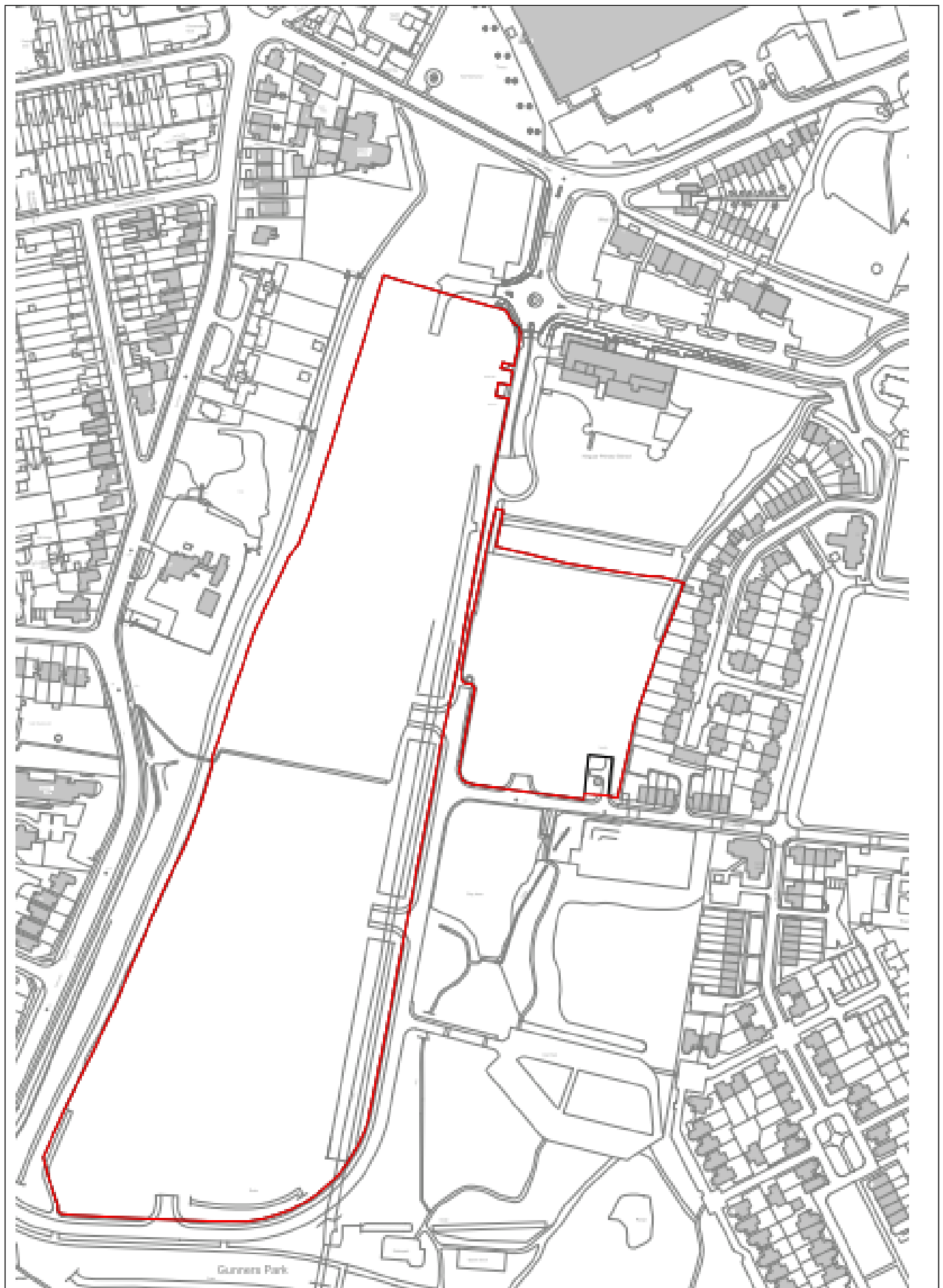


<b>Reference:</b>	24/00237/AMDT	
<b>Application Type:</b>	Material Amendment Application	
<b>Ward:</b>	Shoeburyness	
<b>Proposal:</b>	Application to vary condition 03 (approved parameter plans and landscape plan) to state - The development shall be carried out in accordance with the approved parameter plans which set out the parameters for the heights and levels of the development, the locations of the different uses across the site, the landscaping and the access and movement arrangements for the site BA9923-1600 Rev 06 - Land Use Parameter Plan; BA9923-1601 Rev 05 - Heights and Levels Parameter Plan; BA9923-1602 Rev 04 - Access and Movement Parameter Plan; PR243-01 Rev L - Landscape Master Plan, so replacing approved parameter plans and Landscape Plan, 032-S2-P401-D-Land Use, 032-S2-P402-E - Heights and Levels, 032-S2-P403-E-Access and Movement and 2166-00-20-B-Landscaping with amended drawings: BA9923-1600 Rev 06-Land Use Parameter Plan, BA9923-1601 Rev 05-Heights and Levels Parameter Plan, BA9923-1602 Rev 4 -Access and Movement Parameter Plan, PR243-01 Rev L-Landscaping Plan (Material Amendment of Planning Permission 20/01227/OUTM dated 26/02/2021)	
<b>Address:</b>	Land Between Barge Pier Road and Ness Road, Shoeburyness, Southend-on-Sea, Essex	
<b>Applicant:</b>	C/O Savills	
<b>Agent:</b>	Mr Giuseppe Cifaldi of Savills	
<b>Consultation Expiry:</b>	15.08.2024	
<b>Expiry Date:</b>	23.08.2024	
<b>Case Officer:</b>	Abbie Greenwood	
<b>Plan Nos:</b>	<b>BA9923-2201, BA9923-1600 Rev 06, BA9923-1601 Rev 05, BA9923-1602 Rev 04, PR243-01L Landscape Master Plan</b>	
<b>Additional information:</b>	<b>Design and Access Statement</b> <b>Environmental Statement Compliance Statement by Lanpro dated June 2024</b> <b>Badger Mitigation Survey Rev A by SES dated June 2024</b> <b>Briefing Note on contaminated materials by IDOM reference BN-22438-24-137 dated 25.04.24</b> <b>Cover letter from Savills dated 9 February 2024</b>	
<b>Recommendation:</b>	<b>a) That the Council enters into a LEGAL AGREEMENT</b>	

**under section 106 of the Town and Country Planning Act 1990 (as amended) as set out under application reference 24/00420/DOV or a deed of variation to the legal agreement previously signed pursuant to planning permission reference 20/01227/OUTM on 26<sup>th</sup> February 2021 as amended by 21/01887/DOV5 solely to bind to it to this consent.**

- b) Following the completion of a legal agreement as set out in recommendation a) above DELEGATE to the Executive Director (Environment and Place), the Director of Planning and Economy and the Service Manager-Development Management and Enforcement to GRANT PLANNING PERMISSION subject to CONDITIONS as set out in Section 9 of this report below.**
  
- c) In the event that a deed of variation as outlined in recommendation a) has not been completed by 23 August 2024 or an extension of this time as may be agreed by the Executive Director (Environment and Place), Director of Planning and Economy or Service Manager - Development Management and Enforcement, authority is delegated to the Director of Planning and Economy or Service Manager - Development Management and Enforcement, to refuse planning permission for the application on grounds that the development will not secure the necessary contribution for affordable housing, secondary education, highways works and RAMS and that, as such, the proposal would be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, KP3, CP3, CP6 and CP8 of the Core Strategy (2007) and Policies DM1, DM3, DM7 of the Development Management Document (2015) and the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (2020)..**



## **1 Site and Surroundings**

- 1.1 The application site consists of 2 parcels of land totalling some 8.5 hectares (ha); the larger of the two, to the west of New Barge Pier Road, is some 7.1 ha; the smaller site to the east of New Barge Pier Road is some 1.4 ha. The site is undeveloped, but access points into the site have been previously constructed. The site is relatively flat lying at 1-3m AOD (Above Ordnance Datum). The larger part of the site is roughly rectangular and is to the south of the Lidl store and to the east of dwellings in Ness Road. The smaller part of the application site is to the east of the larger site. This area is directly south of Hinguar School, to the north of the Gunners Park play area and adjacent to the rear gardens of dwellings in Ashes Road. Gunners Park is to the southeast and south of the application site and is allocated as 'Protected Green Space'. The land to the immediate south of the main part of the site is also designated as a Local Wildlife Site (LWS), Site of Special Scientific Interest (SSSI) and Local Nature Reserve. Further south, this part of the Estuary constitutes a SSSI, Special Protection Area (SPA), RAMSAR and Local Nature Reserve. The site is mainly open scrub land with a few trees mostly along the western boundary. There are no Tree Preservation Orders (TPOs) on the site.
- 1.2 The wider surrounding area is mixed. To the east and west of the site is predominately residential. To its north are commercial uses and a school and the land to the south is undeveloped open space with the estuary beyond.
- 1.3 Shoebury Garrison Conservation Area is some 120m to the east of the site; with the boundary running along Boundary Way, Magazine Road and St George's Lane. There are listed buildings within the Conservation Area. The nearest listed buildings to the east of the application site include the Grade II listed buildings Blocks A to G at The Terraces and the Garrison Church of St Peter and St Paul. To the west, the closest listed buildings include the Grade II Listed South Shoebury Hall Farmhouse and Garden House, with the Grade II\* Church of St Andrew beyond. There are also locally listed buildings to the west, including Nos 135 Ness Road and 109 Ness Road. To the north of the site is the Grade II listed Shoeburyness War Memorial. The 'Danish Camp' prehistoric settlement Scheduled Monument is some 300m to the east.
- 1.4 The larger, western part of the site is bounded by Barge Pier Ditch to the east (within the application site boundary) and New Barge Pier Road to the south and by the River Shoe/flood alleviation ditch (C-X Ditch) to the west (outside the site boundary). There are no public rights of way on the site, however, two footpaths run through the site, one north-south from New Barge Pier Road to Campfield Road along the western site boundary, which largely falls outside the site, the other east-west between Ness Road and Magazine Road.
- 1.5 The application site has no specific allocation within the Development Management Document Proposals Map. Within the Core Strategy Key Diagram the general location of the site is allocated as an Industrial/Employment Area. The Key Diagram also allocates the site to provide a primary care centre. According to the Environment Agency Flood Maps, the entire site is located within Flood Zone 3.

## **2 The Proposal**

- 2.1 Outline Planning permission ref. 20/01227/OUTM was granted on 26/02/2021 to '*Erect up to 214 residential units (Use Class C3), provision of a new health centre up to 1000sqm (Use Class D1), up to 400sqm of retail floorspace (Use Class A1-A3), land raising, all associated car parking, new foot and cycle paths, public open space, landscaping and ancillary works and infrastructure, install vehicular access off Barge Pier Road, New Garrison Road and Magazine Road.*' That permission approved the

principle of this quantum of development subject to a series of parameter plans which set out the framework for the detailed development in terms of: the location of uses including dwellings, commercial uses and public open space; the maximum development heights and land levels across the site; and the access and movement routes into and through the site. A landscape masterplan, which set out the overall design of the public space across the site was also approved. Details of appearance, layout and scale were reserved for future consideration.

2.2 The development was approved subject to the following condition:

*'03 The development shall be carried out in accordance with the approved parameter plans which set out the parameters for the heights and levels of the development, the locations of the different uses across the site, the landscaping and the access and movement arrangements for the site: 032-S2-P403-E, 032-S2-P402-E, 032-S2-P401-D, 032-S2-P001-C, 2166-00-20-B.*

*Reason: To ensure the development is carried out in accordance with the development plan.'*

2.3 That outline application included an illustrative masterplan which demonstrated one option for how the proposed quantum of development could practicably be delivered at the site. This was helpful in demonstrating that a scheme of the quantum proposed, could have an acceptable impact on the surrounding area. Such illustrative masterplans submitted at outline stage are not definitive. Detailed plans were not provided or approved within the decision made for that Outline application, being reserved for later consideration as part of the normal planning process for such major development proposals.

2.4 The approved parameter plans and landscaping scheme design were generally reflective of, and in turn were focused at that time on, the illustrative masterplan content resulting in limited tolerances allowing for flexibility for alternative design options. Condition 03 above requires the reserved matters scheme to be carried out in accordance with the approved parameter plans. Now that the detailed scheme's design has fully evolved it has become apparent that, whilst the overall quantum of development proposed is below the threshold set within the outline permission, accommodating the detailed design depends on some alterations to the parameter plans and a change from the approved landscaping design so that there is conformity between them. Whilst these changes are relatively small scale, condition 03's strictly phrased wording has no flexibility to provide for a situation in which an alternative detailed development proposal would fall within tolerances allowed for within the condition wording so not falling outside the strictures of these approved parameter plan limits or the approved landscaping design. This application therefore seeks to vary the parameter plans and the landscaping design to ensure compliance between those and the detailed scheme separately proposed under application reference 24/00311/RESM which is pending determination. That application appears separately on this DCC agenda. The merits of the detailed scheme itself are assessed in that separate report for that reserved matters application.

2.5 Officers consider that the level of change in this case falls within the scope of a Section 73 (amendment) application. The changes to each parameter plan and the overall landscaping design are discussed in detail below.

### **3 Relevant Planning History**

3.1 The most relevant planning history for the determination of this application is shown on

Table 1 below:

**Table 1: Relevant Planning History of the Application Site**

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
24/00311/RESM	Approval of Reserved Matters including details of appearance, layout, and scale relating to the development of the site, comprising of 210 residential dwellings (Class C3) with associated infrastructure, cycle and car parking, public open space, play and refuse recycling details, submission of details for discharge of conditions 2 (Phasing Plan), 8 (Existing and Proposed Site Levels), part discharge of condition 11 (Landscaped Areas and Play Space), 13 (Timetable for Implementation of Biodiversity Mitigation Measures), 16 (Timetable for Implementation of Ecology Enhancement Measures), 20 (Cycle Parking Details), 25 (Refuse and Recycling Details), 28 (Flood Risk and Drainage Strategy), 34 (Part M4(2) and (3) details) (Approval of reserved matters following outline permission 20/01227/OUTM dated 26/02/2021).	Pending Consideration.
24/00420/DOV	Modification of planning obligation (Section 106 agreement) dated 26th February 2021 pursuant to application 20/01227/OUTM dated 26.02.2021 (as amended by 21/01887/DOV5) to modify the affordable housing obligations.	Pending Consideration.
24/00153/AD	Application for approval of details pursuant to condition 7 (archaeological recording and analysis) of planning permission 20/01227/OUTM dated 26/02/2021.	Details Agreed.
23/01387/AD	Application for approval of details pursuant to condition 09 (demolition and construction management plan and strategy) of planning permission 20/01227/OUTM dated 26.02.2021.	Withdrawn.
23/01338/AD	Application for approval of details pursuant to condition 03 (strategy for lorry movements) of planning permission 22/01602/RES dated 02.12.2022.	Details agreed.
23/01084/NON	Application to vary and amend condition 41 (assessment of the nature and extent of contamination) - to modify trigger points for parts 1 and 2 of condition to allow for land raising works to take place - (Non-Material Amendment of planning application 20/01227/OUTM dated 26.02.2021)	Non-material amendment allowed.
23/00804/AD	Application for approval of details pursuant to condition 02 (ditch survey and maintenance plan) of planning permission 22/01602/RES dated 02.12.2022	Details Agreed.
22/01602/RES	Approval of Reserved Matters (Appearance, layout and scale) for the engineering works	Reserved Matters Approved.

	required to raise the levels of the site to create the development platforms and associated infrastructure works. Submission of details for conditions 2 and part discharge of conditions 7, 8, 9, 13, 16 and 17, in relation to the engineering works of planning permission 20/01227/OUTM dated 26.02.2021 - Erect up to 214 residential units (Use Class C3), provision of a new health centre up to 1000sqm (Use Class D1), up to 400sqm of retail floorspace (Use Class A1-A3), land raising, all associated car parking, new foot and cycle paths, public open space, landscaping and ancillary works and infrastructure, Install vehicular access off Barge Pier Road, New Garrison Road and Magazine Road (Outline Application).	
21/01887/DOV5	Modification of planning obligation (Section 106 agreement) dated 26th February 2021 pursuant to application 20/01227/OUTM to amend the chargee provisions in relation to the affordable housing.	Modification Agreed.
20/01227/OUTM	Erect up to 214 residential units (Use Class C3), provision of a new health centre up to 1000sqm (Use Class D1), up to 400sqm of retail floorspace (Use Class A1-A3), land raising, all associated car parking, new foot and cycle paths, public open space, landscaping and ancillary works and infrastructure, install vehicular access off Barge Pier Road, New Garrison Road and Magazine Road (Outline Application).	Planning permission granted.
20/00823/BC3M	Temporary storage of soil at New Barge Pier Road.	Planning permission granted.
20/00740/RSO	Residential development of up to 250 dwellings and a health centre (class D1) vehicular access off Barge Pier Road and areas of open space and recreational areas and associated infrastructure. (Request for Scoping Opinion).	Scoping opinion issued.
20/00310/RSE	Residential development of up to 250 dwellings and a health centre, vehicular access off Barge Pier Road and associated new and enhanced open space comprising informal/natural greenspace. (Request for Screening Opinion).	EIA development and Environmental Statement required.
18/01975/FULM	Re-grading and retention of existing on-site spoil heap, erect 9 Commercial Units (Use Class B1/B8) with ancillary Trade Counter, 1 Retail Unit (unit 8) (Use Class A1) and 1 Unit (Use Class Sui Generis) for use as Vets (unit 1), layout Car Parking Spaces and Cycle Parking, construction of vehicular and pedestrian accesses from existing roundabout and layout soft landscaping.	Planning permission granted.
14/01495/BC3M	Temporary storage of soil and install wheel cleaning apparatus at New Barge Pier Road.	Planning permission granted.

12/01198/BC3M	Temporary storage of soil and install wheel cleaning apparatus at New Barge Pier Road.	Planning permission granted.
15/02053/OUTM	Erect 172 dwellinghouses and 14,130sqm of Offices (Class B1(a) and Health Centre (Class D1) (outline application) (Amended Proposal).	Outline planning permission granted. Reserved matters never submitted.
14/00566/OUTM	Erect 172 dwellinghouses and 15000sqm of Offices (Class B1) (outline application).	Withdrawn.
10/01829/FULM	Erect three storey building for use as Primary Care Centre (Class D1) incorporating entrance ramp with steps and balustrade to north boundary, lay out associated parking for 171 cars, 78 cycle spaces, ambulance bay and service yard, hard and soft landscaping, erect sub-station to east elevation and erect 1.1m high mesh fencing to boundary on land adjacent to Barge Pier Road.	Planning permission granted.
07/00366/FUL	Form access road from south of roundabout on Barge Pier Road; form flood alleviation ditch to east of Ness Road between Campfield Road and New Ness Road access.	Planning permission Refused.
13/01743/RESM	Details of New Gunners Park infrastructure/facilities including children's play area, toddlers play area, wheeled sports and multi-use games area, tennis courts, car parks, footpaths/cycleways and historic military structures. (Approval of reserved matters following outline permission 00/00777/OUT granted on 06/02/2004).	Reserved matters approved.
00/00777/OUT	Mixed use development comprising conversion of existing buildings and erection of new buildings for: parkland and open space; up to a total of 465 dwellings; up to 23,750sq.m of business floorspace (Class B1(a) and (B)); up to 1625sq.m of non-residential (Class D1) uses, including A. a health centre within the mixed use area, B. the former Garrison Church as a community hall, and C. the former battery gun store as a heritage centre; up to 5,900sq.m of leisure (Class D2) uses; up to 800sq.m of retail (Class A1); up to 600sq.m of financial services (Class A2) use; formation of hotel (Class C1) with approximately 40 bedrooms; land for a new school; erection of landmark residential building; construction of new access roads; and associated works (Outline).	Planning permission granted

## 4 Representation Summary

### Public Consultation

- 4.1 Three hundred and forty (340) neighbouring properties were consulted by letter, eight (8) site notices were displayed and the application was advertised in the press. Two rounds



of consultation were undertaken. At the time of writing eight (8) letters of representation have been received which make the following summarised comments:

<b>Representation</b>	<b>Officer Comment</b>
The plans in this application do not show any detail of the scheme.	The detail of the scheme is shown in separate application reference 24/00311/RESM. The same neighbours were consulted separately on this scheme.
The original outline permission was based on impractical and insufficient submissions and should be void.	The original outline permission 20/01227/OUTM only considered matters of principle, access and landscaping and is to be expected that a scheme will evolve in its detail through the reserved matters application.
The images of the proposed development look quite nice but more should be provided showing all aspects of the scheme.	Images of the detailed scheme are within separate application ref. 24/00311/RESM.
The proposed heights at the southern end of the site are too high and would be out of character with the surrounding area. The height is partially caused by having to raise the buildings out of the flood plain.	The numerical maximum heights are unchanged from that approved within the outline planning permission although the amended parameter plans seek to amend the detailed positioning of the higher elements of the scheme to a degree. See main report assessment below for an appraisal of these impacts.
The original outline planning permission did not include land raising and this together with the added floors will make this site dominant of the surrounding development.	The original outline development did include land raising. The maximum heights for the development are unchanged from the original outline planning permission.
The existing site is an asset for local people and will be lost.	The site is private land and is currently fenced with only a central footpath open to the public. This route will be reinstated as part of the development's overall landscaping scheme. The parkland around the development will also be publicly accessible.
Concern over impact on existing wildlife. The existing nature reserve to the south must be preserved. A nature reserve in this area would be preferable.	See Ecology overview in main report assessment below. Shoebury Nature Reserve is outside the boundary of the site.
Impact of land raising and concern that the development will increase flood risk to the surrounding area. Further information is required in relation to flood risk implications.	See comments on Flood Risk in main report assessment below.
Environment Agency comments are based on out of date information leading to them making aspirational opinions. The flood infrastructure around the site is inadequate.	The Environment Agency have confirmed that the modelling undertaken for the outline application in terms of coastal flooding is still valid and demonstrates that the proposal will not have a detrimental impact on flood risk in this area. The Environment Agency have raised no

	objection to the applications under consideration.
The existing drainage ditches in this area are important for drainage and need to be maintained.	The existing drainage ditches are unaffected by the development and will remain as existing.
Concern over impact on neighbours amenity during construction including dust and impact of transportation of materials. Ashes Road residents should be offered compensation.	A Construction Management Plan (CMP) has been approved for the construction of the raised platforms for this development which sets out measures to mitigate the impact of the construction works, including dust, on neighbours. A separate CMP will be required to be agreed in relation to the construction of the buildings in due course.
Concern that the new development will give rise to overlooking of neighbours. Trees should be planted along the boundary with Ashes Road.	The placement of windows is not a matter for this application. This issue will be considered and assessed under the separate reserved matters application. Trees have been added to the eastern boundary to provide additional screening to neighbours.
General impact on residential amenity.	See main report assessment below for an appraisal of these impacts.
Impact on local infrastructure and road network, schools and the NHS from population increase. Concern that the road network cannot cope with the construction lorries and repairs may be needed.	The quantum of development is unchanged from that found to be acceptable under the outline planning permission.
Concern over construction lorry movements transporting infill material to the site.	A Construction Management Plan (CMP) has already been approved for the engineering works phase of the development which includes measures to mitigate the impact of construction on neighbours and includes routing of vehicles though the city. A separate CMP will subsequently need to be agreed for the construction of the buildings. This is controlled by condition 09 of the Outline Planning Permission.
Impact on blue flag status of local beaches from surface water runoff via Gog's Berth pipe. Concern over surface water flooding.	The Lead Local Flood Authority (LLFA) have confirmed that the Gog's Berth pipe extends 30m into a wet area so does not discharge into mud or sands. Full details for surface water drainage have been submitted for assessment under separate application reference 24/00311/RESM.
Concern over loss of employment uses at the site.	This application seeks to amend the location of the employment uses so they are separate to the residential uses. The new location for these is at the northernmost end of the site as shown on the revised Land Use Parameter Plan.
The failure to include a health centre fundamentally changes the proposal	The current application subject of this officer report relates only to the residential

	<p>element of the overall mixed-use scheme granted outline planning permission. A separate site has been retained at the northern end of the outline application area for potential commercial development reserved matter details for which can come forward separately provided they are in accordance with the terms and conditions of the outline planning permission. The strategic aims of the NHS are not for consideration under any of the applications subject of this report.</p>
<p>Concern over contamination - a gas risk assessment is needed.</p>	<p>Condition 41 of the outline planning permission controls contamination remediation and includes the requirement for a gas risk assessment to be submitted after the creation of the raised platforms but before commencement of the building works.</p>
<p>No mention of social housing. Concern that the affordable housing proposed in the original outline application has been scrapped.</p>	<p>Amendments to the social/affordable housing provision will be considered separately under application reference 24/00420/DOV.</p>
<p>The plans are not consistent with the outline permission. The design and layout have been radically changed and this is unacceptable.</p>	<p>The purpose of this application is to consider the changes to the parameter plans which set the framework for development. The masterplan design within the initial outline application was only illustrative of one scenario for how the site could potentially be developed.</p>
<p>Development does not comply with national planning guidance as it is located within a high flood risk area.</p>	<p>The principle of development in this location including its response to flood considerations was established and found to be acceptable and policy compliant under the outline permission.</p>
<p>The application should be called in for public inquiry determined by the Secretary of State. The Council should not be making this decision.</p>	<p>The development does not fall within the remit of schemes that would be considered by the Secretary of State. The secretary of state will normally only do this if the application conflicts with national policy in important ways, or is nationally significant.</p>
<p>The application should be subject to 10% Biodiversity Net Gain under the new legislation.</p>	<p>Section 73 applications such as this are exempt from the mandatory 10% net gain requirement where the original planning permission was either applied for, or granted, before 12 February 2024, as is the case in this instance.</p>

**Officer Comment:** These concerns are noted and those that represent relevant material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse the application in the circumstances of this case.

## **Consultees**

### **Highways**

- 4.2 There are no highway objections to the proposed amended layout and will still be acceptable for adoption. The applicant will be required to enter into the appropriate legal agreement for the S38. There is no objection to the slight alteration to the shared cycleway on Barge Pier Road which is a well-established route.

### **Parks Landscape Officer**

- 4.3 No objections. The Parks team view the open spaces in this development in a favourable light and welcome the introduction of varied habitats. The change from whips to 12-14cm standards (whips and standards are tree sizes on planting) is more suitable for creating wooded habitat and is now acceptable.

### **Environmental Health**

- 4.4 Condition 41 of the outline application [ie the planning permission] which relates to contamination, including the requirement for gas monitoring to be carried out after the completion of the land raising, is still relevant and will need to be carried forward to this application.

The contractor has a duty of care to ensure that there is not any unexploded ordnance on site given its military history.

An Air Quality Assessment should be provided.

### **Strategic Planning**

- 4.5 No further comments. Those provided as part of the initial [i.e. Outline] application are still valid.

### **Environment Agency**

- 4.6 The Environment Agency have no further comments to make on this application as flood risk including flood modelling was considered as part of the outline application and the Environment Agency's no objection response to this initial outline application is still relevant.

### **Anglian Water**

- 4.7 No comments on the amended parameter plans. This has no bearing on our previous comments.

### **Natural England**

- 4.8 Natural England has no specific comments to make on this proposal or issue. The proposals are not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

### **London Southend Airport**

- 4.9 No objections, however, if the proposed development is taller than the surrounding infrastructure a third party instrument flight procedure assessment will be required to be

completed at the cost of the developer.

### **Essex Badger Protection Group**

- 4.10 An updated badger survey has been provided and is acceptable. No objections.

### **Essex Fire Service**

- 4.11 The submitted plans are parameter plans only so fire impact cannot be considered at this stage. This will be considered as part of the reserved matters application.

[**Officer comment:** The report for the reserved matters application 24/00311/RESM appears separately on this DCC agenda].

### **Shoebury Residents Association**

- 4.12 The new plans bear no resemblance to those approved under the outline permission and varying condition 3 to amend the plans and discharge previously agreed conditions is unacceptable. A fresh application should be submitted. The omission of employment at the site is unacceptable. Concern that the change in levels will result in even more soil needed to be imported. This needs to be licenced to ensure it is not contaminated. Information is lacking in respect of surface water flood risk - these implications need to be considered. Concern that land raising will have a negative impact on Anglian Water sewerage drains in the vicinity of the site. Concerns relating to groundwater flooding, surface water flooding and from ordinary (smaller) watercourses. A gas risk assessment is still needed. The nature reserve to the south needs to be protected. The provision of affordable homes at this site is important and the proposal to reduce affordable housing at the site is unacceptable. Concerns relating to lack of infrastructure and health care services. Concern that the health centre will not be delivered as promised. There is high demand for doctors in this area. Concern that the construction lorries will damage local roads.

**Officer Comment:** The detailed design of the buildings will be considered separately under the reserved matters application reference 24/00311/RESM and affordable housing will be considered separately under application reference 24/00420/DOV both of which appear separately on this DCC agenda. A gas risk assessment is required by the contamination condition on the outline planning permission. Full assessment and mitigation for surface water flooding has been provided under application 24/00311/RESM. The nature reserve falls outside the application site boundary. The land use parameter plan shows an amended location for the commercial uses.

## **5 Procedural Matters**

- 5.1 This application is presented to the Development Control Committee because it is a Major application and because it has been called in by Cllrs Cowan and Woodley.

## **6 Planning Policy and Legislation Summary**

- 6.1 The National Planning Policy Framework (NPPF) (2023)
- 6.2 Planning Practice Guidance (PPG) (2024)
- 6.3 National Design Guide (NDG) (2021)
- 6.4 Technical Housing Standards – Nationally Described Space Standards (2015)

- 6.5 Core Strategy (2007): Policy KP1 (Spatial Strategy), Policy KP2 (Development Principles), Policy KP3 (Implementation and Resources), Policy CP1 (Employment Generating Development), Policy CP3 (Transport and Accessibility), Policy CP4 (The Environment and Urban Renaissance), Policy CP6 (Community Infrastructure), Policy CP7 (Sport, Recreational and Green Space), and Policy CP8 (Dwelling Provision).
- 6.6 Development Management Document (2015): Policy DM1 (Design Quality), Policy DM2 (Low Carbon development and Efficient use of Resources), Policy DM3 (The Efficient and Effective use of land), Policy DM5 (Southend-on-Sea's Historic Environment), Policy DM6 (The Seafront), Policy DM7 (Dwelling Mix, Size and Type), Policy DM8 (Residential Standards), Policy DM13 (Shopping Frontage Management outside the Town Centre), Policy DM14 (Environmental Protection) and Policy DM15 (Sustainable Transport Management).
- 6.7 Southend-on-Sea Design and Townscape Guide (2009)
- 6.8 Technical Housing Standards Policy Transition Statement (2015)
- 6.9 Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.10 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021)
- 6.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 6.12 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 6.13 Vehicle Crossing Policy & Application Guidance (2021)
- 6.14 Town and Country Planning Act 1990 (as amended): Section 90A, Schedule 7A (Biodiversity Net Gain).

## **7 Planning Considerations**

- 7.1 The proposal seeks to vary the detail of the parameter plans and the landscaping design approved under application reference 20/01227/OUTM and controlled by condition 03 of that outline permission. The proposal has the same site boundary and description of development as the outline application. It is considered to fall within the scope of a material amendment application (S73 application). The appraisal below considers the planning implications of these amended parameter plans. They cover the exact location of the proposed land uses, the proposed network of access roads and routes through the site, the proposed land levels, the maximum building heights across the site and the overarching landscape design. The key differences between the approved and the proposed parameter and landscaping plans are discussed in detail below.
- 7.2 The following matters, which were considered in detail, found acceptable at the development's outline stage, and are controlled by the outline planning permission terms and conditions are unaffected by the proposed amendments to the parameter and landscaping plans:
  - The mix of uses and the principle of the development agreed and arranged as 4 separate home zones.
  - The agreed flood risk solution for the site which comprises the installation of

raised development platforms and the dwellings' habitable space being positioned above identified flood risk level.

- The agreed landscape-led solution to sustainable drainage strategy to mitigate surface water flooding.
- The impact on the existing ecology and biodiversity of the site including agreed mitigation measures.
- Impact on local infrastructure including the highways network from the proposed quantum of development.
- The approach to contamination and air quality.

7.3 The relevant consultees have confirmed that the above aspects of the proposal remain acceptable in all relevant regards.

7.4 Given the limited extent of information necessary to be provided in an outline application, the more detailed planning considerations, such as dwelling mix, detailed design including layout, building form and appearance and impact on heritage assets, the standard of accommodation and impact on neighbours' amenity were considered in strategic terms. The nature of those considerations is unaffected by the amended parameter plans now proposed. The appropriate route for these issues to be assessed in detail is through the reserved matters application, reference 24/00311/RESM, which sits alongside this parameters amendment application, and which appears separately on this DCC agenda.

7.5 Similarly, variations now sought to the S106 legal agreement attached to the outline permission 20/01227/OUTM solely in relation to the provision of affordable housing, will also be considered separately, outside the scope of this parameters amendment application under application reference 24/00420/DOV. The report for that appears separately on this DCC agenda. The other planning obligations secured in the original S106 agreement, including secondary education, RAMS and a highways contribution remain unchanged.

## **8 Appraisal**

### *Changes to the Land Use Parameter Plan*

8.1 The proposed amended Land Use Parameter Plan maintains the home zones in the same broad locations and of a similar size and arrangement. Across the 4 home zones the gross area for dwellings increases from 3.79ha to 4.26ha. The submitted Design and Access Statement (DAS) explains that this stems from the way in which the illustrative scheme provided at the Outline stage did not, at that time, in terms of accessibility have full regard to how the levels across the site would impact the detailed design for M4(2) and M4(3) compliant homes. Delivery of M4 standard units is a requirement of the outline permission, controlled through Condition 34. The proposed amended Land Use Parameter Plan adjusts the land use parcels to ensure that proper consideration of the on-site levels is reflected in the final design. The DAS explains that the updated land parcels will then allow for a deliverable residential scheme with larger gardens, lifts and ramped access to achieve the necessary M4 standard accessibility compliance. Officers recognise that as the design of the development has evolved from its outline through to its detailed stage now proposed separately through the separate reserved matters application elsewhere on this agenda, meeting this important accessibility condition, which requires level access to be provided to the main habitable space within all dwellings, has been a challenge for the scheme's designers. In order to meet this requirement all of the perimeter houses, which have their front door at the lower level but have habitable space at first floor above the predicted flood risk level, must also have a suitable alternative access via their rear gardens accessed from the centre of

the raised podiums either via a ramp or external lift. The proposed land use parameter plan changes support this being achieved in a positive, integrated way through the inclusion of a shared space within home zone 1 and community gardens in the centre of home zones 2 and 3 which officers consider would provide an attractive, accessible alternative route. Equally, this requires the centre of those home zones to be given over to shared amenity space pushing the developable area, and thereby the gross land area, out in the way described. Overall, these community gardens and spaces provide in the region of 6,000 sqm of additional communal amenity space within the centre of Home Zones 1, 2 and 3 and will be an asset to the character, design and appearance of the scheme and the purpose behind the proposed Land Use Parameter Plan change is considered to be acceptable.

- 8.2 The proposed changes to the detailed shapes of the home zone areas controlled by the current approved Land Use Parameter Plan in turn displace parts of the surrounding open space around the edge of the home zones. That changes the total public open space area from 4.15ha to 3.93ha but this is balanced against the additional communal amenity space provided within the centre of the home zones which is in excess of the 0.22ha of lost public open space. The level of open space across the development and around the home zones is still generous and will provide an appropriate setting for the new buildings and useable recreation areas for new residents, nearby residents and the public generally.
- 8.3 A change to the location and configuration of commercial uses (including Use Class A1-A3 (now Use Class E (a)-(c) – shops, food and drink on the premises and professional and financial services) and Use Class D1 (now use Class E (e) - medical services/ health centre) is also proposed as it is the intention for the commercial element of the scheme to be delivered separately to the housing. The amended parameter plan proposes moving the commercial element of the scheme to the separate northernmost part of the site next to the existing supermarket and school which is considered to be an appropriate location. This changes the gross area of the site available for non-residential uses from 0.36ha to 0.26ha. This does not impact on the overall quantum of commercial uses allowed under the outline proposal (up to 400sqm of A1-A3 uses and up to 1000sqm of D1 health centre) and in the proposed location, this could be delivered in buildings of up to 4 storeys. This change is therefore considered to be acceptable.
- 8.4 The amended Land Use Parameter Plan has also changed the configuration of the play areas within the open space surrounding the home zones, increasing the gross size of the play areas from 0.21ha to 0.29ha. As noted above the amendment to the open space and recreation has not resulted in a significant change to the useability or character of the open space which still generously wraps around the home zones and the increase in play provision at the site is a benefit to the scheme.
- 8.5 Finally, the Land Use Parameter Plan has been amended to remove the green public space notation from the proposed new estate roads to resolve a drafting error on the original parameter plan. These areas are now included in the pink notation for the dwelling houses.
- 8.6 Overall, it is considered that the proposed changes to the land use parameter plan do not fundamentally alter the scheme or dilute its design quality. They fall within the scope of the original described application and are acceptable in all relevant regards.

#### *Changes to the Access and Movement Parameter Plan*

- 8.7 The Access and Movement Parameter Plan has been amended to reflect the proposed estate road configuration in the detailed scheme site layout which will be considered separately to this application through assessment of the reserved matters. The



approved parameter plan was themed on roads emanating from/ to the middle of the home zones. The amended road layout now proposed within those home zones has rationalised the amount of vehicular access into the centre of the zones becoming less road heavy so freeing up more space for built development and associated green/amenity space. It enables a good level of pedestrian access through these areas so connecting to the surrounding landscape and wider area. This plan also includes an additional access from Magazine Road into home zone 3 and fewer sections of estate road within the centre of the home zones. These changes in the roadways' extent and configuration have not impacted harmfully on the design quality of the proposal. Officers consider they would maintain, in a different way, a central environment consistent with the principles and purpose of the home zones approach. The changes are considered to be acceptable in all relevant regards.

- 8.8 The footpath arrangements around the home zone parcels have also been amended to accommodate the detailed design and configuration of the home zones but also to better accommodate the existing and proposed changes in levels across the site. The amended design still provides a good range of connections and routes across and through the site which satisfactorily link to the surrounding area.
- 8.9 The significant level changes across the site do not lend themselves to cycle routes as a number of routes have stepped sections so the cycle route has also been moved from within the open space onto Barge Pier Road. The Council's Highways Officer has no objections to this change which is already a well-established route for cyclists.
- 8.10 The crossing points for the drainage ditch to the east side of the site have also been rationalised to mainly use the existing vehicular access routes or moved to locations where the ditch is buried at either end. Given the distances involved this change is acceptable.
- 8.11 Overall, it is considered that the proposed amendments to the land use parameter plan do not fundamentally alter the scheme or dilute its design quality. They fall within the scope of the originally described application and are acceptable in all relevant regards.

#### *Changes to the Heights and Levels Parameter Plan*

- 8.12 The Heights and Levels Parameter Plan shows the location of the proposed development platforms and the maximum height for buildings to be constructed on and around these platforms.
- 8.13 The configuration of the development platforms has been amended to the approved levels set out in planning permission 22/01602/RESM which has been designed to fit the detailed scheme. This has resulted in a change to the configuration of the higher 6.1mAOD platforms and to the lower platform which have been amended to include the perimeter estate roads to meet highways requirements and to lift the levels from 3.1mAOD to 3.25mAOD. In home zone 4 the previously proposed land raising to +3m AOD has been omitted from the parameter plan as this is now deemed to be unnecessary as a topological survey of the site has confirmed that the land here currently measures over 3m AOD.
- 8.14 The changes in land levels are proposed as part of the flood risk solution for the site and were extensively modelled as part of the site-specific flood risk assessment approved under the outline permission. The modelling demonstrated that this approach was a viable solution to address flood risk at the site without compromising the flood risk of the surrounding area. This modelling was found to be robust by the Environment Agency. The amended parameter plan has changed the configuration of the development platforms but the Environment Agency have confirmed that this has not resulted in any

material changes to the flood risk modelling. This is because the relatively modest changes to the configuration of the land levels would have an inconsequential impact on displacing flood water as the space taken by the water is spread over such a large area. The existing drainage ponds in this location also reduce the risk by providing large overflow storage areas. The proposed changes to proposed land levels are therefore considered acceptable in all relevant regards.

- 8.15 This amended plan also seeks to adjust the heights parameters in each of the home zones. As noted above, the parameter plan heights for the outline permission were based on the indicative masterplan scheme considered at that time which only provided one option for the potential development of this site for the quantum of development proposed so it was always a possibility that this would change when the detailed scheme came forward including to address the changes needed with the indicative masterplan such as the requirement for level access noted above.
- 8.16 Overall, the height categories have been rationalised. The maximum heights at the raised podium level have been omitted and replaced with maximum heights for the built development above AOD. As the podium is equivalent to 1 storey, this change has a neutral impact on the parameter plans as the maximum height acceptable AOD remains unchanged. Some areas of potential additional height, such as in the centre of home zone 1 and home zone 3 have been reduced by 1 storey from 17.9m AOD to 14.9m AOD and the areas for up to 5 storey development, which occurs in home zone 1 only, have been adjusted to fit the detailed scheme now proposed. The maximum heights for each number of storeys remains unchanged at 14.9m AOD for 3 storeys, 20.9m AOD for 4 storeys and 23.9m AOD for 5 storeys.
- 8.17 The only significant change in terms of heights is the increase in the extent of 5 storey development in home zone 1. This would result in a different configuration and coverage of taller development than shown in the outline scheme but this is confined to the same general location as in the outline, the southeast corner of home zone 1 only. Furthermore it is supported by the detailed design in separate application reference 24/00311/RESM, which effectively acts as a new indicative masterplan for the purposes of this application albeit the reserved matters application will be considered separately. This demonstrates that limited elements of 5 storey development at this key corner can create a positive townscape feature and can successfully transition to the more domestic scale of the remainder of that home zone and wider site. This increase in the extent of 5 storeys should also be balanced against the potential loss of height in the centres of home zone 1 and 3. These central areas are proposed for family housing in the reserved matters scheme separately for consideration under 24/00311/RESM. Under the approved heights parameter plans these central areas could theoretically contain taller potentially bulkier flatted blocks which would not benefit the scheme and would impact on the provision of family housing across the site for which there is an identified need.
- 8.18 It is also considered that the proposed reconfiguration of the maximum heights would have no material impact on the amenities of neighbours as the only area where the scale of the development is increasing is the southeast corner of home zone 1 which is set significantly away from existing neighbours (over 120m). This issue will be assessed in detail in the assessment of the separate reserved matters application.
- 8.19 Overall, taking into consideration the technical constraints of the site and the demonstrable need for housing, it is considered that the reconfigured heights parameter plan falls within the scope of the originally described application and are acceptable in all relevant regards.

#### *Amended Landscaping Scheme*

8.20 The overall landscaping scheme for the development was approved under the outline planning permission. This was heavily based on the indicative masterplan submitted with that outline application which is sought to be changed via the reserved matters application and so this parameter detail also needs to be amended to fit the proposed detailed design. The detailed design process has identified that the approved landscaping scheme did not take into consideration sufficiently the existing and proposed changes in levels across the site in the design of its footpath network. Changes are also proposed to the soft landscaping approach to the site and thereby the related landscaping scheme. The amended scheme now includes a series of small woodland copses (a small group of trees) along the western boundary of the site and more tree planting to the eastern boundary to provide a greater buffer to the surrounding development and a more naturalistic setting for the proposed development. This more organic approach to planting is considered to be a better fit for the natural setting of Gunners Park and the existing nature areas around the site. The designs of the sustainable drainage basins have also been completed and tested as part of the sustainable drainage strategy for the site and are integrated into the amended landscaping design. The new play areas have also been fully detailed, ensuring they provide for a range of ages and create a range of different type of play spaces across the site including a quieter area of woodland play trail and the inclusion of two community gardens, responding to different children's needs. The Council's Parks Officer supports the detailed landscaping scheme including the introduction of a range of varied habitats and the proposal for 350 new trees across the site. The changes to the landscaping proposal are therefore considered to be acceptable in all relevant regards subject to the agreement of detailed hard landscaping materials and a detailed planting scheme which are covered by condition 11 which carries over from the outline permission. The amended landscaping proposal for the site is therefore acceptable and the proposal is policy compliant in this regard.

### **Other Matters and Conditions**

8.21 Assessment of the outline planning application enabled consideration of the broad parameters and overall quantum of the development, and also included an assessment of the other material planning considerations. These were found to be acceptable in all relevant regards subject to the agreement of a detailed reserved matters scheme in due course and subject to a range of planning conditions. The full assessment of these issues can be found in the Development Control Committee report for the outline application, reference 20/01227/OUTM. A summary of these issues and the current position in regard to any relevant condition is provided below. As noted above, this Sn 73 amendment application is only seeking to vary condition 03 which relates to the approved plans so all other conditions will transfer over into the current proposal unless they have been discharged or part discharged in the interim since 2020 in which case the conditions are updated/amended accordingly.

### *Design and Impact on Nearby Heritage Assets*

8.22 Consideration of the outline application assessed the impact that the general quantum and arrangement of the development would have on local character including the setting of nearby heritage assets. Overall the general scale of development as controlled by the heights parameters would be compatible with the local area, especially where it was closest to existing development and the Landscaping Impact Assessment submitted with that outline application concluded that, whilst there would be some loss of openness, the development of this area as a good quality new neighbourhood surrounded by parkland would have a positive impact on the wider setting of the Garrison Conservation Area.

- 8.23 This was found to be acceptable in all relevant regards subject to the agreement of an acceptable detailed design and subject to the agreement of materials which was controlled by condition 05 of the outline planning permission. This condition still applies and will be carried over.
- 8.24 As noted above full landscaping details were also controlled by the outline planning permission and this condition will still apply to the amended landscaping design now proposed. Separate reserved matters application reference 24/00311/RESM, currently under consideration, is seeking to part discharge this condition in relation to the design of the play areas only and this will be assessed as part of that application. Condition 12 requiring the landscaping for each phase of the development to be installed prior to occupation is also still valid.
- 8.25 Given the history of the area and taking into consideration the conclusions of a desk-based assessment of the site, the outline planning permission also included an archaeology condition requiring further investigations, including a geophysical survey and bore hole analysis to be carried out. These have been undertaken and the results submitted and approved under discharge of condition application 24/00153/AD. The geophysical survey revealed no anomalies suggestive of significant archaeological features within the survey area but one bore hole sample has been retained for more detailed assessment of biological remains including pollen, diatoms (a form of algae), forams (single cell organisms) and ostracods (also known as seed shrimps). Condition 07 relating to archaeology will be updated to reflect this position.
- 8.26 Overall, subject to imposition of the above conditions, it is considered that the development proposal subject of the amended parameters would be acceptable in terms of the potential impact on the character of the area including nearby heritage assets and the proposal is acceptable and policy compliant in this regard. A full assessment of these considerations will be undertaken for the separate reserved matters application 24/00311/RESM.

#### *Impact on Residential Amenity*

- 8.27 A general assessment of residential amenity was undertaken for the 2020 outline application. This found that the proposed home zones were located at an acceptable distance from existing neighbours and that the parameter heights closest to neighbours were appropriate and would not appear overbearing. The indicative masterplan scheme showed feature balconies and as such a privacy screen condition was proposed to ensure that any overlooking from these amenity spaces can be assessed and this condition will be carried forward for the same reason. No condition was imposed on the outline permission in relation to obscure glazing, however, this will be assessed as part of the separate reserved matters proposal 24/00311/RESM and applied as required to any positive decision for that application.
- 8.28 Conditions relating to existing and proposed levels and the agreement of a Construction Management Plan were also applied to the 2020 outline permission in part to protect the amenities of neighbours. Since the determination of the outline application, the levels for the land raising elements have been agreed through approval of application 22/01602/RES. The current separate reserved matters application, reference 24/00311/RESM includes levels details in relation to the detailed design of the scheme. Condition 08 will be updated to reflect the approved position.
- 8.29 A Construction Management Plan for the land raising phase of the development was approved as part of the engineering works application reference 22/01602/RES. A subsequent Construction Management Plan will need to be agreed to cover the building construction phase of the development. Condition 09 of the 2020 outline permission will

be updated to reflect this. Condition 10 restricting construction to the standard working hours of 08:00-18:00 Monday to Friday and 08:00-13:00 hours on Saturdays and not at all on Sundays and Bank holidays is still valid. In conjunction with this an Air Quality Assessment was submitted with the outline application which considered the potential impact on air quality around the site during construction. The impact on air quality was found to be acceptable subject to the implementation of mitigation measures during the construction process which were controlled by condition 44. This condition also remains valid.

- 8.30 Overall, subject to imposition of the above conditions, it is considered that the development proposal subject of the amended parameters would be acceptable in terms of the potential impact on the amenity of neighbours and the proposal is acceptable and policy compliant in this regard. A full assessment of these matters will be undertaken for the separate reserved matters application 24/00311/RESM.

#### *Living Conditions for Future Occupiers*

- 8.31 An assessment of the internal living conditions requires detailed floor plans so will be assessed as part of the separate reserved matters application reference 24/00311/RESM. However, a condition requiring 10% of the units to be Building Regulations M4(3) wheelchair Accessible and the remaining 90% of units to be Building Regulations M4(2) accessible and adaptable dwellings was imposed on the 2020 outline permission as this is a requirement for all new housing and remains valid. The current separate reserved matters application is seeking to discharge the requirements of this condition as part of that application.
- 8.32 Conditions were also proposed in respect of the potential noise implications arising from the commercial uses being in close proximity to the new residential units including from plant, customers or deliveries. These conditions will be carried over.
- 8.33 Overall, subject to imposition of the above conditions, it is considered that the development proposal subject of the amended parameters would be acceptable in terms of the living conditions created for future occupiers and the proposal is acceptable and policy compliant in this regard. A full assessment of these matters will be undertaken separately for the reserved matters application 24/00311/RESM.

#### *Highways, Parking and Traffic and Transportation Issues*

- 8.34 The site is in a sustainable location close to public transport and local amenities. The Transport Statement submitted with the outline application concluded that *'The comparison confirmed that the current development proposal would only lead to a very modest increase in traffic levels during the typical weekday AM peak hour and a decrease during the typical weekday PM peak hour when compared to the aspect of the previously approved proposal that would occupy the application site area. As such, it is concluded that the development proposal should be regarded as acceptable from a traffic generation/ attraction perspective.'* No objections were raised by the Council's Highways Officers in this regard subject to securing a contribution to the upgrading of the Campfield Road/Ness Road junction in the S106 legal agreement. The quantum of development at the site remains unchanged therefore this conclusion is still valid.
- 8.35 The 2020 outline planning permission included conditions relating to parking provision at the site and a car park management plan, the provision of cycle storage and refuse and recycling storage including commercial waste management, implementation of the submitted Travel Plan and the provision of residential travel packs. These conditions are still applicable and will be carried over, however, it is noted that the parking condition

specifically references the parking numbers and layout shown within the indicative masterplan scheme which is now sought to be changed. That condition would need to be varied to reflect the detailed design under consideration in separate application reference 24/00311/RESM. This amendment has not been included in the scope of the current application so a separate application will need to be submitted to achieve this. An informative can be added to this effect. Since the determination of the 2020 outline application the Council has also adopted supplementary planning guidance on electric vehicle charging. It is therefore considered that there is a case for this to be a requirement of the development, however, as it relates to the detailed design of the scheme this will be addressed in the assessment for the separate reserved matters application 24/00311/RESM.

- 8.36 Overall, subject to imposition of the above conditions plus the parking informative, it is considered that the development proposal subject of the amended parameters would be acceptable in terms of the impact on highways, parking and traffic and transportation and the proposal is acceptable and policy compliant in this regard. A full assessment of these matters will be undertaken for the reserved matters application 24/00311/RESM.

#### *Sustainability*

- 8.37 The outline application was found to be acceptable in terms of sustainability subject to conditions requiring the agreement of 10% on site renewable energy, the inclusion of water efficiency measures and achieving BREEAM Very Good rating in terms of the commercial uses which were secured by condition.
- 8.38 Overall, subject to these conditions, the development proposal subject of the amended parameters is acceptable in terms of sustainability and the proposal is acceptable and policy compliant in this regard. A full assessment of this matter will be undertaken for the reserved matters application 24/00311/RESM.

#### *Impact on Ecology and Biodiversity*

- 8.39 A range of detailed assessments of the impact of the development on the existing ecology at the site, including biodiversity, protected species (birds and mammals) and botany, including an Environmental Statement (ES), was undertaken as part of the outline application. This included consideration of the results of various surveys undertaken at the site within these specialist categories. Each survey identified a series of mitigation measures to be implemented to address the impact of the proposed development. Conditions 13-17 of the 2020 outline planning permission required the necessary mitigation measures to be implemented to an agreed timetable. Approved reserved matters 22/01602/RES has since agreed timetables in relation to conditions 13 (biodiversity) and 16 (ecological enhancements). Further updates to the timetables of implementation and the timetable of botany mitigation measures have been provided with the current application for reserved matters reference 24/00311/RESM and will be considered separately under the assessment for that application.
- 8.40 An Environmental Statement (ES) Compliance Document has been submitted with this application. This concludes that the current Section 73 amendment application will not give rise to any additional significant environmental effects or additional impacts beyond those assessed under the original ES. The conclusions of the ES, including the recommended ecological mitigation measures remain valid. This is supported by a further up to date Badger Scoping Survey and an updated Badger Mitigation Strategy. This confirms that no new badger setts were found and recommends that another pre-construction Badger Scoping Survey is undertaken to check the continued absence of badger setts prior to construction and that standard badger protection measures are

implemented during construction. The protected species mitigation condition can be updated to this effect.

- 8.41 The 2020 outline planning permission also includes a condition controlling external lighting to protect wildlife using the ditch corridors at night. This is still relevant.
- 8.42 A survey of existing trees was also part of the outline application. This raised no objection to the removal of 3 existing low quality trees on the site to facilitate the development but recommended tree protection measures are installed for the street trees along Barge Pier Road during construction which was secured by condition. This condition is unaffected by the amended landscape design now proposed and remains valid. The more extensive trees close to the western side of the site are outside of the application site boundary and so unaffected by the development. As noted above some 350 new trees will be planted as part of the amended landscaping design.
- 8.43 Overall, subject to these conditions, the development proposal subject of the amended parameters is acceptable in terms of sustainability and the proposal is acceptable and policy compliant in this regard. A full assessment of these matters will be undertaken for the reserved matters application 24/00311/RESM.

#### *Flooding and Drainage*

- 8.44 As noted above, assessment of the 2020 outline application reviewed in detail the position regarding flood risk and sustainable drainage at the site. The applicant's proposal for land raising within 4 home zones was supported by flood risk modelling and was found by the Council, the LLFA and the Environment Agency to be an acceptable solution to address flood risk at the site without increasing flood risk around the site. The Environment Agency confirm this conclusion is still valid. The 2020 outline planning permission included various conditions relating to flood risk at the site including the agreement of site levels, the implementation of the Flood Risk Assessment recommendations including that no habitable space shall be provided below 6.50m AOD, and the implementation of a Flood Risk Response Plan. A condition was also imposed to agree the detailed design of the sustainable drainage system to address the impact of surface water flooding at the site. Full details of this system have been provided as part of the separate reserved matters application reference 24/00311/RESM.
- 8.45 The development proposal subject of the amended parameters is acceptable and policy compliant in regard to flood risk and drainage subject to the same conditions.

#### *Contamination*

- 8.46 The site has a history of military use so has the potential for contaminants and unexploded ordnance to be present. Environmental Health also raised the possibility of ground gas when assessing the 2020 outline application. Conditions requiring further contamination investigations and for ordnance mitigation measures to be implemented were applied to the outline planning permission. Since this time, following further geoenvironmental assessments at the site in regard to contamination, it has been established that the ground gas survey should not be completed until after the ground raising works have been completed as the survey results depend on the finished floor levels. An amendment to the trigger point of the contamination condition has since been approved under application reference 23/01084/NON. This can carry through to the recommended conditions for this amendment application. The ordnance condition is still valid.

- 8.47 The development proposal subject of the amended parameters is acceptable and policy compliant in regard to contamination subject to these conditions.

#### *Airport Safety and CCTV*

- 8.48 London Southend Airport has updated its response to the development since the 2020 outline permission was granted. Whilst no tall buildings are proposed, as parts of the development will be taller than the surrounding development, the Airport require the applicant to complete a third party instrument flight procedure assessment to comply with airport safety requirements. This assessment is underway and can be secured by condition. A CCTV condition was also proposed in outline application which can be carried over.
- 8.49 Subject to these conditions the development proposal subject of the amended parameters is acceptable and policy compliant.

#### **S106 and Developer Contributions**

- 8.50 As noted above, this application seeks only to vary the approved parameter plans and the landscaping design. The previously approved S106 contributions are not impacted by this application and will transfer over to this application. These remain as:
- 30% units of affordable housing on site (65 units) – with a 60/40 tenure split (39 social/affordable rent and 26 intermediate units).
  - £493,000.40 contribution towards secondary education towards Shoeburyness High School.
  - Essex RAMS payment of £26,874.12 to mitigate the potential disturbance to European designated sites. **[Officer comment:** this figure will be adjusted to take account of inflation and the reduced number of dwellings compared to the outline permission.]
  - £30,000 highways contribution towards improvements to Campfield Road/Ness Road junction improvements.
  - Monitoring fee £10,000.
- 8.51 Notwithstanding this, the applicant has submitted a separate application seeking to vary the terms of the Sn 106 agreement solely in relation to the affordable housing contribution. That will be considered separately and on its own merits within the assessment for application reference 24/00420/DOV elsewhere on this Committee agenda.

#### **Biodiversity Net Gain (BNG)**

- 8.52 Biodiversity Net Gain does not apply to Section 73 applications which seek to amend an existing planning permission where the original permission was granted before 12 February 2024 as in this case. The proposal is therefore acceptable and policy compliant in this regard.

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

- 8.53 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. As this is an amendment to an outline permission, the CIL amount payable will be calculated on submission of a reserved matters application when the floorspace



figures will be confirmed.

## **Equality and Diversity Issues**

- 8.54 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application noted the matters related to dwelling and site accessibility plus inclusive child play and in preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **Conclusion**

- 8.55 Having taken all material planning considerations into account, it is found that the amended parameter plans and landscape design are acceptable and policy compliant therefore condition 03 of planning permission reference 20/01227/OUTM can be varied to this effect.
- 8.56 In all other respects the proposal's elements are the same as application reference 20/01227/OUTM which was found to be acceptable and compliant with the objectives of the relevant development plan policies and guidance subject to conditions and subject to completion of the S106 agreement. There have been no material changes in policy or site circumstances since this time. This application is therefore recommended for approval subject to completion of a legal agreement and subject to suitably reiterated/ updated conditions.

## **9 Recommendation**

- 9.1 **a) That the Council enters into a LEGAL AGREEMENT under section 106 of the Town and Country Planning Act 1990 (as amended) as set out under application reference 24/00420/DOV or a deed of variation to the legal agreement previously signed pursuant to planning permission reference 20/01227/OUTM on 26<sup>th</sup> February 2021 as amended by 21/01887/DOV5 solely to bind to it to this consent.**
- 9.2 **b) Following the completion of a legal agreement as set out in recommendation a) above DELEGATE to the Executive Director (Environment and Place), the Director of Planning and Economy and the Service Manager - Development Management and Enforcement to GRANT PLANNING PERMISSION subject to CONDITIONS as set out below.**
- 01 **Details of the appearance, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved under the reserved matters. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 26<sup>th</sup> February 2024. The development hereby permitted shall begin not later than 2 (two) years from the date of approval of the last of the reserved matters to be approved.**

**Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended) and because the application is for outline planning permission only and the particulars submitted are insufficient for consideration of details mentioned.**

- 02 No development, other than site preparation works and any works required to comply with requirements of other conditions on this permission, shall take place on site until a phasing plan has been submitted to and approved in writing by the Local Planning Authority. Following approval of the plan, each phase shall be completed in accordance with the plan before the next phase commences.**

**Reason: To ensure a coordinated development that complies with the National Planning Policy Framework (2023) and the requirements of the Development Plan.**

- 03 The development hereby approved shall be carried out in accordance with the approved parameter plans which set out the parameters for the heights and levels of the development, the locations of the different uses across the site, the landscaping and the access and movement arrangements for the site: BA9923-2201, BA9923-1600 Rev 06, BA9923-1601 Rev 05, BA9923-1602 Rev 04, PR243-01L Landscape Master Plan.**

**Reason: To ensure the development is carried out in accordance with the Development Plan.**

- 04 The development hereby approved shall include no more than 214 dwellings, no more than 1,000sqm health centre (Use Class E (e)) and no more than 400sqm of commercial floorspace (Use Classes - E (a)-(c)).**

**Reason: To define the scope of the permission and to ensure that the development meets the requirements of the Development Plan.**

*Design and Heritage Related Conditions*

- 05 Notwithstanding the details shown on the plans submitted and otherwise hereby approved the development hereby permitted shall not commence, other than for groundworks and site preparation works, unless and until full details and appropriately sized samples of the materials to be used for all the external surfaces of the proposed buildings and structures at the site including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascia and balconies have been submitted to and approved in writing by the Local Planning Authority. The works must then be carried out in full accordance with the approved details before the dwellings or non-residential parts of the development hereby approved are first occupied or brought into use.**

**Reason: To safeguard character and appearance of the area and the visual amenities of neighbouring occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 06 Notwithstanding the details shown in the plans submitted and otherwise hereby approved none of the buildings hereby granted planning permission shall be occupied unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify the size, design, obscenity, materials and location of all privacy screens to be fixed to the**

proposed buildings. Before a building hereby approved is occupied the building shall be implemented in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.

**Reason:** In the interests of the residential amenity of adjoining and proposed new residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 07** The development hereby approved shall be constructed only in full accordance with the archaeology reports and recommendations previously submitted to and approved in writing by the Local Planning Authority under the approval of details application reference 24/00153/AD or any other alternative archaeological investigation reports and recommendations that have previously been submitted to the Local Planning Authority and approved in writing within the terms of this planning condition before the development is first occupied or first brought into first use.

**Reason:** Required to allow the preservation by record of archaeological deposits and to provide an opportunity for the watching archaeologist to notify all interested parties before the destruction of any archaeological finds in accordance with the National Planning Policy Framework (2023) and Policy DM5 of the Development Management Document (2015).

- 08** **A. Platform levels:** The levels for the development platforms hereby approved shall be constructed only in full accordance with the existing and proposed platform levels previously submitted to and approved in writing by the Local Planning Authority under application reference 22/01602/RES or any other alternative platform levels details that have previously been submitted to the Local Planning Authority and approved in writing within the terms of this planning condition before the development is first occupied or first brought into first use.  
**B. Development Levels:** No development other than the construction of the raised platforms approved under application 22/01602/RES shall be undertaken unless and until details of the final proposed site levels at and surrounding the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken and completed at the levels indicated on the approved drawing.

**Reason:** In the interests of the residential amenity of adjoining residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

*Construction Related Conditions*

- 09** **A. Construction of the Raised Platforms:** The construction of the raised platforms shall be undertaken in full accordance with Construction Management Plan and Strategy (CMP) Rec C previously submitted to and approved in writing by the Local Planning Authority under application reference 22/01602/RES or any other alternative Construction Management Plan and Strategy (CMP) that has

previously been submitted to the Local Planning Authority and approved in writing within the terms of this planning condition. The approved Construction Management Plan and Strategy shall be adhered to in full throughout the construction period of the raised platforms.

**B. Construction of the Development:** No construction of the development hereby approved other than the construction of the raised platforms approved under application reference 22/01602/RES shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy to include Noise and Dust Mitigation Strategies has been submitted to, and approved in writing by the Local Planning Authority. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Statement shall provide, amongst other things, for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security hoarding
- v) measures to control the emission of dust, dirt and noise during construction
- vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.
- vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction.
- viii) details of the duration and location of any noisy activities.

**Reason:** In the interests of the amenities of nearby and surrounding occupiers pursuant to Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 10** Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00hours to 13:00hours on Saturdays and at no time on Sundays or Bank or Public Holidays.

**Reason:** In order to protect the amenities of surrounding occupiers and to protect the character of the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

*Landscaping and Ecology Conditions*

- 11** Notwithstanding the details shown on the plans hereby approved no development shall take place, other than ground and site preparation works, unless and until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping for the site and a landscaping phasing plan setting out the timescales for the implementation of the hard and soft landscaping.

This shall include full details of the number, size and location of the trees and shrubs to be planted together with a planting specification, details of measures to enhance biodiversity within the site; details of the treatment of all hard and soft surfaces, including any earthworks to be carried, all means of enclosing the site and full details of the play equipment, benches and associated facilities proposed.

All landscaping in the approved landscaping scheme shall be carried out in accordance with the timescales specified in the approved landscaping phasing

plan. Any shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority under the terms of this condition.

Reason: In the interests of visual amenity, biodiversity and the amenities of future occupiers and to ensure a satisfactory standard of landscaping pursuant to Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 12 All of the landscaped areas and open space including play equipment, benches and associated facilities shown on the plans hereby approved shall be provided prior to the first occupation of any part of the phase of the development hereby approved they fall within and shall be retained and maintained in perpetuity for the occupants of the development and the wider community.

Reason: In the interests of amenity in accordance with the National Planning Policy Framework (2023) , Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 13 A. Raised Platforms: The biodiversity mitigation measures outlined at paragraph 8.7.2 of the Environmental Statement which includes mitigation in relation to habitats, rare plants, amphibians, reptiles, breeding birds, badgers, mammals and bats shall be implemented in full before the development platforms are brought into first use and in accordance with the timescales for these mitigation measures previously submitted to and agreed in writing by the Local Planning Authority under application reference 22/01602/RES and in accordance with the recommendations set out in the Badger Mitigation Survey Rev A by SES dated June 2024 or any other alternative timescale details of which have previously been submitted to the Local Planning Authority and approved in writing within the terms of this planning condition.

B. Built Development: The development hereby approved shall be implemented and operated thereafter in strict accordance with the biodiversity mitigation measures outlined at paragraph 8.7.2 of the Environmental Statement which includes mitigation in relation to habitats, rare plants, amphibians, reptiles, breeding birds, badgers, mammals and bats. Prior to the commencement of the built development, other than for demolition and site preparation works, a timescale for the implementation of these measures shall be submitted to the Local Planning Authority and approved in writing. The measures shall be implemented in accordance with the approved timescale.

Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 14 The development hereby approved shall be implemented and operated thereafter in strict accordance with the findings, recommendations and mitigation measures of the Breeding Bird Survey by D F Clark Bionomique Ltd dated 23 July 2020 ref. DFCP 3398 including the mitigation measures outlined at paragraph 6.5 of that report.

Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and

**Policies DM1 and DM3 of the Development Management Document (2015).**

- 15 The development hereby approved shall be implemented and operated thereafter in accordance with the findings, recommendations and mitigation measures of the Great Crested Newt and Mammal Report by D F Clark Bionomique Ltd dated 23 July 2020 ref. DFCP 3398 including the mitigation measures outlined at Chapter 6 of the report and in accordance with the recommendations set out in the Badger Mitigation Survey Rev A by SES dated June 2024.**

**Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).**

- 16 A. Raised Platforms: The ecological enhancement measures outlined at paragraphs 8.7.6, 8.7.7 and 8.7.8 of the Environmental Statement shall be implemented in full before the development platforms are brought into first use and in accordance with the timescales for these mitigation measures previously submitted to and agreed in writing by the Local Planning Authority under application reference 22/01602/RES and in accordance with the recommendations set out in the Badger Mitigation Survey Rev A by SES dated June 2024 or any other alternative timescale details of which have previously been submitted to the Local Planning Authority and approved in writing within the terms of this planning condition.**

**B. Built Development: The development hereby approved shall be implemented in strict accordance with the ecological enhancement measures outlined at paragraphs 8.7.6, 8.7.7 and 8.7.8 of the Environmental Statement. Prior to the commencement of the development, other than for demolition and site preparation works, a timescale for the implementation of these measures shall be submitted to the Local Planning Authority and approved in writing. The measures shall be implemented in accordance with the approved timescale.**

**Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).**

- 17 The development hereby approved shall be implemented and operated thereafter in strict accordance with the findings, recommendations and mitigation measures contained within the Botany reports submitted, including the mitigation at paragraph 5.2 of the Botany Survey by D F Clark Bionomique Ltd dated 8 June 2020 ref. DFCP 3398 and the mitigation and avoidance measures outlined in Chapter 5 of the Botanical Survey by The Landscape Partnership dated 28 July 2020 ref. E20841.**

**Reason: In the interest of biodiversity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).**

- 18 The development hereby approved shall be undertaken in strict accordance with the findings, recommendations and conclusions of the Arboricultural Impact Assessment by D F Clark Bionomique Ltd dated 27 May 2020 ref DFCP 3398 including the mitigation outlined within Chapter 5 and the Tree Protection Plans included in Appendix 5 of the report ref. DFCP 3398 TPP (1 of 5, 2 of 5, 3 of 5, 4 of 5 and 5 of 5).**

**Reason: In the interests of the character, appearance and amenities of the area**

and to ensure that the development complies with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

*Parking and Highway Conditions*

- 19 The development hereby approved shall not be first occupied unless and until 502 on site car parking spaces comprising 210 spaces for the flats, 198 spaces for houses, 16 spaces for the commercial (Class E (a)-(c)) uses and 78 spaces for the Health Centre (Class E (e)) use have been provided and made available for use in full accordance with drawing 032-S2-P003 Rev. H, together with properly constructed vehicular access to the adjoining highway, all in accordance with the approved plans. The parking spaces shall be permanently maintained thereafter solely for the parking of occupiers of and visitors to the development.

Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Council's Development Management Document (2015).

- 20 The development shall not be first occupied or brought into first use unless and until full details of the covered and secure cycle parking to serve the health centre, commercial and residential parts of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. Each building in the development shall be carried out in accordance with those approved details before the building is first occupied or brought into first use and the development shall be retained as such in perpetuity.

Reason: To ensure that adequate cycle parking is provided and retained to serve the development in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policies DM1 and DM15 of the Development Management Plan (2015).

- 21 The approved Travel Plan (ref. Travel Plan dated July 2020 ref. IT1971TPF\_22.07.20\_Issued) shall be fully implemented prior to first use of the development hereby approved and shall be maintained thereafter in perpetuity. For the first three years at the end of each calendar year a document setting out the monitoring of the effectiveness of the Travel Plan and setting out any proposed changes to the Plan to overcome any identified issues and timescales for doing so must be submitted to and approved in writing by the Local Planning Authority. The agreed adjustments shall be implemented in accordance with the agreed conclusions and recommendations.

Reason: In the interests of sustainability, accessibility, highways efficiency and safety, residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policy DM15, and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 22 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not be first occupied unless and until a car park management plan has been submitted to and approved in writing by the Local Planning Authority. The car park management plan must be implemented in full accordance with the details approved under this condition before the dwellings hereby approved are first occupied or the commercial

**(Classes E (a)-(c)) or Health Centre (Class E(e)) uses are brought into first use and shall be maintained as such in perpetuity.**

**Reason: To ensure that adequate car parking arrangements are provided to serve the development in accordance with Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Council's Development Management Document (2015).**

- 23 Prior to the first occupation of any dwelling, details for the Residential Travel Packs shall be submitted to and approved in writing by the Local Planning Authority. The approved travel packs shall then be provided to each dwelling within 1 month of occupation.**

**Reason: In the interests of sustainability in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policy DM15, and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

*Waste Management*

- 24 No part of the commercial (Class E (a)-(c)) or Health Centre (Class E (e)) uses hereby approved, shall be brought into first use unless and until a waste management plan which includes full details of refuse and recycling storage and servicing arrangements has been submitted to and agreed in writing by the Local Planning Authority. The waste management and servicing of the development shall be carried out solely in accordance with the approved details from the first use of the development.**

**Reason: To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Document (2015) and the advice in the Southend-on-Sea Design and Townscape Guide (2009).**

- 25 The residential dwellings hereby approved shall not be first occupied unless and until full details of the refuse and recycling stores have been submitted to and approved in writing by the Local Planning Authority. The approved refuse and recycling stores shall be provided in accordance with the approved plans and details and shall be made available for use prior to the first occupation of the dwelling to which they relate and shall be retained as such in perpetuity.**

**Reason: To ensure that the development provides adequate refuse and recycling facilities in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

*Flood and Drainage conditions*

- 26 The development hereby approved shall be implemented and undertaken in strict accordance with the findings, recommendations and mitigation measures, including within Chapter 5, and including the minimum floor levels as set out within Chapter 5 (no habitable accommodation below 6.50m Above Ordinance Datum (AOD)) and the resilience measures as outlined within parts**



5.30, 5.31, 5.32 and 5.33 of the submitted Flood Risk Assessment by Ardent ref.185320-01B dated July 2020. All ground levels are to be set with development platforms to 3.0m AOD for residential apartments and 6.0m AOD for residential houses and all domestic dwellings must have provision for refuge greater than the 0.1% Annual Exceedance Probability (AEP) plus climate change level of 6.5m AOD.

Reason: To ensure the approved development is safe in flood risk terms and does not increase flood risk elsewhere in accordance with the National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1, KP2 and KP3.

- 27 The development hereby approved shall be undertaken and operated in accordance with the Flood Response Plan submitted by Ardent ref. 185320-08B dated July 2020 including its recommendations at Chapter 4.

Reason: To ensure the approved development is safe in flood risk terms in accordance with National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1, KP2 and KP3.

- 28 No drainage infrastructure associated with this consent shall be undertaken at this site unless and until full details of the drainage infrastructure and a drainage strategy have been submitted to and approved in writing by the Local Planning Authority. The strategy submitted shall apply the sustainable drainage principles and the sustainable drainage hierarchy. Where more sustainable methods of drainage are discounted clear evidence and reasoning for this shall be included within the strategy submitted. The approved drainage infrastructure and strategy shall be implemented in full accordance with the approved scheme prior to the first occupation of the development hereby approved and be retained as such thereafter.

Reason: To ensure satisfactory drainage of the site in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM14.

- 29 Notwithstanding the provisions of the Town and Country Planning Act 1990 (as amended) or the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any order revising or re-enacting that legislation with or without modification, no garages or undercroft parking areas nor any non-habitable accommodation in the development hereby approved below a level of 6.50m AOD shall be converted into habitable accommodation at any time.

Reason: To ensure the approved development is safe in flood risk terms in accordance with the National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1, KP2 and KP3.

#### *Noise and Odour Related Conditions*

- 30 No extraction and ventilation equipment for the proposed non-residential uses hereby approved (Class E(a)-(c) and (e)) shall be installed until and unless full details of their location, design, appearance and technical specifications and a report detailing any mitigation measures proposed in respect of noise and odour impacts has been submitted to, and approved in writing by, the Local Planning Authority. The installation of extraction equipment shall be carried out in full accordance with the approved details and specifications and any noise and odour mitigation measures undertaken in association with the agreed details before the

extraction and ventilation equipment is brought into first use. With reference to British Standard BS4142 the noise rating level arising from all plant and extraction/ventilation equipment shall be at least 5db(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

Reason: To protect the amenities of the occupiers from undue noise and disturbance in order to protect their amenities in accordance with Core Strategy (2007) Policies KP2 and CP4, Policies DM1, DM3 and DM8 of the Development Management Document (2015) and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 31 None of the commercial (Class E (a)-(c)) or health centre (Class E (e)) uses hereby approved shall be first occupied or brought into first use unless and until full details of the operating and opening times of that unit have been submitted to and approved in writing by the Local Planning Authority. Each unit shall subsequently be operated only in full accordance with the details approved under this condition.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM3 of the Development Management Document (2015).

- 32 Commercial refuse collection and delivery times for the development hereby approved shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or Public Holidays.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

*Use Class Conditions*

- 33 The commercial (Class E (a)-(c)) and Health Centre (Class E (e)) uses hereby approved, as identified on plan number 032-S2-P401 rev. F shall only be used for purposes falling within use classes A1, A2 or A3 or D1 as defined under the Town and Country Planning (Use Classes) Order 1987 (as amended) on the date this application was submitted and shall not be used for any other purpose, including any purpose permitted under amendments to the Town and Country Planning (Use Classes) Order 1987 since the application was submitted nor any change of use permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provisions equivalent to those in any statutory instrument revoking and re-enacting these Orders, with or without modification.

Reason: To ensure the development is implemented in accordance with the permission sought and to enable the Local Planning Authority to retain control of the use of the floorspace within the Use Class specified so that occupation of the premises does not prejudice amenity and wider objectives of the planning system, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1 and DM3 of the Southend-on-Sea Development Management Document

(2015).

*Accessibility*

- 34 No development other than site preparation works shall take place until and unless details have been submitted to and approved in writing by the Local Planning Authority to show how at least 10% and a specified number of the dwellings will be built in compliance with the building regulation M4(3) 'wheelchair user dwellings' standard with all of the remaining dwellings complying with the building regulation part M4(2) accessible and adaptable dwellings' standard. Each approved dwelling shall be constructed to comply with either building regulation M4(2) or M4(3) in accordance with the approved details prior to its first occupation.

**Reason:** To ensure the residential units hereby approved provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework, (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM8 and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

*Lighting*

- 35 No external lighting shall be installed in the development hereby approved unless it is in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The ditch corridors shall not be illuminated directly or as a result of light spillage.

**Reason:** In the interest of the safety and amenities of the area, in the interests of biodiversity and to protect the amenities of surrounding occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 36 No development above ground floor level shall be undertaken unless and until a Light Assessment has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and maintained in perpetuity.

**Reason:** In the interest of the safety and amenities of the area, in the interests of biodiversity and to protect the amenities of surrounding occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

*Sustainability*

- 37 Prior to construction of the development hereby approved above ground floor slab level a scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources must be submitted to and agreed in writing by the Local Planning Authority. A building in the scheme shall not be occupied until it has been implemented in accordance with the details approved under this condition. This provision shall be made for the lifetime of the development.

**Reason:** In the interests of providing sustainable development and ensuring a high quality of design in accordance with Policy KP2 of the Core Strategy (2007)

and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 38 Prior to occupation of the flats hereby approved, appropriate water efficient design measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), to include measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be implemented for the whole development and retained in perpetuity.

Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 39 No part of the non-residential development hereby approved shall take place above ground floor slab level until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve Very Good BREEAM level.

Reason: This condition is required in the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

- 40 No part of any non-residential building hereby approved shall be first occupied unless and until a final Certificate has been issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating "Very Good" has been achieved for that building.

Reason: In the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

- 41 A. Site Characterisation - Prior to the construction of any built form on site an assessment of the nature and extent of contamination must be submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- i. a survey of the extent, scale and nature of contamination;
- ii. an assessment of the potential risks to: human health, property, existing or proposed, including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments;

B. Submission of Remediation Scheme. Should contamination be identified a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be submitted to the Local Planning Authority prior to the construction of any built form on site. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and

proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**C. Implementation of Approved Remediation Scheme - The agreed remediation scheme shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved by the Local Planning Authority.**

**D. Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and development stopped with immediate effect. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared and submitted for the approval in writing of the Local Planning Authority. Any measures so identified in the approved remediation scheme shall be completed and a verification report must be submitted to the Local Planning Authority for its agreement.**

**E. Long Term Monitoring and Maintenance**

**E1) No development shall take place, on any part of the phase of the development hereby approved they fall within, until a monitoring and maintenance scheme to include monitoring of the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must both be submitted to and approved in writing by the Local Planning Authority.**

**E2) Following completion of the measures identified in that scheme and when the remediation scheme is complete, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be submitted to and approved in writing by the Local Planning Authority**

**Reason: To ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policy KP2 and Policies DM1 and DM14 of the Development Management Document (2015).**

- 42 The development hereby approved shall be implemented and undertaken in strict accordance with the findings and recommendations and mitigation, as outlined in Section 10 of the Unexploded Ordnance Assessment by MACC ref. 6503 V.1.0 dated 11/05/2020.**

**Reason: In the interests of the residential amenity and public safety of the area in accordance with Core Strategy (2007) Policy KP2 and Policies DM1 and DM14 of the Development Management Document (2015).**

*CCTV*

- 43 No CCTV shall be installed in the development hereby approved unless in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority.**

**Reason: To safeguard character and appearance of the area and amenities of neighbouring occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

*Air Quality*

- 44 The development hereby approved shall be implemented and undertaken in strict accordance with the findings and recommendations and mitigation, as outlined in Tables 6.1 and 6.2 of the Air Quality Assessment by WYG ref. A117624. Prior to the commencement of the development, other than for demolition and site preparation works, a timescale for the implementation of these measures and mitigation shall be submitted to the Local Planning Authority and approved in writing. The measures shall be implemented in accordance with the approved timescale.**

**Reason: In the interests of the residential amenity of the area in accordance with Core Strategy (2007) Policy KP2 and Policies DM1 and DM14 of the Development Management Document (2015).**

- 45 The onsite car parking spaces comprising, 16 spaces for the commercial (Class A1, A2 and A3) uses and 78 spaces for the Health Centre (Class D1) use hereby approved shall be provided and made available for use in full accordance with drawing 032- S2-P003 Rev. H, prior to first occupation of any part of the phase of the development hereby approved they fall within, together with properly constructed vehicular access to the adjoining highway, all in accordance with the approved plans. The parking spaces shall be permanently maintained thereafter solely for the parking of occupiers of and visitors to the development.**

**Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy DM15 of the Council's Development Management Document (2015) and Policy CP3 of the Core Strategy (2007).**

- 46 No development above ground floor level shall be undertaken unless and until a third party instrument flight procedure assessment has been completed and submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details..**

**Reason: In the interests of aircraft safety and the safe operation of London Southend Airport in accordance with the National Planning Policy Framework (2023) and Policy DM4 of the Development Management Document (2015)**

**c) In the event that a deed of variation as outlined in recommendation A has not been completed by 23 August 2024 or an extension of this time as may be agreed by the Executive Director (Environment and Place), Director of Planning and Economy or Service Manager - Development Management and Enforcement, authority is delegated to the Director of Planning and Economy or Service Manager - Development Management and Enforcement, to refuse planning permission for the application on grounds that the development will not secure the necessary contribution for affordable housing, secondary education, highways works and RAMS and that, as such, the proposal would be unacceptable and contrary to the National Planning Policy Framework (2023),**

**Policies KP2, KP3, CP3, CP6 and CP8 of the Core Strategy (2007) and Policies DM1, DM3, DM7 of the Development Management Document (2015) and the Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (2020).**

**POSITIVE AND PROACTIVE STATEMENT:**

**The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

**INFORMATIVES:**

- 1 Please note that the proposed development subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The amount of levy due will be calculated at the time a reserved matters application is submitted. Further information about CIL can be found on the [Planning Portal](http://www.planningportal.co.uk) ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).**
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the City.**
- 3 Should the applicant require roads within the development adopted the Council's highways team should be contacted.**
- 4 Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore, the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991 or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.**
- 5 The development site is within 15m of a sewage pumping station which requires access for maintenance and will have sewage infrastructure leading to it and cannot be easily relocated. The site layout should take this into account and accommodate this infrastructure type through a necessary cordon sanitaire, through public space or highway infrastructure to ensure that no development within 15 metres from the boundary of a sewage pumping station if the development is potentially sensitive to noise or other disturbance or to ensure future amenity issues are not created.**

- 6** If the developer wishes to connect to the Anglian Water sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. Anglian Water will then advise them of the most suitable point of connection. Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- 7** Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.
- 8** A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.
- 9** Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.
- 10** The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.
- 11** Given the scale of the development, a Prior Consent under Section 61 COPA (1974) will be required from Regulatory Services at Southend-on-Sea City Council. Construction and Demolition will also be required to be undertaken in accordance with London Good Practice Guide.
- 12** The additional SuDS and drainage information that will need to be submitted as part of condition 28 of this permission includes:

  - i.** Adoptable SuDS and drainage by Anglian Water need to be in line with the 'Design and Construction Guidance'. Evidence of the agreement in principle with Anglian Water is required to ensure that the SuDS/drainage systems will be maintained in perpetuity.
  - ii.** A plan showing the SuDS/drainage elements managed by the different parties (SBC, Anglian Water, Management Company) to be provided.
  - iii.** Catchment plan showing impervious and pervious areas (positively and non-positively drained) to be provided.
  - iv.** Greenfield runoff rates are calculated for all the site area. Greenfield runoff rates should be calculated for areas positively drained (pervious or impervious). It is unclear if all areas are positively drained (pervious and impervious) into the system, but calculations and modelling suggest that only impervious areas are positively drained. Greenfield runoff will need to be re-calculated. Also, the greenfield runoff rate for the 100 year should be reduced to take into account the extra discharge of Long Term Storage. This could have an impact on the storage requirements.
  - v.** Long Term Storage is estimated, but it is not clear how this is going to be



provided in the site (i.e. part of main attenuation feature or separate storage area).

- vi. The SuDS/drainage strategy should consider the effects of submerged outfalls in the Barge Pier Ditch.
  - vii. Consideration should be given to un-lining system in areas of less risk of high groundwater table and pollution (incl. consideration of land contamination).
  - viii. Exceedance routes to be shown on plan.
  - ix. Phasing Plan to be provided as part of the Drainage Strategy.
  - x. Management of Health and Safety Risks to be provided as part of the Drainage Strategy.
  - xi. Construction details (including flow controls) to be provided.
  - xii. Management of groundwater and land drainage (from external areas and from pervious areas within the development) to be provided.
  - xiii. Additional information in line with Detailed Drainage Design Checklist (Essex County Council).
- 13 Maximum development height in this area is 161.46m AOD. All aspects of the development must comply with CAP168 and EASA regulations including lighting, landscaping and renewable energy sources.
- 14 The applicant is advised that refuse stores should not be prominently located within the development. As such it is recommended that the refuse stores are not located to the front of the dwellings.
- 15 The Council will need to retain access across the site to maintain its land and infrastructure in perpetuity.
- 16 No waste as part of the development shall be burnt on site.
- 17 The applicant is advised that the condition 19 of this permission, parking, will need to be varied to comply with the reserved matters approval under a separate application.
- 18 This permission is governed by a legal agreement between the applicant and Southend-on-Sea City Council under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the provision of affordable housing, a financial contribution towards secondary education, a highways junction improvement contribution and a payment in mitigation of impacts identified in the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020)