side of the end house. If this is the case then it would require the access path to the front doors to severely ramp back down to the entrance level at the rear of the site but this is not evident from the north south section. This would seem a very contrived arrangement and another example of poor quality design.

A concern is also raised in regard to the Laurel Close frontage where it is proposed to enclose the development with a high wall and gate effectively creating a secure development. This is out of character with the area and does nothing to enhance the streetscene in Laurel Close at this point which is in need of improvement. It is considered that it would be inappropriate to gate the development with high boundaries on this side and that any proposal should seek to provide an active and attractive frontage to Laurel Close including ground floor windows, a front door to the western most property and a landscaped frontage to mitigate the impact of the parking.

Internally the narrow layout seems a little constricted but useable, however the amenity provision for 3 of the units is below 50m² (42, 45, 36, 140) which is undersized for a family dwelling. It is suggested that a terrace of 3 properties would be a better fit for this site enabling improved orientation and response to historic grain, more useable accommodation predominately on 2 floors and an increased amenity.

White render, aluminium windows, lead canopies and eternit artificial slates are proposed. Whilst render is found in the area, brickwork is the original and predominant material for the surrounding historic properties and in the conservation area generally and may help any proposal to integrate into the streetscene. High quality aluminium windows may be acceptable as part of a well-designed modern proposal although timber should be used for a traditional scheme. Eternit (artificial) slates are considered a poor imitation of natural slate and are inappropriate in the conservation area. It is also noted that whilst curved canopies can be found in the conservation area these are only in properties in the northern section of Leigh Hill some distance from the site and therefore remote from the site. These should not be added as a token gesture to 'blend in' although they may be more acceptable as a well-integrated feature in a revised traditional design.

Overall it seems that the proposal is seeking to maximise development on the site with little regard to respecting the grain, scale and character of the conservation area or producing a high quality cohesive design. This is a prominent site in the conservation area and as such it deserves a well-considered proposal which preserves and enhances the conservation area.

This could be with either a modern or traditional design but must be respectful and high quality.

Sustainability

'Individual CHP and PV on east and west facing slopes outside public view' are proposed to meet the 10% renewables requirement. It is unclear which slopes these are however given the unacceptable design, clarification may not be expedient at this stage. Given that this site is within the conservation area and the roof may be exposed to extensive public views consideration to the public impact of any renewables and their impact on the wider conservation area will need to be carefully considered.

Traffic and Highways

- 7.2 Whilst one to one parking has been provided with this development and it is acknowledged that the site is in a relatively sustainable location with regard to public transport. Consideration has been given to the considerable parking stress within the local area so in this case policy compliant parking provision is required.

Therefore a highway objection is raised due to the lack of parking associated with the development of which could have a detrimental impact on the surrounding highway network.

Leigh on Sea Town Council

- 7.3 Objection

The proposal represents back land development, the balconies will overlook neighbouring properties causing a loss of privacy, the finishing materials being white render were considered inappropriate in a conservation area, the size and scale of the proposal are overbearing and obtrusive on the street scene, there would be additional parking stress in Laurel Close together with possible land stability issues on the site.

Leigh Society

- 7.4 This is clearly backland development of an intensive nature. This is an important conservation area which has been defended successfully at appeal in recent years, particularly in Hadleigh Road where the sweep of the Hill is an important factor.

The design of the proposed dwellings is totally out of character with the conservation area, pays no regard to the setting of the site and Hadleigh Road or the local vernacular.

The proposed dwellings will have an overwhelming effect on properties in Hadleigh Road and New Road, some with very small gardens, and the balconies and orientation of the dwellings will overlook these properties with detrimental effect on the amenity and wellbeing of the residents.

Laurel Close is already an area of parking stress which suffers from parking from visitors to the Old Town, and the imposition of a new access and the effect of additional parking, which is inevitable with only 4 spaces for the development, would be detrimental to the residents of the Close and their amenity.

The orientation of the dwellings is to face north thus going against the grain of the developments in this area. The stability of the area is also a matter of concern and the potential for detrimental effect on current residents through engineering works.

Public Consultation

7.5 A site notice displayed on the 16th February 2016 and neighbours notified of the proposal. 27 letters of objection received stating:

- Badgers on site;
- Overlooking and loss of privacy;
- Increased noise and disturbance;
- Car parking provision is not acceptable
- Concerns regarding stability of the ground as there has been a land slip on this site in the past;
- Limited space between the development and surrounding properties;
- Scale and proportion of the dwellings not in keeping with the neighbouring properties;
- Three storeys out of character;
- Breaches Human Rights Act in particular protocol 1 and 8, which states that a person has the right to peaceful enjoyment of all their possessions which includes the home and land and right to privacy;
- Non-compliance with the Leigh Conservation Area and Leigh Old Town conservation Area;
- Garden grabbing;
- Surrounding residents not notified [**Officer Comment: All neighbours abutting the boundary of the site have been notified including four site notices displayed and a press notice**];
- Properties in New Road will be overlooked and it will affect the view to the estuary for houses in Hadleigh Road [**Officer Comment: Right to a view is not a material planning consideration**];
- Infill development in this location is not acceptable;
- Overshadowing;
- Overbearing;
- Loss of amenity;
- The application site lies within part of the conservation area regarded as arts and crafts and this development contravenes the criteria;
- Fire risk for dwellings in this location given the limited emergency access for services;
- Subsidence;
- Roofline of the properties will obstruct views [**Officer Comment: Right to a view is not a material planning consideration**];
- Loss of light;
- This is not a building plot but green space;
- Development is very close to the neighbouring boundaries;
- Disruption in demolition and construction;

- Notices have been taken down [**Officer Comment: Copies of the site notices were reinstated and the Council have notified neighbours accordingly**];
- **Massing and bulk of properties out of keeping with the surrounding area;**
- Objection to using the vehicle access from Laurel Close for properties;
- No pre consultation with residents [**Officer Comment: All neighbours abutting the boundary of the site have been notified including four site notices displayed and a press notice. It is at the developers discretion to whether they wish to engage with local residents prior to a formal submission**];

7.6 One letter of representation has been received from the Leigh Conservation Area Resident Association stating:

- There has been not attempt to consult with local residents or a consultation event [**Officer Comment: The Council have notified residents abutting the boundary, site notices have been displayed in four locations and a press notice. It is at the developers discretion whether they wish to engage with the public prior to a formal submission**];
- The proposals do not preserve or enhance the character and appearance of the conservation area and cause harm to the area;
- Proposals will result in the loss of amenity and privacy to adjoining residents;
- No justification for the development in this important open space;
- Overdevelopment;
- Three storey dwellings are too big and too close to the backs of the properties in Hadleigh Road and New Road;
- Relationship with adjoining properties is overbearing;
- Views into and out of the conservation area will be harmed

7.7 Councillor Arscott has requested this application be dealt with by Development Control Committee.

8 Relevant Planning History

None

9 Recommendation

Members are recommended to REFUSE PLANNING PERMISSION for the reasons set out below:

- 1 **The proposed development by reason of the size, siting, layout, height and detailed design of the proposed dwellings would appear incongruous and out of keeping within the streetscene and Leigh Conservation Area to the detriment of the character and appearance of the area contrary to the National Planning Policy Framework; Policies KP2 and CP4 of the Core Strategy; Policies DM1, DM3 and DM5 of the Development Management Document DPD2 and advice contained within the adopted Design and Townscape Guide (SPD1).**

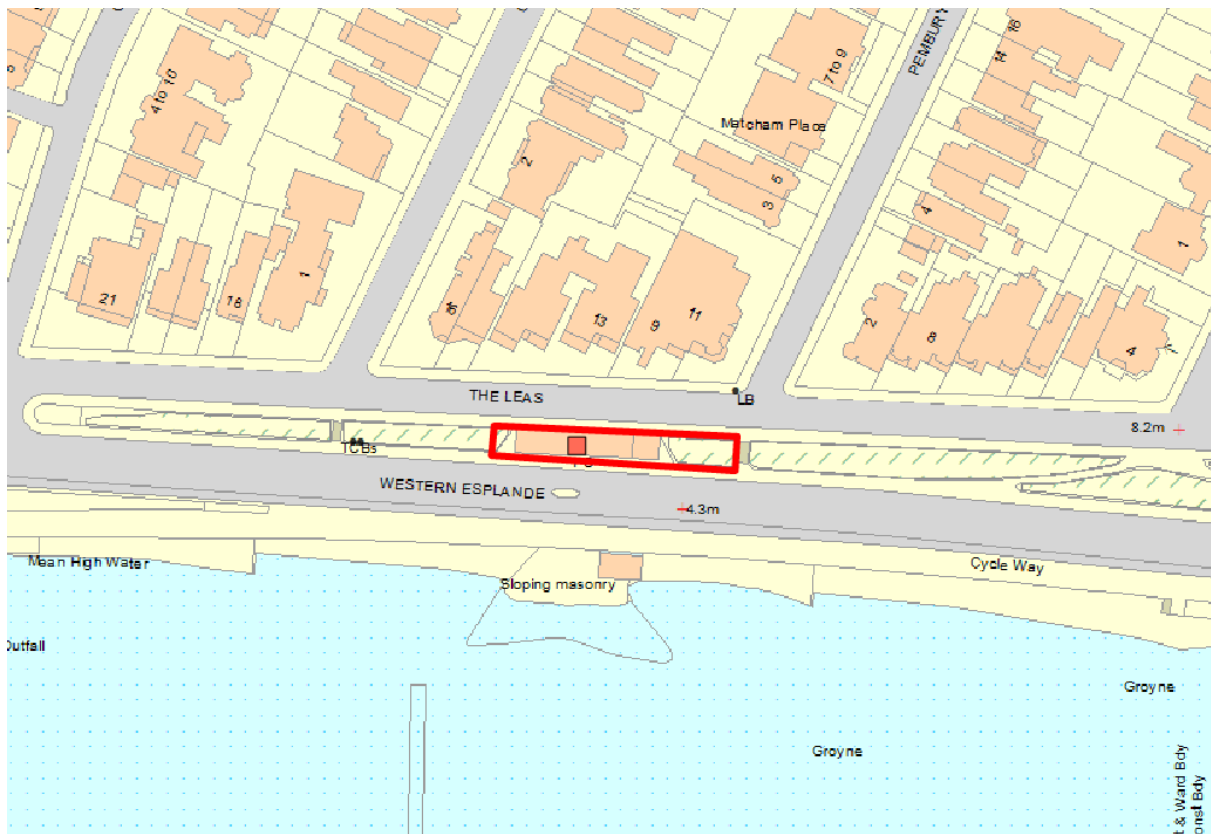
- 2** The proposed development by reason of its height, position and fenestration detail in relation to neighbouring properties in New Road and Hadleigh Road would result in an overbearing form of development, unreasonable sense of enclosure and loss of privacy through unmitigated overlooking to the detriment of the amenities of occupiers properties in New Road and Hadleigh Road contrary to the National Planning Policy Framework, policies KP2 and CP4 of the Core Strategy, policy DM1 of Development Management Document DPD2, and the Design and Townscape Guide.
- 3** The proposed development, by reason of insufficient provision of parking for the existing dwelling no. 9 Hadleigh Road and the proposed dwellings would result in additional on street parking in an area of parking stress to the detriment highway safety and the free flow of traffic in the local highway network contrary to guidance contained within the National Planning Policy Framework and Development Management Document (DPD2) Policy DM15.
- 4** Insufficient information has been submitted to demonstrate accessibility and adaptability of the units. This is contrary to the policy DM8 of the Development Management DPD2 and National Technical Housing Standards 2015 DCLG 2015.
- 5** The proposed development by reason of lack of good quality, useable amenity space for potential future occupiers would result in a poor living environment for future occupiers and be contrary to the provisions of the National Planning Policy Framework, Policy KP2 and CP4 of the Core Strategy, policy DM8 of the Development Management Document DPD2 and advice contained within the adopted Design and Townscape Guide (SPD1).
- 6** The proposed development fails to provide adequate information regarding the use of renewable energy resources which given the scale and siting of the proposal could have a significant impact on design and the appearance, surrounding area including Leigh Conservation Area. This is contrary to the National Planning Policy Framework, Policies CP4 and KP2 of the Core Strategy Policies DM1, DM2 and DM5 of DPD2, and the Design and Townscape Guide, 2009 (SPD1).

Informative

- 1 Please note that this application would be liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore if an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application would also be CIL liable.**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.

Reference:	15/02084/FUL
Ward:	Chalkwell
Proposal:	Form raised terrace to side to be used as seating area with associated landscaping
Address:	Toulouse Restaurant, Western Esplanade, Westcliff-On-Sea, Essex, SS1 1EE
Applicant:	Mr Colin Thorne
Agent:	Knight Gratrix Architects
Consultation Expiry:	16 th March 2016
Expiry Date:	5 th April 2016
Case Officer:	Anna Tastsoglou
Plan Nos:	980 010 A; 980 011 & 980 012
Recommendation:	REFUSE PLANNING PERMISSION



1 The Proposal

- 1.1 Planning permission is sought to form a raised terrace to the east of Toulouse Restaurant, to be used as seating area, with associated storage and soft landscaping.
- 1.2 The proposed raised terrace would be located on a currently open, green area between the restaurant and the public steps to the east which connect Western Esplanade with The Leas. The raised seating area would have an L-shape and it would measure 4.9m deep, 8.2m wide to the south and 11.7m wide to the north, raised 1.3m above the ground level. The proposal would accommodate 32 additional covers in this outdoor seating area.
- 1.3 The stairs to the raised terrace would be adjacent to the proposed new bin store. This bin store would be enclosed with a 2.3 metre high wall area with doors to front, (materials not specified). Storage would be sited under the raised terrace to the east of the proposed stairs. Three sets of doors, of similar design to the doors of the bin store are proposed in the south elevation.
- 1.4 A retaining wall with planter is proposed to be installed to the north of the proposed seating area, which would extend 1.5 metres higher than the raised terrace.
- 1.5 External finishing materials would include render finish to the proposed walls, timber deck and glazed balustrade to the front of the terrace.

2 Site and Surroundings

- 2.1 The site is located on the northern side of Western Esplanade, south of The Leas, and is a single storey restaurant (originally a toilet block) set within a public, open, green bank. Although the restaurant building is sited outside The Leas Conservation Area, the site of the proposed outdoor seating area is within the conservation area. To the south of the site is the Thames estuary, beaches and mud flats which are designated as Sites of Special Scientific Interest, SPA and Ramsar site. The elongated nature of the area and its proximity to the sea creates a feeling of openness.
- 2.2 The area is currently an informally soft landscaped area with hedges planted along the boundary with The Leas. The green spaces within the conservation area such as the application site are limited, predominantly along Western Esplanade and by reason of their sloping nature they are not easily accessible. However, they form important part of the conservation area and positively contribute to its character.
- 2.3 The area to the north of the application site is residential in character, comprising three storey early 20th century terraced buildings, which have been built in early 20th century. To the south of the application site, on the foreshore, is sited 'The Beach Hut' café.

3 Planning Considerations

- 3.1 The key considerations in relation to this application are the principle of the development, design and impact on the character of the area and in particular the conservation area, any traffic and transport issues, impact on residential amenity, ecology and landscaping and flood risk.

4 Appraisal

Principle of Development

NPPF; DPD 1 (Core Strategy) Policies KP1; KP2 and CP4; Development Management DPD Policy DM1; DM5 and DM6.

- 4.1 The proposal is to form a raised terrace to be used as seating area to the east of the existing restaurant, with associated landscaping and storage under the raised decking.
- 4.2 Policy KP1 of the Core Strategy in relation to the regeneration of the Seafront highlights the need *“to enhance the Seafront’s role as a successful leisure and tourist attraction and place to live, and make the best use of the River Thames, subject to the safeguarding of the biodiversity importance of the foreshore”*. Policy CP4 also refers to the necessity of *“creating safe, permeable and accessible development and spaces that encourage walking and cycling within ‘Environmental Rooms’; protecting and enhancing the town’s parks, gardens and other urban open spaces, including all open areas whose townscape and amenity value is important to the surrounding area, and the biodiversity of the area”*
- 4.3 Policy DM6 of the Development Management DPD states that *“Development within or near the Seafront Area must not detrimentally impact upon the Thames Estuary’s openness or views across and backdrops to the River Thames and Southend’s beaches.”*
- 4.4 Amongst other development principles for Chalkwell Esplanade seafront zone is pointed out the need to *“to maintain and enhance the open aspect of the foreshore and beaches, promenade and landscaped areas.”*
- 4.5 The proposal would result in loss of one of the already limited open green areas within the conservation area and it considered that this would have a detrimental impact to its character and would also be contrary to development principles as set in policy DM6. The development is considered to be unacceptable in principle. The impact on the conservation area and the character of the area in general is discussed below.
- 4.6 Although not shown in the plans submitted, experience of similar development, such as Rossi's at 12-14 Western Esplanade, shows that proposals incorporating outdoor seating areas result in additional paraphernalia, such as umbrellas and external heaters installed on the raised decking. It is considered that this additional equipment would result in adverse visual impact, which would not preserve the character of the conservation area. Restricting such equipment may affect usability of the terrace.

Design and Impact on the Character of the Leas Conservation Area:

NPPF; DPD 1 (Core Strategy) Policies KP2 and CP4; Development Management DPD Policy DM1; DM5 and DM6; SPD 1 (Design & Townscape Guide (2009))

- 4.7 It should be noted that good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in the Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM5 of the Development Management DPD. The Design and Townscape Guide (SPD1) also states that *“the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”*
- 4.8 Paragraph 56 of the NPPF states that *“good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”*
- 4.9 Policy DM1 of the Development Management DPD states that all development should *“add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features giving appropriate weight to the preservation of a heritage asset based on its significance in accordance with Policy DM5 where applicable, contribute and enhances the distinctiveness of the area and contribute positively to the space between buildings and their relationship to the public realm”.*
- 4.10 According to Policy KP2 of Core Strategy (CS) new development should *“respect the character and scale of the existing neighbourhood where appropriate”*. Policy CP4 of CS requires that development proposals should *“maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 4.11 Policy DM5 of the Development Management DPD in relation to historic environments states that *“all development proposals that affect a heritage asset will be required to include an assessment of its significance, and to conserve and enhance its historic and architectural character, setting and townscape value.”*
- 4.12 The proposal relates to formation of a raised terraced to be used as seating area. As noted above the proposal would be sited 1.3 metres above the seafront highway/pavement and it would also involve the erection of storage under the raised decking and a 2.3 metres high refuse store. Three sets of doors are proposed in the south elevation of the storage area and one in the bin store, which materials are unknown. Whilst the materials of the proposal would match those of the existing building (restaurant) and a condition requesting details to be submitted would be imposed should permission were to be granted, it is considered that the proposal, by reason of its height, bulk, siting adjacent to the highway, seating area above ground level and loss of open soft landscaped area would result in an development which would not preserve or enhance the character of the conservation area.

- 4.13 The Leas Conservation Area appraisal identifies the importance of the green areas, such as the application site, highlighting that despite their inaccessibility they are very important part of the conservation area and should be protected. Whilst it is accepted that proposal would promote commercial activities, it is considered that the current restaurant has already extended into this green space to the west side (09/00123/FUL). Although the proposal would not be an extension to the existing building, given its mass, scale and maximum height of the terrace from the ground level, it would still result in the loss of the green space and detract from the open character of the area and therefore, an objection is raised in design terms to the proposed raised terrace, with associated storage in this location.
- 4.14 Policy DM6 of the Development Management DPD Development requires that development *“within or near the Seafront Area must not detrimentally impact upon the Thames Estuary’s openness or views across and backdrops to the River Thames and Southend’s beaches.”*
- 4.15 The proposal involves the erection of a retaining wall and planter to the rear of the proposed seating area, which by reason of its height would result in hedges planted higher from the existing. This would contribute to the loss of the openness and possibly views across The Leas and it would not be detrimental to the green open character of the site.
- 4.16 There are other concerns in relation to the proposal, including the additional kitchen pressure on the restaurant facilities (kitchen, extraction requirements, toilets) from the additional tables and also the likely resulting impact from additional paraphernalia required to serve the outdoor seating area. However, given that the above do not consist part of the current application and they are assumption of future possible impacts on the site and conservation area, is not considered reasonable to warrant a reason for refusal on those grounds.

Traffic and Transport Issues

NPPF; Development Management DPD Policy DM15

- 4.17 Although the proposed development would result in additional covers, the use of the terrace would be seasonal in nature and therefore, the parking demand resulting from it would be limited given the presence of on street car parking in this location, the proximity to cycle ways and the likelihood of linked trips with nearby uses and the seafront in general it is considered that the provision of on-site parking, in this instance, acceptable.

Impact on Residential Amenity:

NPPF; Development Management DPD Policy DM1; SPD 1 (Design & Townscape Guide (2009))

- 4.18 Policy DM1 of the emerging Development Management DPD requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities *“having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.”*

- 4.19 The nearest residential units are located some metres from the proposed raised seating area. The proposal would not have any adverse impact on the nearby occupants, in terms of the physical impact of the built development; it would result in an increase in the levels of activity adjacent to dwellings. However, a raised wall and hedges would be erected/planted along the northern boundary adjacent to The Leas and also a reasonable separation distance would be maintained between the development and the nearest residential units sufficient to prevent unacceptable noise and disturbance. It is also noted that the site would generally only be in use during the warmer months of the year and also opening hours could be restricted, should permission were to be granted. It is therefore considered that, on balance, the impact on the proposal to the nearby neighbours would not be such detrimental to justify a refusal.

Flood risk

NPPF; DPD 1 (Core Strategy) Policies KP1; Development Management DPD Policy DM6

- 4.20 Policy KP1 of Core Strategy (CS) states that all development proposals within flood risk zone *“shall be accompanied by a detailed flood risk assessment appropriate to the scale and the nature of the development and the risk”*. It is also noted that *“development will only be permitted where that assessment clearly demonstrates that it is appropriate in terms of its type, siting and the mitigation measures proposed, using appropriate and sustainable flood risk management options.”*
- 4.21 Policy DDM6 of the Development Management DPD *“all development proposals within the Seafront Area must take account of flood risk and coastal change. This will include, where appropriate, developing, agreeing and then incorporating:*
- (i) Appropriate flood defence and engineering solutions; and/or*
 - (ii) Flood resistant and resilient design that provides safe refuge to occupants in the event of a flood and is easily restored after the event.*
 - (i) Design solutions which do not prevent or restrict future maintenance and improvement of flood defences and the Borough Council’s ability to manage coastal change.”*
- 4.22 The site partially lies within Flood Zone 2. However, given that the proposal would be raised above the ground level and it would be a “less vulnerable use”, no objection is raised in relation to flood risk.

Ecology and Landscaping

NPPF; Development Management DPD Policy DM6

- 4.23 The application site is in close proximity to the Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI). Given the scale of the proposal, it is not likely to be an adverse effect on the wildlife or protected species.

- 4.24 In terms of the landscaping, the proposal would result in loss of an existing open soft landscaped area and an objection has been raised to its loss in principle. The existing tree on site would be protected and a small grassed area adjacent to the tree. Hedges are also proposed to be planted along the northern boundary of the seating area. Although it is accepted that the proposal would involve some soft landscaping, it is considered that loss of the open green space would be unacceptable.
- 2.25 An Arboricultural report has been submitted regarding the impact on the development on the existing Tamarisk tree, where it is stated that two piles in excess of one metre from the trunk of this tree would not have an adverse impact on its health. This separation distance would be maintained and as such, no objection is raised in relation to the protection of the existing tree.

5 Conclusion

- 5.1 The proposed development by reason of its size, siting, raised seating area and loss of open soft landscaped area would result in a development which would be visually out of keeping, which would not preserve or enhance the character of the conservation area and would be detrimental to the character of the surrounding area.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (2012): Section 4 (Promoting sustainable transport), Section 7 (Requiring Good design), Section 11 (Conserving and enhancing the natural environment) and 12 (Conserving and enhancing the historic environment)
- 6.2 Development Plan Document 1: Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles) and CP4 (Environment & Urban Renaissance)
- 6.3 Development Management DPD 2015: DM1 (Design Quality); Policy DM5 (Southend-on-Sea's Historic Environment); Policy DM6 (The Seafront) and DM15 (Sustainable Transport Management)
- 6.4 Supplementary Planning Document 1: Design & Townscape Guide (2009)

7 Representation Summary

Public Consultation

7.1 46 neighbours have been consulted and a site notice has been posted on site and three representations have been received, as follows:

- Unacceptable noise levels. **[Officer comment: Please refer to para 4.21]**
- Alcohol consumption and smoking. **[Officer comment: It is noted that a separate licensing would be required to be obtained by the applicant in order to allow selling and consuming alcohol; however, this is not a material planning consideration.]**
- Loss of open space. **[Officer comment: Please see relevant comments on 'Principle of Development' and 'Design and Impact on the Character of the Leas Conservation Area' sections.]**
- Parking implications. **[Officer comment: Please refer to para 4.19]**
- Concerns regarding the use of the existing public toilets.
- The neighbours have also requested the area not to be used as bar, the entrance to be closed after 10 pm, no music and no semi-permanent structures to be installed. **[Officer comment: These concerns could be dealt by condition should permission be granted.]**

7.2 Councillor Folkard has requested that this planning application go before the Development Control Committee for consideration.

Transport and Highways

7.3 There are no highway objections to this proposal however the refuse doors should not open over the public highway this should be changed to a roller shutter type door. **[Officer comment: It is noted that a roller shutter type door may not be acceptable in design terms, given the prominent location of the site in a conservation area.]**

Asset Management

7.4 No planning related comments.

Parks

7.5 No comments received.

Design and Regeneration

7.6 No comments received.

The Southend Society

7.7 No comments received.

Environment Agency

- 7.8 No comments received.

Environmental Protection

- 7.9 The use of the proposed external area is likely to lead to complaints regarding behavioural noise. This is difficult to deal with under statutory nuisance and is more effectively controlled by a planning restriction.

In restricting the time it would be recommend a 1800hrs finish for use of the outside area. This is based on other similar premises on the sea front.

The increase in covers (32) will place additional strain on the ventilation extraction system. In the event that the increase in activity leads to statutory nuisance in respect of odour or noise a notice can be served by EH but this is likely to involve the need for external alterations to control the level of noise or odour as applicable.
[Officer comment: Any additional extract equipment is likely to impact on the conservation area]

Given that no alteration are proposed to the plant at the premises, a standard '5dB(A) below background' in respect of noise condition cannot be imposed.

8 Relevant Planning History

- 8.1 08/01456/AD - Application for approval of details pursuant to Conditions 02, 08, 09, 10, 12, 13 and 14 of planning permission SOS/08/00324/FUL. Grant Part/Refuse Part Permission
- 8.2 09/00123/FUL - Erect single storey side extension. Planning permission granted.
- 8.3 09/00604/FUL - Allow public access to public conveniences between the hours of 9am until 8pm from 1st April until 30th September (Variation of condition 04 on planning permission SOS/08/00324/FUL dated 16/04/08 which stated that the public conveniences must be available for use during restaurant opening hours). Planning permission refused.
- 8.4 12/00337/FUL - Demolish existing dwarf wall to front and replace existing windows to front elevation with bi-folding doors. Planning permission granted.

9 Recommendation

REFUSE PLANNING PERMISSION for the following reason:

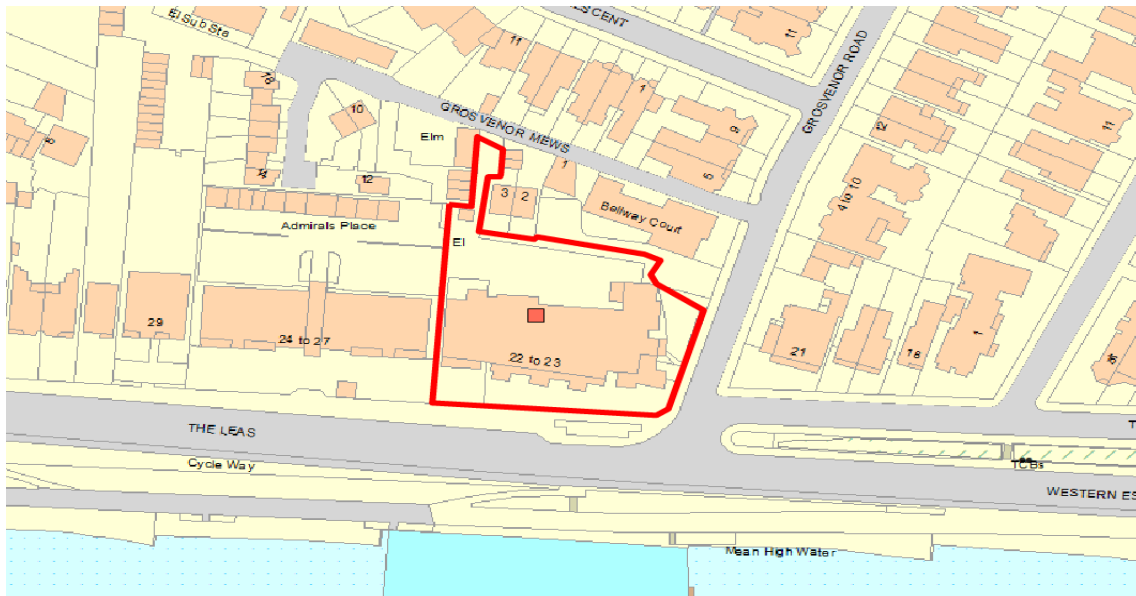
- 01 The proposed raised terrace and associated storage by reason of its siting, bulk and appearance would result in loss of landscaped open space and be visually detrimental to the character and appearance of the streetscene and The Leas Conservation Area contrary to the National Planning Policy Framework, policies KP2 and CP4 of the Core Strategy, policies DM1, DM5 and DM6 of the Development Management Document and Design and Townscape Guide SPD1.**

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.

Informative

- 1 It is considered that additional paraphernalia, including umbrellas or heaters, to serve the proposed seating area or additional facilities or equipment, including toilets or extract ducts, as a result of the additional pressure to the existing restaurant would result in an detrimental impact on the conservation area and they would not considered acceptable.**

Reference:	16/00328/FUL
Ward:	Chalkwell
Proposal:	Convert ground floor 3 bed flat into two flats, additional parking to rear and replacement gates to rear, convert existing flat roofed areas in to roof terraces (6th - 9th floor), alter hard and soft landscaping, alter elevations and erect free standing sign.
Address:	The Shore, 22 - 23 The Leas, Westcliff-On-Sea, Essex
Applicant:	The Shore Limited
Agent:	Daniel Watney LLP
Consultation Expiry:	29/03/15
Expiry Date:	26/04/16
Case Officer:	Ian Harrison
Plan Nos:	TWI-1250-AF-D101 B, TWI-1250-AF-D102 A, TWI-1250-AF-D103 A, TWI-1250-AF-D104 B, TWI-1250-AF-D105 B, TWI-1250-AF-D106 B, TWI-1250-AF-D107 B, TWI-1250-AF-D108 B, TWI-1250-AF-D109 B, TWI-1250-AF-D110 B, TWI-1250-AF-D111 B, TWI-1250-AF-D112 B, TWI-1250-AF-D113 B, TWI-1250-AF-D114 B, TWI-1250-AF-D115 B, TWI-1250-AF-D116 C, TWI-1250-AF-D117 B, TWI-1250-AF-D118 C, TWI-1250-AF-D119 B, TWI-1250-AF-D120 C, TWI-1250-AF-D121 B, TWI-1250-AF-D122 C, TWI-1250-AF-D123 B, TWI-1250-AF-D124 B, TWI-1250-AF-D125 B, TWI-1250-AF-D126 B, TWI-1250-AF-D127 C, TWI-1250-AF-D128 B, TWI-1250-AF-D129 B, TWI-1250-AF-D130 B, TWI-1250-AF-D131 B, TWI-1250-AF-D132 A, TWI-1250-AF-D133 A, TWI-1250-AF-D135 A
Recommendation:	REFUSE PLANNING PERMISSION



1 The Proposal

- 1.1 The application seeks permission for the modification of the building and grounds of The Shore, formerly known as Nirvana, to enable the formation of an additional parking area, one additional flat, roof terraces, the provision of signage and alterations to the landscaping and enclosure of the site.
- 1.2 The wider site is the subject of a lengthy planning history that is set out in full detail below. In summary, two buildings were approved at the site under the terms of application 07/00820/FULM and 07/00850/FUL and subsequently erected to a condition that resembles completion. The ownership of the building is understood to have changed and this led to amendments to the building being sought and approved in December 2014 and February 2015. This application represents further alterations.
- 1.3 The alteration to the ground floor flat would see a three bedroom flat (with an internal area of 165 square metres) be divided to form two one bedroom flats that would measure 72 and 77 square metres in area. No external alterations are required as a result of this proposal.
- 1.4 The proposed alteration to the grounds at the rear of the site would see the provision of an area of hardstanding that would provide parking for 16 cars. This area of land was formerly proposed to be an amenity area for the occupants of the proposed flats, laid mostly to hardstanding, but with raised planters and planting at the boundary of the site. It was previously shown that there would be a change in ground levels and the development was built in that manner. The applicant would amend the levels of the site to create a ramp from the West part of the site to the East, thereby enabling the parking area to be accessed from the track that leads between the on-site electricity substation and the property of 3 Grosvenor Mews. The gates at the Grosvenor Mews frontage of the site would be replaced with metal gates that would measure approximately 2 metres tall to match the gates at the front of the site. This entrance to the site was only intended to provide access to the electricity sub-station and it is noted that the changing ground levels would have prevented vehicular access to the East part of the site.

- 1.4 The building currently features flat roofs above the fifth, sixth, seventh and eighth floors of the building. The application also seeks permission to utilise parts of these flat roofs to enable the provision of roof terraces to serve flats 6.1, 6.2, 7.2, 8.1 and 9.1. The roof terraces would be enclosed by 1.3 metres tall glazed screens which would be positioned at the edges of the existing roof. The roof terraces proposed would measure 121, 130, 129 and 40 square metres in area.
- 1.5 The proposal also seeks permission to increase the height of the balcony enclosures from 1.1 metres to 1.3 metres to comply with building regulations which have recently changed and to reflect the increased floor level of the balconies that would result from fixing new flooring to the balconies.. Permission is also sought to lay different materials to the steps and ground floor terrace at the frontage of the site and erect a sign at the South East corner of the application site.

2 Site and Surroundings

- 2.1 The application site is located to the North of The Leas. The site measures a maximum of 83 metres deep and 68 metres wide and contains a residential development with 9 floors of residential accommodation that appears to have been largely completed but unoccupied. The contents of the site have been developed under the terms of planning permissions 07/00850/FUL and 07/00820/FULM.
- 2.2 The application site is located outside The Leas Conservation Area but within close proximity of the Conservation Area.

3 Planning Considerations

- 3.1 The main considerations in the determination of this application are the principle of the development, design and impact on the streetscene, impact on residential amenity of neighbouring residents, the standard of accommodation for future occupiers, traffic and highways issues and sustainability, and whether the previous reasons for refusal have been addressed.

4 Appraisal

Principle of Development

National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4, CP8; Development Management DPD Policies DM1, DM3, DM7, DM8 and DM15 and the Design and Townscape Guide SPD1 (2009)

- 4.1 This proposal is considered in the context of the Borough Council policies relating to design. Also of relevance are National Planning Policy Framework Sections 56 and 64, Core Strategy DPD Policies KP2, CP4 and CP8. Amongst the core planning principles of the NPPF includes to "*encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.*" Paragraph 56 of the NPPF states; "*the Government attaches great importance to the design of the built environment.*"

Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.” Paragraph 64 of the NPPF states; “that 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.”

- 4.2 Policy KP2 of the Core Strategy requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood. Policy CP4 requires that new development be of appropriate design and have a satisfactory relationship with surrounding development. Policy CP8 requires that development proposals contribute to local housing needs and identifies that 80% of residential development shall be provided on previously developed land.
- 4.3 From this basis it is considered that the provision of an additional dwelling at the application site should not be found objectionable in principle. Moreover, as the other developments are ancillary to the proposed residential use of the building and do not represent a change of use of land, it is considered that the proposals should not be found unacceptable in principle, although the following matters require more detailed consideration.

Design and Impact on the Character of the Area

The National Planning Policy Framework; DPD1 (Core Strategy) policies KP2 and CP4; DPD2 (Development Management) policies DM1 and DM3 and the Design and Townscape Guide.

- 4.4 As set out above, the provision of an additional flat at the application site would occur without any material changes occurring to the external appearance of the building and as such the provision of an additional flat should not be objected to on visual grounds.
- 4.5 The alterations to the grounds at the rear of the site would see the replacement of an amenity area with a parking area. However, the approved amenity area would have been largely dominated by hardstanding, with just a few raised planters and boundary planting. Boundary planting could be provided within the development that is now proposed and therefore the difference in the appearance of the site would mostly be derived from the presence of cars at the rear of the site and the use of different hardstanding. Given the presence of a large parking court to the West of the application site, to the rear of a block of flats, it is considered that this arrangement of providing parking at the rear of a building is not out-of-keeping with the character of the area. The parking court to the side of Grosvenor Court also demonstrates that this is the case, and as this is at a higher ground level and is directly visible from the East, it is considered that the visual impact of the proposed car parking area would not be harmful to the character of the area.

- 4.6 The existing building features balconies that were arranged to become a prominent feature of the site, with the underside of the balconied painted in a variety of bright colours. The provision of roof terraces would represent a continuation of the theme of providing external amenity areas at the site, with the proposed roof terraces being enclosed by similar screens. As the screens would be positioned at the front edge of the building's roofs, the screens would be visible from the public domain. However, as they would be of the same style as the existing balconies, it is considered that the roof terraces would not be out-of-keeping with the treatment of the remainder of the building and would not have a harmful visual impact.
- 4.7 The proposed changes to the materials used at the frontage of the site and the alteration to the gates at the North of the site would not materially change the character or appearance of the site or the building. The proposed signage at the frontage of the site would be more visible, but would not become an unduly dominant feature of the site or the streetscene as it would be positioned in a grassed enclave at the frontage of the site that is surrounded by tall walls. The impact of the signage would therefore be localised and would not materially detract from the appearance of the site or the area. It is noted that it was previously the intention of the applicant to provide an art installation at this part of the site, but this has not been secured through the imposition of a condition and it is not therefore possible to insist upon its provision.

Impact on Residential Amenity.

National Planning Policy Framework, Policy CP4 of the Core Strategy, Development Management DPD Policy DM1 and Design and Townscape Guide.

- 4.8 Paragraph 343 of SPD1 (under the heading of Alterations and Additions to Existing Residential Buildings) states, amongst other criteria, that extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties. Policy DM1 of the Development Management DPD also states that development should "Protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight."
- 4.9 The proposed roof terraces would be positioned on the lower roofs between the two taller parts of the building which exist at the East and West end of the site. These taller buildings would restrict views from the roof terraces to the East and the West. No properties exist to the South and it is therefore considered that the only potential views from the terraces that would overlook residential properties would be to the North. In most instances the terraces would be positioned to the South of parts of the existing building and therefore views to the North would be restricted. Where there are no structures to prevent views, the high level of the terraces means that most views from the properties would be well above the neighbouring residential properties and any views downwards would be so acute that they would not enable passive overlooking to occur.

Noting that the existing building already features balconies and a number of windows on the North elevation it is considered that the development would not cause materially worse overlooking of the neighbouring properties than the existing situation and therefore no objection should be raised to this application on those grounds.

- 4.10 The use of the car parking area and the access to that parking area would result in vehicle movements being much closer to the neighbouring properties to the North. The noise associated with these vehicle movements would be much greater than the approved development with vehicles passing adjacent to 3 Grosvenor Mews and then manoeuvring in a confined area that is located in close proximity to the properties of 1, 2 and 3 Grosvenor Mews and Grosvenor Court. Although the application site is at a lower ground level to these properties, the existing building would prevent the escape of noise to the South and as such there is potential for noise to reverberate within the application site. The passing of so many vehicles in close proximity to the existing properties of Grosvenor Mews is likely to cause significant disturbance and it has not been demonstrated by the applicant that this would not be harmful to residential amenity. Grosvenor Mews is a quiet, narrow road and is reasonably well sheltered from surrounding highways and the activity of the seafront and as such it is considered that background noise levels are generally quite low at this time. The road currently serves 14 properties, with another property approved at Elm Cottage and it is therefore the case that the number of vehicle movements along the highway is limited. The movements of 16 additional vehicles, all of which would pass immediately adjacent to several properties that are adjacent to Grosvenor Mews would represent a significant additional noise source. In the absence of any evidence to demonstrate that the use of this access would not cause harm to residential amenity, it is considered that a precautionary stance should be taken and it should be concluded that the development would be likely to cause harm to residential amenity, contrary to the abovementioned policies of the Development Plan.

Standard of Accommodation:

National Planning Policy Framework, Policy KP2 and CP4 of the Core Strategy, Development Management DPD Policies DM1, DM3 and DM8 and the Design and Townscape Guide.

- 4.11 Paragraph 17 of the NPPF states that “*planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings*”. It is considered that most weight should be given to the Technical Housing Standards that have been published by the Government which are set out as per the below table:

- Minimum property size for residential units shall be as follow:
 - (a) 1 bedroom (2 bed spaces) 50 square metres
- Bedroom Sizes : The minimum floor area for bedrooms to be no less than 7.5m² for a single bedroom with a minimum width of 2.15m² ; and 11.5m² for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.

- Floorspace with a head height of less than 1.5 metres should not be counted in the above calculations unless it is solely used for storage in which case 50% of that floorspace shall be counted.
- A minimum ceiling height of 2.3 metres shall be provided for at least 75% of the Gross Internal Area.

The following is also prescribed:

- Provision of a storage cupboard with a minimum floor area of 1.25m² should be provided for 1-2 person dwellings. A minimum of 0.5m² storage area should be provided for each additional bedspace.
- Amenity : Suitable space should be provided for a washing machine and for drying clothes, as well as private outdoor amenity, where feasible and appropriate to the scheme.
- Bedroom Sizes : The minimum floor area for bedrooms to be no less than 7m² for a single bedroom with a minimum width of 2.15m² ; and 12m² for a double/twin bedroom with a minimum width of 2.55m².
- Storage: Suitable, safe cycle storage with convenient access to the street frontage.
- Refuse Facilities: Non-recyclable waste storage facilities should be provided in new residential development in accordance with the Code for Sustainable Homes Technical Guide and any local standards. Suitable space should be provided for and recycling bins within the home. Refuse stores should be located to limit the nuisance caused by noise and smells and should be provided with a means for cleaning, such as a water supply.
- Working: Provide suitable space which provides occupiers with the opportunity to work from home. This space must be able to accommodate a desk and filing/storage cupboards.

4.12 The proposed flats would be of adequate size to comply with the abovementioned standards and adequate refuse and cycle storage facilities would be provided at the application site.

4.13 It has not been demonstrated that the proposed flats would be able to accord with Part M4 (2) of the Building Regulations, but given the context of the site and the fact that the parameters of the conversion are fixed as it is not feasible to extend the building, it is considered that the proposal should not be required to accord with those standards in this instance.

Planning Obligations and Community Infrastructure Levy

- 4.14 The proposal sees the creation of one additional residential unit and this element of the proposal is therefore considered to be CIL Liable. Although the conversion of one dwelling into two dwellings would not normally be CIL Liable, in this instance, because the existing building has not been put to residential use and therefore the use has not been established, it is considered that the proposal is CIL Liable. The CIL charge for this proposal is £8,940 as 149 square metres of residential floorspace would be created by the proposed development.
- 4.15 The development at this site was approved subject to the completion of Section 106 agreements to secure the provision of affordable housing and financial contributions towards education and bus services and the landscaping of a planter at the frontage of the site. It is known that the affordable housing has been provided at an off-site location, but the terms of the legal agreement remain in effect as the financial contributions are yet to be paid as the requisite number of flats have not been occupied. It is considered that this proposal will not amend the need to comply with the requirements of the Section 106 agreement that has previously been completed and it is therefore not necessary to amend or vary the Section 106 agreement that has been completed.

5 Conclusion

- 5.1 Although it is considered that the proposal is acceptable in most respects, it is considered that the relatively intensive use of a new access to the North of the site and the proposed parking area, with a level of use that would be significantly noticeable in comparison to the authorised use of the existing site and extent of use of Grosvenor Mews, would be likely to cause disturbance and noise to an extent that would cause harm to the amenities of neighbouring residents. In the absence of any evidence to the contrary it is considered that the application for planning permission should be refused as it has not been demonstrated that the proposal would accord with the content of the development plan.

6 Planning Policy Summary

6.1 National Planning Policy Framework

Core Strategy DPD (adopted December 2007) Policies KP2 (Spatial Strategy) and CP4 (Development Principles).

Development Management DPD (adopted July 2015) Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM8 (Residential Standards) and DM15 (Sustainable Transport Management).

Design and Townscape Guide SPD (adopted December 2009)

7 Representation Summary

Highway Authority

- 7.1 Access to the proposed parking area is via an existing access way in Grosvenor Mews, the parking layout shows parking for an additional 16 vehicles which are able to manoeuvre effectively and leave the site in a forward gear. It is not considered that the additional vehicle movements which will be generated as a result of the parking proposal will have a detrimental impact upon the public highway within the local area. Therefore given the above information there are no highway objections to this proposal.

Design and Regeneration Team

- 7.2 No objections have been raised to the proposals except for the following points:
- the original approval shows that this area was designated as a space for an art installation and it is regrettable that it is now proposed to change this to signage. It is considered that a more subtle approach to signage could be achieved maybe on the building itself and that a more artistic piece with associated landscaping would be better in this location and make more of a contribution to the streetscene rather than advertising the development. As proposed the signage looks rather like the entrance to a business park and is not really appropriate in this context. If art is no longer viable then a good quality landscaping scheme would be preferred in this location.
 - A concern is raised in relation to the rendered blocks on the proposed roof terraces and it is therefore considered that details in relation to the materials used where the terraces are to be divided should be submitted under the terms of a condition.

Public Consultation

- 7.3 A site notice was posted and letters were sent to 47 neighbouring properties. 4 letters of objection have been received which object to the application for the following reasons:
- The proposal should not be considered.
 - Landscaped gardens should be provided as previously proposed and not car parking.
 - Additional lighting of the car parking area will cause light pollution.
 - Additional traffic will use Grosvenor Mews.
 - The use of Grosvenor Mews might put residents of Bellway Court in danger as they access their bin stores.
 - Vehicles will pass very close to neighbouring properties.
 - Objects might be blown from the proposed roof terraces due to winds.
 - The use of the car parking area would cause noise.

8 Relevant Planning History

- 8.1 Under the terms of application 07/00850/FUL planning permission was granted for the erection of a 9 storey block of 9 flats linked to and utilising parking facilities beneath the development at no. 22 The Leas. The development of 22 The Leas was granted under the terms of application 07/00820/FULM.
- 8.2 Application 11/01095/AD sought the approval of details pursuant to Condition 08 (Landscaping) of planning permission 07/00850/FUL. The submitted details were approved.

9 Recommendation

- 9.1 It is recommended that planning permission be **REFUSED** for the following reason:

- 01 It has not been demonstrated to the satisfaction of the Local Planning Authority that the use of the proposed car parking area and the access from Grosvenor Mews would not cause noise and disturbance to an extent that would cause material harm to the amenities of neighbouring residents. The proposal is therefore contrary to the National Planning Policy Framework, policy KP2 of DPD1 (Core Strategy), policy DM1 of DPD2 (Development Management) and the Design and Townscape Guidance (SPD1)

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.

Informative

Please note that this application would be liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore if an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application might also be CIL liable.