

<b>Reference:</b>	24/01199/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Chalkwell	
<b>Proposal:</b>	Change of use of ground floor to rear and first floor from restaurant (Class E(b)) to 3 no self-contained flats with balcony to front (Class C3) and form ground floor commercial unit (Class E) to front, erect single storey front extension to form bin and cycle store, remove part of front boundary wall for access and alter elevations	
<b>Address:</b>	96 The Ridgeway, Westcliff-on-sea, Essex	
<b>Applicant:</b>	Mr M. Hassan	
<b>Agent:</b>	Mr Colin Stone of Stone Me Ltd	
<b>Consultation Expiry:</b>	29th October 2024	
<b>Expiry Date:</b>	15th November 2024	
<b>Case Officer:</b>	James Benn	
<b>Plan Nos:</b>	Location plan; 01; 02; 03; 04; 05; 06F; 07B; 08A; 09A; 10C; 11C 12C	
<b>Additional information:</b>	Design and Access Statement by Stone Me Design Ltd; 13; 14; Justification for restaurant to residential statement; Planning Statement September 2024 by Essex Planning Services.	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION subject to conditions</b>	



## **1 Site and Surroundings**

- 1.1 The application site contains a three-storey mixed use building on the southern side of The Ridgeway. The surrounding area is a mixture of residential and commercial properties. The application building has a long history of operating as a restaurant. There is currently a restaurant on the ground and first floors of the building. There is a residential flat at second floor. To the south of the site is a public footpath, the Southend-London railway line and an electricity substation.
- 1.2 The site is designed as Secondary Shopping Frontage within the Development Management Documents' Policies Map.

## **2 The Proposal**

- 2.1 Planning permission is sought to change the use of the ground floor to the rear and the first floor from a restaurant (Use Class E(b)) to three self-contained flats with a balcony to the front (Use Class C3), form a 45sqm ground floor commercial unit (Use Class E) to the front, erect a single storey front extension to form a bin and cycle store, remove part of the front boundary wall for access and to alter the elevations.
- 2.2 The proposed development would provide the following residential accommodation and gross internal floor areas (GIA):
  - Flat 1 (Ground floor): GIA 83sqm; 2-bedroom, 4-person unit over 1 storey.
  - Flat 2 (First Floor): GIA 68.2sqm; 2-bedroom, 3-person unit over 1 storey.
  - Flat 3 (annotated as 4 on plans) (First Floor): GIA 68.1sqm, 2-bedroom, 3-person unit over 1 storey.
- 2.3 The existing self-contained flat on the second floor is a 3-bedroom flat with a GIA of 120.3sqm and would be unchanged so four flats would exist in total as a result of the proposal. The flats would all be accessed from the front.
- 2.4 The proposed first floor flats would have external private amenity spaces in the form of front balconies some 7.5sqm-9.7sqm. The proposed ground floor flat would have no private amenity space. The existing second floor flat has no external private amenity space and no change is proposed.
- 2.5 The proposed first floor balcony to the front would be some 12.7m wide, would project some 1.4m deep from the front elevation of the building and would have four supporting posts. The proposed balcony would be black powder coated metal.
- 2.6 The proposed single storey front extension would be flat roofed and irregular shaped, and it would infill an area between the western side elevation of the existing front porch and the boundary wall. The proposed front extension would be up to some 2.4m deep, 2.9m wide and 2.3m high and it would have a similar front building line to the existing porch. The proposed front extension would be red brick to match the existing building and would have sliding hardwood gate in the side elevation to provide access to the bin/cycle store.
- 2.7 Two existing first floor, high-level windows in the rear elevation of the building would be removed and reconfigured with five new first floor windows in the rear elevation proposed instead. Five new ground floor windows are proposed in the rear elevation.
- 2.8 Plans indicate that the existing render to the external walls would be re-painted in grey and that the existing fascia would also be repainted.

- 2.9 The existing front boundary wall would be reconfigured with a 3.6m wide section removed to provide an opening to the commercial unit entrance door. Some limited indicative soft landscaping is shown to the front of the building. No off-street parking is proposed. Bin and cycle storage is proposed internally to the development for both the residential units and the commercial unit proposed.
- 2.10 The existing extraction duct and air conditioning units to the rear elevation of the building would be removed. No details regarding the specific use of the commercial unit, opening hours or number of employees have been submitted for the proposed commercial unit.
- 2.11 The proposed external materials include red brick to match the existing, painted grey render, black UPVC windows to match the existing and a black powder coated metal balcony.
- 2.12 Amended plans were submitted during the course of the application which changed the layout of the ground floor to form a commercial unit to the front and a residential unit to the rear instead of two residential units and no commercial unit at ground floor which was previously proposed.

### 3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 1 below:

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

<b>Reference</b>	<b>Description</b>	<b>Outcome</b>
17/01300/FUL	Erect single storey front extension to enclose existing seating area	Refused. Appeal dismissed.
16/01529/FUL	Install two retractable canopies to the front elevation	Refused. Allowed at appeal.
16/00921/AD	Application for approval of details pursuant to condition 3 (samples of the materials) of planning permission 16/00406/FUL dated 13/5/2016	Permission granted.
16/00919/FUL	Application for the removal of condition 05 (no tables or chairs for dining or drinking purposes shall be provided at the site frontage or within the public highway) of planning permission 16/00406/FUL dated 13/05/2016	Permission granted.
16/00406/FUL	Erect porch, alter windows and door to front elevation and alter elevations	Permission granted.
15/01274/FUL	Demolition of existing entrance, erection of porch, form new entrance to managers accommodation, replacement of windows and at front elevation and cladding of front elevation	Permission granted.
15/01038/FUL	Erect single storey front extension with retractable roof and alter front elevation	Refused.
06/01161/ADV	Retain fascia sign to front elevation (retrospective)	Advertisement consent granted.
00/00259/FUL	Erect extract duct to rear elevation	Permission granted.

## 4 Representation Summary

### Public Consultation

4.1 Eleven (11) neighbouring properties were notified of the application by letter and a site notice was displayed. Re-consultation was undertaken following revised plans. Representations have been received from four (4) interested parties. Summary of representations:

- The property is in a row of retail units.
- Concerns over the loss of the restaurant use.
- Concerns over loss of local amenities.
- Neighbours would like the site to remain a restaurant or to see a retail space.
- If the restaurant is turned into flats, it could set a precedent for other units/businesses in the parade and more local businesses would be lost. Station Road in Westcliff is an example.
- The bin stores and parking on a busy road for all flats seems unlikely to be fully accounted for.
- Neighbours object to the application.
- The change of use from commercial to residential will be detrimental to the shopping area of the Ridgeway.
- Many new build/repurposed flats have been built in the Leigh/Chalkwell area which are still advertised for sale, neighbours question whether there is a demand for more flats of this nature.
- Overdevelopment of the locality.
- Parking concerns. Doesn't appear to be any parking for the flats. Lack of parking will severely impact an area which already has parking problems and limited parking.
- Query if there is a downturn in the demand as the restaurant is often busy/difficult to book a table and other restaurants have been purchased/taken over by applicant.
- Concerns over the quality of the plans submitted.
- Neighbours do not think any more residential properties are needed on the Ridgeway.
- Residential amenity concerns including noise and disturbance from the new residential development. The road is already busy and noisy.
- Existing water overflow and flooding issues. More apartments will add to the problem.
- Query where the parking will be located.
- Objection to the commercial unit proposed being used for a food takeaway service.
- Objection to the front terraced to be used as outside dining and drinking unless closed by 9pm as per planning conditions to neighbouring properties.
- Neighbours will not tolerate outside drinking and dining after 9pm.

4.2 **[Officer comment:** Amended plans were submitted during the course of the application which changed the layout of the ground floor to form a commercial unit to the front and a residential unit to the rear instead of two residential units and no commercial unit at ground floor which was previously proposed. All relevant planning considerations have been assessed within the appraisal section of the report. These concerns are noted and they have been taken into account in the assessment of the application but were not found to justify refusing planning permission in the circumstances of this case.]

### Chalkwell Ward Residents Association

4.3 Object to the application.

Concerns over the principle of the change of use. This section of The Ridgeway has always been the commercial centre of the Chalkwell Hall estate, with the premises in

question having been a restaurant dating back for many decades. In addition, with the loss of a commercial premises at number 96, the commercial flow of premises would be interrupted; leaving the hairdressers, Chopp, isolated on the other side of Victory Path, being the last/first commercial property in the parade. This would create 'dead' street frontage, which we feel would be detrimental to the character of the area. It would also create a precedent for the conversion of other commercial premises here into residential use.

Concerns over the parking. It appears from the plans that no provision has been made for on-site parking for the flats, and nor is there any apparent possibility to create any. While there is some parking available on the street, this is not adequate for residential purposes, as it is time-limited and under constant pressure, as exemplified by recent complaints of cars being illegally parked on the central reservation.

Concerns the application has been delegated to an officer to determine. If approved, the proposal could have a significant impact on the parade. The restaurant previously had a specific planning requirement for an on-site waste area but in planning decision ref. 15/01274/FUL that requirement was removed. That planning decision had been delegated for determination by a planning officer and not the planning committee. The result of that officer's decision was that waste disposal bins have continually obstructed the rear Victory Path, also encouraging rats. The Chalkwell Ward Residents Association and residents of the ward have made endless complaints with little effect, although it did, fairly recently, achieve a reduction from 11 to 6 commercial waste bins.

Three properties in the parade have been refused on appeal to the right to extend updated because the planning inspectorate was of the opinion that this would adversely affect both the roof line and character of a fully occupied secondary shopping parade. If that is the case, the replacement of ground floor commercial with residential accommodation will have a much greater impact, and so, the Chalkwell Ward Residents Association believe, must be rejected in the overall interests of the parade.

**[Officer comment:** The application has been called into the Development Control Committee by Cllr Courtenay so is not being decided under delegated powers. Amended plans were submitted during the course of the application which changed the layout of the ground floor to form a commercial unit to the front and a residential unit to the rear instead of two residential units and no commercial unit at ground floor which was previously proposed. All relevant planning considerations have been assessed within the appraisal section of the report. These concerns are noted and they have been taken into account in the assessment of the application but were not found to justify refusing planning permission in the circumstances of this case.]

### **Environmental Health**

- 4.4 No objection, subject to conditions in relation to noise protection for dwellings, sound insulation and a construction management plan and informatives relating to construction outside of normal hours and stacking arrangements.

**[Officer Comment:** Conditions are suggested at the last section of this report which are considered to pass the relevant tests of planning law, policy and guidance in the circumstances of this case. Sound insulation is a matter for building control.]

### **Highways**

- 4.5 No objection. The applicant has provided a robust Design and Access Statement to support the application. Secure cycle parking has been provided. The site also benefits from being in a sustainable location with regard to public transport with good links in close proximity.

It is not considered that the proposal will have a detrimental impact on the local highway network.

## **5 Procedural matters**

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

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

- 6.1 The National Planning Policy Framework (NPPF) (2023)
- 6.2 Planning Practice Guidance (PPG) (2024)
- 6.3 National Design Guide (NDG) (2021)
- 6.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 6.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (The Efficient and Effective Use of Land), DM6 (Seafront), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM13 (Shopping Frontage Management outside Town Centre), DM15 (Sustainable Transport Management).
- 6.6 Southend-on-Sea Technical Housing Standards Policy Transition Statement (2015)
- 6.7 Technical Housing Standards – Nationally Described Space Standards (2015)
- 6.8 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020).
- 6.9 Southend-on-Sea Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.10 The Southend-on-Sea Design and Townscape Guide (2009)
- 6.11 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 6.12 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 are the principle of the development, 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, ecology including BNG and mitigation for impact on designated sites and CIL liability.

## 8 Appraisal

### Principle of Development

- 8.1 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."
- 8.2 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.
- 8.3 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 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. 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 would however have limited effect on the overall supply of housing in the city.
- 8.4 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.
- 8.5 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.
- 8.6 The site is within a Secondary Shopping Frontage. A smaller commercial unit in Use Class E (Commercial, Business and Service) would be retained to the front at ground floor. However, commercial use (lawful restaurant Class E use) would be lost to the rear at ground floor and at first floor. It is understood from the submitted documents that the restaurant business failed to recover from the downturn in trading following the COVID-19 pandemic and has been consistently trading at a weekly loss (£3,000-£4,000 per week) over the last 12 months. This is evidenced by a letter from the Applicant's accountant. The restaurant has been marketed since July 2024 and there has been no significant market interest in leasing the property for continued restaurant use due to its layout, the national economic situation and its impacts on the hospitality industry, and the site's close proximity to residential dwellings and associated noise and disturbance complaints by residents in the surrounding area. This is evidenced by a letter from the Applicant's property management company.
- 8.7 The current use falls within Class E and is not one of the B Class employment-generating uses which are the focus of Policy DM11 objectives. The application unit is significantly larger than the other retail and commercial spaces in the shopping parade.

The scale and layout of the premises differentiates it from the smaller units that are more typical of this Secondary Shopping Frontage. The other units are modest in size and designed to meet the day-to-day needs of local residents and commuters, particularly given the proximity of a nearby train station. These smaller units tend to host convenience stores, cafes, and other services that cater to quick transactions, foot traffic, and local errands, reflecting the nature of a secondary shopping area aimed at providing essential services to the community. The proposal, as revised, would retain an active commercial frontage and a smaller commercial unit at the site in this designated Secondary Shopping Frontage which is characterised by smaller commercial units as described. Therefore, it would not materially harm the overall character and functionality of the Secondary Shopping Frontage and it is considered acceptable in this regard. The frontage can be required to remain active and unobstructed with an appropriately worded condition.

- 8.8 In the round, the proposal would not materially harm the overall character and functionality of the Secondary Shopping Frontage and would provide +3 net additional dwellings on previously developed land in a highly sustainable location. There is an identified need for all types of housing in the city. The principle of the change of use and extending and altering the existing building is considered acceptable and policy compliant, subject to the proposal appropriately addressing the relevant detailed planning considerations.

### **Design and Impact on the Character of the Area**

- 8.9 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.
- 8.10 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 Council's Design and Townscape Guide provide further details on how this can be achieved.
- 8.11 The existing restaurant shopfront is set back from the public footpath beyond an existing low brick boundary wall with planters above and the existing window and door arrangement, design and sizes are such that the frontage and front elevation of the building already has a somewhat residential and domestic appearance in comparison to a typical restaurant shopfront and the other smaller more typical shopfronts in the parade. An active commercial frontage would be retained and the removal of a section of the boundary wall would open up the ground floor commercial frontage in the designated Secondary Shopping Frontage more than the existing situation which is a positive element of the proposal. The change of use to residential use to the rear at ground floor and the whole first floor and the removal of the section of the front boundary wall would not result in any significant harm in character and design terms and the proposal is acceptable in this regard.
- 8.12 There are some examples of existing balconies to the fronts of properties along The Ridgeway, including the existing second floor balcony at the site and balconies to the fronts of dwellings on the northern side of The Ridgeway, opposite the site. The proposed first floor balcony and its balustrade would be similar in design, materials and appearance to the existing second floor balcony. On this basis, the proposed first floor balcony would not result in any significant harm in character and design terms and the



proposal is acceptable in this regard.

- 8.13 The proposed single storey front extension would not project forward of the existing porch, would be a relatively modest addition in terms of scale, would be finished in brick to match the existing ground floor of the building and would have an eaves height below the eaves of the porch. The proposed front extension therefore would appear as a reasonably subservient and modest addition and would not result in any significant harm in character and design terms. The proposal is acceptable in this regard.
- 8.14 The rear elevation of the existing building is mostly a blank façade with one small high-level window at ground floor, two small high-level windows at first floor and plant and equipment attached to it. The proposed ground and first floor windows proposed would provide more visual interest over the existing situation and the existing plant and equipment would be removed which is a positive aspect of the proposal. The windows proposed to the rear would also increase natural surveillance to the path to the rear of the site which is positive. The proposal is considered acceptable in this regard.
- 8.15 The proposed external materials would be generally consistent with the site and surroundings with a residential character and can be secured by condition.
- 8.16 Some limited soft landscaping to the front is shown. Full details of hard/soft landscaping and boundary treatments can be secured by condition.
- 8.17 Subject to the described conditions, the design, size, siting and scale of the development proposed are such that it would not result in any significant harm to the character and appearance of the site, the streetscene and the area more widely. The proposal is acceptable and policy compliant in these regards.

### **Amenity Impacts**

- 8.18 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.
- 8.19 The proposal would intensify the use of the site. Given the nature of the proposal which is for a smaller commercial unit and net +3 dwellings in a built-up area and the existing mixed use of the site as a restaurant with second floor residential accommodation, the proposal would not result in any significantly harmful noise and disturbance impacts to neighbouring occupiers over and above the existing situation or in its own right.
- 8.20 Given there are residential units within the vicinity of the site, it is considered necessary and proportionate to control the use of the site, noise, opening hours and delivery hours, and the installation of any plant and equipment via condition to protect neighbour amenity. The Council's Environmental Health Officer has not objected to the proposal subject to conditions. In addition, it is considered appropriate to control any external lighting and the hours of operation of the external seating area proposed.
- 8.21 The proposed front extension, due to its relatively modest size, single storey scale and the sufficient separation distances, would not significantly harm the amenity of the second floor occupiers at the site or any other surrounding neighbouring occupiers in any relevant regards.

- 8.22 The proposed balcony to the front, due to being at first floor and facing the road is already open to public views and its relatively modest 1.4m depth, would not significantly harm the amenity of the second floor occupiers at the site or any other surrounding neighbouring occupiers in any relevant regards.
- 8.23 The proposed fenestration openings and alterations to the rear elevation look out into the public footpath and the railway line which is already open to public views. The rear fenestration openings would be separated by the railway line and would be some 30m from the boundaries of properties on the southern side of the railway line within Leas Close and Leas Gardens. Having regard to these matters, including the separation distance, the proposed development would not unduly overlook or result in a harmful loss of privacy to any neighbouring occupiers.
- 8.24 The design, size, siting and scale of the development are such that it would not result in any significant harm to the amenities of the site, neighbouring occupiers or wider area in any relevant regards. The development is therefore acceptable and policy compliant in terms of its amenity impacts.

### Standard of Accommodation

- 8.25 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.
- 8.26 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 Flats Dimensions**

	<b>Area (m<sup>2</sup>)</b>	<b>Bedroom 1</b>	<b>Bedroom 2</b>	<b>Built in storage (m<sup>2</sup>)</b>
Standard for 1 storey 2b, 3p	61	11.5m <sup>2</sup> Wmin=2.75m	7.5m <sup>2</sup> Wmin=2.15m	2
Standard for 1 storey 2b, 4p	70	11.5m <sup>2</sup> Wmin=2.75m	11.5m <sup>2</sup> Wmin=2.55m	2
<b>Flat 1 - Proposed 1 storey 2b, 4p</b>	<b>83</b>	<b>13m<sup>2</sup></b> <b>Wmin = 3.3m</b>	<b>13m<sup>2</sup></b> <b>Wmin = 3.3m</b>	<b>2.6sqm cupboard</b>
<b>Flat 2 - Proposed 1 storey 2b, 3p</b>	<b>68.2</b>	<b>11.6m<sup>2</sup></b> <b>Wmin = 2.9m</b>	<b>9.1m<sup>2</sup></b> <b>Wmin = 2.5m</b>	<b>3sqm cupboard and wardrobe</b>
<b>Flat 3 (4) - Proposed 1 storey 2b, 3p</b>	<b>68.1</b>	<b>12.9m<sup>2</sup></b> <b>Wmin = 4.1m</b>	<b>8.2m<sup>2</sup></b> <b>Wmin = 2.55m</b>	<b>1.5sqm cupboard</b>

- 8.27 The proposed units would meet or exceed the minimum space standards in terms of the gross internal floor areas and bedroom floor areas. Bedroom 2 of Flat 2 would fall marginally below the minimum width standards. The built-in storage shown in the submitted plans falls below the minimum standards for Flat 4. Given the proposal

exceeds the minimum standards in all other respects, this is not considered to be so significantly harmful to the amenity of future occupiers to justify refusal of the application on this basis below. Built-in storage can reasonably be provided for each flat to meet the minimum requirements and can be secured by condition.

- 8.28 There would be no changes to the layout and accommodation of the existing second floor flat such that this aspect of the development is considered acceptable.
- 8.29 All habitable rooms would receive adequate daylight and sunlight and would have adequate outlook. Given the changes in the levels, with the existing ground level of the path to the rear of the site some 470mm lower than the existing floor levels for the ground floor flats, the development would ensure that adequate outlook is provided to the future occupiers of the ground floor flats without compromising their privacy from passing pedestrians.
- 8.30 Building Regulation M4(2) cannot be a strict policy requirement for works on existing buildings. As such the proposal is considered acceptable in these regards.
- 8.31 The access arrangements to each unit as proposed would not result in any significantly harmful inter-looking.
- 8.32 Given the site's location in close proximity to the railway line, neighbouring plant and equipment, the electricity substation and commercial premises, it is considered necessary and proportionate to require a Noise Impact Assessment to be carried out to protect the amenities of the proposed dwellings' future occupiers. The provision of adequate noise insulation internally between the proposed residential units, the new ground floor commercial unit and neighbouring uses would be a matter to be addressed under Building Regulations. The Council's Environmental Health Officer has not objected to the development. Subject to such a condition, no objection is raised on this basis.
- 8.33 Policy DM8 states that new dwellings should make provision for usable private outdoor amenity space for the enjoyment of intended occupiers. The proposed first floor flats would have amenity spaces in the form of balconies to the front some 7.5sqm-9.7sqm. These are considered usable amenity spaces for a development of this occupancy and nature. A condition is recommended for the private amenity spaces for the first floor flats to be divided by 1.8m high privacy screens to protect the amenity of future occupiers. No external amenity space is proposed for the ground floor flat. The site is in walking distance to local amenities including a public green space on the northern side of Ridgeway to the east of the site, the seafront and Chalkwell Park such that in the specific circumstances of this case the lack of an external amenity space for the ground floor flat is considered acceptable. Subject to the described condition, the proposed amenity spaces are acceptable for a development of this nature and in this location and the proposal is acceptable in this regard.
- 8.34 Subject to the described conditions, the proposal would provide acceptable living conditions for future occupiers. It would therefore be acceptable and policy compliant in the above regards.

### **Traffic and Transportation Issues**

- 8.35 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."

- 8.36 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.
- 8.37 Policy DM15 of the Development Management Document states that two-bedroom flats should each be served by a minimum of one off-street parking space and a minimum of one secure and covered cycle space per flat. 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. Policy DM15 sets out parking standards for commercial uses as maximum standards. For restaurants and cafes (former A3 uses – now Class E(b)), the car parking standards are a maximum of 1 space per 5sqm and the cycle parking standards are a minimum of one space per 100sqm for staff plus 1 space per 100sqm for customers.
- 8.38 The existing restaurant has a gross internal floor area of some 303sqm which translates as a notional policy requirement of a maximum of 61 parking spaces (when rounded up). The existing second floor flat has a notional policy requirement of a minimum of 1 parking space. The site currently has no off-street parking and no off-street parking is proposed. The proposed commercial unit would generate a policy requirement of a maximum of five off-street parking spaces and a minimum of two cycle parking spaces (when rounded up). The proposed residential units would generate a policy requirement of a minimum of three off-street parking spaces and three cycle parking spaces. The existing use has the capacity to generate a significant notional parking demand and number of vehicle movements when compared to the proposed use. The applicant has provided a sufficiently robust Design and Access Statement to support the application which includes details of the site's sustainable location with regard to public transport with good links in close proximity, including bus routes, cycle routes and Chalkwell Railway Station in close walking distance. The Council's Highways Officer has not objected to the proposal and confirmed that future occupiers will not be eligible for residents' parking permits. Having regard to the site's sustainable location, the notional policy parking requirement for the existing use compared to the shortfall arising from this development, the proposal would not have a detrimental impact on the local highway network.
- 8.39 The submitted plans show secured and covered cycle parking for four cycles has been provided for the residential units. There would be a shortfall two cycle parking spaces for the commercial unit. Given the existing commercial unit has no cycle parking and the site's sustainable location described above, the four cycle parking spaces proposed are considered acceptable and can be secured by condition.
- 8.40 Given the scale and nature of the change of use proposed and the nature of the Ridgeway which is a busy road, it is necessary and proportionate to require a construction management plan to be submitted by condition.
- 8.41 Subject to the described conditions, the proposal is acceptable and policy compliant in the above regards.

### **Sustainability**

- 8.42 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 (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting”.

- 8.43 No information has been provided regarding proposed renewable energy to demonstrate how the proposal meets the 10% policy requirement or how it would achieve the required restrictions on water usage. The requirement for renewable energy and restrictions on water usage can be controlled with conditions provided any such externally mounted technologies respect the character and appearance of the building and the surrounding area. Subject to conditions, the proposal is acceptable and policy compliant in the above regards.

### **Refuse and Recycling**

- 8.44 The Council’s Waste Storage, Collection and Management Guide for New Developments provides guidance on waste stores. It does not prescribe a space standard for this quantum of development, although at paragraph 8.1 it states that waste should be kept in an enclosure. At paragraph 8.13 it states all non-household waste must be kept separate from household waste
- 8.45 The submitted plans detail a bin store area within the proposed front extension with separate commercial and residential bins which is acceptable in principle. Full details of a Waste Management Strategy including service arrangements can be secured by condition.
- 8.46 Subject to the described condition, the proposal is acceptable and policy compliant in the above regards.

### **Ecology, Biodiversity and RAMS**

- 8.47 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).
- 8.48 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 dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 8.49 The payment has been made and the proposal is therefore policy compliant in that regard

Biodiversity Net Gain (BNG)

- 8.50 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% 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.
- 8.51 The development does not impact a priority habitat and impacts less than 25sqm of onsite habitat and 5m of linear habitats such as hedgerows. The development would therefore be subject to the BNG de minimis exemption and is exempt from BNG requirements.

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

- 8.52 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 new residential gross internal floor area of some 265.6sqm which may equate to a CIL charge of approximately £23,352.37 (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**

- 8.53 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**

- 8.54 Having taken all material planning considerations into account, it is found that subject to compliance with the recommended conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development, including the partial loss of commercial floor space and the provision of additional housing is acceptable. The proposed design and scale of the development would have an acceptable impact on the character and appearance of the site, the streetscene, the wider surrounding area. The proposal would provide an acceptable standard of accommodation for new occupiers, subject to conditions. There would be no significant harmful traffic, parking or highways impacts caused by the proposed development. The proposal would also have an acceptable impact on the amenity of neighbouring occupiers.
- 8.55 The proposal has been found by officers to be acceptable in all relevant regards and is recommended for approval on its individual merits subject to conditions. Should Members identify any areas of harm, including those areas where judgement has been

exercised in this report, and 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. When assessing any harm identified, it is necessary to demonstrate that, in reaching a decision, an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any harm.

- 8.56 As discussed in the Principle of Development section of this report, due to the results of the HDT and the 5YHLS figure, the presumption in favour of sustainable development is engaged. The test set out by the NPPF 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. Following assessment, the proposal has been found by officers to be acceptable in all relevant regards.

## **9 Recommendation**

### **9.1 GRANT PLANNING PERMISSION subject to the following conditions:**

- 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: Location plan; 01; 02; 03; 04; 05; 06F; 07B; 08A; 09A; 10C; 11C 12C.**

**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 the first occupation or first use of the development hereby approved, the external elevations of the development hereby permitted shall be constructed solely with materials as detailed in the submitted application form and approved plans or alternative materials, details of which have previously been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition.**

**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).**

- 04 Construction works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Bank and Public Holidays.**

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

- 05 A scheme detailing how at least 10% of the total energy needs of the development hereby approved will be supplied using on site renewable sources shall be submitted to and agreed in writing by the Local Planning Authority and**

implemented in full prior to the first occupation or first use of the development under the terms of this condition. This provision shall be made for the lifetime of the development and in accordance with the agreed details.

**Reason:** In the interests of providing sustainable development in accordance with Policy KP2 of the Core Strategy (2007), Development Management Document (2015) Policy DM2 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

- 06** Prior to occupation of the development hereby approved water efficiency 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 (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be installed in the development hereby approved and be retained in perpetuity thereafter.

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

- 07** Prior to first occupation or first use of the development hereby approved a Waste Management Plan detailing the full details of secure and covered refuse and recycling storage (including scaled elevations) and arrangements for waste collection generated for the ground floor commercial unit hereby approved and, separately, for the residential units hereby approved shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved secure and covered refuse and recycling storage areas shall be implemented and made available for use prior to first occupation of the development hereby approved. The refuse and recycling storage areas shall thereafter be retained and managed in accordance with the approved Waste Management Plan for the lifetime of the development.

**Reason:** To ensure that satisfactory waste storage and management is provided to protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015), and the guidance contained within the Waste Storage, Collection and Management Guide for New Developments (2019) and the Southend-on-Sea Design and Townscape Guide (2009).

- 08** Prior to the first occupation of the residential units hereby approved, the four (4) secure and covered cycle parking spaces shall be provided and made available for use for the occupiers of the residential units as detailed on plan no. 06F or alternative secure and covered cycle parking spaces shall be provided and made available for use for the occupiers of the development prior to its first occupation in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition.

**Reason:** To ensure that satisfactory cycle storage is provided in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP3 and Development Management Document (2015) Policy DM15.



**09** Prior to first occupation or first use of the development hereby approved full details of both hard and soft landscape works to be carried out at the site shall have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved hard landscaping works shall be carried out prior to first occupation of the development 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. means of enclosing the site including details of any gates or boundary treatments;
- ii. hard surfacing materials;
- iii. details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification and;
- iv. details of measures to enhance biodiversity within the site.
- v. details of any permeable paving or other sustainable drainage measures to be implemented.

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 in writing by 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 are implemented pursuant to Policy CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015).

**10** No development shall take place, other than demolition and site preparation works, unless and until a Noise Impact Assessment to include full details of vibration mitigation and noise mitigation measures, to ensure that all habitable rooms in the development hereby approved achieve the requirements of British Standard BS 8233:2014 (or any equivalent standard) has been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The mitigation measures shall be fully implemented as approved prior to the first occupation of any part of the development hereby approved and shall be maintained and retained as such thereafter for the lifetime of the development.

Reason: To protect the environment of people in the development and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

**11** Prior to first occupation of the residential units hereby approved, 1.8 metre-high obscure glazed screens (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy) shall be provided between the external amenity spaces of the first floor dwellings hereby approved. Details of the screens shall be submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The screens must then be installed in full accordance with the approved details before the dwellings hereby approved are first occupied. The screens shall thereafter be retained in that form for the lifetime of the development.

Reason: To protect the privacy and environment of people in the development, in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP4, Development Management Document (2015) Policy DM1, and

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

- 12 The residential units hereby approved shall not be first occupied unless and until internal storage space for the three proposed units has been provided and made available for use in accordance with details which have previously been submitted to and approved in writing by the Local Planning Authority pursuant to this condition.

Reason: To ensure the development hereby approved provide high quality internal layouts to meet the needs of future residents in accordance with the National Planning Policy Framework (2021), Policy DM8 of the Development Management Document (2015) and the advice contained within the National Housing Standards (2015) and the Technical Housing Standards Policy Transition Statement (2015).

- 13 The ground floor commercial unit hereby approved shall only be used for purposes falling within Use Class E as defined under the Town and Country Planning (Use Classes) Order 1987 (as amended) on the date this application was submitted. The development shall not be used for any other purpose, including any purpose otherwise permitted under the Town and Country Planning (Use Classes) Order 1987 (as amended) nor any change of use permitted under the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or in any provision equivalent to those Orders in any statutory instrument revoking and re-enacting these Orders, with or without modification.

Reason: To define the scope of this permission in the interests of residential amenities and environmental quality, further to the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 14 The ground floor commercial unit hereby approved shall not operate outside the following hours: 7am to 11pm Monday to Sunday and it shall not operate at any other times.

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

- 15 No deliveries or collections shall take place at the site outside the hours of 8am to 8pm Monday to Saturday. No deliveries or collections of any kind shall take place outside of these hours.

Reason: In the interests of resident amenities further to 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)

- 16 No dust or fume extraction or filtration equipment or air conditioning, ventilation, or refrigeration equipment shall be installed on the building subject of this planning permission unless and until details of its design, siting, discharge points, predicted acoustic performance and details of any necessary noise and odour mitigation measures to be used have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition.

The equipment shall be installed only in accordance with the approved details and shall be maintained in good working order thereafter for the lifetime of the development.

Reason: In the interest of the residential amenity of nearby occupiers and existing and future residential occupiers of this building 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).

- 17 Notwithstanding the details shown on the documents submitted and otherwise hereby approved, with reference to British Standard BS7445:2003, the noise rating level arising from activities associated with the ground floor commercial unit hereby approved (including amplified and unamplified music and human voices) shall be at least 10dB(A) below the background noise level as measured at 1m from the facades of the nearest noise sensitive premises and with reference to British Standard BS4142:2014+A-2019 or any similar up to date standard, noise from any plant and equipment used in association with the development hereby approved shall be at least 10 dB(A) below the background noise levels as measured at 1m from the facades of the nearest noise sensitive premises and expressed as a LA90,15minutes.

Reason: In the interest of the residential amenity of nearby occupiers and existing and future residential occupiers of this building in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 18 No music or amplified sound shall be played on the external commercial terrace hereby approved at any time.

Reason: In the interest of the residential amenity of nearby occupiers and existing and future residential occupiers of this building in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 19 The external commercial terrace hereby approved hereby approved shall not be open for customers outside the following hours: 8am to 9pm Monday to Sunday.

Reason: In the interest of the residential amenity of nearby occupiers and existing and future residential occupiers of this building in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 20 Before any external lighting is installed in association with the development hereby approved, details of its location, design and specification shall have been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The lighting shall be installed and operated solely in accordance with the approved details.

Reason: In the interests of the amenities of the area and nearby residents and existing and future residential occupiers of this building, in accordance with Policies DM1 and DM3 of the Development Management Document (2015) and

**Policies KP2 and CP4 of the Core Strategy (2007).**

- 21 The development hereby approved shall retain an unobstructed active commercial frontage at ground floor with no window graphics/vinyls to be installed.**

**Reason: To ensure the development has an acceptable design and maintains the vitality and viability of the Secondary Shopping Frontage in accordance with Policies DM1 and DM13 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 22 No development shall take place, other than the removal of the existing extraction duct and air conditioning units, unless and until a Construction Management Plan and Strategy (to include Noise and Dust Mitigation Strategies) has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The approved Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Strategy shall provide, amongst other things, for:**

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

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

- 23 Prior to first use or occupation of the development hereby approved, the existing air conditioning and air extraction apparatus shall be removed as shown on approved drawing 2216 12C.**

**Reason: To ensure the development has an acceptable design and in the interests of the amenities of the future residential occupiers of this building, in accordance with Policies DM1 and DM3 of the Development Management Document (2015) and Policies KP2 and CP4 of the Core Strategy (2007).**

#### **POSITIVE AND PROACTIVE STATEMENT:**

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

**Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.**

#### **INFORMATIVES:**

- 1 Please note that the 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](mailto: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](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).**
- 2 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the city.**
- 3 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 the Council's Regulatory Services Team become aware of any works that are highly likely to cause a nuisance, they 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 The applicant should check the room layout of existing dwellings that will be above or below the proposed and ensure that the stacking arrangement complements this. If this is not the same as those proposed in the application additional sound insulation may be required in the ceiling in order to protect against noise from the normal use of the dwellings in the block due to conflicting activities e.g. sleep and living spaces. The applicant should be aware of this as should complaints arise when it is occupied because of this Southend-On-Sea City Council cannot require action under other primary legislation it has i.e. for statutory nuisance.**
- 5 Advertisement signage associated with the development may require consent under separate Advertisement legislation.**
- 6 Future occupiers will not be eligible for a town centre or residential parking permit.**