

Reference:	22/00304/UCOU_B	
Report Type:	Enforcement	
Ward:	West Shoebury	
Breach of Planning Control:	Material change of use from shop (Use Class E) to dwellinghouse (Use Class C3).	
Address:	67 West Road, Shoeburyness, Southend-on-Sea, Essex, SS3 9DT	
Case Opened Date:	1 st November 2022	
Case Officer:	Edward Robinson / Author: Jennifer Doherty	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



1 Site and Surroundings

- 1.1 The site is on the western side of West Road in Shoeburyness and is occupied by an end-of-terrace, two-storey building. The subject of this report is the ground floor of the building which was originally used as a dog grooming business and has been converted to a residential unit.
- 1.2 The site is part of a parade of four shop fronts which are part of the designated Primary Shopping Frontage on West Road. The units to the north of the site, Nos 69 and 71 West Road have been converted into dwellings from shops without planning permission and are subject to enforcement action. Other than the designation as a Primary Shopping Frontage no other site-specific designations affect the site.

2 Lawful Planning Use

- 2.1 The lawful planning use is as a Commercial, Business and Service within Use Class E of the Town and Country Planning Use Classes Order 1987(as amended).

3 Relevant Planning History

- 3.1 The most relevant planning history of the application site is listed below:
 - 24/01351/PA64: Change of use from shop/office (Use Class E) to dwellinghouse (Use Class C3) (prior approval). Application received and pending.
 - 24/01004/CLP: Use commercial unit class E (c) (iii) as offices class E (g) (i) (Lawful development certificate - proposed). Certificate of Lawfulness Granted.
 - 24/00411/FUL: Change use of existing ground floor commercial unit (Class E) into one self-contained flat (Class C3) (Retrospective). Refused
 - 24/00018/PA64: Change use of existing ground floor commercial unit (Class E) into one self-contained flat (Class C3) (Prior Approval). Withdrawn.
 - 23/00851/CLP: Convert existing commercial ground floor unit (Class E) into a self contained flat (Class C3) (Certificate of Lawful Development - Proposed). Certificate of Lawfulness Refused.
 - 22/02355/FUL (the 2022 application): Replace window and door to ground floor front elevation (part-retrospective). Permission granted.
 - 22/01762/PA3COU: Change of use of ground floor Dog grooming parlour (Class E) to form 1 self-contained flat (Class C3) and alter front elevation (Prior Approval) – Prior approval refused. Appeal dismissed ref. APP/D1590/W/22/3312677.
 - 22/01250/CLP: Use commercial ground floor unit (Class E) as self-contained flat and alter front elevation (Class C3) (Lawful Development Certificate) – Certificate of Lawfulness Refused.

4 Planning Policy Summary

- 4.1 The National Planning Policy Framework (NPPF) (2023).

- 4.2 Planning Practice Guidance (PPG) (2024).
- 4.3 National Design Guide (NDG) (2021).
- 4.4 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance) and CP8 (Dwelling Provision)
- 4.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM6 (Seafront), DM8 (Residential Standards), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection) and DM15 (Sustainable Transport Management).
- 4.6 Technical Housing Standards – Nationally Described Space Standards (2015).
- 4.7 Technical Housing Standards Policy Transition Statement (2015).
- 4.8 Southend-on-Sea Design and Townscape Guide (2009).
- 4.9 Waste Storage, Collection and Management Guide for New Developments (2019)
- 4.10 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (2020)

5 Procedural Matters

- 5.1 This case is presented to the Development Control Committee because officers consider it would be expedient to take enforcement action, including by issuing an enforcement notice.

6 The breach of planning control

- 6.1 The identified breach of planning control is the:
 - Material change of use from shop (Use Class E) to dwellinghouse (Use Class C3).

7 Efforts to resolve the breach to date

- 7.1 In November 2022 an enforcement case was raised alleging the ground floor commercial unit had been converted to a studio flat without planning permission. This was confirmed following a site visit. The Council's enforcement officer notified the owners regarding the unauthorised change in November 2022.
- 7.2 Since then, several unsuccessful applications have been submitted as shown in Section 3 of the report and the breach remains. The Planning Inspectorate dismissed an appeal against this Council's refusal of the 2022 prior approval application for conversion to a flat. The officer's report for the most recent planning refusal 24/00411/FUL is at Appendix 1 of this report .

8 Appraisal

Impact on the Primary Shopping Frontage and Commercial Character of the Area

- 8.1 The building is within a designated Primary Shopping Frontage (as contained in the Development Management Document) which is protected by Policy DM13 which states that:
- 8.2 “Primary and secondary shopping frontages within Southend will be managed to reinforce their attractiveness, vitality, and viability within the daytime and night-time economies. The character and function of both types of frontage will be protected and enhanced”.
- 8.3 The site is within a row of premises with lawful commercial uses at ground floor level and forms part of a local centre location on West Road. Consistent to the approach this LPA has taken to unauthorised changes of use of neighbouring commercial premises, allowing this unit to become a dwelling would erode and compromise the commercial character of the area. The importance of the commercial character of the area is significant considering that the area is designated as a Primary Shopping Frontage. Whilst there is no requirement for a certain percentage of uses within these areas, a residential use on the ground floor level to the front of the site would have a detrimental impact on the vitality, vibrancy, viability, and sustainability of the key shopping area. Furthermore, it has not been demonstrated that the unit cannot reasonably be used for any use falling within Use Class E.
- 8.4 Whilst it is noted that a more residential shopfront appearance at the site was approved under permission ref. 22/02355/FUL, the site has historically had a less traditional shop frontage hence that permission did not erode the Primary Shopping Frontage significantly over and above the established situation.
- 8.5 The development disrupts the continuity of the Primary Shopping Frontage and reduces activity in a key shopping area. No evidence has been provided to show that there is no reasonable prospect of the re-use of the premises as shops or services within Use Class E. It is therefore considered that the material change of use of the site is significantly and demonstrably harmful to the character, function and thus the sustainability of the Primary Shopping Frontage in a key shopping area.
- 8.6 Taking the above analysis into account, it is considered that the development is detrimental to the sustainability of a key shopping area. It is therefore unacceptable and contrary to local and national policies in this regard.

Recreational disturbance Avoidance Mitigation Strategy (RAMS).

- 8.7 New residential development in the city 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).
- 8.8 The development involves the net increase of one dwelling within the Zone of Influence. No mechanism for appropriate mitigation within a reasonable timescale, or for any alternate mitigation has been established.
- 8.9 The development therefore fails to reasonably mitigate the in-combination effects of the development on habitats and species in accordance with the Habitats Regulations and as required in the adopted RAMS SPD. This is unacceptable and contrary to the relevant policies which seek to protect the natural environment with specific reference to the coastal habitats.

Other matters

- 8.10 The development through the determination of planning application 24/00411/FUL is not found to result in any unacceptable future occupier living conditions, any significant parking or highways impacts or any significantly harmful neighbour amenity impacts, it is therefore acceptable and policy compliant in these regards.

Enforcement Action

- 8.11 Given the harm identified above, it is reasonable, expedient and in the public interest to pursue enforcement action in the circumstances of this case. This will reasonably aim to secure the cessation of the unauthorised use and remove at least one of the key services that facilitate the use. No lesser steps that could remedy the identified breach or associated harm have been identified.
- 8.12 The Local Planning Authority must allow a reasonable timeframe for compliance with the requirements of any enforcement notice. Given that the building is occupied residentially the minimum time allowed for compliance with the notice should be at least two months in line with case law related to human rights. Allowing three (3) calendar months is considered sufficient and reasonable time to allow for compliance with the above-described steps particularly considering that an additional period of at least 28 calendar days has to be allowed before any enforcement notice takes effect.
- 8.13 Staff consider that taking enforcement action is proportionate and justified in the circumstances of the case and that an enforcement notice should be served as this will bring further focus to the need for the breach to cease and the identified harm to be remedied. Service of an enforcement notice carries its own right of appeal and does not fetter the owner in seeking to gain planning permission for a different proposal which remedies the identified harm.
- 8.14 Taking enforcement action in this case may amount to an interference with the owner/occupier's human rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area in the public interest.

Equality and Diversity Issues

- 8.15 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 planning enforcement case 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.

9 Recommendation

- 9.1 **AUTHORISE ENFORCEMENT ACTION [to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice to require those issued with a copy of**

the Enforcement Notice to:

- a) Cease the use of the ground floor part of the building as a self-contained dwelling (Use Class C3); and
- b) Remove from the building all residential fixtures and fittings which facilitate the use including but not limited to:
 - i. Shower/bath tab and/or any other item which can be used for washing (showering or bathing); and
 - ii. Oven and/or hob and/or any other item which can be used for cooking; and
 - iii. Fridge and/or freezer or other items which allows the storage of food; and
 - iv. Clothes washing and/or drying equipment; and
 - v. Beds and/or sofa/beds and/or other items which can be used for sleeping.

9.2 With time for compliance:

- Three (3) calendar months.

9.3 For the following reasons:

- 01 The development disrupts the continuity of the Primary Shopping Frontage and reduces activity in a key shopping area. No evidence has been provided to show that there is no reasonable prospect of the re-use of the premises as shops or services within Use Class E. It is therefore found that the material change of use of the site is significantly and demonstrably harmful to the character, function and thus the sustainability of the Primary Shopping Frontage in a key shopping area. The significant harm identified is not outweighed by the benefits of the development, including the limited provision of additional housing. The development is unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP1, KP2, CP1, CP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM13 of the Development Management Document (2015).
- 02 The development offers no reasonable mitigation of the in-combination effect of the net increase of one dwelling on habitats and species in accordance with the Habitats Regulations as identified in the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (2020). This harm is not outweighed by the benefits of the development, including the additional housing proposed. This is unacceptable and contrary to the RAMS Supplementary Planning Document (2020), Policies KP1, KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM6 of the Development Management Document (2015) which seek to protect the natural environment with specific reference to the coastal habitats.

Appendix 1

Reference:	24/00411/FUL
Application Type:	Full Application
Ward:	West Shoebury
Proposal:	Change use of existing ground floor commercial unit (Class E) into one self-contained flat (Class C3) (Retrospective)
Address:	67 West Road, Shoeburyness, Southend-on-Sea, SS3 9DT
Applicant:	Mr Mead
Agent:	Mr James Furzer of JFD Architecture
Consultation Expiry:	3rd April 2024
Expiry Date:	31st May 2024
Case Officer:	James Benn
Plan Nos:	PL100
Supporting Documents:	1335 – Design + Access Statement by JFD Architecture
Recommendation:	REFUSE PLANNING PERMISSION

1 Site and Surroundings

- 1.1 The application site is on the western side of West Road and is occupied by an end-terraced, two-storey building. This application concerns the ground floor of the building which was last used as a dog grooming business and has been converted into a single storey dwelling without planning permission.
- 1.2 The site is part of a parade of four shopfronts which are part of the designated Primary Shopping Frontage on West Road. The unit to the north of the site, No 69 West Road, has been converted into a dwelling from a shop without planning permission and is subject to an enforcement investigation.
- 1.3 The site is not within a conservation area. Other than the designation as a Primary Shopping Frontage no other site-specific designations affect the site.

2 The Proposal

- 2.1 Retrospective planning permission is sought for a change use of the ground floor commercial unit (Class E) into one self-contained flat (Class C3).
- 2.2 The flat is a 1-bedroom, 1-person unit with a floor area of some 39sqm.
- 2.3 No details of refuse and cycle storage have been submitted with the application.
- 2.4 Although the application form states that the development has not commenced, the application is understood to be retrospective in nature as on the balance of probabilities and based on the planning history available to the Local Planning Authority, the site appears to be in an unauthorised use as a residential dwelling. The application therefore seeks to

regularise this breach of planning control.

- 2.5 The changes to the front elevation, namely the replacement front door and window installed, were approved under the part-retrospective application ref. 22/02355/FUL (the 2022 application).

3 Relevant Planning History

3.1 The most relevant planning history of the application site is listed below:

- 24/00018/PA64: Change use of existing ground floor commercial unit (Class E) into one self-contained flat (Class C3) (Prior Approval). Withdrawn.
- 23/00851/CLP: Convert existing commercial ground floor unit (Class E) into a self contained flat (Class C3) (Certificate of Lawful Development - Proposed). Refused.
- 22/02355/FUL (the 2022 application): Replace window and door to ground floor front elevation (part-retrospective). Permission granted.
- 22/01762/PA3COU: Change of use of ground floor Dog grooming parlour (Class E) to form 1 self-contained flats (Class C3) and alter front elevation (Prior Approval) – Prior approval refused. Appeal dismissed ref. APP/D1590/W/22/3312677.
- 22/01250/CLP: Use commercial ground floor unit (Class E) as self-contained flat and alter front elevation (Class C3) (Lawful Development Certificate) – Certificate of Lawfulness Refused.

Enforcement:

- 22/00304/UCOU_B: Change of use from commercial (Use Class E) to dwelling (Use Class C3). Under investigation.

Enforcement at 69 West Road:

- 20/00334/UCOU_B: Fast food shop converted to a studio flat. Under investigation.

4 Representation Summary

Public Consultation

- 4.1 Thirteen (13) neighbouring properties were notified of the application by letter. No letters of representation have been received.

Highways

- 4.2 No objections. Should a vehicle attempt to park at the front of the proposed dwelling without the necessary vehicle crossover enforcement action will be taken.

Cadent Gas

- 4.3 No objections subject to an informative.

Environmental Health

- 4.4 No objections subject to conditions relating to construction/alterations management and waste management and informatives relating to construction/alterations outside of normal hours and asbestos.

[Officer Comment: Conditions would have been suggested at the last section of this report that would have been considered to pass the relevant tests of planning law, policy and guidance in the circumstances of this case.]

Essex County Fire and Rescue

4.5 No objection.

5 Planning Policy Summary

5.1 The National Planning Policy Framework (NPPF) (2023)

5.2 Planning Practice Guidance (PPG) (2024)

5.3 National Design Guide (NDG) (2021)

5.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).

5.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM6 (Seafront), DM8 (Residential Standards), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection) and DM15 (Sustainable Transport Management).

5.6 The Southend-on-Sea Design and Townscape Guide (2009)

5.7 Community Infrastructure Levy (CIL) Charging Schedule (2015)

5.8 Southend-on-Sea Waste Management Plan for New Development (2019)

5.9 Technical Housing Standards – Nationally Described Space Standards (2015).

5.10 Southend-on-Sea Technical Housing Standards Policy Transition Statement (2015)

5.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)

6 Appraisal

Principle of Development

6.1 Paragraph 90 of the NPPF states: "Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should... (f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites."

6.2 Paragraph 123 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions." Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.

- 6.3 The results of the Housing Delivery Test (HDT) published by the Government show that there is an 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 South Essex Strategic Housing Market Assessment (SESHMA) identifies that Southend has a higher proportion of flats/maisonettes and a housing stock comprised of a greater proportion of one-bed units and smaller properties a consequence of which is that there is a lower percentage of accommodation of a suitable size for families.
- 6.4 Policy CP2 of the Core Strategy supports the vitality and viability of local centres in meeting the day-to-day convenience needs of their local communities.
- 6.5 Policy DM13 states "Primary and secondary shopping frontages within Southend will be managed to reinforce their attractiveness, vitality and viability within the daytime and night-time economies. The character and function of both types of frontage will be protected and enhanced." An active frontage should be retained or provided with a display function for goods and services rendered and the proposed use will provide a direct service to visiting members of the general public.
- 6.6 The site is within a Primary Shopping Frontage. The development results in the loss of a commercial unit and an active commercial frontage at ground floor on West Road. The site is within a row of premises with lawful commercial uses at ground floor level and forms part of a local centre location within the Primary Shopping Frontage on West Road. The conversion of the commercial unit into residential use compromises the commercial character of the area. The importance of the commercial character of the area is significant considering that the area is designated as a Primary Shopping Frontage. Whilst there is no requirement for a certain percentage of uses within these areas, a residential use on the ground floor level to the front of the site has a detrimental impact on the vitality, vibrancy, viability, and sustainability of the key shopping area. Furthermore, it has not been demonstrated that the unit cannot be re-used for any use falling within Use Class E.
- 6.7 Whilst it is noted that a more residential shopfront appearance at the site was approved under permission ref. 22/02355/FUL, the site has historically had a less traditional shop frontage hence the permission did not result in erosion of the Primary Shopping Frontage significantly over and above the established situation.
- 6.8 The provision of additional housing is a consideration which should be given increased weight in a balancing exercise applying the tilted balance in favour of sustainable housing development. The small net quantum of housing, a single, one-bedroom unit, would have limited effect on the overall supply of housing in the City.
- 6.9 The development disrupts the continuity of the Primary Shopping Frontage and reduces activity in a key shopping area. No evidence has been provided to show that there is no reasonable prospect of the re-use of the premises as shops or services within Use Class E. It is therefore considered that the material change of use of the site is significantly and demonstrably harmful to the character, function and thus the sustainability of the Primary Shopping Frontage in a key shopping area. The significant harm identified to the Primary Shopping Frontage is not outweighed by the benefits of the development, including the limited provision of additional housing proposed.
- 6.10 The principle of the development is unacceptable and would be contrary to policy in the above regards.

Design and Impact on the Character of the Area

- 6.11 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.

- 6.12 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.
- 6.13 No external changes are proposed. The change of use has resulted in internal alterations only. The shopfront alterations were approved under permission ref. 22/02355/FUL.
- 6.14 No details regarding the siting of refuse and cycle storage have been submitted. The siting of refuse and cycle storage could be reasonably accommodated and accessed within the rear of the site where it would not harm the character and appearance of the area. Such details could have been secured by condition had the application been found otherwise acceptable.
- 6.15 Subject to conditions which could have been imposed, it considered that the design, size, siting and scale of the development are such that it does not result in any significant harm to the character and appearance of the site, the streetscene and the area more widely. The development is therefore considered to be acceptable and policy compliant in these regards.

Standard of Accommodation and Living Conditions for Future Occupiers

- 6.16 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.
- 6.17 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage size. The required size for the type of units proposed and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

Table 1: Space Standards and Proposed Dimensions

	Area (m²)	Bedroom 1	Built-in storage (m²)
Standard for 1 storey 1b, 1p	39	7.5m ² Wmin=2.15m	1
Proposed 1 storey 1b, 1p	39	9m² Wmin = 2.5m	None shown.

- 6.18 The proposed unit would satisfy or exceed the minimum space standards in terms of the overall floor and bedroom floor areas. No details of built-in storage have been submitted. There is sufficient space within the unit to accommodate the 1sqm provision of built-in storage area required. Details of this could have been secured by condition had the application been found otherwise acceptable.
- 6.19 All habitable rooms would receive adequate daylight and sunlight and would have adequate outlook.

- 6.20 Building Regulation M4(2) cannot be a strict policy requirement for works on existing buildings. As such the development is considered acceptable in this regard.
- 6.21 No details of an external private amenity space have been submitted. The rear garden at the site is some 81sqm and it is considered that it could be reasonably subdivided, as necessary, to provide private amenity spaces of a reasonable size and shape for future occupiers. Full details of soft and hard landscaping, including details of boundary treatments to subdivide the rear garden, could have been secured by condition had the application been found otherwise acceptable.
- 6.22 Having regard to the mix of commercial and residential uses in the surrounding area, it is not considered nearby ground floor commercial uses would give rise to degrees of noise and disturbance that would significantly harm the amenities of the proposed dwellings' future occupiers.
- 6.23 In the round, it is not considered that the development results in substandard accommodation for future occupiers and would not be detrimental to their living conditions. The development is acceptable and policy compliant in the above regards.

Amenity Impacts

- 6.24 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.
- 6.25 The surrounding area is mixed with commercial and residential uses. The site is at a location where a degree of activity is expected from existing commercial and residential uses. A residential dwelling would be generally compatible within this setting. It is not considered that conversion of the ground floor retail unit into a single, one bedroom dwelling for one occupant would give rise to any significantly harmful noise and disturbance or other significantly harmful amenity impacts in any relevant regards for neighbouring occupiers. It is therefore considered that the design, size, siting and scale of the development are such that it does not result in any significant harm to the amenities of the site, neighbouring occupiers or wider area in any relevant regards.
- 6.26 The development is therefore considered to be acceptable and policy compliant in terms of its amenity impacts.

Traffic and Transportation Issues

- 6.27 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." 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 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."
- 6.28 Policy DM15 of the Development Management Document states that a one bedroom flat should be served by a minimum of one off-street parking space and a minimum of one secure and covered cycle space. Residential vehicle parking standards may be applied flexibly

where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/or where the rigid application of these standards would have a clear detrimental impact on local character and context.

- 6.29 The site at present does not benefit from off-street car parking. The development would not provide any off-street car parking. The site is in a sustainable location with regard to public transport, noting that there are bus stops in walking distance on Caulfield Road to the north and that Shoeburyness Railway Station is in walking distance. It is also within a Primary Shopping Frontage, close to a number of shops and services. The development would not therefore result in undue parking stress in the area or cause significant harm to the highway network.
- 6.30 No details of secure and covered cycle parking have been submitted. It is considered that cycle storage could be accommodated within the rear of the site. Full details of secure and covered cycle parking could have been secured by condition had the application been found otherwise acceptable.
- 6.31 The Council's Highways Team have raised no objection to the development.
- 6.32 Subject to the described conditions which could have been imposed, the development is found to be acceptable and compliant with the objectives of the above-noted policies in regard to parking and highways.

Refuse and Recycling Storage

- 6.33 The Southend-on-Sea Waste Storage, Collection and Management Guide for New Developments does not prescribe a space standard for the provision of a single dwelling, although at paragraph 8.1 it states that waste should be kept in an enclosure.
- 6.34 No details of refuse and recycling storage have been submitted. It is considered that refuse and recycling storage could be accommodated within the rear of the site. Full details of enclosed refuse and recycling storage could have been secured by condition had the application been found otherwise acceptable.
- 6.35 Subject to the described conditions, the development is acceptable and policy compliant in the above regards.

Energy and Water Sustainability

- 6.36 Policy KP2 of the Core Strategy states; "All development proposals should demonstrate how they will maximise the use of renewable and recycled energy, water and other resources" and that "at least 10% of the energy needs of a new development should be provided by renewables in order to meet Policy KP2."
- 6.37 Policy DM2 of the Development Management Document part (iv) requires water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption).
- 6.38 No information has been provided regarding proposed renewable energy to demonstrate how the development meets the 10% policy requirement or how it would achieve the required restrictions on water usage.
- 6.39 It is considered that the requirement for renewable energy and restrictions on water usage could have been controlled with conditions had the application been found otherwise acceptable provided any such externally mounted technologies respect the character and

appearance of the building and wider area.

Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)

- 6.40 New residential development at this site 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).
- 6.41 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) which was adopted by Full Council in October 2020 requires that a tariff of £163.86 (index linked) is paid per net dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 6.42 No relevant payment has been recorded. In the absence of a mechanism to secure the RAMS payment for the net +1 dwelling unit, the proposed development is unacceptable and contrary to the adopted RAMS Supplementary Planning Document SPD.

Community Infrastructure Levy (CIL)

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

Equality and Diversity Issues

- 6.44 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

- 6.45 For the reasons outlined above the development is found to be unacceptable and contrary to the relevant planning policies and guidance. The significant harm identified is not outweighed by the benefits of the development, including the limited provision of additional housing which has been taken fully into account in the assessment and given appropriate weight in line with the presumption in favour of sustainable development. The identified adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the NPPF taken as a whole. As there are no other material planning considerations which would justify reaching a different conclusion it is recommended that planning permission is refused.

7 Recommendation

- 7.1 **REFUSE PLANNING PERMISSION for the following reasons:**

- 01 The development disrupts the continuity of the Primary Shopping Frontage and reduces activity in a key shopping area. No evidence has been provided to show that there is no reasonable prospect of the re-use of the premises as shops or services within Use Class E. It is therefore found that the material change of use of the site is significantly and demonstrably harmful to the character, function and thus the sustainability of the Primary Shopping Frontage in a key shopping area. The significant harm identified is not outweighed by the benefits of the development, including the limited provision of additional housing. The development is unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP1, KP2, CP1, CP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM13 of the Development Management Document (2015).
- 02 The development offers no reasonable mitigation of the in-combination effect of the net increase of one dwelling on habitats and species in accordance with the Habitats Regulations as identified in the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (2020). This harm is not outweighed by the benefits of the development, including the additional housing proposed. This is unacceptable and contrary to the RAMS Supplementary Planning Document (2020), Policies KP1, KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM6 of the Development Management Document (2015) which seek to protect the natural environment with specific reference to the coastal habitats.

Informatives

- 1 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application may also be CIL liable.
- 2 Cadent Gas Ltd own and operate the gas infrastructure within the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets in private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions

Prior to carrying out works, including the construction of access points, please register on www.linesearchbeforeudig.co.uk to submit details of the planned works for review, ensuring requirements are adhered to.

Positive and Proactive Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development.

Appendix 1

Case Officer Signature.....	JB.....	Date 28.05.2024
Senior Officer Signature.....	CW.....	Date 29.05.2024
Delegated Authority Signature.....	PK.....	Date 29.05.2024