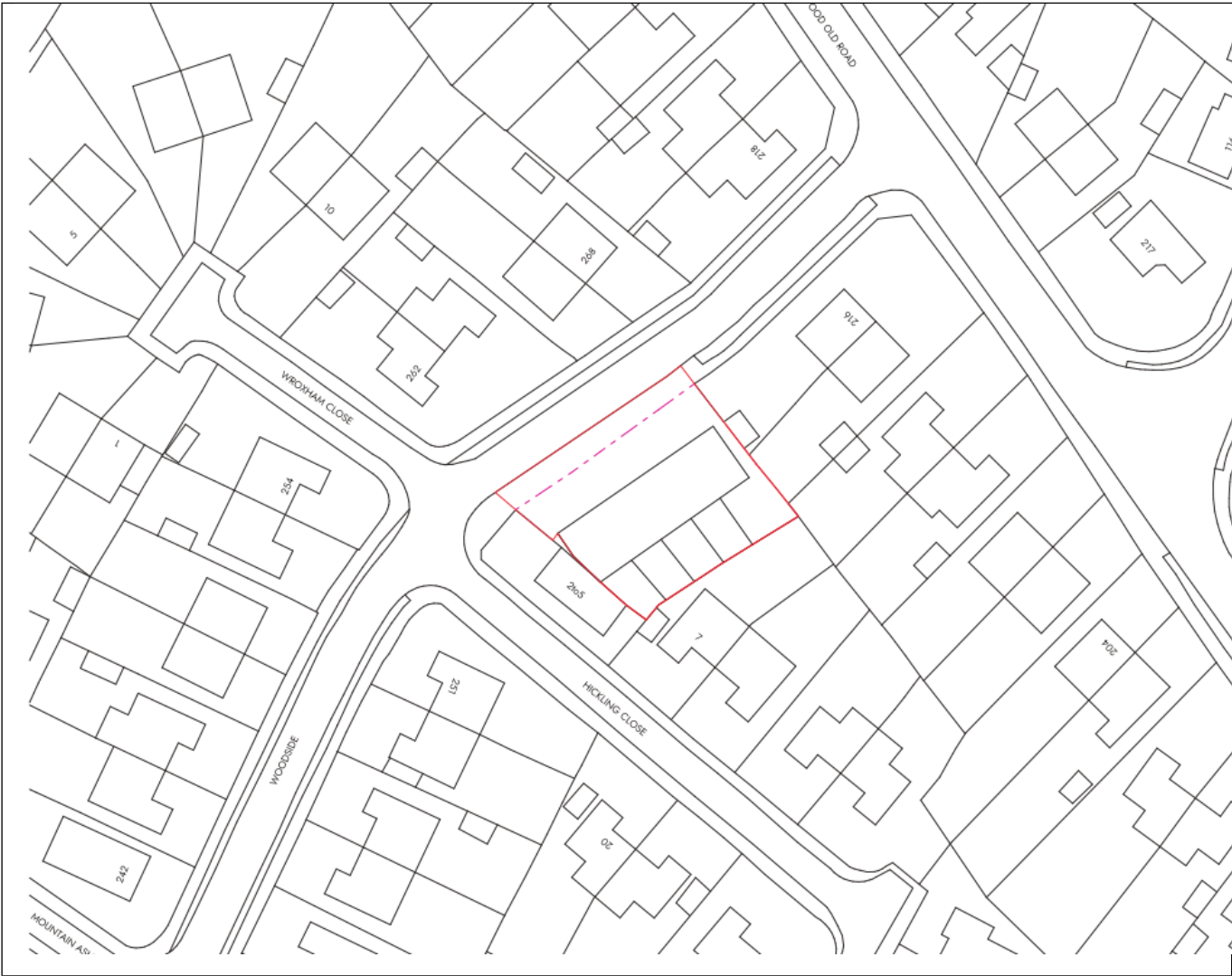


Reference:	24/00546/FUL	
Application Type:	Full Application	
Ward:	Belfairs	
Proposal:	Demolish existing building, erect 4no. dwellinghouses with associated amenity space and bin stores, layout parking to front and form new vehicle crossovers onto Woodside Parade	
Address:	Woodside Parade, Woodside, Leigh-on-Sea, Essex	
Applicant:	Mr J Thomas of Harrison Developments Limited	
Agent:	Mrs Samantha Stephenson of Phase 2 Planning	
Consultation Expiry:	16.05.2024	
Expiry Date:	23.08.2024	
Case Officer:	Abbie Greenwood	
Plan Nos:	1445-WDPR-SCN-XX-00-DR-A-00.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-01.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-60.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-10.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-00.003-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-00.002-A3-PL01; NC24.835-P-201 Rev A	
Additional information:	<p>CGI Image reference 1445-SCN-XX-XX-VS-A-90_001-A3 Rev PL01; Planning Statement by Phase 2 reference C21076 dated March 2024; Design and Access Statement by Scene reference 1445; Landscaping Scheme reference NC24.835-P-201A</p> <p>Internal Daylight and Sunlight Assessment by EEABS Issue 1 dated 12.3.24; Transport Technical Note by YES Engineering Group dated March 2024; Parking Survey Report by YES Engineering Group dated 29.06.2023; Desk Based Contaminated Land Assessment by Nott Group reference 74045/R/001 dated 20.06.2023; Ayers and Cruiks Letter dated 01.03.2024</p> <p>Biodiversity Net Gain Statement by Crossland Ecology Rev A dated 10 July 2024</p> <p>The Statutory Biodiversity Metric Spreadsheet</p>	
Recommendation:	<p>DELEGATE to the Executive Director for Environment and Place, Director of Planning and Economy or Service Manager - Development Management and Enforcement to GRANT PLANNING PERMISSION subject to CONDITIONS following the completion of a LEGAL AGREEMENT under Section 106 of the Town and Country Planning Act 1990 (as amended)</p>	



1 Site and Surroundings

- 1.1 The site is on the eastern side of Woodside Parade, near its junction with Hickling Close and Wroxham Close. It is currently occupied by three (3) commercial units. The units are single-storey and have flat roofs which step down in height from west to east following the gradient of the street. The design of the units is very rudimentary. The units are set back some 6m from the street and have a generous tarmac curtilage to the front. Bollards are in place along the edge of the pavement immediately to the front of the site to prevent parking in this area. The submitted planning statement comments that all units have been vacant for approximately two years.
- 1.2 The surrounding area is residential and is mainly characterised by detached and semi-detached bungalows with mainly well-proportioned hipped and gabled roofs. Some of the properties have dormer windows. There is one flat roofed bungalow to the rear of the site in Hickling Close. The properties have a mix of materials including render, brick and pebbledash with grey and red tiled roofs. The surrounding properties also have generous frontages which generally include off-street parking.
- 1.3 No planning related designations affect the site or the immediate surrounding area. The site is within walking distance of local shops and services and within walking distance of bus routes to the town centre, station and hospital.

2 The Proposal

- 2.1 The proposal seeks to demolish the existing row of units and erect a terrace of four (4no.) 1.5-storey, 3-bed, 5-person homes. The terrace would have a broadly, rectangular footprint measuring some 26.7m wide by 9.7m deep. The development has a front and a rear dormer within a mansard roof with a maximum height of 6.2m and an eaves height of 4m.
- 2.2 The materials on the visualisation of the proposal are shown to be a combination of buff brick on the walls with natural slate on the roof with bronze aluminium standing seam dormers and windows and timber screening. Each dwelling would be provided with one off street parking space to the front (each accessed from a new individual crossover), a garden and first floor terrace to the rear. Cycle and refuse storage is proposed on the frontage.
- 2.3 The application follows the grant of prior approval to convert the existing building into 3 dwellings with no external alterations (reference 23/01212/PA64) and an application in 2015 for the demolition of the existing building and erection of 3 x 2 storey houses with pitched roofs (reference 15/01859/FUL – the ‘2015 Application’).

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

Reference	Description	Outcome
24/00005/PREAPF	Demolish building and erect 4 dwellinghouses with parking and amenity space (meeting and written advice)	Advice Given
23/01212/PA64	Change of use from 3 Office Buildings (Class E) and land within its curtilage into 3 dwellinghouses (Class C3) with associated works, bin and cycle stores (Prior Approval)	Prior Approval Granted

15/01859/FUL (the '2015 Application')	Demolish existing buildings, erect three two storey terraced houses with associated parking and bin stores, form vehicular accesses on to Woodside	Refused
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3.2 The 2015 Application was refused for the following reasons (summarised):

01 The proposal would result in the loss of floorspace for employment use, which has not been demonstrated would not impair economic led regeneration.

02 The proposed development by reason of its siting, layout, design, height and scale would appear incongruous and out of keeping within the streetscene to the detriment of the character and appearance of the area.

03 The proposed development by reason of its siting and scale would result in an overbearing form of development and result in loss of privacy to nearby residential occupiers at 2-5 Hickling Close and 7 Hickling Close through unmitigated overlooking.

04 Insufficient information has been submitted to demonstrate that the proposal meets the criteria for the Building Regulation M4 (2).

4 Representation Summary

Public Consultation

4.1 Six (6) neighbours were consulted by letter and a site notice was displayed. Three (3) representations have been received from two (2) addresses raising the following summarised objections:

- The development is out of keeping with the surrounding bungalows. The development should be changed to 1 bed bungalows. Slate is out of character.
- Impact on neighbour amenity including overlooking. The privacy screens will need to be retained for the lifetime of the development.
- Lack of parking. Parking will be displaced onto the street.
- Impact on emergency vehicle access.
- Impact on mental health of neighbours
- Contamination concerns
- The Design and Access Statement has not fully assessed local character and concept diagrams over sail the site boundaries.

Officer Comment: These concerns are noted and those that represent 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 planning permission in the circumstances of this case.

Highways

4.2 There are no highway objections to this proposal. Off street parking has been provided. The applicant will be required to apply to highways to construct the vehicle crossovers. The applicant has also provided robust supporting information which is acceptable. It is not considered that the proposal will have a detrimental impact on the local highway network.

Environmental Health

- 4.3 No objections subject to conditions relating to Contamination, a construction hours and best practice and refuse and recycling. The Desk Based Contaminated Land Assessment' dated 20th June 2023 by Nott Group has been reviewed. The report advises that due to made ground on site and various off-site sources the site is classed as low to medium risk. An intrusive site survey investigation and Phase 2 risk assessment is therefore recommended. This is agreed with.

Essex Fire Service

- 4.4 No objections.

Cadent Gas

- 4.5 No objections

5 Procedural matters

- 5.1 This application is presented to the Development Control Committee because it has been called in by Cllr Dear and Cllr Aylen.

6 Planning Policy 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) Policies: KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 6.6 Development Management Document (2015) Policies: DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM11 (Employment Areas), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection) and DM15 (Sustainable Transport Management).
- 6.7 Technical Housing Standards Policy Transition Statement (2015).
- 6.8 Waste Storage, Collection and Management Guide for New Developments (2019).
- 6.9 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021).
- 6.10 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020).
- 6.11 Vehicle Crossing Policy (2021).
- 6.12 The Southend-on-Sea Design and Townscape Guide (2009).
- 6.13 Community Infrastructure Levy (CIL) Charging Schedule (2015).
- 6.14 Town and Country Planning Act 1990 (as amended) Section 90A, Schedule 7A

(Biodiversity Net Gain)

7 Planning Considerations

- 7.1 The main considerations in relation to this application include the principle of the development including loss of employment uses and housing provision, the design and impact on the character and appearance of the area, the residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water use sustainability, refuse and recycling storage, flooding and drainage, contamination, ecology, biodiversity net gain and mitigation for impact on designated sites and CIL liability.

8 Appraisal

Principle of Development

Loss of Employment Use and Housing Provision

- 8.1 The provision of new high quality housing is a key Government objective. Amongst other policies to support sustainable development, the NPPF seeks to boost the supply of housing by delivering a wide choice of high quality homes. In relation to the efficient use, it states:

124. Planning policies and decisions should support development that makes efficient use of land, taking into account:

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed and beautiful, attractive and healthy places.*

- 8.2 Policy KP2 of the Core Strategy states development must be achieved in ways which “*make the best use of previously developed land, ensuring that sites and buildings are put to best use*”. Policy CP8 of the Core Strategy identifies that the intensification of the use of land should play a significant role in meeting the housing needs of Southend. The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the City. Similarly, the Council’s Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the City. The HDT and 5YHLS weigh in favour of the principle of the development.
- 8.3 Local policies resist the loss of existing commercial uses without proper justification. Policy DM11 requires that proposals for alternative uses on sites used or last used for employment purposes will only be permitted where it can be demonstrated that:
- (i) it will no longer be effective or viable to accommodate the continued use of the site for employment purposes or
 - (ii) use of the site gives rise to unacceptable environmental problems, and
 - (iii) an alternative use will give greater potential benefits to the community and the environment than the employment use.
- 8.4 The existing buildings were formerly small office units but have been vacant for

approximately two years. The proposal therefore results in loss of potential employment-generating space. However, in this case the existing building is considered to be a small-scale employment-generating use. A letter from a local commercial estate agent submitted with the application states:

'The parade receives very little footfall from passing traffic as it is within a residential area and away from the main road. This lack of passing trade has caused problems for previous tenants at the site who have struggled to sustain their businesses at this site. The lack of parking provision and surrounding residential uses mean that the site is better suited for residential development.'

- 8.5 The proposal seeks to provide new family housing for which there is an identified need and the provision of housing weighs in favour of the development. The current use falls within Class E which is not one of the B Class employment generating uses which are the focus of Policy DM11 objectives and is not located within a designated employment area. The units have been vacant for a long time and are not well suited for commercial development. Residential development would not be out of character in this location. Prior approval was granted in 2023 for the conversion of these units to residential use and this provides a realistic fallback position for this site. In this case, it is considered unreasonable to object to the proposed change of use on this basis and the current application represents an opportunity for a much higher quality of development on this site which will be better for the local area and future residents.
- 8.6 Overall it is considered that the principle of the change of use from commercial to residential in this location is acceptable subject to the detailed considerations set out below and the previous reason for refusal in regards to the loss of employment in the 2015 application has been satisfactorily addressed.

Design and Impact on the Character of the Area

- 8.7 Local and national planning policies and guidance seek to ensure that new development is well designed. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 8.8 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contribute positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Southend-on-Sea Design and Townscape Guide provide further details on how this can be achieved.
- 8.9 The development will be on the same alignment and has a similar footprint as the existing building. It will have a stepped form following the slope of the land. Although the surrounding development is generally arranged as semi-detached pairs, the continuous form of the existing building justifies the proposed arrangement as a short terrace in this instance.
- 8.10 The surrounding dwellings have mixed designs and comprise mainly modestly scaled semi-detached bungalows and chalets of 1-1.5 storeys in a range of styles and with a variety of roof designs including pitched and flat roofs. The mansard roof form of the proposed development is not characteristic of this area, but it is considered that it will not appear out of place in this mixed context. The proposal for a slate material to the roof fits well with the overall design and would not be out of character with the wider area which, although predominately red tile, also includes a range of other roofing materials and colours including grey.

- 8.11 The design includes strong vertical breaks to reference the fine grain of the surrounding area. The change from brick to slate and the stepped form of the development help to break up the scale and massing of the development ensuring that it makes only a modest intervention into the streetscene. This roof form enables family housing to be accommodated on site without appearing over scaled in relation to the surrounding development. This has satisfactorily addressed previous concerns raised in the 2015 Application when two-storey houses were found to be out of scale in this context.
- 8.12 In terms of detailed design, the mansard form is compatible for the general design approach and the design is articulated with well-proportioned and detailed fenestration, brick decoration and feature framed porch. The design overall is well balanced and considered to be a positive addition to the streetscene. The proposal represents a significant uplift in terms of design and impact on local character as compared to the fallback prior approval option for the conversion of the existing buildings with no changes to the exterior elevations.
- 8.13 An indicative landscaping scheme has been submitted with the application. This shows the intention to replace the existing tarmac forecourt with high quality block paving to provide one off street parking space accessed by individual crossovers, to reduce the visual impact and complimented by significant areas of planting to provide softening for the building and for the wider streetscene. The crossovers would not result in the loss of grass verges or any other features that contribute positively to the character of the area. The submitted details also propose a rain garden area and use of pollinator plants to enhance biodiversity. Bespoke cycle and refuse storage on the frontage have also been integrated into the landscaping design. This will be positive for the development and the wider area, and full details of the landscaping scheme can be secured by condition.
- 8.14 Overall, it is considered that the proposal has satisfactorily overcome the concerns raised about the design and scale of the 2015 Application. The current proposal is acceptable in terms of design and impact on local character and is policy compliant in this regard.

Amenity Impacts

- 8.15 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 8.16 The 2015 Application was refused because it was found that the rear first floor bedroom windows gave rise to unmitigated overlooking of neighbours in Hickling Close.

2-5 Hickling Close to the South

- 8.17 No 2-5 Hickling Close to the south is an unusual single storey flat roofed 1-bed bungalow. The building property extends along the full length of the southern boundary of the application site but it has no outlook towards the site and no amenity space. The property principally faces on the street to the south with a secondary outlook to the west onto the adjacent substation. It is considered that the amenities of this neighbour would be unaffected by the proposal in all relevant regards.

7 Hickling Close to the East

- 8.18 The side boundary of No 7 Hickling Close to the east runs along the rear of the application site. The garage to No 7 is on the southern end of this boundary and extends for a short distance. Following this the flank of the property is some 2m off the boundary. There is a kitchen and bathroom window on the flank elevation facing the site as well as the western end of the rear conservatory. Behind the conservatory is the rear garden of this neighbour.
- 8.19 The rear of the proposed development would be between 6m and 7.2m from this boundary. The proposed bedroom at first floor to the rear would look onto a rear terrace which will be enclosed by a 1.8m privacy screen on all open sides. This prevents any outlook from the rear bedroom window or rear terrace towards this neighbour. The proposal will not result in any significantly harmful loss of privacy for No 7 and it is considered that the separation between the development and the shared boundary is sufficient to ensure that the development will not give rise to any sense of overbearing or undue enclosure of the neighbouring dwelling or its amenity space. Subject to a condition requiring the screen details to be agreed and retained in perpetuity, it is considered that the proposal would have an acceptable impact on the amenities of this neighbour in all relevant regards and the previous reason for refusal for the 2015 Application has been overcome.

Nos 214-216 Eastwood Old Road to the North

- 8.20 The northern boundary of the application site runs along the rear boundary of Nos 214-216 Eastwood Old Road. The rear gardens of these properties are some 17.7m deep. No 216 closest to the proposed building has its garage at the end of the garden adjacent to the development. The northern flank of the proposal would be 9.25m wide along this boundary with a height of up to 6.2m. This would replace the existing building on this boundary which has a height of 4m over the same position as the proposed development. There are no windows proposed in the flank elevations of the development. Taking into consideration the separation distance and the location of the neighbours' garage, the increase in height of 2.2m along this boundary would not have a significantly harmful effect on the amenities of these neighbours in any relevant regards.
- 8.21 No other properties are materially affected by the proposed development. The proposal is therefore acceptable and policy compliant in respect of the impact on neighbour amenity in all relevant regards.
- 8.22 Given the proximity of the development to neighbouring properties and finely balanced relationship with the grain and character of the area, it is considered appropriate in this case that permitted development rights should be controlled by condition so that the implications of future extensions or outbuildings on the character of the area and neighbours' amenity can be fully assessed. As noted above, it is also considered that permitted development in relation to the creation of hard surfacing should be controlled to control any potential loss of landscaping to the front which is considered to be an important aspect of local character. This can be controlled by condition. The proposed individual crossovers are typical of the area and acceptable in terms of impact on residential amenity.
- 8.23 Overall, it is considered that the proposal has satisfactorily overcome the concerns raised about impact on neighbours' amenity of the 2015 Application. The current proposal is acceptable and policy compliant in the above regards.

Standard of Accommodation

- 8.24 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.

Space Standards and Quality of Habitable Rooms.

- 8.25 All new homes are required to meet the Nationally Described Housing Standards in terms of overall floorspace and bedroom sizes. The required sizes are shown in the table below.

Table 2: Space Standards and Proposed Dimensions

	Area (m ²)	Bed 1	Bed 2	Bed 3	Storage area (m ²)
Standard for Two-storey 3 bed 5 person	86 sqm	11.5sqm Wmin=2.75m	11.5 Sqm Wmin 2.55m	7.5sqm Wmin=2.15m	2.5sqm
Plots 1-3 3 bed 5 person	97.5 sqm	16 sqm Width 3.1m	12.5 sqm Width 3.2m	Area 8sqm Width 2.4m	4.1sqm
Plot 4 3 bed 5 person	99 sqm	14.5 sqm Width 3m	13sqm Width 3.2m	Area 8sqm Width 2.4m	4.5sqm

- 8.26 All dwellings meet the required standards. The proposal is therefore acceptable and policy compliant in this regard.

Outlook and Daylight

- 8.27 All habitable rooms are required to have adequate outlook and daylight. Habitable rooms at ground level and to the front have clear outlook and good access to daylight. The rear facing bedroom at first floor looks onto a terrace of 1.5m in depth with a privacy screen. This screen will have some impact on light and outlook to this bedroom. A Daylight and Sunlight study has been submitted with the application. This confirms that all rooms satisfy the BRE daylight and sunlight guidelines. In terms of outlook, whilst the screen will prevent long views from this bedroom, the terrace in this location is deep enough to provide an attractive outside seating area and positive outlook for this room. The proposal is therefore acceptable and policy compliant in this regard.

M4(2) – Accessibility

- 8.28 Policy DM8 as amended by the Policy Transition Statement requires all new dwellings to be accessible and adaptable to Building Regulations M4(2) standard. The Design and Access Statement submitted with the application set out how this requirement will be achieved and confirms that all units are M4(2) compliant. This can be secured by condition. The previous reason for refusal in the 2015 Application has therefore been satisfactorily addressed and the proposal is acceptable and policy compliant in this regard.

Amenity Provision

- 8.29 In relation to the provision of amenity space, each new dwelling would have a garden to its rear, between 31.5sqm and 50.5sqm and a rear first floor terrace, between 5.5sqm and 6.5sqm. The proposed gardens, supplemented by the rear terrace, are useable particularly as they will not need to provide space for cycle and refuse storage as this is proposed to be accommodated on the frontage. The proposal is acceptable and policy compliant in this regard.
- 8.30 Overall, the standard of the accommodation is satisfactory, and the proposal is policy

compliant in these regards.

Traffic and Transportation Issues

- 8.31 Paragraph 115 of the NPPF states that: *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe.”*
- 8.32 Policy CP3 of the Core Strategy and Policy DM15 of the Development Management Document aim to improve road safety, quality of life and equality of access for all. Policy DM15 of the Development Management Document states that development will be allowed where there is, or it can be demonstrated that there will be physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. All parking spaces are required to have EV charging.
- 8.33 For a dwelling of this size at this location, Policy DM15 requires a minimum of 2 parking spaces are provided unless there is justification for vehicle parking standards to be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/ or where the rigid application of these standards would have a clear detrimental impact on local character and context. A minimum of one cycle space per dwelling is also required.
- 8.34 One off street parking space with EV charging point is proposed for each dwelling as well as a secure cycle store for 2 cycles and a refuse store on the frontage. The access arrangements are acceptable. Supporting documentation submitted with the application provides the following justification for the level of proposed off street parking:
- The existing commercial development has no off-street parking so employees and visitors have been parking on the street.
 - Census data for this area confirms an average of 1.3 cars per dwelling which equates to 5.2 cars for the proposed development.
 - Parking Surveys of the local area undertaken on 2 dates demonstrate there is space capacity to park on street. The survey showed there were 139 parking spaces within 200m of the site and at least 79 spaces (>50%) were free on both survey dates including 24 in Woodside itself.
 - 2 secure cycle spaces would be provided for each property which is double the required standard.
 - The site is walkable to local amenities and bus stops with good links to the town centre, hospital and stations.
- 8.35 Each property has a dedicated refuse and cycle store on the frontage This is an acceptable arrangement in this location due to the constraints of the site and subject to the use of high-quality materials and agreement of screen landscaping the details of which can be controlled by condition.
- 8.36 The Council’s Highways Officer is satisfied that 1 off street parking space per property, each accessed via an individual crossover, is acceptable in this instance and has raised no objections to the proposal in this regard subject to securing the implementation of secure cycle storage.
- 8.37 Overall, the traffic and transportation implications have no identified significant harmful impacts and are acceptable. The proposal is policy compliant in this regard subject to conditions securing 1 parking space per dwelling, cycle and refuse storage and EV charging.

Sustainability

- 8.38 Policy KP2 of the Core Strategy requires that “at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources). Policy DM2 of the Development Management Document states that “to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions. [...] All new development that creates additional residential and/or commercial units, should be energy and resource efficient by incorporating [...] requirements” such as “Water efficient design measures that limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting”.
- 8.39 The Design and Access Statement suggests that PVs could be installed on the development’s roof but no details have been provided. Full details of this or alternative renewables and water efficiency measures can be secured by condition. The proposal is acceptable and policy compliant in this regard subject to these conditions.

Sustainable Drainage

- 8.40 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 8.41 The site is not within Flood Zones 2 or 3 (low risk). No information has been provided regarding drainage of the site. A condition can be imposed to ensure the proposed development mitigates against surface water runoff. Subject to this the proposal is acceptable and policy compliant in this regard.

Contamination

- 8.42 The existing buildings had a commercial use. A Desk Based Contamination Survey has been submitted with the application. This concludes that:
- The potential on-site source of contamination identified is possibly made ground (unknown thickness and composition) associated with the development of the site. Several potential off-site sources of contamination have been identified and include electrical substations, former nurseries, former unspecified and specified tank features including a gasholder station/gasholder, agricultural activities, infilled ground (associated with the infilling of various pond features and a gravel pit with unknown material), former unspecified factories, former pumping stations, former unspecified works, former unspecified and specified (gas) depots, a recorded historical waste site (scrap metal yard) and a former petrol station.
 - Based upon the development of the preliminary conceptual site model, the risk of encountering contamination during development has been assessed as low to medium. As a result, it is recommended that a limited site investigation to include chemical testing of soil samples is undertaken to confirm this risk rating.
 - Based upon the findings of the investigation the conceptual site model should be updated and remedial works undertaken if required.
- 8.43 The Council’s Environmental Health Officer agrees that a Phase I Contamination Investigation is warranted in this case. This can be secured by condition. Subject to that the proposal is acceptable and policy compliant in this regard.

Ecology, Biodiversity, HRA and Recreational Disturbance Avoidance Mitigation

Strategy (RAMS)

Biodiversity Net Gain

- 8.44 Under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) Biodiversity Net Gain (BNG) is mandatory from 12 February 2024 for major schemes and 2 April 2024 for small sites. Schedule 14 of the Environment Act sets out that a general 10% Biodiversity Net Gain (BNG) condition applies automatically to all planning permissions (except those exempt from BNG requirements). BNG is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity. Every non-exempt grant of permission will be subject to a general, pre-commencement biodiversity net gain condition to secure the requisite BNG requirement. Once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the Local Planning Authority before commencement of the development.
- 8.45 Historic aerial photos show that aside from the existing building and sealed surface to the front, the rear of the site includes elements of mixed scrub, tall forbs (broad leaf herbs) and an urban tree. This tree has now been felled and the site cleared, however, where site degradation has taken place, the baseline for BNG is taken from 30 January 2020 so these items have been included in the baseline conditions scoring. The proposed design includes vegetated gardens to the rear of the proposed dwellings, modified grassland to be created along the verge to the roadside, individual trees to be planted along the road frontage and an ivy screen to the substation.
- 8.46 A small sites biodiversity metric calculation has been submitted with the application. This shows that the proposed development would result in a net loss of -62.67% (-0.16) habitat units. Habitat units are defined and quantified through the biodiversity metric tool. As such, offsite provision will be required to ensure the development overall produces a 10% net gain for each unit category in line with local and national planning policy.
- 8.47 The utilisation of a local habitat bank to purchase habitat units will result in an overall net gain in habitat units. The purchase of 0.18 habitat units (0.15 individual tree habitat units and 0.03 scrub units or 0.18 high distinctiveness habitat units) will be required to meet the BNG trading rules and reach a 10% net gain. This is considered compliant with both national and current local planning policies in relation to biodiversity net gain.
- 8.48 There will be a requirement for a Habitat Management, Maintenance and Monitoring Plan (HMMMP) to be in place to facilitate delivery of this offsite strategy. This will be detailed within an appropriate planning obligation which can be secured with a S106 legal agreement.
- 8.49 To demonstrate delivery an audit report should be prepared to validate compliance with this strategy and BNG good practice principles.

Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS)

- 8.50 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS Supplementary

Planning Document (SPD), was adopted by Full Council on 29th October 2020, requires that a tariff of £ £163.86 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. This tariff has been paid. The proposal is acceptable and policy compliant in this regard.

Planning Obligations

8.51 Paragraph 57 of the NPPF states that: "Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development."

8.52 As noted above, in order to meet the biodiversity net gain requirements a Section 106 will be required to secure the offsite contribution. The terms of this are as follows:

- Off-site purchase of 0.18 habitat units (0.15 individual tree habitat units and 0.03 scrub units or 0.18 high distinctiveness habitat units) to reach a 10% Biodiversity Net Gain along with a Habitat Management, Maintenance and Monitoring Plan (HMMMP) to facilitate delivery.
- Monitoring fee of up to £10,000.

8.53 The contributions noted in paragraph above are considered to meet the tests set out in the CIL Regulations 2010. Without these contributions the development would not be considered acceptable. The Section 106 for this application has not yet been completed so the recommendation of this report seeks this committee's approval subject to the completion of this agreement.

Community Infrastructure Levy (CIL)

8.54 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. The proposed development includes a gross internal area of some 391.5 sqm, which may equate to a CIL charge of approximately £11473.96 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the 'in-use building' test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

Equality and Diversity Issues

8.55 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 and 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

- 8.56 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The replacement of the existing building with 4 dwellings is acceptable in principle with the sizes, layouts and external amenity space providing satisfactory standards of accommodation. Against a background of clearly identified housing need the proposal would provide 4 new family sized dwellings which would make a significantly better contribution to the City's housing stock than the prior approval in place on this site enabling conversion of the vacant commercial building to 3 dwellings. That is a realistic fallback position which must be afforded due consideration as part of the balanced assessment. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site and street scene. There would be no significant adverse traffic, parking or highways impacts.
- 8.57 Should Members identify any areas of harm, including about matters which have been discussed in this report, should they reach a different conclusion from officers on those individual considerations then this needs to be balanced against the public benefits of the proposal including as identified within the body of the report. This proposal creates new housing, therefore, when assessing any harm identified, it is necessary to demonstrate that, in making a decision, an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any harm. The Council has a deficit in housing land supply so the tilted balance in favour of sustainable development should be applied when determining the application as relevant. The test set out by the National Planning Policy Framework is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole.
- 8.58 The proposal has been found to be acceptable in all relevant regards. The application has satisfactorily overcome all reasons for which the previous 2015 Application was refused. This application is therefore recommended for approval subject to conditions and prior completion of the Section 106 legal agreement.

9 Recommendation

9.1 Members are recommended:

- a) **That the Council enter into a Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:**
- **Off-site purchase of 0.18 habitat units (0.15 individual tree habitat units and 0.03 scrub units or 0.18 high distinctiveness habitat units) to reach a 10% Biodiversity Net Gain along with a Habitat Management, Maintenance and Monitoring Plan (HMMMP) to facilitate delivery.**
 - **Monitoring fee of up to £10,000.**
- b) **That the Executive Director for Environment and Place, Director of Planning and Economy or Service Manager - Development Management and Enforcement be DELEGATED to GRANT PLANNING PERMISSION subject to the completion of the section 106 agreement referred to above and subject to the conditions set out below:**
- 01 **The development hereby permitted shall begin no later than three years from the date of this decision.**

Reason: Required to be imposed pursuant to Section 91 of the Town and Country

Planning Act 1990.

- 02 The development shall only be undertaken in accordance with the following approved plans: 1445-WDPR-SCN-XX-00-DR-A-00.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-01.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-60.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-10.001-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-00.003-A3-PL01, 1445-WDPR-SCN-XX-00-DR-A-00.002-A3-PL01; NC24.835-P-201 Rev A**

Reason: To ensure the development is carried out in accordance with the consent sought, has an acceptable design and complies with Policy DM1 of the Development Management Document (2015).

- 03 Prior to commencement of the development above ground floor slab level, full product details of the materials to be used in the construction of all the external elevations of the development hereby approved shall be submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. These materials shall include brick, including for the brick decoration, roof including for the sloped and flat area, ridge and eaves and party wall detail, fascia and soffit, all windows and doors including dormer surrounds, terrace screen and flooring, porch framing and rainwater goods. The development shall be carried out solely in accordance with the approved details before it is first occupied.**

Reason: In the interests of visual amenities, in accordance with the National Planning Policy Framework (2023), 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).

- 04 Prior to the occupation of the development hereby approved, full details of the privacy screens for the first floor rear terraces shown on approved plan 1445-WDPR-SCN-XX-00-DR-A-10.001-A3-PL01 shall be submitted to and approved in writing by the Local Planning Authority. The screens shall enclose the first floor terraces at a height of not less than 1.7m above terrace finished floor level. The screens shall be installed prior to first occupation of the development and retained for the lifetime of the development in accordance with the approved details.**

Reason: To protect the privacy and environment of people in new and neighbouring residential properties, in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP4, Development Management Document (2015) Policy DM1, and advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 05 No development above ground floor slab level shall take place unless and until full details of hard and soft landscape works and boundary treatments to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved hard landscape works and boundary treatments shall be completed prior to first occupation of the development hereby approved, and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include, but not be limited to:**

- i. Existing and proposed site levels.**
- ii. Means of enclosure of the site and plots including any walls, gates or boundary fencing.**
- iii. Details of external hard surfacing.**
- iv. Details of the number, size and location of trees, shrubs and plants to be**

- planted together with a planting specification and management.
- v. Details of measures to enhance biodiversity within the site.

Any trees or 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 agreed with the Local Planning Authority under the terms of this condition.

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping is implemented pursuant to Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 06 The 4 car parking spaces and the associated vehicular access for the spaces to access the public highway, shown on approved plan 1445-WDPR-SCN-XX-00-DR-A-01.001-A3-PL01 shall be provided and made available for use at the site prior to the first occupation of the development hereby approved. The car parking spaces and the associated vehicular accesses to and from the public highway shall thereafter be permanently retained solely for the parking of vehicles and the accessing of the car parking spaces in connection with the occupiers of the dwellings hereby approved and their visitors. Every car parking space must have access to active electric vehicle charging.

Reason: In the interests of the living conditions of future occupiers, highway safety, and sustainability further to the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM2 and DM15 and the advice contained within the Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021).

- 07 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 under the terms of this condition and implemented in full prior to the first occupation of the development. This provision shall be made for the lifetime of the development.

Reason: In the interests of providing sustainable development in accordance with Policy KP2 of the Southend-on-Sea Core Strategy (2007), and Policy DM2 of the Southend-on-Sea Development Management Document (2015).

- 08 The development hereby approved shall incorporate water efficient design measures 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), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting before it is brought into use.

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

- 09 The four dwellings hereby approved shall be completed in a manner to ensure compliance with Building Regulations part M4(2) 'Accessible Dwellings' before they

are first occupied.

Reason: To ensure the provision of flexible internal layouts to meet the changing needs of residents 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).

- 10** The dwellings hereby approved shall not be occupied until and unless the refuse and recycling and cycle storage facilities are provided and made available for use by the occupiers in full accordance with the details shown on approved drawing numbers 1445-WDPR-SCN-XX-00-DR-A-01.001-A3-PL01 and 1445-WDPR-SCN-XX-00-DR-A-60.001-A3-PL01 or any other details that have been previously submitted to and agreed in writing by the Local Planning Authority under the terms of this condition. The refuse and recycling and cycle storage facilities shall be retained for the lifetime of the development in accordance with the approved details.

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) and Policy DM15 of the Development Management Document (2015).

- 11** No drainage infrastructure associated with this development shall be undertaken unless and until details of the design implementation, maintenance and management of a scheme for surface water drainage works (incorporating Sustainable Drainage Systems (SuDS) Principles) have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved scheme shall be implemented, in accordance with the approved details before the development is first occupied and shall be maintained as such thereafter in perpetuity.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with the National Planning Policy Framework (2023), Policy KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

- 12** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order or Act of Parliament revoking and re-enacting that Order with or without modification, no extensions or detached buildings shall be erected at the development hereby approved specified within Schedule 2, Part 1, Classes A, B, D, E and F of the Town and Country Planning (General Permitted Development) Order 2015 without the receipt of express planning permission in writing from the Local Planning Authority .

Reason: To enable the Local Planning Authority to regulate and control development in the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM1 and advice in the Southend-on-Sea Design and Townscape Guide (2009).

- 13** Land Contamination - The following works shall be conducted by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected

by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's Land Contamination Risk Assessment guidance (LCRM) and other current guidance deemed authoritative for the purposes. The development hereby permitted shall not commence until the measures set out in the approved report have been implemented.

14 A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall commence other than that required to carry out additional necessary investigation which in this case includes demolition, site clearance, removal of underground tanks and old structures until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include:

- a survey of extent, scale and nature of contamination;
- an assessment of the potential risks to:
 - Human health,
 - Properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - Adjoining land,
 - Groundwaters and surface waters,
 - Ecological systems
- an appraisal of remedial options, and proposal of the preferred option(s).

B. Site Remediation Scheme

The development hereby permitted shall not commence until 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 has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, 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. Where cover systems are recommended as part of the scheme it shall be subject to assessment in accordance with the National Contaminated Land Officers Group document A Regulator's Guide to Cover Systems and their Verification and any subsequent revisions thereof that compliments the LCRM.

C. Remediation Implementation and Verification

The development hereby permitted shall not commence other than that required to carry out the agreed remediation until the measures set out in the approved Remediation scheme have been implemented. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Where cover systems have been implemented as part of the scheme verification shall be subject to assessment in accordance with the National Contaminated Land Officers Group document 'A Regulator's Guide to Cover Systems and their Verification' and any subsequent revisions thereof that compliments the LCRM.'

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of 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 it must be reported in writing immediately to the Local Planning Authority. All works must cease upon the finding of contamination at the site and shall not commence until an investigation and risk assessment has been undertaken, submitted to the Local Planning Authority and approved in writing. Where remediation is necessary, a remediation scheme must be prepared, submitted to the Local Planning Authority and approved in writing before works recommence. The agreed remediation measures must then be implemented in full and, and a verification report must be submitted and approved in writing of the Local Planning Authority prior to the first use of the development hereby approved. Investigation, remediation and verification must be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes.

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) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

- 15 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority under the terms of this condition. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide 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 including contact details (including out of hour contact details) that are to be displayed on the hoardings;
- (v.) A Noise and Dust Management Plan - measures to control the emission of noise and dust and dirt during demolition and construction. This should make reference to current guidance on the Assessment of Dust from Demolition and Construction - Institute of Air Quality Management or an acceptable equivalent;
- (vi.) A scheme for recycling/disposing of waste resulting from demolition and construction works. No waste materials should be burnt on the site, instead being removed by licensed waste contractors;
- (vii.) Measures to mitigate noise disturbance during the development.

Reason: This pre-commencement condition is required to minimise the environmental impact and disturbance to existing residents, during construction of the development in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4 and Development Management Document (2015) Policies DM1 and DM3.

- 16 Construction hours for the development hereby approved shall be restricted to 8am to 6pm Monday to Friday, 8am to 1pm on Saturdays and not at all on Sundays or Bank or Public Holidays.

Reason: To protect the environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- c) In the event that the planning obligation referred to in part (a) above has not been completed before 23 August 2024 or an extension of this time as may be agreed by the 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 contributions to comply with Biodiversity Net Gain legislation.

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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 development the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development it is imperative that you contact S106andCILAdministration@southend.gov.uk to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (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 **Construction outside of normal hours - If construction works are to be considered outside of normal hours especially overnight or are expected to cause a nuisance to existing receptors it is recommended that the applicant applies for a prior consent application under section 61 of the Control of Pollution Act 1974. A consent enables the applicant to conduct the works without the worry of enforcement provided they comply with it. The applicant will have to submit details of any noisy works including type of plant and machinery to be used, proposed daily start and finish times, consultation with nearby residents and businesses and duration and time scales of the works. The applicant will need an acoustically qualified person who will be able to calculate the predicted noise levels from the operation and the impact on nearby residents and then be able to evaluate mitigation measures that can be used. If we become aware of any works that are highly likely to cause a nuisance, we can serve a notice under section 60 of the Control of Pollution Act 1974 to prevent this. A breach of this will represent a criminal offence. The application form and guidance are available on the Southend-On-Sea City Council website. The applicant can also contact the Regulatory Services Team at Southend-on-Sea City Council for details.**
- 4 **Asbestos - Prior to demolition of the existing buildings an appropriate Asbestos survey of the buildings should be undertaken, and a scheme implemented to remove and safely dispose of any asbestos-containing materials in accordance with the Control of Asbestos Regulations 2012 and the applicant's/developer's Waste duty of care. It is recommended that the Council's building control department is notified of the demolition in order that requirements can be made under section 81 of the Building Act 1984.**
- 5 **The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and the noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea City Council, Civic Centre, Victoria Avenue, Southend SS2 6ER'.**
- 6 **The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:**

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Southend-on-Sea City Council

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission (“the earlier Biodiversity Gain Plan”) there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and**
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.**

Where development is to proceed in phases Biodiversity Gain Plans are required before development may be begun (the overall plan) and required before each phase of development may be begun (phase plans).