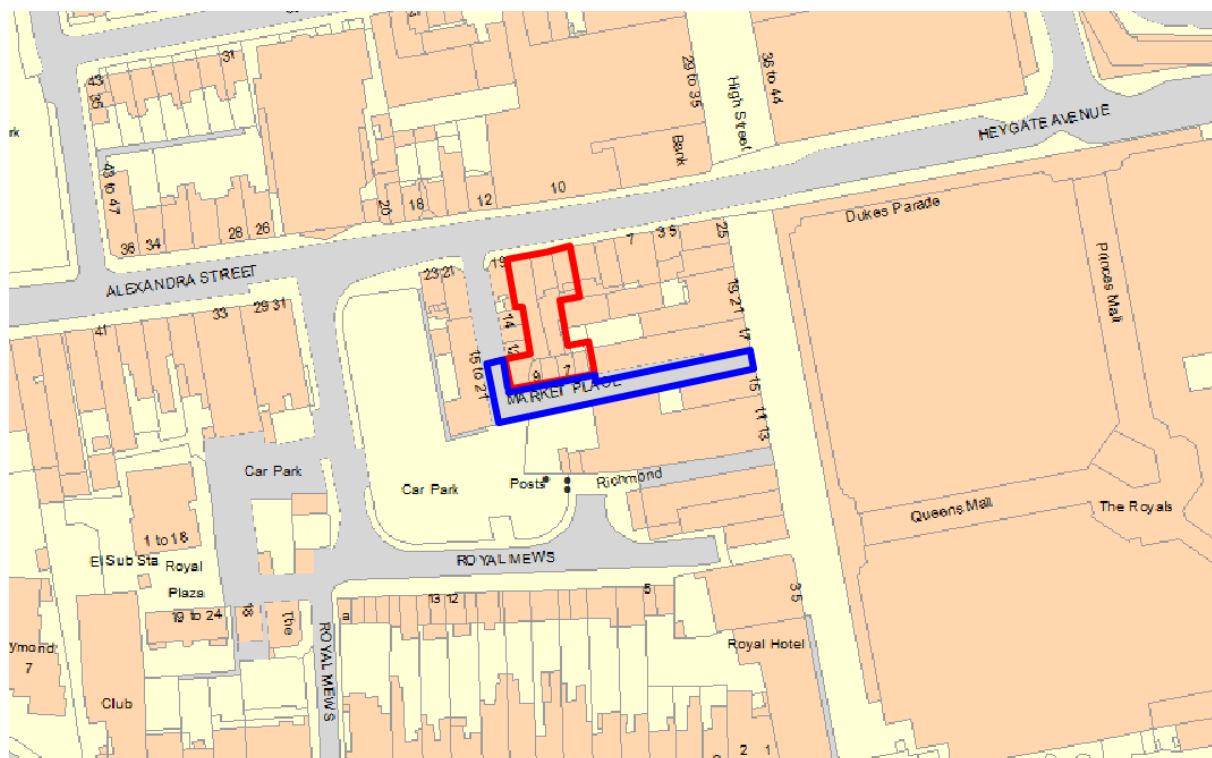


Reference:	16/01727/FUL	
Ward:	Milton	
Proposal:	Change of use of basement and part of ground floor from Nightclub (Sui Generis) to a mixed use of Public House/Bar and Restaurant (Class A3/A4), first and second floor to five self-contained flats (Class C3), demolish part of roof to form amenity space, install new shopfront, refuse store and alter elevations (Amended Proposal)	
Address:	Element, 13 - 17 Alexandra Street, Southend-On-Sea, Essex SS1 1BX	
Applicant:	Mr Robin Levy	
Agent:	The Planning And Design Bureau Ltd	
Consultation Expiry:	23.11.2016	
Expiry Date:	03.03.2017	
Case Officer:	Janine Rowley	
Plan No's:	Location Plan; Proposed site plan within surrounding context Revision F Proposed floor plans, sections and elevations Revision R	
Recommendation:	GRANT PLANNING PERMISSION	



## 1 The Proposal

- 1.1 Planning permission is sought for a change of use of the basement and part of ground floor from Nightclub (Sui Generis) to a mixed use of Public House/Bar and Restaurant (Class A3/A4) and convert the first and second floor to five self-contained flats (Class C3) including demolition of part of the roof to form amenity space, installation of a new shopfront, refuse store and alter elevations.

- 1.2 The residential units will be to the first and second floor.

Flat	Bedroom/Bed spaces	Internal Floorspace	Terrace
Flat 1	2 bed (3 bed spaces)	61sqm	15sqm
Flat 2	2 bed (4 bed spaces)	81sqm	25sqm
Flat 3	2 bed (3 bed spaces)	62sqm	28sqm
Flat 4	1 bed (2 bed spaces)	60sqm	18sqm
Flat 5	2 bed (3 bed spaces)	67sqm	26sqm

- 1.3 This application has been submitted following the refusal of an application to change the use of the ground floor (Class A4) to retail (Class A1), first and second floor (Class A4) to five self-contained flats (Class C3), demolish part of roof to form amenity space. The application (15/01293/FUL) was refused for the following reasons:

1. *“Insufficient evidence has been submitted to demonstrate that the commercial uses at the site could be carried out without resulting in undue noise and disturbance to the amenities of future occupiers of the proposed flats proposed. The proposal would therefore be contrary to the NPPF, Core Strategy Policy KP2 and policy DM1 of the Development Management Document DPD2”.*
2. *“Insufficient information has been submitted to demonstrate a refuse store can be accommodated within the site for this mixed use development not resulting in harm to the character and appearance of the surrounding area contrary to NPPF, Policies KP2 and CP4 of the DPD1 (Core Strategy), Policy DM1 of the Development Management DPD2, and the Design and Townscape Guide (SPD1)”.*

- 1.3 The main changes following the previously refused application 15/01293/FUL include the submission of a Noise Technical Impact Assessment reference 23237/R1 carried out by Sound Solutions and the siting of a bin store within an existing yard and cycle store within Market Place.

## 2 Site and Surroundings

- 2.1 The application site is a three storey building located on the southern side of Alexandra Street. The existing building is used as a nightclub over three floors. The streetscene is characterised by commercial premises to the ground floor. To the west of the site is Market Place with a number of small businesses.

- 2.2 The site is within the Southend Central Area as designated by the Development Management Document and the emerging SCAAP.

### **3 Planning Considerations**

- 3.1 The main considerations in relation to this application are the principle of the development, design (including the impact of the proposed works on the character and appearance of the building), impact on neighbouring properties, living conditions for existing/future occupiers, planning contributions and traffic and parking issues and CIL and whether the proposal has overcome the previous reasons of refusal relating to application 15/01293/FUL.

### **4 Appraisal**

#### **Principle of Development**

**National Planning Policy Framework; DPD1 (Core Strategy) policies KP1, KP2, CP4, CP8; DPD2 (Development Management) policies DM1, DM3 and DM7 and the Design and Townscape Guide SPD1 (2009), emerging Southend Central Area Action Plan (SCAAP) proposed submission**

- 4.1 The Southend Central Area Action Plan (SCAAP) provides a more detailed and comprehensive planning policy framework for the town centre to guide all future development decision. Within the SCAAP the application site falls within the Clifftown Quarter. The SCAAP is at submission stage but has not been to Examination or formally adopted. The SCAAP is useful as it sets out the future direction of policy in the town centre.
- 4.2 Policy DS1 2(iii) of the SCAAP seeks to promote small niche retail development in the Clifftown quarter. Policy DP6 (1b) which sets the development principles for the Clifftown Quarter, within which the site located which promotes independent retailing, boutiques, café culture, restaurants, bars, and small studio style workshops together with residential uses above ground floor level.
- 4.3 The proposal is considered to make efficient and effective use of the land in accordance with Development Management Document policy DM3. The mix of a public house, restaurant and residential units meets the general aspirations as set out in the SCAAP above for the wider Clifftown Quarter. Therefore, no objection is raised to the principle of a mixed use of bar, restaurant and residential development, provided it meets all other policy requirements.

No objections are raised to the dwelling mix.

#### **Design and impact on the character of the area**

**National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4; DPD2 (Development Management Document) policies DM1 and DM3 and Design and Townscape Guide SPD1.**

- 4.4 Paragraph 56 of the NPPF states

*“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.*

4.5 Paragraph 60 of the NPPF states:

*“Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles”.*

4.6 Policy KP2 of the Core Strategy requires all new developments to respect the character and scale of the existing neighbourhood where appropriate. Policy CP4 of the Core Strategy states that development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend.

4.7 Policy DM1 and DM3 and the Design and Townscape Guide advocate the need for any new development to respect the character of the area and complement the local character.

4.8 To facilitate the change of use the applicant is seeking to demolish the central part of the building at first floor to create a courtyard for future occupiers of the flats, that is not visible from the streetscene. The external alterations to the front elevation include the installation of a new shopfront and changes to the fenestration to the rear. Subject to conditions ensuring the materials of the fenestration and shopfront changes match existing, it is not considered the proposed changes will have a detrimental impact on the overall character and appearance of the existing building and will continue to make a positive impact on the surrounding area.

### **Living Conditions for Future Occupiers**

#### **National Planning Policy Framework, Development Management Document policy DM8, The National Technical Housing Standards DCLG 2015 and Design and Townscape Guide (SPD1)**

4.9 It should be noted from the 1<sup>st</sup> October 2015 the National Housing Standards have been adopted and state 50sqm floorspace per one bedroom flat (2 bed spaces) and 61sqm per two bedroom flat (3 bed spaces) is required to ensure the development is in line with building control requirements. The proposed internal sizes of the flats are given at paragraph 1.2 above. All of the flats would be in excess of the required standards and therefore no objection is raised. Furthermore, all flats will have sufficient outlook and daylight for future occupiers.

4.10 Policy DM8 of the Development Management Document DPD2 states that all new dwellings must make provision for useable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this can take the form of a balcony or semi-private communal amenity space.

4.11 Paragraph 143 of the Design and Townscape Guide, 2009 (SPD1) states:

*“There is no fixed quantitative requirement for the amount of amenity space as each site is assessed on a site by site basis according to local character and constraints. However, all residential schemes will normally be required to provide useable amenity space for the enjoyment of occupiers in some form...”*

Communal amenity space should be a useable size and shape.

- 4.12 As stated in paragraph 1.2 above, all flats will benefit from a small private terrace. Given the town centre location, the level of amenity space proposed is considered sufficient.
- 4.13 Policy DM8 of the Development Management Document requires all new dwellings to meet the Lifetime Home Standards. This has now been superseded by the National Housing Standards it is not considered reasonable to enforce building regulation M4 (2) given that the current building does not meet standards and this is a conversion.

### **Impact on Neighbouring Properties**

#### **National Planning Policy Framework, Core Strategy Policy CP4, Development Management Document policy DM1, and Design and Townscape Guide (SPD1)**

- 4.14 Policy DM1 of the Development Management Document states that any new 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. Paragraph 343 of SPD1 (under the heading of Alterations and Additions to Existing Residential Buildings) states, amongst other criteria, that extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties.
- 4.15 It is not considered the proposed development will result in any harm to adjoining properties in terms of being overbearing or resulting in overshadowing given no additions is proposed. The amenity area to the first and second floor serving the new flats will not result on overlooking or loss of privacy to adjacent properties.
- 4.16 There is a greater emphasis towards supporting residential development, especially following the revocation of PPG24, it is considered that it remains important to ensure that residential units can be guaranteed a reasonable living environment. Therefore, whilst it is noted that the occupants of the proposed units would be aware of the surrounding uses when choosing to occupy the units (primarily the basement level nightclub). Every unit should be afforded a reasonable level of amenity.
- 4.17 Paragraph 123 of the National Planning Policy Framework states:
- “Planning policies and decisions should aim to:*
- avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
  - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*

- *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”.*

- 4.18 The previously refused application was proposing a basement nightclub and whilst the use is changing to a public house and restaurant these are still potentially ‘noisy’ uses. In relation to the noise sensitive uses within this site and the potential for other nuisance (odour nuisance and noise nuisance). This is discussed below.

#### *Noise*

- 4.19 In relation to noise, the main environmental noise source affecting the proposed residential aspect of the development is road traffic along Alexandra Street as stated in the Sound Solution Testing report accompanying this application. Mitigation measures have been proposed to ensure that the weak elements of the façade such as the glazing and ventilation, which is sufficient to meet criteria stated in BS8233:2014 with a ventilation system to provide background and rapid ventilation with windows closed to all residential plots. Further details will be dealt with by condition to ensure the amenities of future occupiers are protected. In relation to the noise amenity levels, the supporting information submitted demonstrates that the amenity areas to the new flats fall within the WHO guidance of 55dBLAeq as the amenity space is within the courtyard area of the development and screened from Alexandra Street. The noise assessment accompanying this application recommends an operating condition whereby no amplified music or speech would be allowed until it could be demonstrated that any music would be inaudible in upper floors and this will include the external amenity space and can be dealt with by condition.

#### *Impact of the plant equipment proposed on residential flats and amenity space*

- 4.20 It is predicted within the noise report that amenity noise levels due to environmental noise to the new flats will fall within The WHO guidance of 55dBLAeq as the amenity space is within the courtyard area of the development and screened from Alexandra Street. The location of plant associated with the development is key to ensure that noise does not give rise for complaints when residents are enjoying their amenity space. The Councils Environmental Health Officer has recommended designing plant equipment to 5dB(A) below the background level, as this will result in a low adverse impact in accordance with BS4142:2014. Appropriate conditions can be imposed if this application is deemed acceptable to ensure the noise limit from cumulative plant does not exceed 37dB(A) within the closest amenity area and the supporting information demonstrates that there are plant and mitigation measures available to achieve such levels. Additional conditions will be imposed to ensure kitchen extracts are not in use at night between the hours of 2300-0700hrs.

#### *Other noise related issues*

- 4.21 It is noted the impact from patrons visiting the commercial premises has not been assessed; however the internal layout of the flats has enabled the bedrooms to be located on the inner facades of the development to mitigate against any potential noise and disturbance.

#### *External lighting*

- 4.22 No details of external lighting have been submitted for consideration; however this can be dealt with by condition.

#### *Odour and noise potential from extract ventilation system*

- 4.23 The routing and ducting for the extract ventilation systems serving the basement and ground floor commercial kitchens provides the potential for noise and odour issues, specifically in relation to the bedrooms 1 and 2 within flat 1. The termination point of this extract is proposed for high level running up into the gable side of the building, discharging 3m from the nearest opening. The latest plan submitted ref 14/03/05 Rev Q shows the route for the extract ventilation ductwork with 2 x in-line fans and associated noise attenuators. No objections are raised in relation to the impact on future occupiers subject to conditions being imposed to ensure anti-vibration mounts are installed and additional as the siting of the ventilation system for the residential properties has not been clearly identified. However, the Councils Environmental Health Officer has confirmed a suitable condition can be imposed to ensure full details are provided to control the emission of fumes.
- 4.24 In light of the above, the Councils Environmental Health Officer has raised no objections subject to appropriate conditions to ensure mitigation measures are employed to protect the amenities of residential properties and surrounding commercial premises. This element of the proposal has therefore overcome reason 01 of application 15/01293/FUL and can comply with policy.

#### **Traffic and Parking**

**National Planning Policy Framework; DPD1 (Core Strategy) policies KP2, CP4, CP3; DPD2 (Development Management Document) policy DM15; and the Design and Townscape Guide SPD1.**

- 4.25 The site falls within the town centre area as designated by the Development Management Plan. Policy DM15 of the Development Management Document requires drinking establishments (Class A3 and A4) to have at least one parking space per 6sqm and 1 space per flat. The existing site does not currently benefit from off street parking. The proposal is to have a bar and restaurant to the basement and ground floor and five flats to the first and second floor.

- 4.26 Policy DM15 of DPD2 states that more flexibility will be given dependant on how sustainable the site is location with access to public transport. Southend Central railway station is located less than 150m from the site and it is 200m to the bus station to the east. Whilst the site will not provide off street parking, taking into account the location of the site within walking distance of Southend bus station and Southend Central Station together with the amenities available in the high street, no objection is raised on parking grounds. Furthermore, reference should be made to a recent appeal decision at 3-5 High Street (APP/D1590/A/14/2212527) where the Inspector concluded no parking provision for 18 flats was acceptable taking into account the nearby car parks and level of accessibility to public transport would constitute a satisfactory and convenient alternative provision to the car parking. There appears to be sufficient space within the site to accommodate cycle storage whereby 1 space for the retail unit and 5 for the residential units in accordance with the Development Management Document DPD2 requirements, which will be dealt with by condition.

#### *Refuse*

- 4.27 The applicant has confirmed the refuse storage for the existing use is stored to the rear of the site in Market Place. This amended proposal details the siting of the refuse store within an existing yard area accessed from Market Place on privately owned land rather than highway land as previously proposed under application 15/01293/FUL. There is sufficient space to accommodate 2 x 100 litre bins and 1 x 140 litre bin for the residential units together with the commercial refuse. A waste management plan will be dealt with by condition to ensure full details of storage and collection are provided. The proposed refuse store will not be visible from the streetscene nor result obstruction to the existing footway along Market Place, which is welcomed. This element of the proposal has therefore overcome reason 02 of application 15/01293/FUL.

#### **Renewable Energy**

#### **NPPF, Core Strategy Policy KP2, Development Management Document policy DM2 and SPD1**

- 4.28 Policy KP2 of the DPD1 and the SPD1 require that 10% of the energy needs of a new development should come from onsite renewable resources, and also promotes the minimisation of consumption of resources. Policy DM2 of the Development Management Document states that all new development should contribute to minimising energy demand and carbon dioxide emissions. Given the proposal is a change of use application and no new development is being created this not considered applicable in this instance.
- 4.29 Policy DM2 of the Development Management Document part (iv) requires water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting. Whilst details have not been submitted for consideration at this time, this can be dealt with by condition.



## **Community Infrastructure Levy (CIL) Charging Schedule.**

- 4.30 This application is CIL liable and there will be a CIL charge payable. Section 143 of the Localism Act 2011 states that any financial sum that an authority has received, will, or could receive, in payment of CIL is a material 'local finance consideration' in planning decisions. CIL is payable on net additional gross internal floorspace. The proposed floorspace is 726.84sqm for the A3/A4 use (£11 per sqm) and 361.46sqm for the residential flats (£22 per sqm). The proposed development will therefore, result in a CIL liability of approximately £19923.42.

## **Conclusion**

- 4.31 In light of the above, no objection is raised to a mixed use development in this location given the proposal complies with the emerging Southend Central Area Action Plan and in accordance with policies DM1 and DM3 of the Development Management Document.
- 4.32 Whilst the proposal does not provide off street parking, taking into account the location of the site in close proximity to the High Street and public transport no objection is raised. Furthermore, the siting of the refuse store will not harm the character and appearance of the area and accommodate sufficient storage for both the commercial and residential uses. The submitted noise assessment demonstrates the proposal will not harm the amenities of future residential occupiers subject to appropriate conditions and adjacent properties.

## **5 Planning policies**

- 5.1 National Planning Policy Framework 2012.
- 5.2 Development Plan Document 1: Core Strategy Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources) CP3 (Transport and Accessibility) CP4 (The Environment and Urban Renaissance), and CP8 (Housing).
- 5.3 Development Plan Document 2: Development Management policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, size and type), DM8 (Residential Standards), DM14 (Environmental Management), DM15 (Sustainable Transport Management)
- 5.4 Supplementary Planning Document 1: Design & Townscape Guide, 2009.
- 5.5 Waste Management Guide
- 5.6 Southend Central Area Action Plan-Consultation Draft November 2016

## 6 Representation Summary

### Design and Regeneration

- 6.1 No objections in principle but this is an attractive historic building which has intact frontages that make a positive contribution to the streetscene and therefore it is considered that the existing timber sash windows facing Alexandra Street and Market Place should be retained. This appears to be the case as the application drawing just notes that the black film will be removed but it would be beneficial to condition this for the sake of clarity.

### Traffic and Highways

- 6.2 Having reviewed the application it is considered that the existing use has the potential to generate a greater number of vehicle movements than the proposed use. The site does benefit from being in a sustainable location with regards to public transport with good links in close proximity; the location also has a number of public car parks within walking distance of the site. The applicant should provide cycle parking for the dwellings as this will provide a sustainable travel choice for future residents. It is not clear from the plans the arrangements for refuse storage or collection. Both cycle parking and refuse arrangements should be conditioned..

Given the above information it is not considered that the proposal will have a detrimental impact upon the local highway network and will actually reduce the traffic movements associated with the site. Therefore no highway objections are raised on highway grounds.

#### *Refuse*

The siting of the refuse and cycle storage is not on Council land as previously proposed under application 15/01293/FUL, which is now acceptable in highway terms **[Officer Comment: Amended plans have been received and the refuse store is now to be located to the rear within an existing yard].**

### Environmental Health

- 6.3 The acoustic assessment for both applications were undertaken during the winter months to establish the level of background noise. Ambient sound levels have been recorded, however the levels gained may not demonstrate typical background noise levels as the number of patrons using the outside premises such as Oyster Court (which has restrictions over use of the outdoor area after 10pm) or Annie's Bar (where there is unrestricted use of outside seating area) would expected to be different (lower) during the winter months to warmer times.

Some technical information in relation to mechanical plant for the commercial premises in relation to air handling units and kitchen extract ventilation has been included to demonstrate that certain products can provide suitable noise levels to reduce predicted impact, however essentially it is predicted that the design would require the residents to keep the doors and windows closed to ensure suitable internal amenity and provide protection against any effects from patrons in smoking areas, and the impact from kitchen ventilation extracts etc.

In addition, the south facing aspect of the majority of the bedrooms may provide potential for solar gain if not properly mitigated at construction.

## Noise

### *Residential Mitigation: Environmental Noise*

The main environmental noise source affecting the proposed residential aspect of the development is road traffic along Alexandra Street as stated in the Sound Solution Testing report. Mitigation has been proposed to ensure that the weak elements of the façade such as the glazing and ventilation, is sufficient to meet criteria stated in BS8233:2014. It is proposed to provide a system 4 ventilation system to provide background and rapid ventilation with windows closed to all residential plots. It is shown that there are units available where noise levels from the vents themselves will fall within relevant internal criteria. Once the exact details of these are known, they should be submitted for approval **[Officer Comment: This has been addressed by condition]**.

### *Noise: Amenity Noise Levels*

It is predicted within the noise report that amenity noise levels due to environmental noise to the new flats will fall within The WHO guidance of 55dBLAeq as the amenity space is within the courtyard area of the development and screened from Alexandra Street.

It is not clear of the impact areas for A4 use (Bar/ public House) will have on the amenity space if residents use their balconies / terrace after 2100hrs. The report does suggest that an operating condition would be acceptable whereby no amplified music or speech would be allowed until it could be demonstrated that any music would be inaudible in upper floors. This should also include the external amenity space **[Officer Comment: This has been addressed by condition]**.

### *Impact of Plant on Proposed Residential and Amenity Space*

It is predicted within the noise report that amenity noise levels due to environmental noise to the new flats will fall within The WHO guidance of 55dBLAeq as the amenity space is within the courtyard area of the development and screened from Alexandra Street.

The location of plant associated with the development itself will be key to ensuring that noise does not give rise for complaints when residents are enjoying their amenity space. By designing to 5dB(A) below the background level for plant, this will show a low adverse impact in accordance with BS4142:2014. The typical background level used in the assessment during the day at Position 2 is 42dB(A). The noise limit from cumulative plant including any tonal intermittent characteristics etc. must not therefore exceed 37dB(A) within the closest amenity area. The report suggests that plant and mitigation is available to achieve these levels. It is recommended the noise limit from plant at -10dB(A) is set below the background at the closest receptor so that each individual plant does not contribute to the overall background level if installed at different times. This criterion should include any tonal and intermittent characteristics etc.

The typical background level at night has been based on 35dB(A) at Position 2 for setting noise limits. The average background level on a Sunday night / Monday morning is 33dB(A), however average background levels on the other nights measured are 39dB(A) and care needs to be taken to ensure that the appropriate background levels from which to set noise limiting criteria are used. As long as the noise limit is 10dB(A) below the typical background level, then 35dB(A) seems reasonable.

It should also be considered that although the kitchen extracts may not be in use at night (2300-0700hrs) there may be children sleeping in the second bedroom of Plot 1 adjacent to the extract and near the external plant, in the evening from 7pm. This evening period should be taken in to account in any assessment of mitigation and it may be better to set noise limiting criterion for plant for day (0700-1900hrs), evening (1900-2300hrs) and night (2300- 0700hrs) periods. **[Officer Comment: This has been addressed by condition].**

#### *Other Noise Related Issues:*

It is noted that any impact from patrons visiting the commercial premises has not been assessed; such as congregating outside and the designated smoking area. As there is no obvious external space associated with these uses, it is unclear where Patrons will be and it is possible that they must just congregate outside near the residential facades where raised voices and shouting may occur and this could be disturbing to sleep patterns. By locating bedrooms on the inner facades of the development, this should help to reduce the impact of noise from patrons but a further assessment of this should be undertaken which includes a typical raised voice etc.

#### *External lighting*

No details on external lighting for any parts of the development have been submitted. External lighting shall be directed, sited and screened so as not to cause detrimental intrusion of light into residential property.

#### *Odour and Noise Potential from extract Ventilation System*

The routing and ducting for the extract ventilation systems serving the basement and ground floor commercial kitchens provides the potential for noise and odour issues, specifically in relation to the bedrooms 1 and 2 within flat 1. The termination point of this extract is proposed for high level running up into the gable side of the building, discharging 3m from the nearest opening. The latest plan submitted to me on the 31<sup>st</sup> January 2017 ref 14/03/05 Rev Q shows the route for the extract ventilation ductwork with 2 x in-line fans and associated noise attenuators drawn in red. Prevailing south west winds will help to carry odour away from the private amenity spaces, but there will be potential for odour nuisance to occur when this changes. In addition, there is the potential for noise nuisance from the operation of plant attached to the outside of the premises, so suitable anti-vibration mounts will need to be installed.

The further submission also indicates that the air conditioning units have been removed from beneath the amenity areas because they are not necessary to facilitate the uses and the Local Planning Authority can impose a condition that prevents their installation without prior approval of details.

The air handling units for the basement and ground floor uses have also been removed from the plan. It is also suggested that a scheme for air handling can easily be devised - even if it relies upon an internal flue, which is properly soundproofed and fireproofed and rises up through the building to terminate at through the roof or an existing chimney. This isn't my area of expertise, however, their own submission at point 8.7 in the Internal Sound Insulation Assessment states 'Do not bridge between the floating layer and the base of surrounding walls i.e with services or fixings that penetrate the resilient layer' which suggests that a duct cannot be put through these floors without significantly affecting the acoustic installation between the commercial and residential uses. Even if these ducts could be isolated, so as to prevent structure and airborne noise, the scheme will affect the size and dimensions of the rooms. Furthermore, the indication is that the chimneys stacks would be used, but there is no evidence of chimney stacks existing through the residential accommodation, although the chimney pots are indicated on the drawing.

Additionally, the exact siting position of the system 4 ventilation system to provide background and rapid ventilation with windows closed to all residential plots hasn't been identified. Careful siting will be necessary to ensure that this system is protected from waste odour from any ventilation extract system serving commercial premises. This matter has been discussed with the agent, however the response provided to the LPA in an email dated the 9<sup>th</sup> January 2017 indicated that siting and routing wasn't a material consideration at this point in proceedings. Therefore, in the absence of the approximate dimensions and locations of this plant a suitable condition can be imposed.

#### *Sound Insulation*

Part of the report deals with sound insulation testing and necessary requirements to reduce airborne and structure borne noise transmission **[Officer Comment: This will be dealt with by Building Control under separate legislation].**

#### **Neighbour Notification**

- 6.4 A site notice displayed on the 2<sup>nd</sup> November 2016 and 54 neighbours notified of the proposal. No letters of representation have been received.
- 6.5 Councillor Garston has requested this application be dealt with by Development Control Committee.

#### **7 Relevant Planning History**

- 7.1 Change of use of ground floor (Class A4) to retail (Class A1), first and second floor (Class A4) to five self-contained flats (Class C3), demolish part of roof to form amenity space- Refused (15/01293/FUL)
- 7.2 Use rear part of shop (Class A1) as extension of adjoining bar/restaurant (Class A3) and remainder of shop as offices (Class A2)- Granted (01/00171/FUL)

## **8 Recommendation**

**Members are recommended to GRANT PLANNING PERMISSION subject to the following conditions:**

- 01 The development hereby permitted shall be begun not later than 3 years beginning with the date of this permission.**

**Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990**

- 02 The development shall be carried out in accordance with the approved plans: Location Plan; Proposed site plan within surrounding context Revision F Proposed floor plans, sections and elevations Revision R.**

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

- 03 The basement and ground floor of the building at the site as hereby approved shall be used for no purposes other than a bar/restaurant falling within use class A3 or A4 or combination thereof. Notwithstanding the content of Part 3 of the Town and Country Planning (General Permitted Development) Order 2015 (As amended), the buildings shall be used for no other purposes falling within Use Class A3/A4 as defined by the Town and Country Planning (Use Classes) Order 1987.**

**Reason: To enable future control to be retained in relation to the use of the building and to reflect the specific circumstances that has provided justification for the proposed use at the application site.**

- 04 Notwithstanding the submitted information, prior to first occupation of the restaurant/bar hereby approved, a Servicing Management Strategy for shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, servicing of the site shall only take place in accordance with the agreed Strategy.**

**Reason: Interests of amenity and highway efficiency and safety in accordance with NPPF, DPD1 (Core Strategy) 2007 policy KP2, DPD2 (Development Management Document) 2015, and SPD1 (Design and Townscape Guide).**

- 05 Final glazing, acoustic insulation and ventilation details for the scheme are to be submitted to, and approved by, the Local Planning Authority prior to installation. Glazing and ventilation should be selected with relevant acoustic properties as outlined in the Noise Impact Assessment dated 29th November 2016. Appropriate mitigation must be given to ensure that cumulative noise levels in accordance with BS4142:2014 meet relevant internal noise criteria in accordance with BS8233:2014, along with tonal and impulsive penalties where necessary prior to occupation of residential units and remain in perpetuity.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 06 The rating level of noise for all activities (including amplified and unamplified music and human voices) should be at least 10dB(A) below the background noise (with no tonal elements) to ensure inaudibility in noise sensitive premises. If noise modelling software is used to calculate the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445:2003. A detailed assessment should be carried out prior to occupation of the residential units by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics.**

**Reason: To protect the amenities of the occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 07 Activities at the site shall not give rise to structure borne noise to any noise sensitive premises.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 08 The use of the kitchen extract ventilation system serving the cafe located to the ground floor of the development should be restricted to use between the hours of 8am-6pm Monday to Saturday and 9am -5pm on Sundays and Bank Holidays.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 09 Before the A3/A4 use hereby permitted begins, a scheme for the installation of equipment to control the emission of fumes and smell from the premises shall be submitted to, and approved in writing by, the local planning authority and the approved scheme shall be implemented. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions, unless otherwise agreed in writing by the local planning authority.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 10 All deliveries and collections to be between: 07:00-19:00hrs Monday to Friday; and 08:00-13:00hrs Saturday; with no deliveries on Sundays or Bank Holidays.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 11 With reference to BS4142, the noise rating level arising from all plant and extraction/ventilation equipment should be at least 10dB (A) below the prevailing background at the closest receptor with no tonal or impulsive character.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 12 External lighting shall be directed, sited and screened so as not to cause detrimental intrusion of light into residential property. Prior to installation of external lighting an assessment using the Institution of Lighting Engineers Guidance Note for the Reduction of Obtrusive Light shall be submitted to and approved in writing by the Local Planning Authority. Lighting shall thereafter only be installed in accordance with the agreed details.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 13 Construction hours restricted to 8am – 6pm Monday to Friday, 8am – 1pm Saturday and not at all on Sundays or Bank Holidays.**

**Reason: To protect the amenities of the residential occupiers from undue noise and disturbance in order to protect their amenities in accordance with DPD1 (Core Strategy) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the DM DPD and SPD1 (Design and Townscape Guide).**

- 14 No part of the development shall be occupied until bicycle parking spaces have been provided externally to the restaurant, public house and residential flats in accordance with plans and details which shall have been previously submitted to and agreed by the Local Planning Authority and the bicycle parking spaces shall be permanently maintained thereafter in accordance with the approved details unless otherwise agreed in writing by the local planning authority. The cycle parking shall remain in perpetuity.**

**Reason: To ensure that satisfactory secure bicycle parking is provided in the interests of sustainability, amenity and highways efficiency and safety, in accordance with NPPF, DPD1 (Core Strategy) 2007 policy KP2, DPD2 (Development Management Document) 2015 and SPD1 (Design and Townscape Guide).**



## **Informative**

- 1** Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). Enclosed with this decision notice is a Community Infrastructure Levy (CIL) Liability Notice for the attention of the applicant and any person who has an interest in the land. This contains details including the chargeable amount, when this is payable and when and how exemption or relief on the charge can be sought. You are advised that a CIL Commencement Notice (CIL Form 6) must be received by the Council at least one day before commencement of development. Receipt of this notice will be acknowledged by the Council. Please ensure that you have received both a CIL Liability notice and acknowledgement of your CIL Commencement Notice before development is commenced. Most claims for CIL relief or exemption must be sought from and approved by the Council prior to commencement of the development. Charges and surcharges may apply, and exemption or relief could be withdrawn if you fail to meet statutory requirements relating to CIL. Further details on CIL matters can be found on the Council's website at [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil).
- 2** Compliance with this decision notice does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and also to the relevant sections of the Control of Pollution Act 1974. Contact 01702 215005 for more information.
- 3** The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2013 or any other provision so enacted, such as those located within the Food Safety Act 1990. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG.
- 4** For further guidance on the control of odour and noise from ventilation systems you are advised to have regard to – Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems published by DEFRA. This can be downloaded free from [www.DEFRA.Gov.UK](http://www.DEFRA.Gov.UK)