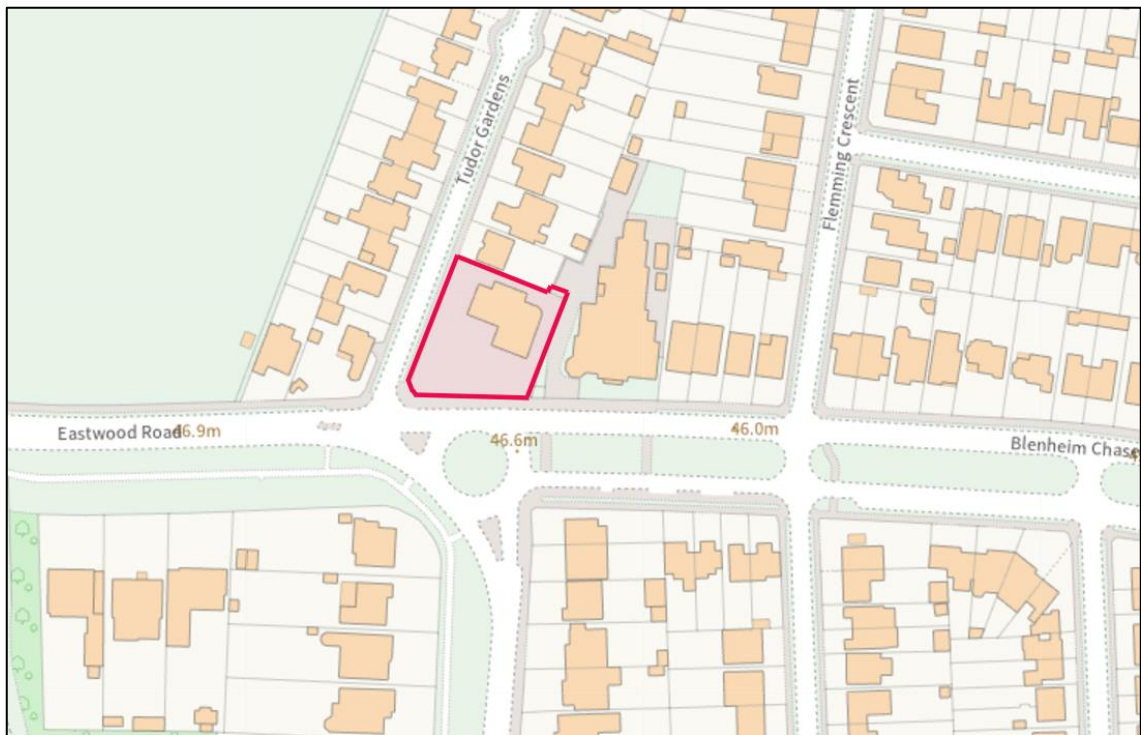


Reference:	24/01558/AMDT	
Application Type:	Material Amendment	
Ward:	Belfairs	
Proposal:	Application to vary conditions 02 (approved plans), 04 (details of site levels), 06 (details of hard and soft landscaping), 11 (details of accessible dwellings) and 15 (details of parking spaces) - amendments required to meet other conditions which are in conflict with these and/or as a result of the information required causing changes to the approved drawings (Material Amendment of Planning Permission 19/01110/FULM dated 09.02.2022)	
Address:	The Old Vienna Restaurant, 162 Eastwood Road, Leigh-on-Sea, Essex, SS9 3AG	
Applicant:	Mr James Robinson of FORMA London	
Agent:	Mr Mark Hadfield of McWilliam Lippe Architects	
Consultation Expiry:	07.11.2024	
Expiry Date:	31.01.2025	
Case Officer:	Oliver Hart	
Plan Nos:	575-P01 Rev A; 5965-BW(90)001 Rev B; 5965-BW(00)001 Rev C; 5965-BW(00)002 Rev C; 5965-BW(04)001 Rev C; 5965-BW(04)002 Rev C; 5965-BW(05)001 Rev C; 5965-BW(05)002 Rev C; 5965-BW(05)003 Rev C; 5965-BW(05)004 Rev C; 5965-BW(05)005 Rev C; 5965-BW(05)006 Rev C; 5965-BW(05)007 Rev C; LOI Rev C; P25-177 Rev B; C1000-DRG-100 Rev P4	
Additional information:	Supporting Statement outlining reasoning for condition variation [received 23/10/2024]; Arboricultural Impact Assessment (AIA) & Method Statement Ref. 2636 Rev-03 [October 2024]	
Recommendation:	DELEGATE to the Executive Director for Environment and Place, Director of Planning and Economy or Service Manager - Development Control to GRANT PLANNING PERMISSION subject to CONDITIONS following the completion of a LEGAL AGREEMENT under Section 106 of the Town and Country Planning Act 1990 (as amended)	



1 Site and Surroundings

- 1.1 The application site is at the junction of Eastwood Road and Tudor Gardens. The site is currently not in use and is enclosed by timber hoarding following the demolition of the previous buildings on the site in association with planning permission ref. 19/01110/FULM. A significant part of the site is hard surfaced. There is an existing vehicular access at the corner of the plot plus a historic access further east fronting the roundabout. There is mature vegetation within the site as well as established trees.
- 1.2 Tudor Gardens is a residential street characterised mainly by two-storey houses but next to the site is a group of bungalows. Tudor Gardens itself is of modest width and has verges and trees. Eastwood Road is dominated by a wide and verdant roundabout. This character continues onto Blenheim Chase which starts from the east of the site. The properties on Eastwood Road and Blenheim Chase are mainly detached dwellings one or two storeys in scale. Next to the application site, to the east, on Blenheim Chase is a two-storey residential care home.
- 1.3 The site is not within an area specifically allocated for employment purposes or with any other designation in terms of planning policy. At the north-east corner of the application site are two Oak trees protected by Tree Preservation Order TPO 4/2016.

2 The Proposal

- 2.1 Planning permission was granted on appeal on 9 February 2022 for the *“Demolition of existing buildings, erect part two/part three storey building comprising of 13 self-contained flats, layout refuse store, cycle store and parking.”*
- 2.2 Permission is sought to vary the wording of conditions 02 (approved plans), 04 (details of site levels), 06 (details of hard and soft landscaping), 11 (details of accessible dwellings) and 15 (details of parking spaces) which are required to ensure the requirements of other previously discharged conditions meet and/or do not conflict with the conditions outlined above which have also resulted in changes to the previously approved drawings.

2.3 A supporting statement has been submitted which explains the reasons for this amendment application which, in simple terms, seeks to marry up the originally granted permission and correction of some detailed points identified during the scheme’s design evolution with details so far approved under submission of conditions details. In progressing the development, including integration of the requirements of the two successful discharge of condition applications (Ref. 23/00941 & 24/00041/AD), it has been identified that there is some detailed conflict with other imposed conditions and inevitably changes to the approved plans. The statement provides a clear response and reasoning as to what these variations are, why they have occurred and how they are proposed to be resolved.

Condition 02 (Approved Plans)

2.4 Condition 02 states: *“The development hereby approved shall be carried out in accordance with the following approved plans: 575-P01 A – Site and Block Plans; 575-P02 C – Proposed Ground Floor; 575-P03 A – Proposed First and Second Floors and Roof Plan; 575-P04 C – Proposed Elevations and Sections; 575-P05 – Existing Elevations”*

2.5 Amendments are necessary to meet the requirements of the other imposed planning conditions. All the approved drawings outlined in Condition 2, except the site and location plan ref no 575-P01 A, have been superseded on this basis. The main areas for adjustment are highlighted below:

1. The ground floor plan contained a single communal access door and associated communal hallway on the west elevation, but this was shown as a double window on the corresponding west elevation. To correct this and as the door is not required to comply with Building Regulation requirements in any event, the double window has been adopted and the communal access from this opening removed. This has slightly altered the layout of the adjacent flat 02 with regards its overall and bedroom floor areas.
2. The windows shown at the communal staircase on all floor plans did not tie up with the windows shown on the corresponding north elevation. The staircase and surrounding lobby areas would also not meet Building Regulation requirements as initially designed. To correct this, the internal layout has been amended and this has influenced the window locations in this area on the north elevation. Other fenestration changes relate to the position and nature of openings at first and second floor to the eastern flank elevation, which have been altered from a single traditional window to a set of French doors with associated Juliette balcony.
3. The approved roof plan had variances from the approved elevations. To correct this a new roof plan has been produced to tie all the drawings together to ensure that the building remains visually as per the approved elevations. The solar photovoltaic panels approved under Condition 19 (10% renewable energy) of the 2022 planning permission are also included for completeness.
4. Alterations are proposed to the layouts of several flats as the scheme has evolved through design work undertaken to comply with Building Regulation requirements and with planning conditions 9 (internal storage) and 11 (Accessibility). Fulfilling the latter condition has resulted in the loss of a bedroom to flats 06 & 10 which are now shown as 1-bed 2-person units as opposed to 2-bed 3-person units. The new housing mix is shown in Table 1 below:

Table 1: Proposed Housing Mix, approved scheme and proposed

Type of unit	19/01110/FULM	Proposed
	Quantum	Quantum

1 bedroom (2 persons)	1	3
2 bedrooms (3 persons)	2	0
2 bedrooms (4 persons)	6	6
3 bedrooms (4 persons)	2	0
3 bedrooms (5 persons)	2	3
3 bedrooms (6 persons)	0	1
Total	13	13

5. Alterations are proposed to the parking layout, namely, shifting parking away from protected trees to the north-east boundary and providing an additional space to the Tudor Gardens frontage to ensure retention of the 15 spaces as approved. Other changes include relocation of the disabled parking space from the Tudor Gardens frontage to the main parking forecourt and altering the orientation of that space so that it would now be parallel to the highway and accessed from the central vehicular crossover so no longer requiring an additional dedicated vehicular access to be formed from Tudor Gardens.

Condition 04 (details of site levels)

- 2.6 Condition 04 states: *“Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition shall take place on site unless and until details of the levels of the proposed building, to adjoining land and any other changes proposed in the levels of the site associated with the works permitted by this permission have been submitted to and approved in writing by the Local Planning Authority. The highest part of the building shall not exceed 56.46m AOD. The development shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use”*
- 2.7 The existing and approved Topographical Survey of the site show the ground level is approximately 46.70m AOD (Above Ordnance Datum). The previously approved drawing package therefore sets the highest point of the building (its maximum height being some 11.2m) at around 57.50m AOD rather than the 56.46m AOD as required by the condition. Removing more than 1m from the height of the building is not feasible in terms of construction without causing significant design alterations. As a result, it is proposed to vary the level to which the building can be constructed, to 58.50m AOD. This level is higher than the approved building as it would also account for the additional height of the solar panels required in relation to Condition 19 and which have been approved on their merits under the relevant approval of details ref 24/00041/AD. The height of the building itself (solar panels excluded) is the same as that of the building approved in 2022.
- 2.8 A detailed study of the surrounding trees, as sought by the Airport has been submitted to support the application and to demonstrate that no part of the development would be higher than existing trees on and in the site’s vicinity.

Condition 11 (details of accessible dwellings)

- 2.9 Condition 11 states: *“Notwithstanding the details submitted and otherwise hereby approved, no development other than site preparation works shall take place until and unless details have been submitted to and approved in writing by the Local Planning Authority to show how at least 10% and a specified number of the dwellings will be built in compliance with the building regulation M4(3) ‘wheelchair user dwellings’ standard with all of the remaining dwellings complying with the building regulation part M4(2) ‘accessible and adaptable*

dwellings’ standard. Each approved dwelling shall be constructed to comply with either building regulation M4(2) or M4(3) in accordance with the approved details prior to its first occupation”

2.10 The approved plans (as referenced in Condition 2) were not compliant with this requirement, and changes to the floorplans of all units were required to address this (as well as to meet Condition 9 – storage). To comply with the requirements of the M4(3) accessibility standard, flats 06 and 10 have consequently been amended from two-bed units to one-bed units.

Condition 15 (details of parking spaces)

2.11 Condition 15 states: *“The dwellings hereby approved shall not be occupied unless and until at least one parking space per unit in the area shown on the approved plan 575-P02 C has been provided and made available for use on site. The parking spaces shall be retained for the lifetime of the development for the purposes of car parking solely for residents of the approved dwellings on site and their visitors”*

2.12 During the scheme’s detailed design process it has been identified that the approved information submitted under Application 19/01110/FULM contained several modest detailed discrepancies within the site plan. It transpires that this followed the presence of several differing iterations between the architect and that of various consultees. In attempting to reconcile the requirements associated within the specialist reports and designs, a change to the parking layout has been made in accordance with point 5 within paragraph 2.5 above discussing Condition 02, to allow all the spaces to be fully incorporated into the plans, inclusive of moving a parking space to comply with tree root protection requirements. The applicant has also ensured that landscaping and arboricultural reports have all been updated to now correspond accurately with one another. The conditions need to be re-worded to reflect the adjusted site plan and changes to existing and proposed landscaping.

2.13 This change has had some implications for condition 06 - details of hard and soft landscaping. Condition 06 states:

“Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no development other than demolition and groundworks shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The hard landscaping scheme shall include details of materials to be used on hard surfacing as well as elevations and details of materials for any boundary treatment of the site, including boundaries within the site.”

2.14 The change to the parking layout would result in the removal of two further trees along the western boundary identified as trees 07 and 08. Replacement planting is proposed to off-set this additional removal.

2.15 The other elements associated with the main approval granted on appeal in 2022, notably the overall size, scale, form and layout of the built form including the overall number of units proposed remain materially unchanged.

3 Relevant Planning History

3.1 The most relevant planning history for the determination of this application is shown on Table 2 below:

Table 2: Relevant Planning History of the Application Site

Reference	Description	Outcome [Date]
24/00041/AD	Application for approval of details pursuant	Approve Details

	to conditions 03 (materials and openings), 09 (internal storage space), 10 (details of noise mitigation measures), 11 (compliance with building regulation M4(3), 16 (cycle parking space), 17 (waste storage), 18 (SuDs), 19 (10% renewables), 20 (water efficiency) of planning permission 19/01110/FULM allowed on Appeal dated 09.02.2022	
23/00941/AD	Application for approval of details pursuant to conditions 05 (tree protection measures), 12 (demolition and management plan) and 21 (breeding bird survey) of planning permission 19/01110/FULM allowed on appeal dated 09.02.2022.	Approve Details
20/00728/OUTM	Demolish existing building and erect part two-storey/part three storey building, comprising of thirteen (13no.) self-contained flats, parking, cycle store & refuse store (Outline Application with Landscaping reserved)	Refused (08.03.2021)
19/01110/FULM	Demolish existing buildings, erect part two/part three storey building comprising of 13 self-contained flats, layout refuse store, cycle store and parking.	Allowed at appeal (09.02.2022)

4 Representation Summary

Public Consultation

- 4.1 Nine (9) neighbouring properties were consulted, a site notice was displayed and a press notice was published. No representations have been received.

Lead Local Flood Authority (LLFA)

- 4.2 No comments.

Highways

- 4.3 No objections. The applicant will be required to reinstate any redundant vehicle crossover as part of the development.

Environmental Health

- 4.4 No objections to this application provided that the requirements of conditions 10 (noise mitigation measures), 12 (CMP), 13 (site working hours) and 17 (refuse storage) are adhered to, particularly where details for these conditions have been approved.

[Officer Comment:] The conditions referred to are not proposed to change as part of the current application

Parks

- 4.5 No objections.

Trees

- 4.6 No objections.

London Southend Airport (LSA)

- 4.7 No objections as the development will be no higher than existing features. If a crane / lifting

equipment is required during construction, then this will be subject to a separate assessment.

5 Procedural matters

- 5.1 This application is presented to the Planning Committee because it has been called in by Councillor Stephen Aylen.

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF) (2024)
- 6.2 Planning Practice Guidance (2024)
- 6.3 National Design Guide (NDG) (2021)
- 6.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision).
- 6.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM6 (The Seafront for RAMS), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM15 (Sustainable Transport Management).
- 6.6 Southend-on-Sea Design & Townscape Guide (2009)
- 6.7 Technical Housing Standards Policy Transition Statement (2015)
- 6.8 Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.9 Planning obligations: a guide to section 106 and developer contributions (2015)
- 6.10 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 6.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 6.12 Town and Country Planning Act 1990: Section 90A and Schedule 7A (Biodiversity Net Gain)

7 Planning Considerations

- 7.1 The main considerations are the scope of the application and the impact that the changes would have on design and character, residential amenity, future occupier amenity and the highway. Other considerations, including in relation to the principle of the development, flood risk and sustainability considerations were previously assessed under the previously approved application. As this application does not involve any changes that would materially affect these considerations, the proposal is still considered to be acceptable and policy compliant in those regards.

8 Appraisal

Scope of Application

- 8.1 The principle of the development has previously been found to be acceptable. There have been no substantive changes to policy or guidance since permission was granted which are

relevant to this proposal, albeit a new iteration of the NPPF is now in force. The determining material planning considerations are discussed below.

- 8.2 The changes proposed are considered to fall within the remit of S.73 and to be a material amendment to the development agreed under the previous approval. The application is for the same site edged red and described nature of development.
- 8.3 The overall scale, form and layout of the built form allowed on appeal is unchanged. However, this development seeks some detailed internal and external alterations to the proposed development, namely, to the arrangement and position of windows and other openings, changes to the layouts of selected flats, detailed changes to parking layouts and landscaping details, as well as to adjust the AOD (Above Ordnance Datum) height of the building. The height of the built form itself would not change from that approved, but the proposed changes would have some impacts on the character and appearance of the development, occupier amenity and highways considerations so these matters need to be assessed.
- 8.4 Whilst this report focuses on the areas which have changed since the previous application was allowed on appeal, the submitted planning application is for the whole scheme and has been assessed as such. The previous planning permission allowed on appeal has been implemented and remains extant. That committed scheme is an important material consideration for the determination of this application.
- 8.5 The current application in all other regards is unchanged and relevant material planning considerations outlined are considered to remain acceptable.

9 Appraisal

Design and Impact on the Character of the Area

- 9.1 The wider design of the development, including external materials which were submitted to and agreed by the LPA under discharge of condition application 24/00041/AD remain acceptable. The consideration below is of the details previously required by conditions.

Elevational Changes – Condition 02

- 9.2 There are modest changes proposed to the position of windows to the northern elevation of the building serving the communal landing and hallway, as well as changes to the position and nature of openings at first and second floor to the eastern flank elevation, which have been altered from a single traditional window to a French door arrangement with Juliette style balcony. No objections are raised to these changes which are considered to have a minor and inconsequential visual impact.
- 9.3 Other elevational changes include the provision of solar panels on the small areas of the new building's flat roof which comply with details that were approved by this LPA under discharge of condition application 24/00041/AD. The provision and visual impact of solar panels in the arrangement shown is considered to remain acceptable.

Site Levels – Condition 04

- 9.4 The provision of solar panels, together with subsequent clarification of Topographical Survey data means that at present, the development cannot comply with condition 04, which relates to site levels and the imposition of a maximum height limit of 56.46m AOD (as requested by the Airport (LSA)). Consequently, this application seeks to formally alter condition 04's wording so as to increase the height limit requested by LSA from 56.46m AOD to 58.50m AOD.

9.5 The application is supported by a detailed study of surrounding trees which concludes that structures close to the site are already significantly above the new proposed AOD level. LSA have reviewed the data and have no objections based on the development being no taller than the adjacent trees and imposition of a condition relating to use of cranes. No objections are therefore raised on this basis and the condition wording can be revised to reflect this.

Parking layout & Associated Landscaping Changes - Conditions 06 and 15

9.6 Changes are proposed to the approved parking layout to facilitate tree protection measures. As a result, parking spaces within the main parking forecourt area have been repositioned some 1m away from protected trees along the north-east flank boundary. This necessitates an additional parking space on the site's frontage along Tudor Gardens to maintain the previously approved amount of 15 on-site parking spaces overall.

9.7 Other minor parking changes include relocating of the position of the disabled parking space from being served directly from the development's Tudor Gardens frontage to being served from the main parking forecourt area. This also changes the orientation of the parking spaces fronting Tudor Gardens which would both be laid out parallel to the highway and accessed from the central vehicular crossover.

9.8 The updated Arboricultural Impact Assessment advises that provision of the additional parking space to the Tudor Gardens frontage would result in the loss of two existing trees – which are noted within the Assessment as T7 [a Purple Plum tree] and T8 [a Norwegian Maple tree]. The Assessment categorises these as category C trees, namely trees of low quality which would not justify a Tree Preservation Order or refusal of the application due to their removal. Additional planting is proposed to mitigate the proposed removal of these two trees, including the proposed planting of 6 replacement trees across the site.

9.9 The changes to the parking area impact on landscaping details. As a result, the applicant is seeking to vary the condition wording so that the development is to be carried out in accordance with the submitted details.

9.10 The principle of parking provision along the site's frontage has previously been agreed in association with the 2019 scheme allowed on appeal in 2022. Parking to the front of properties along Tudor Gardens is a characteristic feature of the street such that the provision of a second additional frontage space is not identified as harmful in any relevant respects, subject to appropriate landscaping to soften its impact.

9.11

<i>Tree Planting Schedule</i>			
<i>Name</i>	<i>Qty</i>	<i>Root</i>	<i>Girth</i>
<i>Betula jacquemontii</i>	2	RB	18-20cm
<i>Pyrus calleryana 'Chanticleer'</i>	4	RB	18-20cm
	6		

Planting Schedule

Herbaceous

Name	Qty	Pot Size	Grade
Aquastace Foeniculum	28	3L	30-40cm
Aster 'Monch'	28	3L	30-40cm
Salvia nemerosa	28	3L	30-40cm
	84		

Shrub

Name	Qty	Pot Size	Grade
Brachyglottis 'Sunshine'	14	10L	40-60cm
Cornus sanguinea 'Midwinter Fire'	14	10L	60-80cm
Choisya ternata 'Sundance'	4	10L	40-60cm
Choisya ternata 'White Dazzler'	20	10L	40-60cm
Euonymus fort. 'Emerald n Gold'	37	5L	30-40cm
Euonymus fort. 'Silver Queen'	19	10L	40-60cm
Hebe franciscana 'Variegata'	21	10L	30-40cm
Hebe pinnatifida 'Sutherlandii'	5	10L	40-60cm
Hebe rakensis	16	5L	30-40cm
Lavandula ang. 'Munstead'	7	10L	40-60cm
Nandina domestica 'Firepower'	19	10L	40-60cm
Osmanthus heter. 'Variegata'	4	10L	40-60cm
Pittosporum tenuifolium 'Golf Ball'	8	10L	30-40cm
Phormium 'Jester'	2	10L	80-100cm
Prunus lusitanica	207	15L	100-125cm
Prunus l. 'Otto Luyken'	20	5L	40-60cm
Photinia fraseri 'Red Robin'	18	10L	60-80cm
Pittosporum tenuifolium 'Tom Thumb'	6	10L	30-40cm
Phormium 'Yellow Wave'	8	10L	60-80cm
	454		

9.12 Of specific relevance is the provision of planting proposed around the frontage parking spaces, given removal of T7 and T8. This includes:

Planting around the parking space allocated to unit 01:

- 16no. Euonymus 'Emerald and Gold' 5L plants;
- 29no. Prunus Lusitanica hedging along western boundary;
- 16no. Hebe rakiensis 5L plants;
- 14no. Brachyglottis 'Sunshine' 10L;
- 2no. Phormium 'Yellow Wave' 10L

Planting around the parking space allocated to unit 02:

- 21no. Euonymus 'Emerald and Gold' 5L plants;
- Extension of Prunus Lusitanica hedging along western boundary – with 10no. additional hedge planting

9.13 Removal of T7 and T8 would be a negative aspect of the development. However, regard has been had to the need for the additional parking to service the development, the low categorisation of those two trees (in terms of their amenity value and life expectancy) as well as the extent of the additional planting proposed including replacement tree planting. The revised Arboricultural Impact Assessment report has been reviewed by the Council's tree officer who raises no objection to the proposed tree removal on the basis of their low categorisation and the replacement planting. The Council's Parks team also support the proposed soft planting arrangement. On this basis and considering the matter in the round, no objections are raised to this element.

9.14 Hard landscaping across the development is shown as a combination of tarmac to the main vehicular access through the site with all parking areas to be laid with Tobermore Hydropave Pedestra Permeable Paving – Natural Colour. Existing brick-built boundary walls to the east and north boundaries will be retained, with the west and south boundaries shown to be left open and being planted. This arrangement is also considered to be acceptable in all relevant regards.

9.15 On this basis, no objections are raised to the revision of the condition wording to reflect the submitted details.

Impact on Residential Amenity

9.16 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.

9.17 The changes proposed are not considered to give rise to any materially different or harmful residential amenity impacts than the scheme previously submitted and approved at Appeal.

9.18 On this basis, the proposal is considered to be acceptable and policy compliant in the above regards.

Future Occupier Amenity

9.19 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development

Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.

Space Standards

9.20 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes.

9.21 Amendments are sought to the layouts of three units within the development to ensure compliance with conditions 09 – storage and 11 - accessible dwellings.

9.22 The required overall sizes for residential units 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 3: Housing Standards

Type	Area (m ²)	Bedroom 1	Bedroom 2	Bedroom 3	Storage area (m ²)	Complies?
Standard for 1 bed 2 person (one storey)	50	11.5m² Wmin=2.75m	N/A	N/A	1.5	
Proposed Flat 1 (1 bed 2 person)	52	11.7m ² W = 3.1m	N/A	N/A	1.5	Yes
Proposed Flat 6 (1 bed 2 person)	68	14.3m ² W = 3.1m	N/A	N/A	3.1	Yes
Proposed Flat 10 (1 bed 2 person)	68	14.3m ² W = 3.1m	N/A	N/A	3.1	Yes
Standard for 2 bed 4 person (one storeys)	70	11.5m² Wmin=2.75m	11.5m² Wmin=2.55m	N/A	2.0	
Proposed Flat 3 (2 bed 4 person)	70.5	14.1m ² W = 2.8m	12.2m ² W = 2.8m	N/A	2	Yes
Proposed Flat 5 (2 bed 4 person)	74.5	15.5m ² W = 2.8m	12m ² W = 2.8m	N/A	2	Yes
Proposed Flat 7 (2 bed 4 person)	75	12.5m ² W = 3.1m	12m ² W = 2.8m	N/A	2.5	Yes
Proposed Flat 8 (2 bed 4 person)	70.5	14.1m ² W = 2.8m	12.2m ² W = 2.8m	N/A	2	Yes
Proposed Flat 11 (2 bed 4 person)	75	12.5m ² W = 3.1m	12m ² W = 2.8m	N/A	2.5	Yes
Proposed Flat 12 (2 bed 4 person)	70.5	14.1m ² W = 2.8m	12.2m ² W = 2.8m	N/A	2	Yes
Standard for 3 bed 5 person (one storey)	86	11.5m² Wmin=2.75m	11.5m² Wmin=2.55m	7.5m² Wmin=2.15m	2.5	
Proposed Flat 4 (3 bed 5 person)	94	16.3m ² W = 2.8m	11.7m ² W = 2.8m	11.1m ² W = 2.15m	2.5	Yes
Proposed Flat 9 (3 bed 5 person)	94	16.3m ² W = 2.8m	11.7m ² W = 2.8m	11.1m ² W = 2.15m	2.5	Yes
Proposed Flat 13 (3 bed 5 person)	94	16.3m ² W = 2.8m	11.7m ² W = 2.8m	11.1m ² W = 2.15m	2.5	Yes
Standard for 3 bed 6 person (one storey)	95	11.5m² Wmin=2.75m	11.5m² Wmin=2.55m	11.5m² Wmin=2.55m	2.5	
Proposed Flat 2 (3 bed 6 person)	98	11.9m ² W = 2.8m	14.9m ² W = 4.1m	11.5m ² W = 2.8m	2.5	Yes

9.23 The table shows that the proposed flats would all at least meet or exceed the overall space, the bedroom area and dimensions requirement inclusive of internal storage space. All habitable

rooms would have acceptable outlook and benefit from acceptable levels of daylight and sunlight.

M4 (2) – Accessibility

- 9.24 Policy DM8 of the Development Management Document as amended requires all new built dwellings to comply with the requirements of building regulation M4 (2). On major development schemes the policy requires 10% of the proposed dwellings to comply with building regulation M4 (3). The proposed scheme would be policy compliant as all dwellings would benefit from step-free access and have adaptable spaces. Two units (Flats 06 and 10) would be M4(3) compliant, with internal layout changes made to accommodate this requirement as outlined in previous sections of this report. The accessibility and adaptability of the proposed development is considered acceptable.
- 9.25 On this basis, no objections are raised to the revision of the condition wording to reflect the submitted details. The development would remain acceptable with regards all other future occupier amenity considerations.

Traffic and Transportation Issues

- 9.26 The NPPF states (para 116) 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.”
- 9.27 Policy DM15 of the Development Management Document states: “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”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 9.28 The proposed car parking and access arrangements are slightly amended against the Allowed scheme, namely, that parking spaces within the main parking forecourt area have been repositioned some 1m away from protected trees along the north-east flank boundary necessitating an additional parking space on the site’s frontage along Tudor Gardens. Consequently, this requires a change to the wording of Condition 15 - details of parking spaces - which requires compliance with the previously proposed site plan.
- 9.29 The total number of parking spaces delivered across the site would be unchanged from the Allowed scheme (15 spaces) so retaining compliance with the Council’s parking standards which require a minimum of one parking space per flat regardless of size. The access arrangements are also considered to remain acceptable, as are the layout and size of the parking spaces. The Highways Authority raises no objections. A condition to secure the permanent closure of redundant crossovers on site has been imposed. Subject to this the proposal is acceptable and policy compliant in the above regards.
- 9.30 No changes are proposed to the cycle or waste storage arrangements which are considered to remain acceptable. On this basis, no objections are raised to the revision of the condition wording to reflect the submitted details.

Planning Obligations

- 9.31 Core Strategy Policy KP3 states that in order to help the delivery of the Plan’s provisions the City’s Council will, among other, enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed. This includes provisions such as affordable housing and educational

facilities.

- 9.32 Similarly, Policy CP6 of the same document states that development proposals must mitigate their impact on community infrastructure by contributing appropriately to services and facilities that would be adversely affected. The policy stipulates that this will be achieved by, among others, supporting improvements to existing, and the provision of new, facilities to support the needs of education, skills and lifelong learning strategies.
- 9.33 The previously agreed obligations following the Appeal process were 'Education' and 'RAMS' contributions. A new S106 is in the process of being agreed with the applicant to secure these contributions once again.
- 9.34 In this instance it was not considered prudent to request an updated Financial Viability Assessment on the basis of current market conditions and the minimal nature of the changes which would not significantly alter the viability position.

Education

- 9.35 Due to the increased demand on school capacity, a financial contribution will be required prior to commencement towards secondary education provision of £23,359.59. A contribution to secondary school impact would be expected and the funds would be allocated to Eastwood Academy that is being expanded; along with seven other secondary schools, to accommodate the current high increase in secondary pupil numbers. Whilst the Applicant has informally agreed to the education contribution, a S106 agreement has not yet been formally completed for this. It is noted that CIL covers primary school provision.

Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS)

- 9.36 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS Supplementary Planning Document (SPD), was adopted by Full Council on 29th October 2020, requires that a tariff of £163.86 (index linked) is paid per dwelling unit = £2,130.18. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 9.37 Overall, it is considered that the proposal is acceptable in terms of biodiversity and ecological impacts and is policy compliant in this regard.
- 9.38 The Section 106 contributions required are considered to meet the tests set out in the CIL Regulations 2010 (as amended). Without the contributions that are set out above the development could not be considered acceptable.

Community Infrastructure Levy (CIL)

- 9.39 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed development includes a gross internal area of some 1214.33sqm of residential floorspace which may equate to a CIL charge of approximately £36,523.31 (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.

Ecology and Biodiversity Net Gain

- 9.40 Ecology matters were considered when planning permission was granted at Appeal in 2022 and remain acceptable.
- 9.41 Under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021) Biodiversity Net Gain (BNG) is mandatory from 12 February 2024 for major schemes and 2 April 2024 for small sites. Schedule 14 of the Environment Act sets out that a general 10% Biodiversity Net Gain (BNG) condition applies automatically to all planning permissions (except those exempt from BNG requirements). BNG is a way of creating and improving biodiversity by requiring development to have a positive impact ('net gain') on biodiversity. Every non-exempt grant of permission will be subject to a general, pre-commencement biodiversity net gain condition to secure the requisite BNG requirement. Once planning permission has been granted, a Biodiversity Gain Plan must be submitted and approved by the Local Planning Authority before commencement of the development.
- 9.42 Owing to the nature of the application as an amendment to an approved scheme, allowed prior to the implementation of BNG legislation, the scheme would be exempt from the BNG requirement.

Equality and Diversity

- 9.43 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application noted this amended proposal includes two accessible M 4(3) standard units and in preparing this report had careful regard to the requirements of the Equality Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation. The provision of accessible and adaptable dwellings is a positive aspect of the proposal in this regard.

Conclusion

- 9.44 For the reasons outlined above the proposal is found to be acceptable and compliant with the relevant planning policies and guidance. As there are no other material planning considerations which would justify reaching a different conclusion it is recommended that planning permission is granted subject to conditions following completion of a legal agreement.

10 Recommendation

10.1 Members are recommended to:

- (a) DELEGATE to the Executive Director for Environment and Place, Director of Planning and Economy or Service Manager - Development Management and Enforcement to GRANT PLANNING PERMISSION subject to the following conditions and following the completion of a PLANNING AGREEMENT UNDER SECTION 106 of the Town and Country Planning Act 1990 (as amended) to secure the provision of:**

- £23,359.59 contribution towards secondary education.
- Essex RAMS payment of £2,130.18 to mitigate the potential disturbance to European designated sites.
- Monitoring fee of £1,167.97

(b) The Executive Director for Environment and Place, Director of Planning and Economy or Service Manager - Development Management and Enforcement be authorised to determine the application upon completion of the above requirement, so long as planning permission when granted and, where it is used, the obligation when executed, accords with the details set out in the report submitted and the conditions listed below:

01 The development hereby approved shall be carried out in accordance with the approved plans:

575-P01 Rev A; 5965-BW(90)001 Rev B; 5965-BW(00)001 Rev C;
 5965-BW(00)002 Rev C; 5965-BW(04)001 Rev C; 5965-BW(04)002 Rev C;
 5965-BW(05)001 Rev C; 5965-BW(05)002 Rev C; 5965-BW(05)003 Rev C;
 5965-BW(05)004 Rev C; 5965-BW(05)005 Rev C; 5965-BW(05)006 Rev C;
 5965-BW(05)007 Rev C; LOI Rev C; P25-177 Rev B; C1000-DRG-100 Rev P4

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

02 The development hereby approved shall be constructed in accordance with the materials details including openings which were submitted and approved under the approval of details application reference 24/00041/AD or, any other alternative details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition before the development is first occupied.

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

03 The highest part of the building subject of this permission , including associated plant and renewable technologies shall not exceed 58.50m AOD. The development shall be implemented in full accordance with the requirements of this condition.

Reason: In the interest of visual amenity and to safeguard the safety of air traffic, in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM15, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

04 The approved scheme of tree protection measures for the development hereby approved shall be fully implemented before the commencement of works and maintained throughout construction in accordance with the measures contained within the Arboricultural Impact Assessment (AIA) & Method Statement [Ref. 2636 Rev-03] authored by Owen Allpress and dated 01st October 2024.

Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4, Development

Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 05 The development hereby approved shall only be constructed in accordance with the landscaping details contained within approved plans '5965-BW(90)001 Rev B' and 'LOI Rev C' or, any other alternative landscaping details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition before the development is first occupied.**

The hard landscaping details must be completed in full prior to occupation of the approved dwellings.

The soft landscaping details must be completed in full within the first planting season following first occupation of the approved dwellings.

Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 06 Within a period of five years from the completion of the development hereby approved, or from the date of the planting of any tree or any tree planted in its replacement, if any tree existing or planted as part of the approved landscaping scheme is removed, uprooted, destroyed, dies, or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same species and size as that of the original tree shall be planted in the same place or in accordance with alternative tree replacement details approved under the scope of this planning condition.**

Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 07 The development hereby approved shall be constructed in accordance with the noise mitigation measures which were submitted and approved under the approval of details application reference 24/00041/AD or, any other alternative details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition before the development is first occupied. The implemented noise mitigation measures shall be retained and/or maintained at the site thereafter for the lifetime of the development.**

Reason: To mitigate the noise from highway traffic and the communal parking area in the interest of the living conditions of future occupiers in accordance with the National Planning Policy Framework (2024), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 08 Before the development is occupied or brought into use, the development hereby approved shall be carried out in a manner to ensure that the 2No flats (06 & 10) identified on approved plans '5965-BW(00)001 Rev C and 5965-BW(00)002 Rev C' comply with the Building Regulations' Part M4 (3) 'wheelchair user dwellings' standard and the remaining 11No flats comply with Building Regulations' part M4(2) 'accessible and adaptable dwellings' standard.**

Reason: To ensure the residential units hereby approved provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM8 and advice contained in the Southend-on-Sea Design and Townscape Guide (2009).

- 09 Any construction works at the site in association with the development hereby approved shall only take place in accordance with the construction management measures which were submitted and approved under the approval of details application reference 23/00941/AD or, any other alternative details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2024), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 10 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 Public or Bank Holidays.**

Reason: In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2024), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 11 The approved dwellings shall not be occupied unless and until the redundant crossover to Eastwood Road is removed and reinstated to footway.**

Reason: In the interests of highway safety in accordance with the National Planning Policy Framework (2024), Policy CP3 of the Core Strategy (2007) and Policy DM15 of Development Management Document (2015).

- 12 The dwellings hereby approved shall not be occupied unless and until at least one parking space per unit in the area shown on the approved plan '5965-BW(90)001 Rev B' has been provided and made available for use on site. The parking spaces shall be retained for the lifetime of the development for the purposes of car parking solely for residents of the approved dwellings on site and their visitors.**

Reason: To ensure the provision of adequate parking in accordance with the National Planning Policy Framework (2024), Policy CP3 of the Core Strategy (2007) and Policies DM3, DM8 and DM15 of Development Management Document (2015).

- 13 The development hereby approved shall not be brought into first use unless and until at least one cycle parking space per unit has been provided on site and made available for use in line with the details shown in approved plan '5965-BW(90)001 Rev B'. The provision of at least one cycle parking space per unit for the benefit of future occupiers of the approved development shall be retained in perpetuity.**

Reason: To ensure the provision of adequate cycle parking in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policy CP3 and Development Management Document (2015) Policies DM3, DM8 and DM15.

- 14 The development hereby approved shall not be brought into first use unless and until waste storage has been provided on site and made available for use in line with the details shown in approved plan '5965-BW(90)001 Rev B'. The provision of the waste storage facilities shall be retained in perpetuity.

Reason: To ensure the provision of adequate waste, recycling and food waste storage and in the interest of visual amenity in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2021), the Southend-on-Sea Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).

- 15 The development hereby approved shall be constructed in accordance with the drainage details which were submitted and approved under the approval of details application reference 24/00041/AD or, any other alternative details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition before the development is first occupied.

Reason: To ensure the approved development does not increase flood risk elsewhere in accordance with the National Planning Policy Framework (2024) and Core Strategy (2007) Policies KP1, KP2 and KP3.

- 16 The development hereby approved shall be constructed in accordance with the relevant details which were submitted and approved under the approval of details application reference 24/00041/AD, confirming that at least 10% of the energy needs of the development will be produced from on-site renewable energy sources, or in accordance with any other alternative details which have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition, before the development is first occupied.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 17 The dwellings hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (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 before they are occupied.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2024), Core Strategy (2007) Policies KP2 and CP4 and Development Management Document (2015) Policy DM2.

Positive and Proactive Statement:

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and

subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

- (c) In the event that the planning obligations or other means of securing the financial contributions referred to in part (a) above have not been completed by 5 February 2025 or an extension of this time as may be agreed, the Director of Planning and Economy or the Service Manager – Development Management and Enforcement be authorised to refuse planning permission for the application on the grounds that the development would not provide adequate mitigation for the potential disturbance to European designated sites and would not provide any secondary education contributions to mitigate the development contrary to National and Local planning policy.

Informatives:

- 1. Please note that the development which is the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development, it is imperative that you contact S106andCILAdministration@southend.gov.uk to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (www.southend.gov.uk/cil).**
- 2. You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council will seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the city.**
- 3. Please note that if you require a crane or piling rig to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with the Airport Authority. Any crane applications should be directed to sam.petrie@southendairport.com / 01702 538521.**
- 4. The applicant will be required to reinstate any redundant vehicle crossover as part of the development.**