

Public Document Pack  
SOUTHEND-ON-SEA BOROUGH COUNCIL

**Development Control Committee  
Special Meeting**

**Date: Wednesday, 27th May, 2020**

**Time: 5.00 pm**

**Place: Virtual Meeting via MS Teams**

**Contact: Tim Row - Principal Democratic Services Officer**

**Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)**

**A G E N D A**

**1 Apologies for Absence**

**2 Declarations of Interest**

**3 Supplementary Report**

**4 18/02302/BC4M - Seaway Car Park, Seaway, Southend-on-Sea (Milton Ward) (Pages 1 - 458)**

Proposals: Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580 sqm building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station.

**TO: The Chairman & Members of the Development Control Committee:**

Councillor N Ward (Chair)

Councillors M Borton (Vice-Chair), B Ayling, J Beck, A Chalk, D Cowan, A Dear, F Evans, D Garston, S Habermel, D Jarvis, A Jones, H McDonald, C Mulroney, A Thompson, S Wakefield and C Walker

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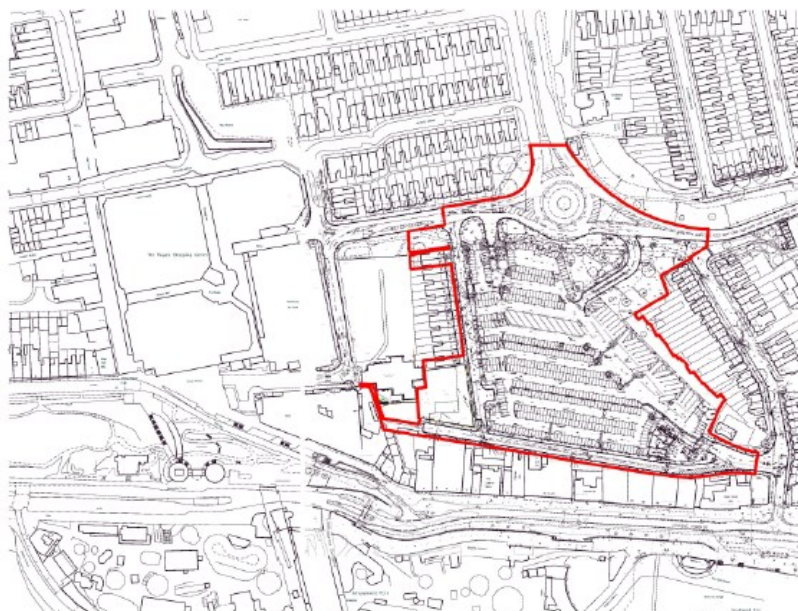
Special Development Control Committee 27/05/2020

<b>Reference</b>	18/02302/BC4M	<b>4</b>
<b>Application Type</b>	Borough Council Regulation 4-Major	
<b>Ward</b>	Milton	
<b>Proposal</b>	Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580 sqm building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station.	
<b>Address</b>	Seaway Car Park, Seaway, Southend-On-Sea	
<b>Applicant</b>	Turnstone Southend Ltd	
<b>Agent</b>	Mr Matthew Hare of Carter Jonas	
<b>Consultation Expiry</b>	7 November 2019	
<b>Expiry Date</b>	15 January 2020	
<b>Case Officer</b>	Charlotte White	
<b>Plan Numbers/ Application Documents</b>	<p>So19/P3000.pl2 - Location Plan – Submitted September 2019</p> <p>So19/P3001.pl2 - Existing Site Plan (Topographical Survey) – Submitted September 2019</p> <p>So19/P3002.pl1 - Existing Building Elevations – Submitted January 2019</p> <p>So19/P3003 - Existing Building Elevations – Submitted January 2019</p> <p>So19/P3004 - Existing Building Plans - Submitted January 2019</p> <p>So19/P3005.pl3 - Demolition Plan – Submitted September 2019</p> <p>So19/P3006.pl2 - Proposed Site Plan – Submitted September 2019</p> <p>So19/P3007.pl2 - Proposed Lower Ground Level Plan – Submitted September 2019</p> <p>So19/P3008.pl2 - Proposed Ground Level Plan – Submitted September 2019</p> <p>So19/P3009.pl2 - Proposed Cinema Level Plan – Submitted September 2019</p> <p>So19/P3010.pl2 - Proposed Auditorium Level Plan – Submitted September 2019</p> <p>So19/P3011.pl1 - Proposed Roof Level Plan – Submitted September 2019</p> <p>So19/P3012.pl1 - Proposed Car Park Plans – Submitted September 2019</p> <p>So19/P3013.pl1 - Proposed Sections A and B – Submitted September 2019</p> <p>So19/P3014.pl1 - Proposed Sections C and D – Submitted September 2019</p> <p>So19/P3015.pl1 - Proposed Section E and F – Submitted September 2019</p> <p>So19/P3016.pl1 - Proposed Section G – Submitted September 2019</p> <p>So19/P3017.pl1 - Proposed Site Sections 1 – Submitted September 2019</p> <p>So19/P3018.pl1 - Proposed Site Sections 2 – Submitted September 2019</p> <p>So19/P3019.pl1 - Proposed Site Sections 3 – Submitted September 2019</p> <p>So19/P3020.pl2 - Proposed North Elevations – Submitted September 2019</p> <p>So19/P3021.pl2 - Proposed East Elevation – Submitted September 2019</p> <p>So19/P3022.pl2 - Proposed South Elevation – Submitted September 2019</p> <p>So19/P3023.pl2 - Proposed West Elevations – Submitted September 2019</p> <p>So19/P3024.pl2 - Unit R1 Proposed Ground Floor Plan – Submitted September 2019</p> <p>So19/P3025.pl1 - Unit R1 Proposed First Floor and Roof – Submitted September 2019</p> <p>So19/P3026.pl5 – Unit R1 - Proposed North and West Elevations –Submitted September 2019</p> <p>So19/P3027.pl5 – Unit R1 Proposed East and South Elevations – Submitted September 2019</p> <p>So19/P3028.pl1 - Unit R1 Proposed Section – Submitted September 2019</p>	

<p>So19/P3029.pl2 - Hotel Proposed Ground Floor Site Plan – Submitted September 2019</p> <p>So19/P3030.pl1 - Hotel Proposed Floor Plans – Submitted September 2019</p> <p>So19/P3031.pl2 - Hotel Proposed North Elevation – Submitted September 2019</p> <p>So19/P3032.pl2 - Hotel Proposed East Elevation –Submitted September 2019</p> <p>So19/P3033.pl2 - Hotel Proposed South Elevation – Submitted September 2019</p> <p>So19/P3034.pl3 - Hotel Proposed West Elevation – Submitted September 2019</p> <p>So19/P3035.pl1 - Hotel - Proposed Section A-A and B-B – Submitted September 2019</p> <p>So19/P3037.pl2 – Elevation/Section Detail 1 – Submitted September 2019</p> <p>So19/P3038.pl2 – Elevation/Section Detail 2 – Submitted September 2019</p> <p>So19/P3039.pl2 – Elevation/Section Detail 3 – Submitted September 2019</p> <p>So19/P3040.pl2 – Elevation/Section Detail 4 – Submitted September 2019</p> <p>So19/P3041.pl2 – Elevation/Section Detail 5 – Submitted September 2019</p> <p>So19/P3042.pl2 – Elevation/Section Detail 6 – Submitted September 2019</p> <p>So19/P3043.pl2 – Elevation/Section Detail 7 – Submitted September 2019</p> <p>So19/P3044.pl2 – Elevation/Section Detail 8 – Submitted September 2019</p> <p>So19/P3045.pl1 – Elevation/Section Detail 9 – Submitted September 2019</p> <p>So19/P3047.pl2 - Proposed Substation – Submitted September 2019</p> <p>So19/P3048 pl1 - Proposed Public Toilet Plan – Submitted September 2019</p> <p>So19/P3050 - Proposed South Elevation - Marine Parade – Submitted September 2019</p> <p>So19/P3051 - Proposed South Elevation - Lucy Road – Submitted September 2019</p> <p>So19/P3052.pl1 - Proposed Cycle Shelters (plans) – Submitted September 2019</p> <p>So19/P3053 - Proposed Cycle Shelters (Elevations) – Submitted September 2019</p> <p>So19P3054.pl1 - Proposed Site Plan (Adopted Highway Boundary) – Submitted September 2019</p> <p>So19/P3055.pl1 - Policy map (Planning Boundary) – Submitted September 2019</p> <p>So19/P3056.pl2 Proposed Site Plan (with proposed area for stopping-up and adoption) – Submitted September 2019</p> <p>So19/P3057 - Proposed Site Sections 1 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3058 - Proposed Site Section 2 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3059 - Proposed Site Sections 3 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3060 - Proposed North Elevations (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3061 - Proposed East Elevation (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3062 - Proposed South Elevation (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3063 - Proposed West Elevations (Existing Ground Line Overlay) - Submitted September 2019</p> <p>So19/P3066 - Servicing Strategy Diagram – Proposed Site Plan – Submitted September 2019</p> <p>So19/P3067 - Servicing Strategy Diagram - Proposed Lower Ground Floor Plan – Submitted September 2019</p> <p>So19/P3068 - Servicing Strategy Diagram - Proposed Ground Level Plan – Submitted September 2019</p> <p>So19/P3069 - Servicing Strategy Diagram Service Corridor Plan – Submitted September 2019</p> <p>So19/P3070 - Servicing Strategy Diagram Service Corridor Section – Submitted September 2019</p>
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	<p>739_SC_300_P02 Landscape Sections 1 of 2 - Submitted September 2019  739_SC_301_P02 Landscape Sections 2 of 2 – Submitted September 2019  739_PL_001_P07 General Arrangement Plan - Submitted September 2019  739_PL_002_P05 Rendered Landscape Masterplan – Submitted September 2019  6113-D-AIA_E – Preliminary AIA Existing and Proposed Site Plans - Submitted September 2019</p> <ul style="list-style-type: none"> <li>• Design and Access Statement – Submitted December 2018; and Design and Access Statement Addendum – Submitted September 2019</li> <li>• Transport Assessment – Submitted December 2018; and Transport Assessment Addendum – Submitted September 2019</li> <li>• Updated Car Park Management Plan V2 – Submitted September 2019</li> <li>• Framework Travel Plan 001 - Submitted September 2019</li> <li>• Planning Statement including Health Impact Assessment – Submitted December 2018; and Planning Statement Addendum – Submitted September 2019</li> <li>• Preliminary Ecological Appraisal (including Bat Roost Survey) – Submitted October 2019</li> <li>• Daylight and Sunlight Impact Assessment – Submitted December 2018; and Daylight and Sunlight Impact Assessment Update – Submitted September 2019</li> <li>• Extract Ventilation Statement – Submitted December 2018; and Extract Ventilation Statement Addendum – Submitted September 2019</li> <li>• Updated Landscape Strategy RIBA Stage 3 – Submitted September 2019</li> <li>• Economic Benefits Assessment – Submitted December 2018; and Economics Benefit Assessment Addendum – Submitted September 2019</li> <li>• Acoustic Planning Report – Submitted December 2018; and Addendum to Acoustic Planning Report – Submitted September 2019</li> <li>• Updated Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan Rev. E – Submitted September 2019; and 6113-D-AIA_E – Preliminary AIA Existing and Proposed Site Plans – Submitted September 2019</li> <li>• Phase 1 Geo-Technical and Geo-Environmental Desk Study – Submitted November 2018</li> <li>• Landscape and Visual Impact Assessment – Submitted September 2019</li> <li>• Residential Visual Amenity Assessment – Submitted September 2019</li> <li>• Updated Heritage Assessment – Submitted September 2019; and Heritage Technical Appendix - Submitted October 2019</li> <li>• Habitats Regulation Assessment Screening Report - Submitted September 2019</li> <li>• Car Park Lighting Strategy – Submitted September 2019</li> <li>• WSP Air Quality Report – Submitted December 2018; and WSP Air Quality Technical Memorandum – Submitted September 2019</li> <li>• Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy –Submitted November 2018</li> <li>• Archaeological Evaluation Report – Submitted December 2018</li> <li>• Energy Strategy Report – Submitted December 2018</li> <li>• Cover Letter - Submitted September 2019</li> <li>• Statement of Community Involvement – Submitted December 2018</li> <li>• Utilities Report – Submitted December 2018</li> <li>• BREEAM Project Report Rev B – Submitted November 2018</li> <li>• Waste Management Strategy – Submitted December 2018</li> <li>• Former Office Building, Seaway Car Park, Southend-on-Sea – Preliminary Bat Roost Survey dated 25<sup>th</sup> November 2019 – Submitted</li> </ul>
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	November 2019.
<b>Recommendation</b>	Resolve that had the application not been appealed for non-determination, Members would have determined to GRANT PLANNING PERMISSION subject to planning conditions (as set out in Appendix 5 of the previous report (attached in appendix 1)).



## Background

On 7<sup>th</sup> December 2018 a planning application was submitted for the above development at Seaway Car Park. The application was validated 15<sup>th</sup> January 2019. During the course of the application amendments were made and re-consultation undertaken which resulted in officers recommending that planning permission be granted, subject to conditions. This application was scheduled to be determined at a Special Development Control Committee on 27<sup>th</sup> November 2019. This meeting was cancelled following a request for a Screening Direction being submitted to the Secretary of State by RPS Consulting on behalf of objectors to the scheme on 25<sup>th</sup> November 2019. On 9<sup>th</sup> January 2020 the Secretary of State determined that *'the proposal is not likely to have significant effects on the environment...Accordingly, in exercise of the powers conferred on him by regulation 5(3) of the 2017 Regulations the Secretary of State hereby directs that the proposed development is not 'EIA development' within the meaning of the 2017 Regulations.'* No permission to challenge the Screening Direction was sought or obtained. The application was presented to the Development Control Committee on 15<sup>th</sup> January 2020. Members resolved that a decision on the application be deferred to address:

- (a) significant deficiencies in terms of the number of parking spaces (555) and the parking information provided; and
- (b) Other elements of the scheme which are not policy compliant.

In terms of the first reason for deferral, Members are referred to Chapter 6.0, Part 3 of the January Committee report at pages 83-87 (see appendix 1). Within the report it is stated *'So long as the proposals do not result in a loss of key visitor parking, and the impact of additional demand on other car parks is acceptable, policy requirements are satisfied'* (paragraph 6.57). *'The car park at the application site has recently been remodelled, with coach parking relocated and the space converted to additional car parking. As a consequence, the capacity of the site has more recently increased from 478 (as referenced in Table 5 of the SCAAP) to 661 car parking spaces. The proposals*

are for 555 spaces...Hence following development, there will be a decrease in spaces from the recently configured car park of 106 spaces. However, importantly in terms of Local Plan policy, there will be a net increase in car parking capacity of 77 spaces at the Seaway site from that at the time of the adoption of the Plan. Given this, the application proposals accord with the policy requirements to avoid a loss of key visitor spaces.’ (paragraph 6.58).

In terms of the impact of the proposal on other car parks, Members are referred to paragraphs 6.62-6.63 of the January Committee report which state *‘The car parking impact assessment undertaken by the applicants demonstrates that the proposed 555 car parking spaces are sufficient to ensure that for the majority of the year, the Seaway car park will accommodate existing and development generated car parking demand...on typical weekday, typical Saturday, Bank Holiday Friday and summer peak periods weekdays, the Seaway car park will accommodate the existing and development generated car parking demand. On a busy Saturdays and seasonal peak periods (bank holiday weekends and summer weekend periods) not all the predicted development generated car parking demand can be accommodated on site. The excess car parking demand that cannot be accommodated comprises both development generated demand and existing users of the Seaway car park including seafront visitors and town centre users. During these times (11.00 to 19.00) car parking demand is likely to rely upon accommodation within other car parks within Southend...This assessment concludes that on a busy Saturday and peak summer Saturdays all the excess demand could not be accommodated in surveyed Key Visitor South car parks. However, additional capacity in non-surveyed car parks (taken from 2015 and 2016 surveys) suggested that a proportion of the excess demand could be accommodated here. Failing that, all overspill could comfortably be accommodated within available spaces in the Central Area North. Overall, the applicants conclude that there is sufficient car parking availability elsewhere in the Central Area South and North to accommodate the excess Seaway parking demand during peak seasonal periods.’*

*‘It is important to note that for the majority of typical weekdays and weekends, the detailed car parking demand assessment shows that the proposed level of on-site car parking will be able to accommodate demands. Overspill is only likely to occur during particularly busy days with sufficient capacity for the rest of the year, and only likely to occur during particularly busy days with sufficient capacity for the rest of the year, and only then, during peak periods of the day i.e. during the afternoon period from around lunchtime to early evening. Furthermore, as demonstrated in the applicant’s submission, there is likely to be sufficient capacity in other Southend car parks to accommodate demand. Highway Officers having considered this assessment are satisfied that the conclusions are robust.’* (Paragraphs 6.64-6.65).

In terms of the second reason for deferral, Appendix 3 of the January Committee Report sets out any areas of non-compliance with policy. Members are referred to pages 187 –201 of the January Committee report. Here it is recognised that there are some areas of non-compliance with policy:

- Policy Dm4 of the Development Management Document: Part compliant: *‘There will be some impact on key views hence non-compliant with part 2 (ii) and (iii) of policy.’*
- Policy DM6 of the Development Management Document: Part compliant: *‘Identified moderate adverse effects on views to and from the Pier, result in non-compliance with the precise requirement of Point 4 of this policy.’*
- DS2 of the Southend Central Area Action Plan (SCAAP): Non-compliant. *Impacts on existing views vary, but harmful effects are within a tightly drawn zone around the site with most of the key views in the town unaffected. Long range views are unlikely to be affected. Impacts will reduce over time as landscaping matures.’*
- Policy CS1.2 Part g) of the SCAAP: Part Compliant: *‘A new coach drop off is provided within the site. Whilst it is noted that no coach parking is currently provided at the Seaway site, no alternative coach parking is provided to off-set those spaces that were on-site at the time of the adoption of the Plan. The proposals do not comply with this requirement.’*

Impacts in terms of townscape and visual impact are considered in detail within Chapter 6.0, Part 5 of the January Committee report at pages 94-99.

Impacts in terms of coach parking are considered in detail within Chapter 6.0, Part 2 of the January Committee report at pages 80-81.

It is important to note, as set out within the conclusion section of the January Committee Report that *‘It is only with regard to coach parking (Policy CS1.2 - the second requirements of part g), and*

*impacts on some views (Policy DS2, part of Policy DM4 and part of Policy DM6) where there are elements of actual and potential conflict with detailed policy requirements. Despite this where compliance exists with the majority of the policies as is clearly the case here, it still remains appropriate to consider that the development proposals accord with development plan when read as a whole...it is considered that the application proposals at Seaways car park do comply with the development plan when read as a whole.'* (Paragraph 9.30).

An appeal against the non-determination of the application was submitted to the Planning Inspector by the applicant's agent on 17<sup>th</sup> January 2020. On 30<sup>th</sup> April 2020 the Council received the 'start letter' from the Planning Inspectorate. The Planning Inspectorate has determined that the hearing procedure is the most suitable appeal type in this instance. A date for the hearing has not yet been set due to the current pandemic. The appeal reference is APP/D1590/W/20/3245194. Members of the public have been notified of the appeal and will be able to make further representations to the Planning Inspector.

### **Summary of Additional Representations Received since Committee 15/01/2020**

2 additional representations have been received since the Committee date over and above those set out in the previous report (Appendix 1) and previous Supplementary Agenda (Appendix 2). These representations can be summarised as follows:

- Concerns that the application and appeal submitted are not valid.
- Concerns that a positive appeal will end up at the High Court, with the possibility of any decision being quashed and the council incurring costs associated with this.
- Concerns relating to the contract between the Council and the applicant.
- Insufficient parking and loss of car parking which is often full in the summer and the main car park for seafront trade.
- Concerns relating to duplication of facilities.

*Officer comment:* matters relating to parking and the duplication of facilities were considered within the original report (attached in Appendix 1). The concerns raised in respect of the validity of the appeal are noted, but the appeal has already been validated by the Planning Inspectorate. Concerns over the validity of the application were addressed at the meeting in January. The application is considered valid. Concerns relating to the land contract are not a material planning consideration. The future threat of court proceedings to an Inspector's decision not yet made is not a relevant planning consideration.

1 letter of support has been received from Southend Bid which provides the following summarised comments:

- Continue to be supportive of the plan.
- Is an opportunity for major investment in the town.
- Will ensure the town's leisure offer is extended to a full year for local residents and visitors rather than a seasonal one.
- High Streets are under pressure therefore it is vital to approve logical proposals for inward investment for our town.

### **Parking Update**

Members should note that 2 planning applications have been submitted and are currently under consideration and pending determination for additional car and coach parking at 2 Council owned sites seeking the expansion of existing public car parks: Gas Works and Southchurch Park East. The proposal at the Gas Works site under reference 20/00311/BC3M seeks to provide an additional 83 parking spaces, resulting in a total of 259 spaces on the site. An additional 8 coach spaces are proposed, resulting in a total of 27 coach spaces on this site. The proposal under reference 20/00328/BC3M at Southchurch Park East seeks to provide an additional 157 car parking spaces at this site, providing a total of 224 spaces and would also provide 11 coach parking spaces which overlap some of the parking spaces, allowing the parking to be used flexibly. Whilst not yet determined these applications show the provision of car and coach parking is not static.

## **Conclusion and Recommendation**

There have been no material changes in planning policy and no material changes at the site or within the immediate surrounding area that would alter the original officer recommendation as set out in the report in Appendix 1. The application is presented to Committee again as Members need to determine what decision they would have taken if an appeal against non-determination of the application had not have been submitted. This will be the position of the Local Planning Authority in the planning appeal. Officers recommend that Members resolve that planning permission would have been granted, subject to conditions, as set out in the original report (Appendix 1), which includes a specific planning condition that has been agreed between the local planning authority and the applicant which prevents any development commencing until a planning obligation in the form attached to the permission is executed. The planning obligation is not yet in its unexecuted final form but it must be before any appeal can be allowed. This final form can be left to the delegated powers of officers to agree. It will be important to ensure any occupiers and mortgagees are similarly bound. Members should note that in the absence of a position from the Local Planning Authority the appointed Planning Inspector will determine the application as they see fit to, based on the relevant material planning considerations.

**Appendix 1 – Committee Report 15/01/2020**



Public Document Pack  
SOUTHEND-ON-SEA BOROUGH COUNCIL

Development Control Committee  
Special Meeting

Date: Wednesday, 15th January, 2020

Time: 2.00 pm

Place: Committee Room 1 - Civic Suite

Contact: Tim Row - Principal Committee Officer

Email: [committeesection@southend.gov.uk](mailto:committeesection@southend.gov.uk)

**A G E N D A**

1 Apologies for Absence

2 Declarations of Interest

3 Supplementary Report  
To follow

\*\*\*\* **Report on Pre-meeting Site Visit**

4 **18/02302/BC4M - Seaway Car Park, Seaway, Southend-on-Sea (Milton Ward)** (Pages 5 - 414)

**TO: The Chairman & Members of the Development Control Committee:**

Councillor N Ward (Chair)

Councillors M Borton (Vice-Chair), B Ayling, J Beck, A Chalk, D Cowan, A Dear, F Evans, D Garston, S Habermel, D Jarvis, A Jones, H McDonald, C Mulroney, A Thompson, S Wakefield and C Walker

**PLEASE NOTE: The minibus for the site visits will depart from the bus stop at the front of the Civic Centre at 11.00 a.m.**

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# **DEVELOPMENT CONTROL COMMITTEE**

## **SITE VISIT PROTOCOL**

### **1. Necessity**

A site visit is only likely to be necessary if either:

- (i) The proposed development is difficult to visualise from the plans, photographs and supporting material; or
- (ii) There is good reason why the comments of the applicant and / or objector(s) cannot be expressed adequately in writing; or
- (iii) The proposal is particularly contentious; or
- (iv) A particular Member requests it and the request is agreed by the Chairman of DCC.

### **2. Selecting Site Visits**

- (i) Members can request a site visit by contacting the Head of Planning and Transport or the Group Manager for Planning; providing the reason for the request. The officers will consult with the Chairman.
- (ii) If the agenda has not yet been printed, notification of the site visit will be included on the agenda. If the agenda has already been printed, officers will notify Members separately of the additional site visit.
- (iii) Arrangements for visits will not normally be publicised or made known to applicants or agents unless access is required to be able to go on land.

### **3. Procedures on Site Visits**

- (i) Visits will normally take place during the morning of DCC.
- (ii) A planning officer will always attend and conduct the site visit, and will bring relevant issues to the attention of Members. The officer will keep a record of the attendance, and a brief note of the visit.
- (iii) The site will normally be viewed from a public place, such as a road or footpath.
- (iv) Representations will not be heard, and material will not be accepted. No debate with any party will take place. Where applicant(s) and/or other interested person(s) are present, the Chairman may invite them to point out matters or features which are relevant to the matter being considered having first explained to them that it is not the function of the visit to accept representations or to debate.

**Version: April 2016**

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## DEVELOPMENT CONTROL COMMITTEE

### INTRODUCTION

- (i) **Recommendations in capitals at the end of each report are those of the Deputy Chief Executive (Place), are not the decision of the Committee and are subject to consideration by Councillors.**
- (ii) All plans have been considered in the context of the Borough Council's Environmental Charter. An assessment of the environmental implications of development proposals is inherent in the development control process and implicit in the reports.
- (iii) Reports will not necessarily be dealt with in the order in which they are printed.
- (iv) The following abbreviations are used in the reports:-

BLP	- Borough Local Plan
DAS	- Design & Access Statement
DEFRA	- Department of Environment, Food and Rural Affairs
DPD	- Development Plan Document
EA	- Environmental Agency
EPOA	- Essex Planning Officer's Association
DCLG	- Department of Communities and Local Government
NPPF	- National Planning Policy Framework
NPPG	- National Planning Practice Guidance
SPD	- Supplementary Planning Document
SSSI	- Sites of Special Scientific Interest. A national designation. SSSIs are the country's very best wildlife and geological sites.
SPA	- Special Protection Area. An area designated for special protection under the terms of the European Community Directive on the Conservation of Wild Birds.
Ramsar Site	- Describes sites that meet the criteria for inclusion in the list of Wetlands of International Importance under the Ramsar Convention. (Named after a town in Iran, the Ramsar Convention is concerned with the protection of wetlands, especially those important for migratory birds)

### **Background Papers**

- (i) Planning applications and supporting documents and plans
- (ii) Application worksheets and supporting papers
- (iii) Non-exempt contents of property files
- (iv) Consultation and publicity responses
- (v) NPPF and NPPG
- (vi) Core Strategy
- (vii) Borough Local Plan

**NB** Other letters and papers not taken into account in preparing this report but received subsequently will be reported to the Committee either orally or in a supplementary report.

## DEVELOPMENT CONTROL COMMITTEE

### Use Classes

- Class A1 - Shops
- Class A2 - Financial & Professional Services
- Class A3 - Restaurants & Cafes
- Class A4 - Drinking Establishments
- Class A5 - Hot Food Take-away
  
- Class B1 - Business
- Class B2 - General Industrial
- Class B8 - Storage or Distribution
  
- Class C1 - Hotels
- Class C2 - Residential Institutions
- Class C3 - Dwellinghouses
- Class C4 - Small House in Multiple Occupation
  
- Class D1 - Non-Residential Institutions
- Class D2 - Assembly and Leisure
- Sui Generis - A use on its own, for which any change of use will require planning permission

**COVERING REPORT – Application reference 18/02302/BC4M**

<b>Reference</b>	18/02302/BC4M	<b>4</b>
<b>Application Type</b>	Borough Council Regulation 4-Major	
<b>Ward</b>	Milton	
<b>Proposal</b>	Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580 sqm building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station.	
<b>Address</b>	Seaway Car Park, Seaway, Southend-On-Sea	
<b>Applicant</b>	Turnstone Southend Ltd	
<b>Agent</b>	Mr Matthew Hare of Carter Jonas	
<b>Consultation Expiry</b>	7 November 2019	
<b>Expiry Date</b>	11 December 2019	
<b>Case Officer</b>	Charlotte White	

As Councillors are aware, this application has been referred to the Secretary of State for a Screening Direction, so that he can make a decision as to whether or not the application needs to be accompanied by an Environmental Statement, prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).

The Secretary of State has an initial 21 day period to deal with this, which has now expired, and we anticipate the Secretary of State issuing his Screening Direction decision imminently.

In order to deal with this matter expeditiously a special meeting of the Development Control Committee has been arranged for Wednesday 15<sup>th</sup> January 2020 at 2pm pursuant to Standing Order 35.2. The Chief Executive has agreed to summon this special meeting, with the concurrence of the Vice-Chair of the Development Control Committee.

**The main report to the Development Control Committee on this application (which follows) has been drafted on the basis that the Secretary of State has:**

- issued a decision before the date of the meeting; and
- has determined that no Environmental Statement, prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), is required.

**In the event that a decision from the Secretary of State is not received before the date of the committee, or the Secretary of State determines that an Environmental Statement is required, then the meeting will be cancelled.**

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# Preface

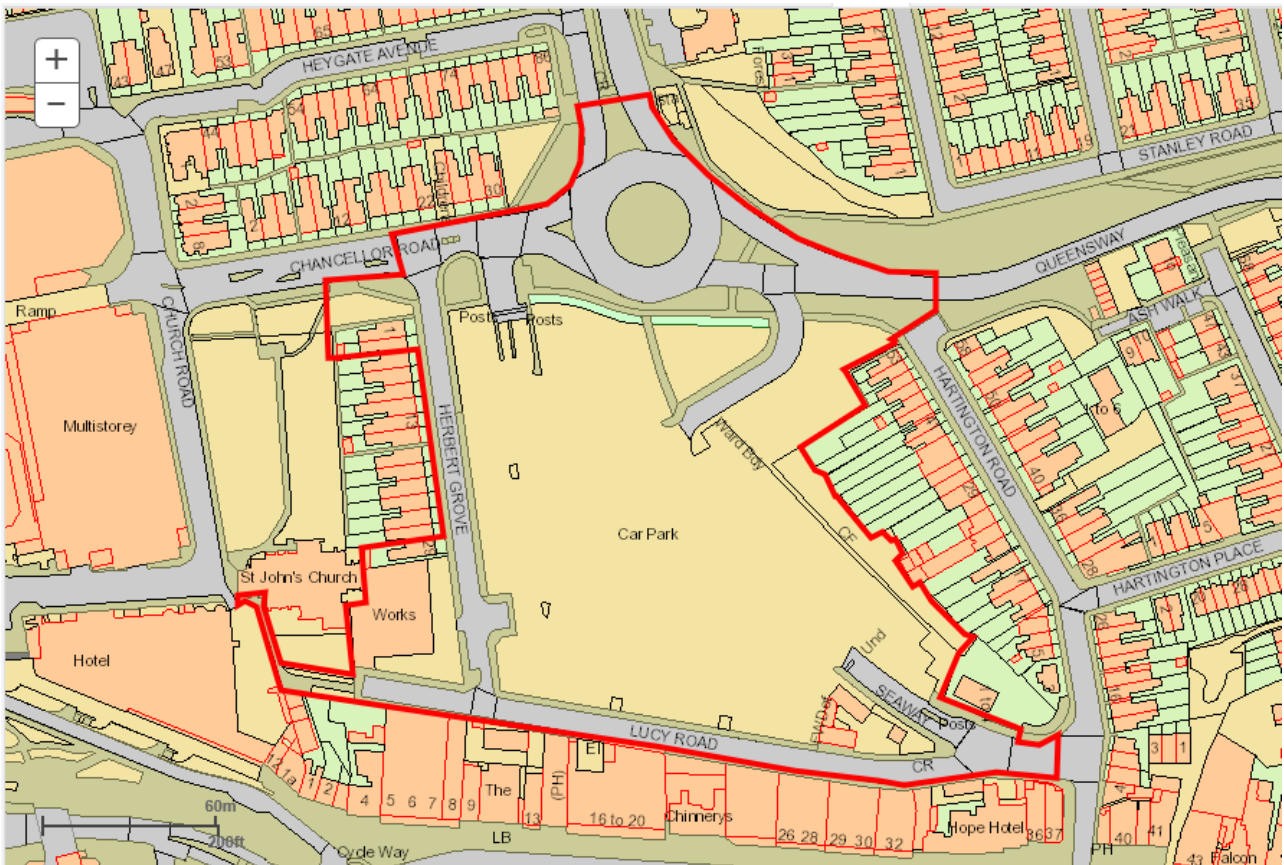
This application was scheduled to be determined at a Special Development Control Committee on 27<sup>th</sup> November 2019. This meeting was cancelled following a request for a Screening Direction being submitted to the Secretary of State by RPS Consulting on behalf of objectors to the scheme. The Council was made aware of the request at 6.38pm Monday 25<sup>th</sup> November 2019. The report has been updated since that which was published on the Agenda for 27<sup>th</sup> November 2019 Development Control Committee in several areas.

<b>Reference</b>	18/02302/BC4M
<b>Application Type</b>	Borough Council Regulation 4-Major
<b>Ward</b>	Milton
<b>Proposal</b>	Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580 sqm building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station.
<b>Address</b>	Seaway Car Park, Seaway, Southend-On-Sea
<b>Applicant</b>	Turnstone Southend Ltd
<b>Agent</b>	Mr Matthew Hare of Carter Jonas
<b>Consultation Expiry</b>	7 November 2019
<b>Expiry Date</b>	11 December 2019
<b>Case Officer</b>	Charlotte White
<b>Plan Numbers/ Application Documents</b>	<p>So19/P3000.pl2 - Location Plan – Submitted September 2019</p> <p>So19/P3001.pl2 - Existing Site Plan (Topographical Survey) – Submitted September 2019</p> <p>So19/P3002.pl1 - Existing Building Elevations – Submitted January 2019</p> <p>So19/P3003 - Existing Building Elevations – Submitted January 2019</p> <p>So19/P3004 - Existing Building Plans - Submitted January 2019</p> <p>So19/P3005.pl3 - Demolition Plan – Submitted September 2019</p> <p>So19/P3006.pl2 - Proposed Site Plan – Submitted September 2019</p> <p>So19/P3007.pl2 - Proposed Lower Ground Level Plan – Submitted September 2019</p> <p>So19/P3008.pl2 - Proposed Ground Level Plan – Submitted September 2019</p> <p>So19/P3009.pl2 - Proposed Cinema Level Plan – Submitted September 2019</p> <p>So19/P3010.pl2 - Proposed Auditorium Level Plan – Submitted September 2019</p> <p>So19/P3011.pl1 - Proposed Roof Level Plan – Submitted September 2019</p> <p>So19/P3012.pl1 - Proposed Car Park Plans – Submitted September 2019</p> <p>So19/P3013.pl1 - Proposed Sections A and B – Submitted September 2019</p> <p>So19/P3014.pl1 - Proposed Sections C and D – Submitted September 2019</p> <p>So19/P3015.pl1 - Proposed Section E and F – Submitted September 2019</p> <p>So19/P3016.pl1 - Proposed Section G – Submitted September 2019</p> <p>So19/P3017.pl1 - Proposed Site Sections 1 – Submitted September 2019</p> <p>So19/P3018.pl1 - Proposed Site Sections 2 – Submitted September 2019</p> <p>So19/P3019.pl1 - Proposed Site Sections 3 – Submitted September 2019</p> <p>So19/P3020.pl2 - Proposed North Elevations – Submitted September 2019</p> <p>So19/P3021.pl2 - Proposed East Elevation – Submitted September 2019</p> <p>So19/P3022.pl2 - Proposed South Elevation – Submitted September 2019</p> <p>So19/P3023.pl2 - Proposed West Elevations – Submitted September 2019</p> <p>So19/P3024.pl2 - Unit R1 Proposed Ground Floor Plan – Submitted September 2019</p> <p>So19/P3025.pl1 - Unit R1 Proposed First Floor and Roof – Submitted September 2019</p> <p>So19/P3026.pl5 – Unit R1 - Proposed North and West Elevations –Submitted</p>

	<p>September 2019</p> <p>So19/P3027.pl5 – Unit R1 Proposed East and South Elevations – Submitted September 2019</p> <p>So19/P3028.pl1 - Unit R1 Proposed Section – Submitted September 2019</p> <p>So19/P3029.pl2 - Hotel Proposed Ground Floor Site Plan – Submitted September 2019</p> <p>So19/P3030.pl1 - Hotel Proposed Floor Plans – Submitted September 2019</p> <p>So19/P3031.pl2 - Hotel Proposed North Elevation – Submitted September 2019</p> <p>So19/P3032.pl2 - Hotel Proposed East Elevation –Submitted September 2019</p> <p>So19/P3033.pl2 - Hotel Proposed South Elevation – Submitted September 2019</p> <p>So19/P3034.pl3 - Hotel Proposed West Elevation – Submitted September 2019</p> <p>So19/P3035.pl1 - Hotel - Proposed Section A-A and B-B – Submitted September 2019</p> <p>So19/P3037.pl2 – Elevation/Section Detail 1 – Submitted September 2019</p> <p>So19/P3038.pl2 – Elevation/Section Detail 2 – Submitted September 2019</p> <p>So19/P3039.pl2 – Elevation/Section Detail 3 – Submitted September 2019</p> <p>So19/P3040.pl2 – Elevation/Section Detail 4 – Submitted September 2019</p> <p>So19/P3041.pl2 – Elevation/Section Detail 5 – Submitted September 2019</p> <p>So19/P3042.pl2 – Elevation/Section Detail 6 – Submitted September 2019</p> <p>So19/P3043.pl2 – Elevation/Section Detail 7 – Submitted September 2019</p> <p>So19/P3044.pl2 – Elevation/Section Detail 8 – Submitted September 2019</p> <p>So19/P3045.pl1 – Elevation/Section Detail 9 – Submitted September 2019</p> <p>So19/P3047.pl2 - Proposed Substation – Submitted September 2019</p> <p>So19/P3048 pl1 - Proposed Public Toilet Plan – Submitted September 2019</p> <p>So19/P3050 - Proposed South Elevation - Marine Parade – Submitted September 2019</p> <p>So19/P3051 - Proposed South Elevation - Lucy Road – Submitted September 2019</p> <p>So19/P3052.pl1 - Proposed Cycle Shelters (plans) – Submitted September 2019</p> <p>So19/P3053 - Proposed Cycle Shelters (Elevations) – Submitted September 2019</p> <p>So19P3054.pl1 - Proposed Site Plan (Adopted Highway Boundary) – Submitted September 2019</p> <p>So19/P3055.pl1 - Policy map (Planning Boundary) – Submitted September 2019</p> <p>So19/P3056.pl2 Proposed Site Plan (with proposed area for stopping-up and adoption) – Submitted September 2019</p> <p>So19/P3057 - Proposed Site Sections 1 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3058 - Proposed Site Section 2 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3059 - Proposed Site Sections 3 (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3060 - Proposed North Elevations (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3061 - Proposed East Elevation (Existing Ground Line Overlay) – Submitted September 2019</p> <p>So19/P3062 - Proposed South Elevation (Existing Ground Line Overlay) – Submitted September 2019</p>
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	<p>S019/P3063 - Proposed West Elevations (Existing Ground Line Overlay) - Submitted September 2019</p> <p>S019/P3066 - Servicing Strategy Diagram – Proposed Site Plan – Submitted September 2019</p> <p>S019/P3067 - Servicing Strategy Diagram - Proposed Lower Ground Floor Plan – Submitted September 2019</p> <p>S019/P3068 - Servicing Strategy Diagram - Proposed Ground Level Plan – Submitted September 2019</p> <p>S019/P3069 - Servicing Strategy Diagram Service Corridor Plan – Submitted September 2019</p> <p>S019/P3070 - Servicing Strategy Diagram Service Corridor Section – Submitted September 2019</p> <p>739_SC_300_PO2 Landscape Sections 1 of 2 - Submitted September 2019</p> <p>739_SC_301_PO2 Landscape Sections 2 of 2 – Submitted September 2019</p> <p>739_PL_001_PO7 General Arrangement Plan - Submitted September 2019</p> <p>739_PL_002_PO5 Rendered Landscape Masterplan – Submitted September 2019</p> <p>6113-D-AIA_E – Preliminary AIA Existing and Proposed Site Plans - Submitted September 2019</p> <ul style="list-style-type: none"> <li>• Design and Access Statement – Submitted December 2018; and Design and Access Statement Addendum – Submitted September 2019</li> <li>• Transport Assessment – Submitted December 2018; and Transport Assessment Addendum – Submitted September 2019</li> <li>• Updated Car Park Management Plan V2 – Submitted September 2019</li> <li>• Framework Travel Plan 001 - Submitted September 2019</li> <li>• Planning Statement including Health Impact Assessment – Submitted December 2018; and Planning Statement Addendum – Submitted September 2019</li> <li>• Preliminary Ecological Appraisal (including Bat Roost Survey) – Submitted October 2019</li> <li>• Daylight and Sunlight Impact Assessment – Submitted December 2018; and Daylight and Sunlight Impact Assessment Update – Submitted September 2019</li> <li>• Extract Ventilation Statement – Submitted December 2018; and Extract Ventilation Statement Addendum – Submitted September 2019</li> <li>• Updated Landscape Strategy RIBA Stage 3 – Submitted September 2019</li> <li>• Economic Benefits Assessment – Submitted December 2018; and Economics Benefit Assessment Addendum – Submitted September 2019</li> <li>• Acoustic Planning Report – Submitted December 2018; and Addendum to Acoustic Planning Report – Submitted September 2019</li> <li>• Updated Tree Survey, Arboricultural Impact Assessment Preliminary Arboricultural Method Statement and Tree Protection Plan Rev. E – Submitted September 2019; and 6113-D-AIA_E – Preliminary AIA Existing and Proposed Site Plans – Submitted September 2019</li> <li>• Phase 1 Geo-Technical and Geo-Environmental Desk Study – Submitted November 2018</li> <li>• Landscape and Visual Impact Assessment – Submitted September 2019</li> <li>• Residential Visual Amenity Assessment – Submitted September 2019</li> <li>• Updated Heritage Assessment – Submitted September 2019; and Heritage Technical Appendix - Submitted October 2019</li> </ul>
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	<ul style="list-style-type: none"> <li>• Habitats Regulation Assessment Screening Report - Submitted September 2019</li> <li>• Car Park Lighting Strategy – Submitted September 2019</li> <li>• WSP Air Quality Report – Submitted December 2018; and WSP Air Quality Technical Memorandum – Submitted September 2019</li> <li>• Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy –Submitted November 2018</li> <li>• Archaeological Evaluation Report – Submitted December 2018</li> <li>• Energy Strategy Report – Submitted December 2018</li> <li>• Cover Letter - Submitted September 2019</li> <li>• Statement of Community Involvement – Submitted December 2018</li> <li>• Utilities Report – Submitted December 2018</li> <li>• BREEAM Project Report Rev B – Submitted November 2018</li> <li>• Waste Management Strategy – Submitted December 2018</li> <li>• Former Office Building, Seaway Car Park, Southend-on-Sea – Preliminary Bat Roost Survey dated 25<sup>th</sup> November 2019 – Submitted November 2019.</li> </ul>
<b>Recommendation</b>	Members are recommended to GRANT PLANNING PERMISSION subject to planning conditions detailed in <b>Appendix 5</b> of this Report.



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# 1.0 Site and Surroundings

## Site Description

### 1) Site Boundary

- 1.1 Whilst the application site focuses on the existing Seaway Car Park, the application boundary extends beyond this facility. To the north, the boundary includes all of the Seaways Roundabout and approach areas. The eastern boundary follows the boundaries of the rear gardens of properties along Hartington Road and on Seaway (i.e. the property that fronts the existing access to the car park off Lucy Road). It then extends to include the Seaways Spur (at the entrance to the car park) and adopts the southern edge of Lucy Road along its length towards the Town Centre as its southern boundary. The application boundary includes the pedestrian link/passage that runs adjacent to St. John the Baptist's Church (noting that the Church and its immediate surroundings fall outside the red line).
- 1.2 The site of the Former Rossi Ice Cream Factory on Herbert Grove is included within the application boundary. The factory, previously located in front of St John the Baptist's Church, has already been demolished following grant of prior approval by the Council (reference 17/00902/DEM). The application boundary including No. 29 Herbert Grove (scheduled to be demolished) passes northwards on Herbert Grove, adjacent to the front gardens/car parking of Nos. 5 to 27. It then extends to include the entirety of properties Nos. 1-3 Herbert Grove (also to be demolished). The area of open space between the end property and Chancellor Road is also included within the site.
- 1.3 The application site boundary, therefore, extends slightly beyond the Seaways Opportunity Site, as defined by the Southend Central Area Action Plan (SCAAP, 2018) that is focussed on the existing car parking areas, and the site of the former ice cream factory. The Seaways roundabout and adjacent open spaces to the south, including that which abuts the properties to the north end of Hartington Road; Nos. 1-3 and 29 Herbert Grove; and the pedestrian link through to the town centre, adjacent to St John the Baptist's Church all fall outside the SCAAP Opportunity Site designation.
- 1.4 Relevant policy allocations applying directly to this application site are:

Policy	Designation	Location
SCAAP CS.1.2	Opportunity Site	Seaways Car Park
DMD DM5	Conservation Area	Clifftown Conservation Area (footpath to town centre)
CS CP7	Protected Green Space	Adjacent to Seaways Roundabout
SCAAP CS1	Central Seafront Area	All of site
SCAAP DS5	Key Visitor Car Park	Seaways Car Park
SCAAP DS5	New and Improved Pedestrian Links	From Chancellor Road to Lucy Road and adjacent to Church
SCAAP CP7	New and Improved Open Spaces	From Chancellor Road to Lucy Road
SCAAP DS5	Key Public Realm Improvements	Chancellor Road
SCAAP DS5	Improved Gateway Access	Seaway Roundabout

#### Key

- CS: Core Strategy (2007)  
DMD: Development Management Document (2015)  
SCAAP: Southend Central Area Action Plan (2018)

1.5 A full account of the implications arising from these policies is provided within Section 6.0 of this report whilst **Appendix 3** provides a review of the application proposals against relevant development plan policy.

## **2) Land Use**

1.6 The site covers approximately 3.6Ha, focused on the current Seaway Car Park.

1.7 The site is in use as a pay and display public car park, for town centre shoppers, employees and visitors to the area. It currently has a capacity of 661 car parking spaces and is open 24 hours a day. Previously, the site accommodated 478 car parking spaces and approximately 20 coach parking spaces, but the layouts were remodelled, and the coach parking removed. This allowed the capacity of the car park to increase.

1.8 The typical level of use of the facility varies considerably. During peak season, such as summer weekends and bank holidays, the car park operates at capacity. In contrast, off-peak use of the facility results in a high availability of parking spaces. The car park capacity is monitored as part of the Council's Vehicle Monitoring System (VMS) with results automatically fed to car park signage on approach roads to Southend.

1.9 The car park benefits from CCTV coverage.

1.10 The application boundary includes Nos. 1-3 Herbert Grove, which is currently operating as a guesthouse. No 29 Herbert Grove (also within the site boundary) is understood (from Council Tax records) to comprise an end of terrace residential property.

1.11 Beyond No 29 Herbert Grove, and within the site boundary, is the site of the former Rossi Ice-cream Factory (now demolished). The site is vacant and surrounded by hoardings.

1.12 In the south-east corner of the site (close to the Seaway entrance to the car park), is a small public toilet block. Only half of the facilities are currently in operation with the remaining closed following vandalism.

1.13 Along the north of Lucy Road, and within the application site boundary, there is a taxi drop-off facility with approximately 10 parking spaces. This facility is predominantly used during the evenings for night club pick-up and drop-offs, serving existing entertainment establishments that have entrances that open onto Lucy Road.

1.14 The site is extensively hard surfaced, although there are some areas of trees and green space towards the northern boundary of the site, located adjacent to the highway boundary on the Seaway roundabout. This land is predominately laid to grass and extends towards the rear gardens of properties located in Hartington Road. This area benefits from allocation in the Development Management Document (i.e. part of the adopted development plan) as Protected Green Space. The allocation extends parallel with Chancellor Road, beyond the application site, to the north of the graveyard that sits to the rear of the residential properties that front Herbert Grove.

1.15 In terms of trees, the Agent has confirmed, as per drawing number 6113-D-AIA Rev. E, that currently there are a total of 42 individual trees on site, one group of trees and one area of trees. These are predominately grouped on the grassed areas to the north, along Herbert Grove, and at the Lucy Road entrance to the site, to the south. In July 2019, the Council confirmed a permanent Tree Preservation Order (TPO) in respect of two London Plane specimens, located within the grassed area to the north-east of the Seaway Car Park (i.e. within the application boundary) under reference 1/2019. In addition, in September 2019 a further provisional TPO was issued in respect of an additional 20 trees (19 of which are within the application site boundary) at Seaways. This TPO reference 6/2019 has been the subject of an objection from the

applicant, which will need to be considered prior to any decision regarding the tree's future status. However, for the purposes of assessing this application, they are considered as benefiting from the permanent TPO, to adopt a worst-case scenario. A schedule of TPO trees including a description of all species is provided at **Appendix 4**.

### **3) Site Access**

- 1.16 There are three separate vehicular accesses at the site serving the car park. Chancellor Road provides an entrance to the facility, just beyond the Seaway Roundabout to the north. To the south, an entrance is provided via Seaway, that links to Hartington Road and Marine Parade beyond. Exit from the facility is via two lanes that link onto the A1160 Queensway, just to the east of the roundabout referenced above. All entrances have maximum height controls in place.
- 1.17 The site is an open car park hence informal pedestrian access is unrestricted from most of its surroundings (Herbert Grove and Lucy Road.) In addition, footpaths adjoin all the vehicular access routes. Within the application boundary, a footpath passes around the north of the car park connecting Hartington Road to the car park, continuing to link to Chancellor Road to the west.
- 1.18 To the South West corner of the site, within the boundary, is a pedestrian footpath which passes St. John the Baptist Church and links to Church Road and the Town Centre beyond.

### **4) Levels and Flooding**

- 1.19 There is a significant drop in levels across the site. The highest point of the site is towards the north west, with an AOD of 17m. The site drops towards Lucy Road, with the lowest point in the south east corner (6.0M AOD).
- 1.20 The site sits within Flood Risk Zone 1 of the Environment Agency's Flood Map for Planning (i.e. land with the lowest probability of flooding - less than 1 in 1,000 annual probability of flooding). Towards the south-east, beyond the site boundary, parts of Lucy Road and Hartington Road fall within Flood Zones 2 and 3.

### **5) Conservation Area**

- 1.21 The St. John the Baptist Church footway sits within the Clifftown Conservation Area. Designated in 1969, Clifftown Conservation Area has five distinct sections which together provide Clifftown's unique character. The footway sits within the Pier Hill Area that is referenced as acting as a connection between old and new Southend, linking the Palace Hotel and The Pier. The heritage features of the Area are focused around the Palace Hotel and the Pier Hill Lift.
- 1.22 There are no listed buildings within the site boundary.

## **Site Surroundings**

### **1) Land Use**

- 1.23 To the north and west of the site, along Chancellor Road and Herbert Grove, the prevailing land use is residential with properties overlooking the site. A number of these two storey properties are (HMO) Houses of Multiple Occupancy, rental properties and guest houses.
- 1.24 To the east of the site are the rear gardens of residential properties that front Hartington Road.

1.25 Marine Parade, to the south, accommodates seafront uses such as arcades, leisure uses, bars, restaurants and hotels. Some extend through to Lucy Road providing secondary entrances off this road. In addition, there are a number of nightclubs which are accessed from Lucy Road.

## 2) Heritage

1.26 In addition to the small part of the application site that sits within the Clifftown Conservation Area, the surroundings of the site include a number of key heritage assets. To the east of the site lies the Kursaal Conservation Area. This is approximately 300m from the site boundary and is focused on the listed building of The Kursaal, a Grade II listed building and is a key feature on the Southend skyline. In addition to the Kursaal, the Conservation Area includes Nos. 1-6 Eastern Esplanade and two other significant buildings, The Minerva and The Britannia. Both of these buildings have been altered, but their original character remains, providing a positive contribution to the character and appearance of the Conservation Area.

1.27 In the locality, there are several locally listed and listed buildings. To the south of the site are three Grade II listed buildings; 1-3 Marine Parade, 4 Marine Parade and the Hope Hotel on Marine Parade. In the wider area, both the Pier and The Kursaal are Grade II listed. Other buildings of significance are St John the Baptist's Church, located immediately behind Herbert Grove, The Palace Hotel, The Cornucopia public house and the Falcon public house, all of which are locally listed.

Heritage Asset	Description
<b>Hope Hotel</b>	Listed Grade II stuccoed building, dating back to 1780. 3 storeys with an 8-window range, arranged 4:4. The primary elevation (south) facing Marine Parade has many historical architectural features, such as the balcony, sash windows, architraves and pilasters to the front doors.
<b>4 Marine Parade</b>	Listed Grade II, late C18 or early C19 stuccoed house with a parapet and modillion cornice. The front is lined in ashlar. 3 storeys, 2 segmental bays project on the front and rise through the upper 2 storeys.
<b>1-3 Marine Parade</b>	Listed grade II, dating from the late 18 <sup>th</sup> Century with a parapet and modillion cornice. 3 segmental bays project on the front and rise through the upper 2 storeys. 3 storeys and attics.
<b>The Kursaal</b>	Grade II, built in 1898-1899 and designed by George Smith, it is a red brick, stone dressing, concrete and steel structure with slate roofs. L plan with a domed central hall. The dome has 8 oculae in scrolled surrounds and lantern with scrolled supports to each pier, onion dome and tall finial. The dome has meant the building has become a skyline feature within Southend particularly in Marine Parade area where it can be seen from long distance.
<b>Pleasure Pier</b>	The Grade II pier, opened in 1890, is listed due to its architectural interest being the longest pleasure pier in the world and designed by renowned architect James Brunless.
<b>St John the Baptist's Church</b>	A locally listed building, originally built in 1842, the first parish church in Southend.
<b>The Palace Hotel</b>	First constructed in 1901 original features such as the balconies on the east elevation and canopy on the fourth-floor windows still survive. It is a prominent building of local interest.
<b>The Cornucopia and Falcon Public House</b>	Built in 1854, The Cornucopia is the smallest bar in the south-east of England. The Falcon became a public house in 1881 after originally being built as a house for John James Strutt. Both buildings are locally listed, and of local architectural and historic interest.

## 3) Public Transport

1.28 There are two train stations within proximity of the application site. Southend Central Rail Station is located some 650m to the north-west of the site, that is approximately a 7-minute walk to the site. The station provides direct access to Central London. Southend Victoria Station is located just over 1,100m to the north of the site, which is an approximate 13-minute walk.

1.29 The site is well served by bus stops. The Travel Centre is located on Chichester Road, approximately 325m from the site and a 6-minute walk. It is served by regular bus routes 1, 6, 14, 17, 20, 21, 24, 25, 28, 29 and 61.

1.30 In the immediate proximity, Chancellor Road bus stop serves eastbound services only and routes 7/8, 9 and 27. These services link to Rayleigh, Rochford, Shoeburyness, Canvey Island, Benfleet and Hadleigh. A second bus stop along the A1160 serves the same bus routes.

#### **4) Town Centre**

1.31 The site has good links to the central shopping area and Marine Parade. Southend Town Centre is located to the north west of the site, 300m walking distance and a 6-minute walk from the site. The seafront and esplanade, to the south of the site, are nearby, with direct access (other than through the businesses with entrances along Lucy Road) via Huntington Road (to the east) or the St. John the Baptist Church passageway (to the west).

2.0

## The Proposal

2.1

The application was submitted and received by the Council on 7 December 2018 with further information submitted on 20 December 2018 and 15 January 2019. The original submission application comprised:

- a Design and Access Statement;
- Transport Assessment (including Car Parking Management Strategy);
- Planning Statement (including a Health Impact Assessment);
- Public Travel Plan;
- Ecology Appraisal;
- Daylight/Sunlight Assessment;
- Landscape Strategy;
- Extract Ventilation Statement;
- Economic Benefits Statement;
- Noise Impact Assessment;
- Tree Survey and Arboriculture Impact Assessment;
- Geo-Technical and Geo-Environmental Desk Study;
- Habitats Regulation Assessment Screening Report;
- Flood Risk Assessment;
- Archaeological Assessment Report; and,
- Energy Strategy Report.

2.2

Upon receipt of this material (with the final submission including new drawings and information in respect of demolition works), the application was validated on 15 January 2019.

2.3

The application proposals included three new buildings: a main leisure building located adjacent to Herbert Grove, incorporating a cinema, other leisure uses, restaurants, cafes and hot food take-aways, along with a multi-level car park; a hotel located towards the Queensway Roundabout; and a detached smaller leisure food and drink unit, fronting Lucy Road. In addition, a small electrical sub-station was proposed on the eastern boundary of the application site.

2.4

Demolition of Nos. 1-3 and 29 Herbert Grove were proposed along with the removal of a small toilet block on Lucy road. The main vehicular access to the development would be via a new arm off the Queensway Roundabout, with vehicular access to Herbert Grove from Chancellor Road retained. A total of 555 car parking spaces across the site were to be provided, split between the multi-level car park in the leisure building and a surface level car park which included parking to the rear of the hotel.

2.5

Public open space was provided in a northern strip running adjacent to Chancellor's Road and the Queensway Roundabout, and a new public square created in front of St. John the Baptist's Church, bounded by the proposed standalone building on Lucy Road and the newly exposed end-elevation of No. 27 Herbert Grove (exposed following the completion of demolition works to the adjacent property).

2.6

Of particular relevance in respect of the subsequent changes that were made to the original application (that are detailed below), the design of the main leisure building incorporated 'fish scale' effect metal shingles combined with a series of larger, stepped panels to create a 'fin-like' quality to the cinema box elevations. The car park was screened by perforated metal panels set

above gabion walls, with metal rainscreen for the stair cores, whilst the south-east corner of the building incorporated glazing at a high level.

2.7 The standalone building on Lucy Road incorporated ground floor glazing overlooking the proposed public square, whilst more gabion walling marked the Lucy Road elevation, extended up to first floor level to surround the proposed terrace. The hotel adopted aluminium rainscreen, arranged randomly in a pattern of grey and white, with a potentially back-lit plant enclosure at roof level, clad in lighter translucent polycarbonate cladding.

2.8 Consultation with statutory consultants, interest groups and local residents was undertaken immediately after validation. A number of representations from various parties and individuals were received as a result of this process (detailed in Section 3.0 of this report). In response to this, and following discussions between Council Officers and the applicant, a supplementary submission to the application was made on 17 September 2019. This submission both amended the detail of the planning application and provided further technical assessment of the proposals. In detail, this submission included:

- An updated site location plan;
- Updated drawing pack (see Summary for drawing references);
- Planning Statement Addendum;
- Design and Access Statement Addendum;
- Noise Impact Assessment Addendum;
- Updated Preliminary Ecological Appraisal (including Bat Roost Study);
- Habitats Regulations Assessment Screening Report;
- Air Quality Impact Assessment Addendum;
- Economic Benefits Assessment Addendum;
- Landscape and Visual Impact Assessment (including Residential Visual Amenity Assessment);
- Updated Heritage Assessment;
- Updated Daylight/Sunlight Assessment;
- Updated Arboriculture Impact Assessment (Revision E);
- Updated Landscape Strategy;
- Transport Assessment Addendum;
- Updated Framework Travel Plan (Revision C);
- Lighting Strategy;
- Extract Ventilation Statement Addendum; and,
- Updated Car Park Management Plan.

2.9 This material, along with the retained material from the original submission provides adequate information for the Council to assess the proposals.

2.10 Whilst the scheme retained many of the main characteristics of the original proposals the supplementary submission detailed the following amendments to the present:

### **Leisure Building**

- Amendments to the cladding form.

- Cinema cladding panels at the roof line were amended and the offset of these panels from the main building line was increased.
- A vertical arrangement of car park cladding was strengthened.
- The detailed treatment of the cladding panels was amended to a square design, shingle covered.
- Increased glazing to the south elevation of the leisure building and the stair core was incorporated. Combination of clear and tinted glazing was applied.
- Increased soft landscaping buffer to gabion walls and enclosures along Lucy Road were included.

### **Hotel**

- Glazing was extended at ground level to incorporate the full extent of the west, north and south elevations.
- Additional 'look-a-like' windows were added to the upper floor on the north and south elevations.
- Change in colour tones to replace white cladding with light grey cladding. Further joint details were added.

### **Standalone Unit on Lucy Road**

- A change of primary cladding material to terracotta tiles in a tonal colour palette was applied.
- The proposed Gabion wall was lowered.
- The first-floor exterior cladding of the unit was positioned vertically, and all cladding panels were stepped back.
- Additional glazing was added to the southern elevation.

### **Other**

- Removal of the shared surface treatment on Herbert Grove

2.11 This commentary below provides a description of the scheme, as amended incorporating the latest amendments described above.

## **Description of the proposed development**

2.12 The application seeks detailed planning permission for:

*“Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580 sqm building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station.”*



## Key Components

2.13 For the purpose of this report and reflecting the distinct characteristics of the various components of the scheme, the application proposals are described under the following six headings:

- 1 **Demolition:** Nos. 1-3 and 29 Herbert Grove, and the toilet block.
- 2 **Leisure Unit:** A large leisure unit with integrated car parking on the lower ground floor, ground floor, first, second and third floors. This proposed unit is the main feature of the application and is situated adjacent to Herbert Grove.
- 3 **Hotel:** An 80-bedroom hotel and associated restaurant, there is surface car parking providing 11 spaces located towards the rear of the hotel/north east of the site.
- 4 **Standalone unit:** A standalone building in the south west corner of the site comprising food and drink (Class A3), a hot food takeaway (Class A5) and/or leisure uses (Class D2).
- 5 **Car Parking:** A large area of surface car parking towards the south-east of the site.
- 6 **Landscape/Public Square:** The creation of a new public square on the site of the recently demolished Rossi Ice Cream Factory and the landscaping strategy more generally, applied across the site.

### 1) Demolition Works

2.14 The proposals involve the demolition of Nos. 1 and 3 Herbert Grove, located at the northern end of this road, as it meets Chancellor Road. This building currently accommodates a double frontage guesthouse.

2.15 No. 29 Herbert Grove, is scheduled for demolition. It is understood from available Council Tax records that this is a residential property. This end of terrace property is at the opposite end of Herbert Grove and its removal will result in the exposure of the existing party wall of No. 27 with its removal allowing for the provision of a new public square in this part of the application site.

2.16 In both cases, the demolition works will remove residential-style properties in the Herbert Grove terrace and replace them with open landscaped areas (see below).

### 2) Leisure Building

2.17 *Uses and Scale:* The new leisure building proposes a mix of leisure uses, focused on a leisure cinema complex. Food and drink establishments (A3, A5) are accommodated in a number of units at ground floor some of which front Herbert Grove (with external areas providing additional outdoor seating capacity). These are located along the building's western elevation that runs parallel with Herbert Grove, and wrapping around the northern elevation on either side of the proposed entrance to the cinema. A further 3,256 sqm is given over to leisure use (D2), and it is understood that this space will be occupied by Hollywood Bowl (i.e. a bowling lane operator). The applicant's advise that Hollywood Bowl has now signed a contract, to occupy this space in the development, but it is noted that the application seeks approval for an undefined D2 use. The use will occupy part of the building located on the lower ground floor level.

2.18 It is also the case that the application is seeking flexibility with regard to the breakdown between proposed food and drink uses (i.e. Use Class A3 and A5) and additional leisure uses (D2). There is a requirement to use 4 units, plus the entrance lobby, totalling approximately 2,323sqm for either A3/A5 or D2 uses. Furthermore, flexibility is required for 1,612sqm floorspace (7 units) to be used for either A3 or A5.

- 2.19 Separation distances between the western elevation of the leisure building (that incorporates the proposed A3/A5 units) and the elevations of properties along Herbert Grove range from 29 metres in the south and 27 metres to the building's northern corner. The external seating areas proposed in front of these units extend 7 metres (as a maximum) from the building's elevation, with a footpath (approximately 3 metres in width) and a landscape strip (ranging from 5 metres to 3 metres) proposed between the path, the kerbside of Herbert Grove.
- 2.20 The leisure building is 3-6 storeys in scale. It comprises two distinct 'blocks', linked in the middle with the northern 'block' accommodating the cinema and potential bowling alley facilities and the southern block, accommodating the additional leisure offer and car parking. The ground floor A3, A5 and D2 units provide a consistent feature along the building's ground floor elevation, across both 'blocks' fronting Herbert Grove and wrapping around the northern elevation.
- 2.21 There is a change in levels across the site, hence from the north-west the building opposite Herbert Grove appears as an 18 metres high elevation (with single-storey food and drink and cinema above), whilst to the north-east, the ground drops away to allow for the addition of the leisure unit at lower ground level. The height of the building at this part is 24.4 metres above ground (noting that the façade treatment creates a varied roofline.)
- 2.22 The southern block is slightly lower than the northern 'block', with the step down provided after the cinema. However, the ground levels drop away, so that the height above ground of the building adjacent to Lucy Road is approximately 20 metres, i.e. broadly similar to the northern 'block'.
- 2.23 There is a separate public toilet block on the lower ground floor level, accessed off Lucy Road and adjacent to a proposed coach drop-off/pick-up point (see below).
- 2.24 *Site Layout:* The leisure building is centrally located within the site, running in parallel with Herbert Grove. The building is set back from the Seaway Roundabout, further south than the retained residential buildings on Herbert Grove. It extends along the full length of Herbert Grove, with its south-west corner fronting directly onto Lucy Road, to the south.
- 2.25 The building-line to the south pulls away from the orientation of Lucy Road, allowing for the accommodation of a service bay facility in this area. A green screen is proposed to the Lucy Road side of the servicing area.
- 2.26 *Pedestrian and Vehicular Access:* The main pedestrian entrance to the cinema will be via the northern elevation of the building, with double doors opening up onto a balcony level. Access to the potential Hollywood Bowl facility is via the lower ground floor on the east elevation. The food and drink units along Herbert Grove open directly onto this street. The proposed public toilet facilities will be accessed via Lucy Road.
- 2.27 The new leisure building will include an integrated multi-level car park over five floors. In total 394 parking spaces will be provided, including 20 disabled parking spaces. Pedestrian access between the car park and the various units within the building will be via ground floor and lower ground floor external footways that link to the entrances along Herbert Grove (A3, A5 and D2 units), the northern elevation (main cinema entrance and A3/A5 units) and the eastern elevation (potential bowling alley and further A3/A5/D2 units). Lifts in two stair cores (on Lucy Road and on the eastern elevation) serve all floors of the car park. The vehicular entrance to the multi-level car park will be via an entrance/exit ramp to the lower ground, on the east elevation of the building. Access will be via the proposed new site entrance 'arm' off the Seaway Roundabout.

- 2.28 The main service access to the leisure building will be via an external bay to the south of the building and accessed via Herbert Grove and Lucy Road. It will operate on a restricted basis, only available during the hours of 0700 hours - 2000 hours. Out-of-hours deliveries will take place via a service layby on the main access route into the site (opposite the proposed hotel building).
- 2.29 *Design:* The design of the leisure building was the subject of substantial design changes in September 2019. The amended design incorporates a continuous active frontage, that wraps around the ground floor of the north, east and west elevations of the leisure building. The glazing used for this element of the elevations will comprise a mix of tinted, clear and look-a-like glazing panels. Clear glazing panels are fully transparent and will allow the activity through the glass to be visible. Tinted glazing allows partial views through the glass and will act as solar comfort for the internal spaces, externally these tinted panels reflect the light from the surroundings. Look-a-like panels will not allow any views through to the spaces internally.
- 2.30 The cinema 'block' will accommodate a series of large cladding panels, off-set from the main building line, and placed to create a varied roofline. The panels will comprise shingle cladding in a square design (thin pieces of materials used to cover a wall or roof) with a neutral colour palette. The shingle cladding will be metallic to give a contemporary finish.
- 2.31 The exterior of the southern block will largely consist of a number of panels which the applicant's architect describes as broken down to mimic 'sails.' These panels will provide the external frontage to the car park, allowing a breeze to enter through small perforated decorative holes in the panels.
- 2.32 Three colours have been chosen to define the 'sails' on the multi-level car park (light grey, dark grey and gold), which will similarly have a metallic finish, and which will tie back to the exterior and palette of the cinema.
- 2.33 The south elevation of the leisure unit consists of clear glazing windows, west of the stair core. To the east, the above perforated car park panels are repeated.
- 2.34 Photovoltaic panels will be placed on the roof level.

### **3) Hotel**

- 2.35 *Uses:* A six-storey, 80-bed hotel is proposed (plus lower ground floor service entrance and an additional plant room at roof level). The building accommodates a restaurant for the hotel and separate café facility, both at ground floor.
- 2.36 It is understood that the building will be occupied by Travelodge, although the application seeks permission for the hotel building, rather than any specific occupier.
- 2.37 At lower ground floor, a linen intake, bin store and three plant rooms are proposed. The ground floor accommodates the main entrance level/foyer, reception area, administration office, storage, kitchen and restaurant area (for 56 covers) as well as the café. The first to fifth floors have a similar layout, with each providing 16 bedrooms and an associated linen room. The roof level accommodates the plant area.
- 2.38 *Site Layout:* The hotel is located towards the north of the application site, adjacent to the new main vehicular entrance into the site off the Seaway Roundabout. It is set back from the roundabout, behind a landscaped area and is slightly off-set from the orientation of the larger leisure unit, to the west. The building sits between the leisure building and the rear of the properties along Hartington Road.

- 2.39 *Access:* Access to the site is from the main access route from the Seaway Roundabout, leading to a car park at the rear of the hotel.
- 2.40 *Car Parking and Screening:* Surface car parking is provided to the rear (east) of the hotel, comprising 11 car parking spaces (no disabled spaces have been identified). It should be noted that the surface car park to the rear of the hotel is not specifically designated to the hotel.
- 2.41 To the west of the hotel (and on the access road) is a taxi drop-off/pick-up area for hotel guests, providing two taxi spaces. Servicing is via the rear car park. A secondary servicing yard is provided in a layby opposite the hotel for out-of-hours servicing.
- 2.42 *Design:* Panel cladding to the exterior of the hotel, providing a mosaic of light grey, dark grey and stone colours.
- 2.43 Glazing extends along the front of the restaurant and hotel foyer in the west elevation whilst look-a-like windows are added to the north and south elevations to imitate the look and reflection of real windows.
- 2.44 Photovoltaic panels will be placed on the roof alongside a plant room.

#### **4) Standalone Unit, Lucy Road**

- 2.45 *Use:* A standalone two-storey unit for either food and drink (A3), hot food takeaway (A5) and/or leisure use (D2) is proposed in the southwestern corner of the site (580sqm).
- 2.46 *Site Layout:* The building occupies a sensitive part of the site from a heritage perspective, with a close association with St. John the Baptist Church, a locally listed building. The ground floor and upper floor of the building is orientated to provide views towards the north, south and east (including over the proposed public square). At first floor level, a large balcony is provided with views to the south across Lucy Road towards Marine Parade and the Estuary.
- 2.47 'Back of house' facilities serving the building are located in the south-western corner of the building at ground floor level.
- 2.48 *Access and Servicing:* No dedicated car parking is provided. Servicing is to the west of the unit accessed via Lucy Road.
- 2.49 *Design:* The elevations receive contrasting treatments, with the southern elevation on Lucy Road incorporating a gabion wall (cages filled with stones and rocks) with some windows (and a balcony above); whilst to the north, there is a predominance of glazing with terracotta tiles above.
- 2.50 Glazing runs the length of the ground floor on the north and wraps partly around the east and west elevations. The ground floor of the south elevation comprises a gabion wall. A corner window is carried around from Herbert Grove.
- 2.51 The first-floor balcony on Lucy Road elevation is enclosed by a glazed balustrade.

#### **5) Car Parking**

- 2.52 In addition to the parking located within the leisure building and adjacent to the hotel, there is a large area of surface car parking towards the south-east corner of the site.
- 2.53 The surface car park facility provides a total of 150 spaces. The multi-level car park in the leisure building provides an additional 394 spaces. Hence, along with the 11 spaces located to the rear of the hotel site, the proposed car parking provision is 555.

2.54 The development also provides 28 disabled parking spaces within the overall 555 car parking space provision, including 8 within the surface car park and 20 within the multi-level car park

	<b>Total Number of Spaces</b>	<b>Disabled Parking</b>
Surface Level Car Park	150*	8*
Leisure Unit Car Park	394*	20*
Rear of Hotel	11	0
<b>Site Total</b>	<b>555</b>	<b>28</b>

\*As per the site plan and car park plan submitted as part of the submission.

2.55 The applicant has indicated that electric vehicle charging points will be provided with the two points existing on-site retained as part of the proposal.

2.56 The applicants confirm that the car parking across the site will be available over a 24-hour period; although flexibility is sought to manage the facilities to reflect demand. For example, it may be that the multi-level car park in the leisure unit is closed during periods of low demand. (Please note that Condition 35 requires a Car Parking Management Plan to be submitted which will include details of the management and availability of car parking spaces during low and high peak periods).

2.57 Car parking will be available to all visitors on a first come first serve basis. VMS (Variable Messaging System) will provide signage to real time car parking space availability data to provide directional assistance across Southend to direct cars to other car parks in times of peak occupancy.

2.58 Car parking operatives will be available on site and situated at the entrance and exit of the leisure unit car park. CCTV will also be in operation.

2.59 The large surface car park will be landscaped, with a central shared cycle and pedestrian path lined with newly planted trees, leading from the corner of Lucy Road and Hartington Road towards the northern entrance of the leisure building. Feature lighting will line the shared pedestrian and cycle pathway.

2.60 A seating area in the southern portion of the surface car park will be framed by trees.

## **6) Landscaping and Surface Treatment**

2.61 *Overview:* The proposals seek to retain and add to the open areas of the site adjacent to the highway infrastructure of Seaway Roundabout and Chancellor Road, whilst creating a new area of open space, St. John's Square, adjacent to the Church to the south. Planting is proposed adjacent to the leisure unit, along the east of Herbert Grove, whilst a second 'band' of planting is proposed to the rear of the properties that front Hartington Road. A number of existing trees will be lost, although a greater number of replacement specimens are provided.

2.62 *Trees:* In terms of trees, the Agent has confirmed, as per drawing number 6113-D-AIA Rev. E, that currently there are a total of 42 individual trees on site, one group of trees and one area of trees. Of these, 21 benefit from a protection under a Tree Protection Order (TPO) (see Section 3.0 of this report). A total of 26 individual trees, part of the tree group and the area of trees will be lost as a result of the implementation of the proposals. This includes 9 No. TPO trees (see **Appendix 4**).

2.63 Trees to be removed are predominately located at the north of the site to accommodate the new arm of the Seaway Roundabout; on land for the new hotel; and towards the south-eastern corner of the site near the car park exit onto Lucy Road. Additional trees are lost in Herbert Grove and within the existing surface car park area.

- 2.64 A total of 93 trees are proposed to be planted. Locations include adjacent to Herbert Grove; to the north in the open spaces close to the Seaway Roundabout across the new square by St. John the Baptist Church; across the new surface car park; and on-site boundaries along both Lucy Road and to the rear of properties on Hartington Road.
- 2.65 Tree planting across the site is supplemented with the implementation of a landscaping strategy. The main features of this strategy are as follows:
- An area of green space is proposed off Chancellor Road, referred to as 'Chancellor Green' providing a mix of grassed landscaping, retained and proposed trees. A shared cycle and pedestrian footpath will divide 'Chancellor Green'. Note that currently, large parts of this area are already landscaped, forming an open setting to Seaway Roundabout, and is designated in the development plan as protected green space.
  - A new public square is proposed in the south-west corner of the site between the church, leisure building and new stand-alone unit, (i.e. St Johns Square). This will act as a public square with trees, planting, cycle parking and seating.
  - A rain garden (area of native shrubs and flowers) is proposed at the end of Herbert Grove with planting either side, as it links with Lucy Road.
  - The route through the surface car park will be lined with an avenue of trees. Columnar trees are proposed along Lucy Road and the edge of the surface car park.
  - Defensive planting using native shrubs will be applied to the rear of the hotel car park, along with hedges to the north, creating a boundary to the open areas beyond.
  - Additional tree planting along Herbert Grove, to supplement retained specimens, to aid screening of the buildings.
- 2.66 Overall, in total the proposal seeks to provide circa 6,000sqm of green space, which compares to the existing site provision of around circa 3,700sqm. All proposed landscaping across the site (on both adopted public highway and privately-owned land) will be provided at the developer's cost and thereafter retained and maintained by the applicant for a five-year period. This commitment will be secured by the proposed S106 agreement.

## Land Use Summary

Building/Unit	Floor	Use
Leisure Building	Lower Ground Floor	Multi Storey Car Park entrance level Car parking Car park office 2 stair cores Public toilets Leisure Use (D2)
	Ground Floor	Multi-storey Car Parking Cinema entrance/lobby 4 units to provide A3 or A5 or D2 uses 7 units to provide A3 or A5 uses. 7 stair cores
	First Floor	Multi Storey Car parking 7 Stair cores Plant space D2 leisure use Cinema auditorium
	Second Floor	Multi Storey Car parking Plant space 3 stair cores Area for renewable plant Cinema auditorium.

<b>Building/Unit</b>	<b>Floor</b>	<b>Use</b>
	Third Floor/ Roof Level	Multi Storey Car parking Plant space 6 x Area for renewable plant.
<b>Hotel</b>	Lower Ground Floor	Linen intake Circulation core Bin store 3 plant rooms
	Ground Floor	Entrance Level/Foyer Reception area Office Storage Circulation Core Staff room WC Restaurant Area - Kitchen and dining area for 56 covers Separate cafe
	First Floor - Fifth Floor	16 bedrooms per floor (8 Standard Rooms, 8 Double shower rooms) 80 rooms in total. Circulation Core 1 x Linen room
	Roof Level	Area for plant
<b>Standalone unit</b>	Ground Floor	A3, A5 or D2 uses
	First floor	A3, A5 or D2 uses and outside terrace area

## **Other Features of the Proposal**

### **Cycle Facilities**

2.67 72 cycle parking spaces are proposed across four locations on site as follows:

- to the west of the leisure unit adjacent to Herbert Grove;
- in the northern section of St Johns Square;
- next to the proposed taxi drop-off close to the hotel entrance; and
- next to the proposed entrance and exit from the car park in the leisure building.
- All cycle facilities will be external but provided under a shelter.

2.68 A shared cycle and footpath route will lead through the centre of the large surface car park to the south east of the site, continuing to Chancellor Green, to the north.

2.69 A cycle link along Chancellors Green will join the existing cycle route along Queensway, as part of the Town Centre Cycle Ring Road.

### **Coach Parking**

2.70 As part of the proposed scheme, coach drop-off and collection space has been incorporated along Lucy Road.

### **Taxi Rank**

2.71 A taxi rank is proposed on Lucy Road for approximately 10 vehicles.

### **Access Strategy**

2.72 *Vehicles:* A fourth 'arm' is proposed off the existing Seaway roundabout to enter the north of the site and will act as the main vehicular access point to serve the leisure building, the stand-alone unit, the hotel and the surface level car park. The road will accommodate two-way traffic.

There is also a proposed widening of the westbound approach road to this roundabout, to ease traffic flows.

2.73 There will be no access to the site from the south, with an exit only link provided from the surface car park onto Lucy Road.

2.74 Herbert Grove will remain open to vehicular traffic with a link through to Lucy Road. A turning head towards the end of Herbert Grove will be provided as part of the proposed new square, but vehicular access onwards to Lucy Road will be permitted as existing.

2.75 *Services:* Servicing occurs at four points across the site:

- in the main service bay to the south of the leisure unit (via Lucy Road);
- to the west of the stand-alone unit (via Lucy Road);
- to the rear of the hotel; and,
- in an out-of-hours delivery lay-by, located on the main access road into the site. The applicants are proposing to restrict all delivery-related traffic from Herbert Road between the hours of 2000 hours and 0700 hours and during this time, the out-of-hours service lay-by would be used. Conditions are proposed to control servicing activities (see Appendix 5).

2.76 *Pedestrians:* Pedestrian pathways will be created throughout the site, connecting key buildings. As referenced above, the shared cycle/pedestrian route through the surface car park will link to the Seaway Roundabout and Chancellor Road, to the north. Adjacent to Herbert Grove, to its east, a new pedestrian route will run along the front of the proposed leisure building, linking to Lucy Road in the south. This will be separated from Herbert Grove, via the proposed planting along the east of this road.

2.77 The proposal will not be proposing any changes to the current public transport access to the site and will continue to be via the existing bus stops located on Chancellor Road, Queensway and the central bus station.

### **Surface Water Drainage**

2.78 The application is accompanied by a Flood Risk Assessment and Drainage Strategy.

2.79 The proposed surface water drainage strategy incorporates a vortex flow control device that will control the release of the discharged surface water from the site into the public water sewer.

2.80 Surface water from the proposed development roofs will be drained via rainwater pipes to the proposed below ground surface water drainage network. Surface water accumulating on the proposed developments impermeable hard surfaces will be drained into the below ground drainage network via gullies and linear drainage channels.

2.81 Sustainable drainage systems (SuDS) will be incorporated into the development through rain gardens (west of the development adjacent to Herbert Grove, north of the junction between Lucy Road and Herbert Grove), vortex flow control devices (located within chambers downstream of geo-cellular tanks), geo-cellular attenuation tanks (located in the car park and delivery area) and silt and hydrocarbon bypass separators (in the external car park).

2.82 The proposed drainage system will reduce the surface water discharge rate, below that compared to the existing situation, reflecting a reduction in the impermeable surfacing. A discharge rate of 21.8 litres per second of greenfield runoff is proposed compared to the existing discharge rate of 288 litres per second.



## **Hours of Operation**

- 2.83 The planning application seeks permission for a 24-hour operation of the on-site car parks throughout the year. It is noted that the car parks on site are proposed to be managed and have flexible hours of operation. In periods of low demand, there is required flexibility to close some of the car parks for example, the multi-level facility within the leisure building.
- 2.84 Normal hours of operation of the cinema within the main leisure building will be up until 0000 hours. However, in exceptional circumstances a maximum of three cinema screens will remain open until 0300 hours (to accommodate special screenings, etc.).
- 2.85 The applicant proposes that the A3, A5 and other D2 uses within the leisure unit, as well as the standalone building on Lucy Road will not be open to customers between 0000 hours and 0700 hours. The use of outdoor seating across the site, including opposite Herbert Grove will be restricted to 1200 hours - 2000 hours Monday to Thursday; 1200 hours - 2100 hours Friday to Saturday; and 1200 hours - 2000 hours Sunday, Public and Bank Holidays. The use of the external balcony on the unit on Lucy Road will be restricted to 1200 hours - 2300 hours at all times.
- 2.86 Delivery traffic along Herbert Grove will be restricted. No service vehicles will be permitted along this road between Monday to Friday 1900 hours - 0700 hours, Saturdays 1300 hours - 0800 hours and at no time on Sundays, Bank Holidays or Public Holidays. The use of the service bay on Lucy Road and the standalone unit service facility on this road will not be permitted during these restricted times. Out-of-hours servicing will occur via the service lay-by on the main entrance road into the site.

## **Lighting**

- 2.87 The lighting strategy for the site is designed to provide a suitable level of lighting to key areas, focussing on the parts with the greatest level of activity. In summary:
- In the larger surface car parking, an average illuminance of 20 lux will be achieved. 8-10 metres mounting heights are proposed with feature lighting to achieve the designated lighting outcome;
  - The proposed hotel surface level car parking is to be lit with an average illuminance of 5 lux using 6 metres high light columns;
  - Within the multi-storey car park, lights will be used at floor level to distinguish traffic lanes, parking areas and in/out ramps (during the day and at night). A high vertical illuminance of 75 lux will be provided in the main car parking area;
  - The main vehicular access road, connecting to the Seaway roundabout, will be illuminated to a consistent level, an average of 20 lux using 8-10 metres mounting heights;
  - Recessed on-ground flooding units are proposed for the external seating areas along Herbert Grove along with linear LED strip lighting on the edge of the terraces. Existing street lighting on Herbert Grove will be retained; and,
  - For pedestrian routes and walkways an average illuminance of 3 lux is proposed. Illuminated bollards with a maximum mounting height of 3 metres will be utilised.
- 2.88 Conditions are proposed requiring the submission of all external lighting to be agreed by the Council, along with a requirement to prepare and submit a Lighting Management Plan for appraisal, detailing measures to reduce light pollution and energy use.

## **Energy and Sustainability**

- 2.89 It is proposed a minimum of 10% of the development's energy demand will be delivered from renewable technologies. This will be in the form of a combination of photovoltaic panels (the site will incorporate panels at roof level in various locations), and Air Source Heat Pumps, used for heating and cooling in the main leisure building.
- 2.90 To reduce energy consumption, several management techniques have been proposed. These include an automatic dimming or turning-off of the lights during periods of low-level usage, and the use of photocell technology to ensure lighting responds to natural light conditions.
- 2.91 Presence detection lighting is also proposed to sense when there is activity to switch lights on after a pre-set time. The use of LED lighting is also proposed to allow the use of lower lighting levels.
- 2.92 The applicant has confirmed that the current predicted BREEAM rating for the development is "Very Good". BREEAM refers to the Building Research Establishment Environmental Assessment Method as the established means of assessing, rating and certifying sustainability of buildings. Buildings are rated and certified on a scale of 'Pass', 'Good', 'Very Good', 'Excellent' and 'Outstanding.' The BREEAM assessment helps to raise awareness amongst owners, occupiers and designers of taking a sustainable approach.
- 2.93 Planning conditions are proposed requiring the subsequent approval by the Council of detailed renewable energy initiatives to achieve the 10% renewable energy target, as well as BREEAM conditions, requiring confirmation that the relevant standard is achieved.

## **Phasing of Development and Construction**

- 2.94 The applicants have confirmed that the development will be brought about in one single phase, although there are no submitted details of proposed construction.
- 2.95 The application proposes that a planning condition requires submission and subsequent approval of a Construction Management Plan prior to commencement of the development. This should set out how the construction works will be carried out and methods used. A Noise and Vibration Management Plan and Dust Management Plan are also proposed for pre-commencement approval by the Council.

## **Environmental Impact Assessment (EIA)**

- 2.96 The development can be considered to fall within Part 10(b) (Urban Development Projects) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment ('EIA')) Regulations 2017 (as updated by the Town and Country Planning and Infrastructure Planning (EIA) (Amendment) Regulations 2018) ('the 2017 EIA Regulations'). Part 10(b) includes urban development on sites of more than 1 hectare (the site area is 3.6 hectares). For such developments EIA is required when significant effects are considered likely.
- 2.97 On 15 August 2017, the applicant requested an EIA screening opinion from the Council. The request was accompanied by the 'Land at Seaways Car Park Southend - Screening Opinion Statement' (August 2017) which included the following documents:
- Preliminary Ecological Appraisal (July 2017)
  - Tree Survey (May 2017)
  - Archaeological Evaluation Report (March 2015)
  - Phase 1 Geotechnical and Geo-Environmental Desk Study (July 2017)

- Statement addressing the likely transport impacts of the development (18 July 2017)
- Statement addressing the likely air quality impacts of the development (undated)
- Statement addressing the likely flood risk and drainage impacts of the development (9 August 2017)
- Statement addressing the likely townscape impacts of the development (August 2017)

2.98

The Council issued its EIA screening opinion on 2 November 2017 which concluded that EIA is not required. In reaching its view, the Council confirmed that it had taken into account the criteria specified within Schedule 3 of the 2017 EIA Regulations, responses from statutory consultees and the information provided by the applicant in its Screening Opinion Statement. Further it was established that the site was not located in a sensitive area as defined by the 2017 EIA Regulations. It was confirmed that the key likely environmental effects of the development of the nature proposed were considered to arise from: its scale, size, height and design and consequent impact on the amenities of neighbouring occupiers; and the parking and traffic implications of the development. Looking at the two issues, it was concluded that:

- The impacts arising from the scale, size, height and design of the development are straightforward in the context of the site's location and the impact on adjoining uses will be of no more than local impact;
- It is not considered that the transport, traffic and parking impacts of a development of the nature proposed would be of such magnitude, extent or complexity that they would have a significant impact on the environment in the sense intended by the Regulations.

2.99

The Council considered that the proposed development would not lead to other likely significant impacts whether in terms of pollution or other nuisances, air quality, ecology or biodiversity, flood or heritage. It was also confirmed that any impacts could be addressed through appropriate and industry standard conditions and planning obligations. Taking all these issues into account, the Council's EIA screening opinion was that the development did not give rise to a need for EIA and an Environmental Statement was not required to be submitted with an application for the development described by the applicant in its screening request.

2.100

Following submission of the application and ongoing discussions with the Council, various amendments to the development and additional supporting information was submitted by the applicant as described elsewhere in this report. As a result of this, and on 17 September 2019, the applicant submitted a further request for an EIA screening opinion. It was accompanied by the 'Land at Seaways Car Park Southend - Screening Opinion Statement' (September 2019) and included the following documents:

- Preliminary Ecological Appraisal
- Habitats Regulations Assessment Screening Report
- Tree Survey and Arboricultural Impact Assessment
- Archaeological Investigation Report
- Ground Conditions Report
- Transport Assessment and Addendum
- Air Quality Impact Assessment and Air Quality Technical Memorandum
- Flood Risk Assessment Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy
- Landscape Visual Impact Assessment
- Noise Impact Assessment and Addendum

- Heritage Statement

- 2.101 In response, the Council issued an EIA Screening Opinion on 30 October 2019 which again concluded that an EIA was not required. In reaching its view, the Council confirmed that it had taken into account the criteria specified within Schedule 3 of the 2017 EIA Regulations, responses from statutory consultees and the information provided by the applicant in its Screening Opinion Statement.
- 2.102 Whilst it was acknowledged that the proposed development would exceed 10,000sqm of commercial floor area and as such would exceed the indicative screening thresholds identified in the Regulations, the Screening Opinion referenced the National Planning Practice Guidance (NPPG) and in particular paragraph 6.9 that states *“it should not be presumed that developments above the indicative criteria should always be subject to assessment.... Each development will need to be considered on its merits.”*
- 2.103 In its Opinion, the Council confirmed that the site was not located in a sensitive area as defined by the 2017 EIA Regulations. The Council has not identified any feature of the proposed development which would result in likely significant effects on the environment in the sense intended by the Regulations, in terms of size and design of the development, cumulative impacts, pollution or other nuisances, air quality, ecology or biodiversity, flood or heritage and traffic, transport, parking and access. It was also confirmed that any impacts could be addressed through appropriate and industry-standard conditions and planning obligations. Taking all these issues into account, the Council’s Screening Opinion concluded that the development did not give rise to a need for EIA and an Environmental Statement was not required to be submitted with an application for the development described by the applicant in its screening request. The application proposals, that are consistent with the proposals described in the screening request, do not give rise to a need for an EIA. A copy of the Screening Opinion is provided at **Appendix 11**.
- 2.104 On 25<sup>th</sup> November 2019, the Council was made aware that RPS Consulting, on behalf of the Seafront Traders had submitted a Screening Direction to the Secretary of State. The Secretary of State has now confirmed that they concur with the Council’s decision that the proposal is not EIA development and the application can now be determined as submitted.

## 3.0 Consultation

### Applicant Consultation

- 3.1 To supplement the Council's own consultation on the proposals, the applicant carried out a pre-application consultation on the emerging scheme.
- 3.2 At the beginning of the consultation process, in 2015, a newsletter was sent to 1,075 addresses. Residents living nearest the site were given the opportunity to discuss the proposals on an individual basis and updated prior to submission. A consultation event was held at The Royals Shopping Centre in December 2015.
- 3.3 The public consultation event was publicised through a press release and 321 residents and stakeholders attended.
- 3.4 A consultation website, [www.seawayleisure.co.uk](http://www.seawayleisure.co.uk) was set up by the applicant to provide information about the proposals and create mechanisms for providing feedback. A twitter project account was also provided allowing residents to communicate and be updated about the process. In November 2018, an Instagram account was added to provide residents with visuals of the project's progression.
- 3.5 The applicant also engaged with local media, particularly Southend Echo that has repeatedly featured news of the development proposals.
- 3.6 The applicant has reported feedback received prior to the planning application submission and highlighted concerns around traffic, lack of parking, coach parking, poor design of the leisure building and duplication of facilities (i.e. no need for another cinema and hotel). However, there were several other comments in support of the scheme referencing a desire to see this site developed; a recognition of the job creation characteristics of the scheme; and, positive feedback on the principle of a leisure use at this location that would bring a new leisure facility to Southend and enhance the town.

### Council Consultation

- 3.7 There have been three periods of public consultation on the planning application. As above, the first consultation was undertaken following the validation of the application in January 2019. A second occurred following receipt of the September 2019 supplementary submission. The third followed the receipt of additional information including an extract ventilation statement addendum and a heritage technical appendix.
- 3.8 During the first submission consultees were notified on 15 January 2019, seven site notices were displayed at locations around the site including next to St John the Baptist's Church; Chancellor Road; Seaway Roundabout; the corner of Herbert Grove; and, Lucy Road and the entrance and exits of car parks. A press advertisement was published on 25 January 2019 and 381 neighbours were notified by a letter. The application was advertised on the Council's list of weekly registered planning application on 18 January 2019.
- 3.9 For the second submission, consultees were re-notified on 20 September 2019. Six new site notices were posted on 26 September 2019 in similar locations to the previous site notices. A new press advertisement was published in the Southend Standard on 27 September 2019 and a total of 523 neighbour letters were sent out on 20 September 2019 (these included the original 381 neighbours and additional contributors that previously commented on the application).
- 3.10 For the third submission, consultees were re-notified on 15 October 2019. A total of 531 neighbour letters were sent out on the 15 October 2019 (which included the original 381

neighbours which were originally consulted and the additional contributors which have previously commented on the application. Seven site notices were displayed on the 15 October which were located in similar locations as the previous site notices. A press advertisement was published in the Southend Standard on the 18 October 2019.

- 3.11 The application was advertised as a departure from the policies in the Development Plan with press advertisement and site notices, as appropriate. The first press advertisement was published on 27 September 2019, with a follow-up on 18 October 2019, at the time of the re-consultation. Similarly, site notices were displayed on 26 September and 15 October 2019.
- 3.12 In response to the first consultation, 144 letters of representation have been received (with one on behalf of 7 residents and a second on behalf of 14 employees at a local Hotel.) In response to the second consultation exercise, a total of 10 representations were received. In response to the third submission, 42 representations were received. The above does not include a number of representations that were received from The Stockvale Group (owners and operators of Adventure Island and SEA LIFE Adventure plus other A3 interests). The representations from The Stockvale Group are detailed below. The consultation responses are summarised in **Appendix 1**. These have been taken into account fully and carefully in assessing the proposal.
- 3.13 Comments received were wide-ranging and a detailed review of comments made, along with a consideration of the implications of these comments can be found in **Appendix 1**. However, it is possible to identify several common themes to comments received and these are summarised below.
- 3.14 A distinction is made between comments received during the initial consultation exercise in January 2019, and those received in response to the September and October 2019 exercise (Referenced as 'September', below).

### **Parking Concerns**

- 3.15 *January 2019:* Parking concerns in relation to the proposal were the most referenced reason for objection. With the loss of the existing facility and an increase in demand arising from the proposed uses, objections were focussed around the impact on available town centre parking.
- 3.16 Concerns were raised around the perceived lack of car parking in Southend and the limited capacity of Seaway car park during weekends, heights of the season and school/public holidays. Objections suggested the scheme would only exacerbate the parking problems that already exist in the Seaway car park. There was a consistent requirement for any new redevelopment proposed at the site to deliver sufficient spaces to accommodate current demand plus that associated with the new uses proposed.
- 3.17 There was recognition that the Gas Works site highlighted the potential to offer increased capacity at an alternative location, but the value of this was questioned, pointing to the temporary nature of this car park. Representations commented that it only offers a short-term solution to a long-term problem.
- 3.18 *September 2019:* Comments received were generally consistent with those raised previously. Concern was raised about the private ownership of the car park and whether blue badge holders would continue to be able to park for free.

### **Traffic Concerns**

- 3.19 *January 2019:* Linked to this objection, the traffic implications that would result from a lack of proposed parking for the scheme was raised by a large number of respondents. Concerns were expressed with regard to the potential for long traffic queues, congestion and longer travel times

for residents, workers and visitors to Southend. There were calls for highway improvements to reduce the impact of traffic related problems, both during the construction period and following implementation. The lack of any significant highway improvements proposed by the applicant was highlighted as unsatisfactory.

- 3.20 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified.

### **Impact on Local Businesses**

- 3.21 *January 2019:* Objections referred to the proposal as a scheme more appropriate to an out-of-town location. Concerns were expressed regarding the proposed leisure centre and facilities drawing business away from the town centre and high street, which was noted as already financially struggling. Other comments referenced the link between the parking and traffic issues and a decline in business to the town centre and seafront traders. Longer travel times and lack of parking had the potential to deter visitors and harm trade to local businesses. Objections highlighted that although the proposals offered new jobs and investment to the area, the impact the scheme could have on surrounding businesses would ensure that the net impact on the local economy would be negative.

- 3.22 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified. RPS continue to object, their comments are summarised in section 3.45.

### **Duplication of facilities**

- 3.23 *January 2019:* Linked to these comments, there were concerns that the current Odeon cinema and The Kursaal (which already houses a bowling alley (which the LPA acknowledges has now closed)), would be harmed if the proposed scheme was to come forward, with trade drawn away from these important existing facilities. Objections sought to resist a duplication of leisure facilities provided within the planning application scheme, to avoid this competition and potential harmful trade draw.

- 3.24 *September 2019:* Comments received are consistent with those raised previously. Concern is raised regarding the impact on the Kursaal, including concerns that the development would result in the Kursaal remaining vacant which would impact the heritage asset. Concerns are raised that there is already an oversupply of A3/A4 uses and hotels in the area.

### **Design**

- 3.25 *January 2019:* Consultee comments criticised the proposal as poorly designed for such a prominent location in Southend Town Centre. Responses concluded that the scheme did not reflect the character of the surrounding area. Predominately, the reference to poor design was in relation to the large leisure building which was described as a “single block” and “in the face” of existing residences.

Reference was made to site specific Policy CS1.2 (i) in which policy requires the development to deliver an “*innovative design which allows the site to take advantage of the elevation and creates a legible environment with views of the estuary...*” The comments identified a failure of the scheme to satisfy this policy requirement, suggesting that the proposals were more suited in design terms to an out-of-centre location.

*September 2019:* Comments received raised further concerns in respect of the design of the scheme as one better suited an ‘out of town’ location. Other objectors regarded the site as better suited for a residential-led mixed-use scheme rather than a leisure facility offering duplicate facilities.

## **Lack of integration with the surrounding area, town centre and seafront**

- 3.26 *January 2019:* Objections focused on the lack of integration between the scheme, town centre and seafront. Concerns were raised with reference to the policy requirement of CS1.2 to incorporate a new link to Marine Parade that is not delivered as part of the proposals.
- 3.27 The scheme was also criticised for failing to provide clear and attractive pedestrian links to the town centre, reliant instead upon the existing footpath/passage adjacent to the Church.
- 3.28 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified.

## **Residential Amenity Impacts**

- 3.29 *January 2019:* Most objections regarding residential amenity impacts referenced the 0300 hours licence for businesses to operate in the leisure building, adjacent to the residential properties along Herbert Grove. The prospect of anti-social behaviour in this street was highlighted. Residents in the surrounding area referenced the potential noise impacts arising from further restaurants and bars in the area. Other residential amenity impacts highlighted included the lack of privacy the scheme offers to housing backing on to the site in Hartington Road and the overspill parking concerns that would ensue from a perceived lack of proposed parking on the site. Residents in the surrounding area referenced concerns regarding the inability to park outside their houses due to a lack of parking in the Seaway car park, an existing issue that was only likely to increase as a result of implementation of the project during the heights of the season.
- 3.30 *September 2019:* Most objections regarding residential amenity impacts referred to noise and related construction impacts such as dirt, dust and vibration. Concerns regarding potential anti-social behaviour continued to be raised. Concerns were raised in terms of impacts on views, light, outlook, sense of enclosure, loss of privacy and daylight and sunlight. Concerns continue to be raised regarding the inability to park outside residents houses.

## **Environmental Concerns**

- 3.31 *January 2019:* A consistent concern raised by a number of parties was the potential impact on prevailing air quality resulting from an increase in traffic and congestion along with those associated with the proposed construction activities. There were also concerns raised regarding an increased pressure on the drainage and sewage systems within the area, and the ability of existing infrastructure to accommodate the increased demands.
- 3.32 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified.

## **Heritage**

- 3.33 *January 2019:* Heritage related objections mainly referenced the potential impact of the scheme on the listed building of The Kursaal both in terms of visual impact and the commercial impact associated with a competing leisure use in such close proximity. A number of representations suggest this trade draw could result in the closure of the Kursaal, which would prejudice the long-term protection of this historic asset. Other objections suggested the scheme was harmful to the heritage in the surrounding area, referencing the nearby listed buildings and the Conservation Areas.
- 3.34 Specific points included the perceived impact on the sight line between the Palace Hotel and the Kursaal Dome; the threat of the visibility between the key seafront Southend assets, the Palace



Hotel, the Kursaal and the Pier; the impact of the main leisure building on the setting of the Conservation Area and the Church; and the dominance of the leisure building when viewed from the Pier, adding an unsympathetic addition to the Southend's skyline.

3.35 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified.

### **Ecology**

3.36 *January 2019:* The loss of mature trees as part of the scheme was a cause for concern from residents who highlighted the important role existing trees play in the outlook of the site.

3.37 Concerns were expressed regarding a lack of appropriate ecology surveys undertaken, especially in relation to the potential bat roosting sites across the site. There was an accusation that this information has not been provided thus preventing the validation or the determination of the application. The Essex Field Club similarly raised an objection to the proposal, stating that inadequate information for consultation and to make a decision about biodiversity and protected species have been submitted. It is stated that the ecological appraisals search for existing records is not fit for purpose and the LPA cannot rely on the information provided. It is stated that insufficient survey work has been undertaken to assess for bat roosts within the buildings. It is noted that the Essex Field Club define themselves as a natural history organisation founded in 1880 to promote the Study of the Natural History, Geology and pre-historic Archaeology of the County of Essex and its borderlands.

3.38 An objection referenced Policy CP7, which seeks to ensure all small areas of important biodiversity value are safeguarded from loss or displacement to other uses.

3.39 *September 2019:* There continued to be concerns around the loss of mature trees on site from residents in Southend and concerns relating to the lack of bat emergence surveys, the downgrading of building 7 from low to negligible bat roost potential and whether the Council is acting in accordance with Legislation on European Protected Species. The Essex Field Club maintains their objection for similar reasons as previously stated.

### **Crime**

3.40 *January 2019:* Members of the public identified the Seaways car park as an area which already suffers from anti-social activity and crime. With increased night-time activity, there were concerns that the opportunity for crime could be increased.

3.41 *September 2019:* Comments received are consistent with those raised previously, with no new issues identified.

### **Southend Seafront Traders**

3.42 *January 2019:* An objection was received from the Southend Seafront Traders Association that raised a number of wide-ranging concerns including:

- the inappropriate nature of the design;
- inadequate provision of car parking;
- duplication of cinema and leisure facilities, threatening the viability of existing businesses;
- residential amenity impact;
- the loss of jobs;
- impacts on existing site infrastructure (drainage and sewage);
- a need for increased policing linked to a likely increase in anti-social behaviour; and,

- the inappropriate inclusion of an hotel in the development.

3.43 *September 2019:* The Seafront Traders continued to object on the basis of a lack of information provided in relation to biodiversity and protected species in the submitted Preliminary Ecological Assessment. As such, there was insufficient information for the Council to make a decision.

**The Stockvale Group (owners and operators of Adventure Island and SEA LIFE Adventure plus other A3 interests)**

3.44 The Stockvale Group employed consultants, RPS, to comment on the application proposals. These representations are extensive in nature and cross refer to a number of consultant studies submitted to support the representations made. These representations are in addition to the numbers referenced at paragraph 3.12. The following text provides a summary of the comments received but to supplement this, copies of the RPS submission letters are provided at **Appendix 7**. The technical documents that support these representations are available to Committee Members in advance of the Committee. A summary of the main comments are below:

3.45 RPS objected to the proposed development on the following grounds:

3.46 *Principle of Development:* The proposed development fails to comply with the SCAAP, particularly Policy CS1.2. RPS comment that contrary to this policy, there is a weak relationship between the proposed development and Town Centre and the proposal does not provide an opportunity for a new link to Marine Parade via the Spanish Steps. RPS raised concerns regarding the methodology and calculations used regarding car parking in the applicant's Transport Assessment. With regard to design, RPS comment that the lack of active frontages along Lucy Road was inappropriate and more generally in design terms, the proposal fails to deliver the innovative approach sought by policy. It commented that the proposal only provides limited coach parking facilities, even though policy requires the relocation of existing facilities.

3.47 *Economic Benefits:* A separate Economic Benefits Assessment was issued by Aventura Consulting on behalf of the Stockvale Group and identified a number of criticisms within the application material regarding methodology and calculations. In particular, the applicant had not addressed the displacement effects the development is likely to have on existing leisure operations in the town, specifically The Kursaal and Odeon. Objections highlighted that the applicant did not explore the cultural and social implications associated with the proposed development on surrounding businesses.

3.48 *Transport:* Objections were raised with regard to a failure to provide a Construction Management Plan, with no assessment undertaken of the effects of loss of parking during construction. Proposed cycle parking did not meet the requirements of Policy DM15 and alterations to the Seaway Roundabout were also non-compliant with this policy. Insufficient coach drop-off points were provided, and the off-site relocation of coach spaces was not well considered. The objection concluded that inappropriate data, methods and assumptions were used to justify the transport impacts of the proposal, and additional and corrected information must be submitted before the application was determined.

3.49 *Ecology:* RPS stated that the proposal fails to comply with Policy CP7 and paragraph 175 of the NPPF. It would be inappropriate for the Council to determine the application before receipt of missing bat roost surveys. The Council's Local Validation Checklist for planning applications indicated that a Biodiversity Survey and Report should be submitted with any application and the Preliminary Ecological Appraisal (submitted with the application) fails do this. RPS concluded that the application should be considered invalid as bat roost surveys cannot be

begun before May and it would be inappropriate to place the application on hold for this length of time.

- 3.50 *Heritage:* RPS criticises the Heritage Assessment submitted with the application and concludes it fails to consider the impact on the sightline between the Palace Hotel and the Kursaal Dome; the importance of the inter-visibility between the key seafront Southend assets; and, the impact of the proposal on the setting of the Conservation Area and the Church. It noted that the leisure unit will also be significantly taller than the surrounding heritage assets and create an unsympathetic view along the seafront where the development can be viewed from the Pier and Marine Parade.
- 3.51 RPS conclude “*the proposed development fails to appropriately and completely assess the impact of the development on both statutorily protected and locally important heritage assets and the historic seafront townscape, therefore the development is contrary to Policies DS2, DS3 and SM5.*”
- 3.52 *Townscape/Landscape/Visual Impact:* RPS comment the submitted assessment did not comply with guidance in terms of what was assessed and how. Assessment errors with regard to the photomontages were made. It concluded that the layout and design of the proposal did not comply with planning policy in terms of scale, character, local distinctiveness and public realm impacts.
- 3.53 *Trees:* Concerns were expressed regarding the number of trees being lost on site as a result of the proposed development. RPS requested that the Council issue a TPO to protect the two London Plane trees in the north/central part of the site. RPS objected on the basis of trees being lost unnecessarily and an alternative layout and design of the development could be achieved which retained the most valuable trees on site. No justification has been provided as to why the trees should be removed, noting their value.
- 3.54 *Noise and residential amenity:* RPS concluded that the development fails to comply with policy DM1 and CS1.2 given the likely impact arising from late-night activities. The layout of the scheme places late-night uses in close proximity to residential properties.
- 3.55 *Sustainability and Energy:* RPS commented that the Council’s Sustainability and Energy Manager had not been consulted on the application. RPS also concluded that a Sustainability Statement had not been produced in accordance with the Validation Checklist resulting in sustainability not being adequately addressed. RPS criticised the information and methodology used by the applicant in the submitted BREEAM assessment. In terms of energy, RPS expressed concerns that the calculations of the proposed Energy Hierarchy are missing, and passive measures have not been considered. It concludes that there are errors with the calculations which effect the consideration of the suitability of Air Source Heat Pumps (ASHP) and no reference is made to on-site low carbon energy sources or decentralised energy sources.
- 3.56 *Transport:* RPS objected to the proposed development on the following transport grounds:
- 3.57 RPS indicate the effect of construction on car parking losses and on increased demand during the construction period has not been assessed. A Construction Management Plan is also missing from the submission. RPS indicate there has therefore been no consideration to maintaining car parking spaces during the construction phase as part of the planning application.
- 3.58 *Construction:* RPS conclude the application should not be determined until a Construction Management Plan has been prepared and until a revised version of the TA is submitted to include an assessment of the construction effects of development.
- 3.59 *Spanish Steps:* RPS critique the proposal as it does not include the ‘Spanish Steps’ or provide any opportunities for the ‘Spanish Steps’, failing to comply with Policy CS1.2. The proposed

pedestrian access into the site from the south eastern corner does not provide a direct access which RPS indicate as a key consideration for measuring pedestrian routes. It would create a convoluted journey for pedestrians between the site through the surface car park and Marine Plaza.

- 3.60 RPS conclude the application should not be determined until the Proposed Site Plan has been adjusted to provide a suitable pedestrian access from the south of the western side of the surface car park that provides opportunities for a new link to Marine Parade.
- 3.61 *Shared Surface on Herbert Grove:* The inclusion of shared surfacing on Herbert Grove is contrary to current DfT advice. The Transport Assessment makes reference to the development proposal being an extension to the Town Centre and the entire trip generation estimates are on the basis the site is an extension of the Town Centre. RPS conclude the application should not be determined until the access strategy, the TA, the Design and Access Statement and the supporting drawing have been updated to remove the shared surface from Herbert Grove.
- 3.62 *Cycle Parking:* RPS highlight in line with Policy DM15, cycle parking should be safe, secure and covered. The proposal of locating cycle stands in areas of natural surveillance meet the policy requirements of being safe, however RPS indicate they do not meet the policy requirement in terms of being secure or covered. RPS conclude the application should not be determined until the Design and Access Statement, the supporting drawings, the TA and the Travel Plan have been updated to include safe, secure and covered cycle parking.
- 3.63 *Queensway Roundabout:* As part of the proposal there are alterations to the Queensway/Chancellor Road/proposed site access roundabout. Part of these alterations are to widen the westbound carriageway of Queensway, resulting in a longer uncontrolled crossing distance for pedestrians and cyclists over two lanes of traffic. The central splitter island is also reduced in width by 5.5 metres. RPS conclude site access design is contrary to Policy DS5 and is a deterrent to pedestrians and cyclists, it also does not offer improvements to routes into the Central Southend Area from surrounding neighbourhoods or the public realm improvements that Policy DS5 requires.
- 3.64 RPS conclude the application should not be determined until a revised Queensway/Chancellors Road/proposed site access roundabout has been submitted which provides a scheme that meets highway design standards and does not deter pedestrian and cyclist use by increasing uncontrolled crossing widths.
- 3.65 *Coach Drop-off Point:* RPS critique the amount of coach drop off points proposed on site and conclude that only one proposed drop off space means there is the likelihood of more than one or two coaches needing to drop off or collect at the same time. Policy CS1.2 requires the relocation of coach parking, referring to the 36 coach spaces being relocated to Garons Park Sports Centre. However, under Policy CS1.2 it requires off-site provision to be well connected to the site, RPS conclude Garons Park is some 2.5km from the Seaway in a straight line and thus to accord with Policy CS1.2, more coach parking and/or drop off provision needs to be made within the proposal.
- 3.66 *Trip Generation:* Including a range of site locations from the TRICS analysis, RPS indicate it is contrary to the advice given within the TRICS Good Practice Guide and there is no confidence in the person trip rates utilised. The TA makes reference to the site being an extension of the Town Centre, but TRICS selection criteria has included some sites that are not within a town centre location and are incompatible with the town centre locations as advised in the TRICS Good Practice Guide.
- 3.67 RPS note the application seeks a flexible approach to the use of the proposed units because the exact mix will be driven by occupier demand. Given this flexibility RPS indicate there is no

evidence provided in the TA to confirm that the assumption made produces the highest car parking demand. RPS conclude the application should not be determined until car parking accumulation assessments for the whole flexible range of land uses being sought have been undertaken and submitted.

3.68 *Mode Share:* RPS has concerns over the mode share data within the Car Parking Study (CPS) questionnaire surveys. The use of national data by the Department for Transport national Travel Plan specific to leisure uses that is widely accepted as being robust should be incorporated to seek to dilute these concerns. The application should not be determined until the mode share estimations have been undertaken on a more robust basis.

3.69 *Cross Visitation and Linked Trips:* RPS indicate in addition to cross-visitation and linked trips within the seafront and the town centre, the TA sets out that the Seaway car park is currently used by visitors to the town centre and seafront, some of these users would also visit the proposed development. The TA has included a reduction in the trips to account for these linked trips. RPS conclude the application should not be determined until the linked trip estimations from users of the Seaway car park are removed as this double counts the proportion of linked trips by visitors to the town centre and seafront.

3.70 *Temporal Distribution:* RPS highlight no account has been taken of the change in the length of stay as a result of cross visitation and linked trips. The TA should adjust arrivals and/or departures accordingly to take account of this matter and assess the true effects. As a result, the parking accumulation is underestimated.

3.71 *Operational Car Parking:* RPS indicate the TA considers the capacity of a car park to be reached at 100% but the industry regarded level of operational capacity of a car park is at 85% occupancy. At this level people find it difficult locating a vacant space and may leave to look for an alternative space.

3.72 *Development Car Parking Demand:* RPS highlight in Appendix N of the TA there are some negative parking numbers within the spreadsheet to calculate the trip generation, mode share and resultant car parking numbers, this means the calculations are incorrect and parking demand is underestimated. The application should not be determined until the car parking accumulations have been recalculated to removed negative parking numbers.

3.73 In addition, there are a number of comments within the note provided by RPS that affect parking demand these are:

3.74 TRICS selection criteria include some sites that are not in a town centre location and compromise the trip generation;

- 1 The mode share utilised does not take account for a higher car mode share as a site location is closer to the seafront.
- 2 The mode share calculations should make use of data within the National Travel Survey.
- 3 More assessment is needed to define the level of cross-visitation.
- 4 Allowing for linked trips from existing users of the Seaway car park is double counting and this should be removed.
- 5 If cross visitation and linked trips occur, then those people will stay on site or in the area longer and adjustments should be made to the arrivals (to arrive earlier) and / or departures (to depart later) accordingly.
- 6 There are some negative parking numbers within the calculations of the parking demand by the development. This means that the calculations are incorrect and parking demand is underestimated.

- 3.75 *Impact of Development upon Car Parking:* RPS indicate the proposal creates an excess demand of car parking, evidenced by the car parking occupancies within the TA, RPS therefore conclude the application should not be determined until the effects on car parking have been assessed correctly in accordance with Policy DS5 of the SCAAP.
- 3.76 *Car Parking Provision:* There is no justification, in the form of calculations, for the proposed provision of 555 car parking spaces. If the methodology and calculations were to remain as they are (notwithstanding the above comment) then additional car parking would be needed to comply with Policy DS5, it should be providing 653 car parking spaces on site.
- 3.77 *Car Park Management/Tariffs:* Appendix H of the TA provides a Car Park Management Plan of which “short stay parking over long stay” is promoted. It is concluded by RPS that the application should not be determined until a mechanism is in place that would not compromise the use of the car park for visitors to the seafront.
- 3.78 *Impact on the Transport Network:* RPS highlight previous comments of the Council’s Highway Officers and suggest their requests have not been met in the new submission.
- 3.79 RPS also highlight the issue that the TA sets out the proposal will generate 133 new vehicle movements during the Friday PM peak hour, and 114 new vehicle movements during the Saturday peak hour. The impact of new vehicle movements needs to be assessed using the VISSIM model. RPS conclude the application should not be determined until the impact of the development on the wider highway network has been undertaken using the VISSIM model for the Friday peak hour, a Saturday peak hour and a Sunday peak hour.
- 3.80 *Development Compliance with SCAAP policies:* RPS concludes the proposal does not comply with the transport and car parking requirements of the SCAAP policies DS5 and CS1.2 for the following reasons:
- 1 The proposal does not include ‘Spanish Steps’, nor do the proposals provide for opportunities for ‘Spanish Steps’ by proposing a site layout which does not enable a direct pedestrian route.
  - 2 Policy DS5 recognises the capacity of a car park to be 85% occupancy whereas the TA calculates capacity to be reached at 100% occupancy.
  - 3 The TA does not assess the excess demand of car parking in relation to the key visitor car parking areas in the south of the Southend Central Area and therefore does not accord with Policy DS5.
  - 4 The Seaway proposal creates an excess demand of car parking resulting in a net loss in key visitor car parking to the south of the Central Area. Thus, it does not ‘consume its own smoke’ and it does not accord with Policy DS5 of the SCAAP.
  - 5 There are some significant concerns relating to the methodology and calculations within the TA. Notwithstanding these comments, if these were to remain as they were, then the proposal should not be providing 555 car parking spaces on site, it should be providing 653 car parking spaces on site to accord with Policy DS5 of the SCAAP.
  - 6 The site access design does not consider the provision for pedestrians and cyclists across Queensway in accordance with Policy DS5 and does not offer improvements to routes into the SCAAP area from surrounding neighbourhoods or the public realm improvements that Policy DS5 requires.
  - 7 To accord with Policy CS1.2 of the SCAAP, more coach parking and/or drop off provision needs to be made within the proposal.

3.81 In response to the most recent planning application submission, RPS has submitted further objections to the scheme, concluding the proposal fails to comply with Policy CS1.2 of the SCAAP and KP2 of the Core Strategy, and limited material considerations weigh in favour of the scheme.

RPS submitted an outline Landscape and Visual Impact Assessment report demonstrating shortcomings with the applicants' landscape assessments. RPS also stated the submitted Heritage Assessment was inadequate and failed to assess significant heritage assets and matters, or incorrectly assessed the harm caused to them.

Ecology objection responding to the receipt of bat emergence surveys. RPS indicate the relevant survey period has passed for 2019 and the information cannot be obtained until May 2020 at the earliest. RPS concluded that the application should be placed in abeyance until the information is provided or the application should be withdrawn and resubmitted once the information is available.

With regard to the need or otherwise for an EIA and in response to the applicants submitted screening letter to the Council, RPS confirmed its view that an EIA was required. RPS concluded there would still be significant effects on landscape and heritage aspects, especially impacts on the locally listed St John the Baptist's Church and the Grade II Pleasure Pier. There would also be significant socio-economic effects. RPS indicated that if the Council fail to recognise this and require an EIA to be undertaken by the applicants, it would make a formal request to the Secretary of State for a Screening Direction.

3.82 RPS highlighted that the Stockvale Group does not object to the principle of a leisure-led development "*as long as the development adds to the range of leisure facilities on offer to the town, does not reduce the level of public parking available and provides sufficient additional parking to support the proposed development, using realistic assumptions on car use.*" Detailed comments relate to:

- 1) *Lack of Integration:* RPS continued to object to the proposed development as it does not strengthen the physical link between the site and Town Centre through improved pedestrian links. RPS concluded that the proposal remains contrary to Policy CS1.2b.
- 2) *Impact on other businesses:* The development would result in other leisure facilities in the surrounding area having to close. In effect, the proposed development will displace existing premises resulting in little net economic benefit to the town. RPS state that the owners of The Kursaal are finding it difficult to find new tenants because of the Seaway development and the Kursaal is no longer seen as a viable option.
- 3) *Land Uses:* RPS notes the applicant's Planning Statement indicates there exists a specific schedule of uses but this is missing from the document and, without it, the amended Description of Development allows for Class D2 uses across the whole of the site. Such a development would have a different character with an increased impact on parking demands. RPS conclude that the Council must re-consult on the whole application once this missing material has been received.
- 4) *Spanish Steps:* The Spanish Steps are not provided as part of this development and they would deliver better connectivity to the site and are a key element of the site-specific policy. The applicant's submission fails to highlight that public conveniences are moving further into the site than existing, and without the Spanish Steps, this location will be less accessible. RPS indicate the Spanish Steps are an integral part of the Seaway development and a key policy requirement that is not being delivered.

- 5) *Car Parking:* RPS highlight 635 spaces should be provided on site and ‘a precise schedule of areas’ setting out land uses is missing from the Planning Statement Addendum. It continues, highlighting that the proposed development does not propose to retain all existing car parking at the Seaway site when taking into account the parking demands from the proposed development. RPS notes the proposals still do not provide parking based on the generated demand arising from the proposal and there will therefore be a reduction in available spaces to support the town’s tourism economy. There remains a policy conflict with Policy KP2 and CS1.2.

RPS highlight that the Seaway car park has become a substantial income driver to the Council with a net income of £534,000, almost 90% more than what RPS understand the Council will earn from the site if the development comes forward. The financial implications of the scheme should be considered.

- 6) *Active Frontages:* Policy requirements relate to active frontages on **all** elevations, the proposal does not demonstrate this with only a short corner of active frontage on Lucy Road on the standalone unit. RPS conclude the proposal fails to meet this aspect of policy requirement.
- 7) *Coach Parking:* Although a coach drop off/pick is proposed on site, there is an issue will coaches leaving the site along Lucy Road and having to cross the carriageway at Marine Parade. The policy requires coach parking, if not provided on site to be well-connected to the Seaway site. RPS deem the exit to Marine Parade as “substandard” and not well-connected as the policy requires. Once the temporary car park at Gasworks is relocated to the Garons Park Sports Centre, alternative coach parking provided at this site will not be well connected. Proposals remain contrary to Policy CS1.2(g).
- 8) *Design:* RPS identify the proposed land uses as commonly found in out-of-town centre leisure boxes. In the context of a finely grained seaside town such as Southend, the building needs to be broken up, creating linkages through with active frontages. It needs to respect the townscape around it. The proposed scheme presents blank elevations and facades. Regarding Policy KP2, RPS conclude the amendments to design are still unimaginative and half the site remains a car park, the scheme cannot be considered a high-quality design and therefore is not policy compliant.

A separate document was produced by RPS to respond to the Draft Council Design Comments made in March 2019 and which should be read in conjunction with the *Notes on LVIA and Screening Statement* (RPS, October 2019) the *Outline Landscape and Visual Impact Assessment of the Turnstone Southend Ltd Development at Seaway Car Park*, (RPS, 20 August 2019) and the *Heritage Statement Objection* (RPS, 10 September 2019). RPS responded to the design comments made by the Council Officer, concluding that the proposed development to be in breach of SCAAP criteria-based planning policy in regard to Policy DS1, DS2, DS3, DS5, CS6, CS6b, DM1, DM4 and DM6.

RPS conclude the proposal creates an unnecessary landmark building which diminishes the importance of the Church and fails to acknowledge the findings of the Southend Borough-wide Character Study which sets out matters such as local distinctiveness and integration to be incorporated in new development proposals. The proposal fails to respect landscape character and the fine historic urban grain of the surrounding landscape through the scale, height and mass of the proposed buildings and the loss of open views to the Estuary. Design-related comments from RPS highlight the lack of consideration given to the historic surroundings, especially St John the Baptist’s Church. RPS consider that the proposed development will close up the currently open aspect of this building.



- 9) *Residential Amenity*: RPS conclude that noise impacts from the proposed development are unacceptable on residential amenity. Although A4 uses have been dropped from the proposal, the noise and disturbance will occur as a result of the proposed A3 uses, which are likely to be licensed restaurants. RPS conclude the proposal is “a large leisure box surrounded by car parking, with limited respect for its context, the grain of Southend, its townscape, its heritage and neighbouring land uses. It is a single building with a single concrete floor and very few linkages.” The NPPF paragraph 130 states such schemes should be refused, and the proposal fails to comply with key Development Plan policies.
- 10) *Heritage*: RPS has provided a separate document, dated September 2019, with a commentary and objections to the latest Heritage Statement. This should be read in conjunction with the *Notes on LVIA and Screening Statement* (RPS, October 2019); the RPS response to *Southend Borough Council’s Draft Design Comments for Seaways Application the Outline Landscape and Visual Impact Assessment of the Turnstone Southend Ltd Development at Seaway Car Park*, (RPS, 20 August 2019) and the *Heritage Statement Objection* (RPS, 10 September 2019).

Key issues raised include a misunderstanding of the importance of the relationship between key historic buildings on Southend seafront, the Kursaal and the Palace Hotel in particular, and a failure to assess the effects on the historic townscape character and fine grain of the Southend Old Town character area. The revised Heritage statement “does not assess the effect on the wider townscape.” RPS deem this to be a serious omission from the Assessment.

RPS comment on a number of methodology and assessment issues, including the lack of clarity as to what planning policies have been considered and assessed, it is also noted the submitted applicant’s Heritage Assessment plays down the significance of the visibility between The Kursaal and the Palace Hotel, as well as the effects of the proposed development on the historic environment. RPS comment the “significance and setting of heritage assets, and the contributions these significances and setting make to other heritage assets, does not rely solely on there being a visual link, but an understanding of the historic relationships between place...”

RPS conclude the row of Edwardian houses comprising Herbert Grove are important buildings contributing to the historic character, townscape and seascape of central Southend, the effects on this historic character should therefore be assessed and to not indicate the assessment is incomplete. Furthermore, RPS draw upon the lack of assessments for the potential effects on below-ground archaeological deposits which may be present within the site, the lack of heights indicated on the architect’s elevation drawings also provide difficulty assessing the likely impacts to the historic character from the scale and mass of the proposed new buildings.

RPS object to the statement in the applicant’s submitted Heritage Assessment that “the view of the skyline from the pier has altered considerably in modern times, and so has lost its historic visual connection and so the addition of the proposed building will not affect the significant of the pier.” RPS highlight the proposed building will cut across this fine (and historic grain) and will impose a new skyline that is out of scale with the existing, historic skyline. Objections also relate to a lack of heights shown on the Architect’s elevation drawings making them very difficult to assess in terms of likely impacts to the historic environment in terms of scale and mass of the proposed new buildings. The submitted Assessment does not consider how the scale and mass of the proposed new complex relates to the houses along Herbert Grove, nor how the removal of Nos. 1,3 and 29 Herbert Grove will impact the setting of St John the Baptist’s Church.

Additionally, RPS highlight there is no assessment of the potential effects on below-ground archaeological deposits which may be present within the site, and an assessment of historic townscape and seascape is still missing from the revised Heritage Assessment.

- 11) *LVIA*: RPS has provided a separate document, dated September 2019, with a commentary and objections to the Landscape and Visual Impact Assessment undertaken by Richard Morrish Associates. This should be read in conjunction with the *Outline Landscape and Visual Impact Assessment of the Turnstone Southend Ltd Development at Seaway Car Park*, (RPS, 20 August 2019) and the *Heritage Statement Objection* (RPS, 10 September 2019).

RPS identifies the key landscape and visual impact issues associated with the proposed development.

The impact arising from tree removal is down-played throughout the applicant's submission and the numbers are not given and not all the of the TPOs are referred to.

The impact on the site's prevailing open character and wide estuary views, synonymous with that part of the Old Town, are down-played. The applicant's assessment states that the Thames Estuary character area has a medium-low sensitivity; RPS deem this to considerably underestimate the sensitivity of the Pier to the proposed development, similarly the same applies to the sensitivity of the Kursaal.

The, now open, setting of St. John's Church (a landmark building) should not be impeded by buildings that are too close and out of scale with it.

The surrounding properties have an open aspect at present (and always have had). The buildings claim to be 'set back' from the surrounding buildings. The scale of the development is too tall and bulky to be as close as they are to these domestic scale buildings.

The change in height level, around the properties on Hartington Road is ignored.

The 'embedded mitigation' is not considered sufficient to reduce the impact and thereby the effects on the surrounding sensitive receptors.

RPS conclude *"the Residential Visual Amenity Assessment underestimates the susceptibility of the residential receptors to the impact of the proposed development both during the day and at night. Particularly when seen from Hartington Road and Herbert Grove.... the proposed development should not be allowed if it will have an overbearing effect on a property. The effect on properties, particularly those on Hartington Road and Herbert Grove will be overbearing and unacceptable."*

3.83 More recently, RPS has submitted further objections to the scheme particularly in relation to transport, parking, landscape, ecology, heritage and Council considerations.

3.84 RPS again highlighted that The Stockvale Group does not object to the principle of a leisure-led development *"as long as the development adds to the range of leisure-facilities on offer in the town, does not reduce the level of public parking available on the site, and provides sufficient additional parking to support the proposed development, using realistic assumptions on car use."* Detailed comments relate to:

- 1 *Policy CS1.2*: RPS object to the proposal due to the development's lack of compliance with SCAAP Policy CS1.2 RPS conclude that:
  - The applicant fails to refer to the location of the public conveniences being located further into the site than existing. The Spanish Steps would deliver better connectivity to the site

and the use of active frontages and uses along the whole of Lucy Road would have solved design and heritage issues.

- The level of parking on site is nowhere near the level of car parking identified following a re-examination of the model split within the Transport assessment Addendum. The proposal does not provide 776 car parking spaces within the site.
  - The proposal is a departure from the Development Plan on the grounds that the proposal does not provide active frontages to all elevations. RPS dispute a corner of the building is not creating 'active frontages' because the majority of the frontage and remainder of Lucy Road has no active frontage.
  - As RPS has highlighted previously there is a significant issue with coaches leaving the site along Lucy Road and Hartington Road having to cross the carriageway at Marine Parade. The policy relates to coach parking being 'well-connected' to the site if located off site. RPS indicate the temporary car park at the Gasworks is to be relocated to the Garons Park Sports Centre which is not "well-connected."
  - RPS has provided a separate document in response to the Council's design comments. RPS concludes the leisure building needs to be broken up, creating linkages through, with active facades. All 10 characteristics of the National Design Guide have been overlooked and RPS indicate the scheme cannot be described as a high-quality design. The revision to the proposal to drop A4 uses does little to change the noise and disturbance to the residents of Herbert Grove which could occur nightly.
- 2 *Policy KP2:* RPS indicate the proposals are not compliant with a number of aspects of the Development Principles Policy KP2 of the Core Strategy. RPS note the proposal does not provide parking based on the newly generated demand from the development and therefore there will be a substantial reduction in available spaces to support the town's tourism economy, the proposal also fails to provide an enhancement to the car parking provision. RPS comment on the lack of imaginative and innovative design, scale, layout and bulk of the scheme, failing to comply with the Government's new National Design Policy and the schemes adverse effect on the neighbourhood which the Applicant's own consultant acknowledges as 'significant.'
- 3 *Traffic, Transport and Parking:* The concerns raised by RPS previously remain outstanding on the basis that the development provides insufficient levels of car parking to maintain the level of parking that exists at the Seaway Car Park as well as provide sufficient spaces to meet the new demands arising from the proposed leisure development. The main points are that:
- Proposals fail to comply with Policy DS5 of the SCAAP regarding no net loss of parking;
  - There are miscalculations in the Transport Assessment;
  - Changes to Queensway/Chancellors Road will increase uncontrolled pedestrian movements, causing a conflict between pedestrians and vehicles and not improving pedestrian safety;
  - Failure to improve access for pedestrians and cyclists along Queensway;
  - Failure to recognise the proposal causes severe issues during bank holidays weekends;
  - Failure to recognise the loss of car parking at the Seaway will displace visitors and could negatively impact upon the patronage of seafront businesses; and
  - The impact of the development is 'severe' according to the NPPF.
- 4 *Townscape Landscape and Visual Impact:* RPS acknowledge the Applicant has now submitted photomontages and other visual aids to help understand the potential impacts of the proposed development on the townscape/landscape, however RPS still have significant

concerns regarding the methodology of the assessment which are found in the submitted RPS objections LVIA document (sent to the Council on 20th September 2019).

- 5 *Heritage:* RPS still have significant concerns regarding the impact of the development on the historic environment. The revised submitted Heritage Statement prepared in September 2019 still omits assessment of archaeological and historic landscape/townscape issues. RPS conclude the Heritage Statement fails to address key policies, it misunderstands and underplays the relevance of the intervisibility and sightline between the Kursaal Dome and Palace Hotel, the assessment fails to recognise the open nature of the Seaway site and importance of the removal of the Rossi factory to which the improved setting of the locally listed St John the Baptist's Church which will be adversely effected, it fails to acknowledge views to the Palace Hotel from the majority of the site will be obliterated by the proposed development and there is harm to the setting of the Conservation Area and to the Pier.

RPS indicate in addition there will be harm to the Conservation Area by the proposed development's impact to the area around the church. The Assessment also fails to acknowledge that the Edwardian Row of houses comprising Herbert Grove should be seen as important to the historic character, townscape and seascape, the impact on this asset will be significant.

- 6 *Ecology:* RPS highlight the Applicant has failed to undertake all relevant bat roost surveys, they have failed to survey the toilet block at the other end of the development site which was identified as having an equivalent bat roost potential. This can now only be done from May 2020 onwards. Without this information RPS conclude the Council cannot adequately discharge its responsibilities with respect to protected species and the application must be refused on the grounds there is a lack of ecology information.
- 7 *Trees:* RPS indicate the two trees on site that are subject to the Tree Preservation Order (TPO) at present are under threat from building works and excavation activities to allow for the development. Approving the loss of these trees would be contrary to the recently adopted Council policy regarding its own trees. RPS conclude the trees should be retained and the Applicant should have regard for preserving mature (and protected) trees on site, thus enhancing biodiversity. RPS has modelled ways in which the proposed development could avoid the loss of the highest quality of trees without comprising the development by the re-alignment of the road round through the site and shifting the hotel and parts of the main building. RPS considers the proposed tree removal is contrary to the adopted policies.
- 8 *Noise, Disturbance and Residential Amenity:* RPS indicates the Applicant underplays a number of key points which will result in the detriment to Herbert Grove and Chancellors Road residents. These include:
- The changes to the development to remove A4 uses and restrict closing times will not eliminate noise and nuisance impacts on neighbouring properties because the outdoor areas will still be in use until 2300 hours. There may also be clean up and staff activities after this time that also pose issues.
  - A significant number of pedestrians will travel into the night from the site to the bus station, rail station and town centre designation by foot. There will be stragglers beyond midnight from the cinema or staff after closing time which will cause significant noise impacts for residential properties along Herbert Grove and Chancellor Road.
  - At present the Seaway Car Park provides no destinations are present, so other car parks are likely to be more attractive to visitors of the town for late night activities. The level of disturbance from the proposal will bring extra movements between the Town Centre and the site because of the destination factor and the resulting disturbance.

- Without measures in place to prevent pick-up and drop-offs from private vehicles there is a noise and disturbance taking place late into the night by car movements, but also the opening and closing of doors, noting the cinema will not always close at midnight.
- 9 *Sustainability and Energy* – RPS highlight the key concerns related to the development and its failure to achieve the targeted sustainability rating of BREEAM ‘Very Good.’ RPS conclude that relying upon one pre-assessment for three different building types and two different assessment types, is not acceptable and the weightings for the different building types will affect the predicted target score. RPS also highlight no sustainability statement has been submitted, which is a requirement of the Validation Checklist, and there is inconsistency within the Mott MacDonald Technical Response for the RIBA Stage, it is misleading to present the scheme as being at RIBA Stage 2 when it is in fact at RIBA Stage 3.  
RPS also raises concerns regarding the need for the Energy and Sustainability Manager at SBC to be consulted, RPS deem this to be a substantial oversight and can impact upon how the case officer can appropriately determine whether the development is compliant.
- 10 *Daylight and Sunlight* – RPS consider a different design which is more legible and respectful of the adjoining townscape and urban grain, and which is smaller in scale and less bulky would better preserve the existing residential amenity regarding daylight and sunlight.

3.85 The Council received a further representation from RPS, setting out a summary of concerns. Much of the detailed repeated the content of earlier representations, with concerns expressed with regard to a conflict with Policy CS1.2 of the SCAAP (pedestrian accessibility, Spanish Steps, a shortfall in car parking, a lack of active frontages, coach parking, and a lack of innovative design); and a conflict with Policy KP2 of the SCAAP (parking, design, a loss of trees, and a failure to comply with energy and sustainability requirements).

3.86 RPS continue to highlight the potential for financial loss to the Council, and a perceived negative economic impact of the project. The lack of a bat survey for the toilet block is identified along with concerns regarding the ecological impact on designated habitats from increases in traffic. Failings in the applicant’s Transport Assessment are referenced, with associated concerns regarding parking demand, pedestrian safety and traffic generation

3.87 RPS promote alternative forms of development to protect trees on site and identify a risk regarding the ability of the scheme to achieve a BREEAM Very Good standard. Detrimental noise and nuisance impacts on neighbouring properties are predicted, particularly late at night. RPS criticise the submitted Heritage Assessment suggesting it underplays the relevance of the intervisibility and sightline between the Kursaal Dome and Palace Hotel, the open nature of the Seaway site and importance of the removal of the Rossi Ice Cream Factory and views to the Palace Hotel from the site. Additional harm to the Conservation Area and the Pier are predicted and there are calls to consider the houses on Herbert Grove as important to the historic character, townscape and seascape of central Southend. At least ‘substantial’ harm to heritage assets are predicted.

3.88 Similar concerns are expressed with regard to the submitted LVIA with RPS suggesting it underplays the loss of trees; it underestimates the night time effects of the hotel on the neighbouring buildings; the scale of the buildings and their relationship with St John the Baptist’s Church; and the prominence of the development in the Old Town area. RPS state that the development will be highly visible in the urban skyline and in views from the Pier. Finally, RPS criticise the findings of the Daylight/Sunlight Assessment, stating the work downplays impacts.

- 3.89 More recently additional representations have been received from RPS which state that they do not consider any appeal likely to succeed. RPS consider this to be the case as they state that the proposals fail to comply with Policy CS1.2 (points, B, C and G), due to parking, pedestrian safety concerns, ecology issues, including bats, loss of trees, including loss of TPO trees, failure to conserve and enhance the Conservation Area or other designated and non-designated heritage assets, design, townscape and landscape visual impact issues, noise, sustainability and daylight and sunlight issues. Reference in this respect is also made to the economic impacts of the development and its impact on other businesses.
- 3.90 The Stockvale Group have also recently raised concerns regarding the land deal, including the public tender and whether the deal is the best possible deal for Southend tax payers. **Officer comment:** these are not material planning considerations.
- 3.91 Additional ecology comments have also been received recently from RPS, which state that the reason to refuse planning permission regarding protected species is fully justified. Concern is raised that the evidence supplied by the applicant in October 2019 is not sufficient to conclude that building 7 has negligible bat roost potential and concern is raised that the information provided by the applicant contains errors. RPS contends that as there are no bat emergence surveys the officers should recommend refusal based on a lack of information on the impact of the development on protected species. RPS raise a number of concerns relating to the reports submitted in this respect and how building 7 was downgraded from low to negligible bat roost potential and it is stated that the Council cannot impose a condition to require the provision of surveys after planning permission has been granted. RPS have submitted its own external bat roost assessment for Building 7 which concludes that building 7 has low bat roost potential. **Officer comment:** It is noted that a Preliminary bat roost assessment report for the former office building (i.e. building 7) has now been submitted. This is considered in detail within section 6, part 10 of this report.
- 3.92 Following the submission of the preliminary bat roost assessment report on 25<sup>th</sup> November 2019, RPS have provided further representations, commenting that further consultation should have been undertaken following the submission of this document and stating that there are shortcomings within this report and as such further bat emergence surveys are required. RPS raise concerns regarding the conclusions and findings of the report. RPS conclude that Building 7's bat roost potential is 'low'.
- 3.93 On 26<sup>th</sup> November, RPS wrote to the Council confirming that they had submitted a Screening Direction to the Secretary of State because RPS are of the opinion that an Environmental Statement is required for the scheme. **Officer comment:** This issue has now been resolved, with the Secretary of State confirming that the development is not EIA development and that an Environmental Statement is not required.

## Summary of Statutory Consultee Responses

### Historic England

- 3.94 Historic England responded to the initial Council consultation in February 2019, raising concerns regarding the proposed design of the scheme. It highlighted the highly prominent nature of the location and the impact the proposals would have on Southend's townscape. It concluded that, *"Whilst a building of this scale is not necessarily harmful to the appreciation of Southend's Seafront, Historic England consider the choice of a relatively reflective metal cladding to cover the majority of the structure has the potential to create a building which is visually overly dominant. The south face sea views will in large section be an inactive frontage*

*on this elevation. Historic England questions the longevity of the development in this corrosive marine environment."*

- 3.95 Overall, Historic England *"consider the development on this site has the potential to result in an enhancement to the setting of the conservation area and other heritage assets, with the introduction of an element of urban form to an otherwise underutilised space being considered positive. However, notwithstanding that potential, we (Historic England) consider that the proposed cladding materials combined with the scale of the development will likely result in a development that harms the appreciation of the Clifftown Conservation Area in wider views. A more considered approach to materials will allow this development to better complement the historic character of Southend, creating a better, more attractive place and avoiding or minimising any harmful impacts on the setting of heritage assets."*
- 3.96 Following receipt of these comments, the applicant undertook further engagement with Historic England presenting alternative design ideas. In response to this process, a second set of comments were made by the consultee in June 2019. These comments (informal in nature) indicated that the proposed changes to the scheme were considered beneficial. The changes to the leisure unit with the breakup of the massing and the use of a more complex colour palette to reduce the reflexivity index were welcomed. The modifications to the standalone restaurant unit involving the division of the previously monolithic form and the reduction in height of the gabions to the south were also acknowledged.
- 3.97 These comments informed the preparation of the submission in September 2019, and in response to this, and the amended design proposed, Historic England has made the following comments and conclusions:
- 3.98 Historic England reiterate they have no objections to the principle of development nor does Historic England have any objections to a contemporary approach to design, continuing Southend's evolution as a modern seaside town.
- 3.99 Overall, Historic England *"consider the development of this site has the potential to result in an enhancement of the setting of the conservation area and other heritage assets, with the introduction of an element of urban form to an otherwise underutilised open space. The development proposals remain considerable in scale and will result in a new building that appears in multiple views and vistas within Southend...we (Historic England) consider the changes to the materials and design reduce the proposed development's visual impact and despite its scale and massing will allow it to sit more successfully within Southend's townscape in longer views."*
- 3.100 The alterations to the standalone R1 building are welcomed, a reduction in height to the south is likely to better respond to its immediate locality including the Clifftown Conservation Area and the locally listed church, but Historic England suggest *"the proposed public space could be enhanced further through the incorporation of public art, to increase visual and aesthetic interest to the south facing wall of that space."* Historic England also recommend the final choice of colour palette and texture should be the subject of an appropriately worded condition and the approval of the Borough Council's Conservation Officer.
- 3.101 Historic England set out several recommendations in determining the application:
- The Council should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
  - Section 72(1) of the Planning (Listed building Conservation areas) Act 1990 should be considered to the desirability of preserving or enhancing the character or appearance of

conservation areas. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

- 3.102 *Historic England Response October 2019:* The most recent comments provided in October 2019 reiterate that Historic England does not wish to provide any further comments regarding the development and refer to the responses provided for previous consultations on the scheme dated 14 October 2019 (i.e. as reported above).

### **Natural England**

- 3.103 In response to the original consultation, Natural England raised no objections to the proposed development. It considered that the proposed development would not have significant adverse impacts on statutorily protected sites or landscapes, including Benfleet and Southend Marshes Site of Special Scientific Interest, Benfleet and Southend Marshes Ramsar; and Benfleet and Southend Marshes Special Protection Area.
- 3.104 No planning conditions were suggested or required.
- 3.105 Natural England retained its position following consideration of the September submission, with no objection to the proposals.

### **Environment Agency**

- 3.106 In response to the first consultation exercise, the Environment Agency confirmed it was satisfied after consideration of the EIA screening submission and made no further comment. It confirmed this same position following consideration of the September 2019 submission.

### **Highways England**

- 3.107 Highway England confirmed in response to the September 2019 submission that the proposals would have negligible impact on the strategic road network in peak hours. It concluded that the proposals would not materially affect the safety, reliability or operation of the network, and hence did not object to the application.
- 3.108 *October 2019:* Highways England offers no objections on the basis “proposals will have a negligible impact on the Strategic Road Network (SRN) in Peak Hours. Highways England consider that the development will not materially affect the safety, reliability and/or operation of the SRN (the tests out in DfT C2/13 paragraph 10 and DCLG NPPF para 109) in this location.” The Highways Act Section 175B is not relevant to this application.

### **Essex and Suffolk Water**

- 3.109 In response to the January 2019 consultation, no objections to the development were raised, subject to a condition that a water connection for “the new dwellings is made onto the Essex and Suffolk Water network for revenue purposes”. (Essex and Suffolk Water make reference to “dwellings” although clearly no dwellings are proposed on the site). No update to this position has been received following the second consultation.

### **Cadent Gas - Gas Utilities**

- 3.110 Following the initial consultation, no objections to the proposed development were raised, although it is noted that the company stressed that if development is proposed directly above gas apparatus, then development should only take place following a diversion of this apparatus. No planning conditions were suggested. No second consultation response has been received.



## **Essex County Fire and Rescue Service (ECFRS)**

- 3.111 In January 2019, the ECFRS confirmed that the access for fire service appliances proposed as part of the scheme were satisfactory. However, more detailed observations on access and facilities for the Fire Service will be considered on submission of any further plans, noting that additional water supplies may be required for fire-fighting.
- 3.112 ECFRS highlighted its standard recommendation of a risk-based approach to the inclusion of Automatic Water Suppression Systems (AWSS), even where not required under Building Regulations guidance.
- 3.113 No planning conditions were suggested.

## **London Southend Airport**

- 3.114 In response to the January 2019 consultation Southend Airport confirmed that it did not object to the application at the given position and height.
- 3.115 It advised that the developer should ensure the design complies with the EASA/CAA regulations and takes note of the lighting requirements/restrictions near aerodromes.
- 3.116 An identical response was received following the September/October submission.

## **Anglian Water**

- 3.117 Anglian Water has responded to consultation indicating there are no objections to the proposed development and there is sufficient availability as part of the catchment of Southend Water Recycling Centre to accommodate foul drainage from the development. Anglian Water recommended the following condition if planning permission is to be granted:

*Surface Water Disposal: No drainage works should commence until a surface water management strategy has been submitted to and approved in writing to the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy, and approved, unless otherwise agreed in writing by the Local Planning Authority. This condition is recommended to prevent environmental and amenity problems arising from flooding.*

*A feasible drainage strategy agreed with Anglian Water detailing the discharge solution should include development hectare size, proposed discharge rate, connecting manhole discharge locations, and sufficient evidence to prove that all surface water disposal routes have been explored as detailed in the surface water hierarchy."*

## **Summary of Council Responses**

### **Highways**

- 3.118 In respect of the January 2019 consultation, the Highways Officer confirmed that there was outstanding information that needed to be submitted before the highway and transport aspects of the development could be fully assessed. The September submission included this information (by way of an addendum to the Transport Assessment and an updated Car Park Management Plan), and in response the Highways Officer concluded the following:
- 3.119 *"Officers are able to reasonably conclude that the highways and parking impacts of the proposal are acceptable and can be suitably mitigated."*
- 3.120 Officers previous comments to the applicant regarding the Department for Transport's (Dft) latest direction, suggesting shared space should no longer be considered in such scheme. In response, the previously proposed shared surface on Herbert Grove has been removed.

- 3.121 In respect of the detailed content of the submitted traffic modelling undertaken by the applicant the Officers conclude that the modal split and trip rates assessment undertaken by the applicant is now robust, having taken into account a reduced proportion of on-site linked trips and a high number of vehicle movements to and from the site. The same applies with the VISSIM modelling carried out, that now includes traffic from committed developments as well as having taken the background traffic peak for Friday and Saturday, added to the development's peaks for these days.
- 3.122 The Highways Officer acknowledged the recent increase in the number of car parking spaces present on the site but concludes the proposed development to be compliant with SCAAP Policy DS5, given that it provides an extra 77 car parking spaces to the 478 spaces that were present when the policy was adopted. Although there are a number of on-street parking bays being removed for the proposed scheme, equating to 10 pay and display or permit holder parking spaces, the Officer concludes that the loss of those spaces can be compensated through the extra spaces provided on-site following redevelopment.
- 3.123 The Officer welcomes the changes to the multi-level car park spaces, where more width has been provided to allow car doors to be opened against walls and pillars.
- 3.124 The Highways Officer requested the provision of more electric vehicle charging points on site from the proposed: *“As these car parks will be newly built it will be feasible and practical to ensure that each parking space is future proofed so that electric charging points can be installed when demand required. At least 20% of the car parking spaces should have electric charging points provide.”* This request will ensure Policy DM15 of the Development Management Plan is met. [**Note:** A planning condition requiring such provision is proposed].
- 3.125 There are no secure dedicated cycle parking facilities offered to staff and the Highways Officer comments this should be provided separately to the public cycle parking. The additional requirement can be secured through a condition.
- 3.126 With reference to coach parking and the existing alternative coach parking at the Gas Works site, the Highways Officer confirmed that the proposed coach bay on Lucy Road was appropriate. Servicing arrangements were considered acceptable subject to a number of conditions controlling delivery times. The Officer initially commented that cameras should be installed on Herbert Grove to enable enforcement, but subsequently confirmed this issue could be addressed by a condition (such a condition is included in the schedule provided at **Appendix 5**). The Officer also requested that a more detailed Displaced Management Strategy and detailed Construction Management Plan need to be agreed with the Council prior to the development proceeding.
- 3.127 The Highways Officer has recommended the following to be secured in a s.106 agreement or via conditions with further explanation in this regard provided at Section 8.0 of this Report:

#### **Conditions**

- conditions to require detailed highways designs, including street lighting will need to be agreed with Southend Council;
- where reasonably practicable to provide some public car parking on the development site during construction and provide appropriate signage;
- A Displaced Parking Management Strategy to be agreed by Southend Council;
- a Construction Management Plan to be agreed by Southend Council;
- a Car Park Management plan for both the multi-storey and surface car parks to be provided and agreed with Southend Council;

- covered and secure cycle parking to be provided for staff, details to be agreed by Southend Council;
- at least 20% of the car parking spaces should have electric charging points provided;
- every car parking space should be future proofed so that electric charging points can be installed when demand requires, e.g. four-way duct and drawpits to service all bays;
- all deliveries for the units on Herbert Grove must be from the servicing area on Lucy Road; and,
- delivery, servicing and coach related movements along Herbert Grove need to be time restricted. Monday to Friday 0700 to 1900, Saturday 0800 to 1300 hours, no deliveries on Sundays and bank holidays;

#### **S106**

- form a new access from the Queensway/Chancellor Road roundabout to provide a fourth arm. Closure of the existing site entrance and exit junctions located on Chancellor Road and Queensway. Revised uncontrolled crossing across Queensway;
- change vehicle entrance only from Lucy Road to a vehicle exit only.
- street lighting on the public highway will need to be linked with Southend Council's CMS system;
- existing access restrictions on Herbert Grove will be retained, with no entry from Lucy Road into Herbert Grove.
- there is currently a shared-use path on the northern frontage of the site which is proposed to be extended to the north-west area of the site to encourage pedestrians and cyclists;
- buildout proposed on Lucy Road to deter vehicles routing westbound along Lucy Road; access to numbers 1 to 4 being retained via a revised access arrangement to the block of flats;
- widen Lucy Road in order to provide a coach drop off point, service layby and shared pay and display and taxi parking on Lucy Road;
- provision of a segregated path through the site;
- a detailed Travel Plan to be agreed by Southend Council. Travel Packs to be provided to the businesses for staff. The Travel Plan will need to be monitored by the Council to ensure that the targets and actions are being met. The Council ask for a contribution for monitoring of £4,000 per year for five years after the opening of the development;
- a contribution of £35,000 for a VMS sign to be located on the internal access road that displays the availability of spaces and provides directions for the multi-storey and surface car parks. This sign must be integrated with the Council's VMS system;
- contribution of £150,000 for the temporary and fixed VMS signage for the construction period and to be put towards upgrading the VMS signs, which must be integrated with Southend Council's system;
- contribution of £25,000 for onsite wayfinding pedestrian and cycle signage;
- a contribution of £25,000 is sought for offsite pedestrian and cycle wayfinding signage including High Street signage;
- the cost of £15,000 is sought for the amendment to the signing, lining and TROs for the proposed development and adjacent roads; and,

- a contribution of £46,000 for real time information screens to be provided within the site at key locations to inform of bus times and services for both Chancellor Road and the Travel Centre.

### **Environmental Protection - Regulatory Services**

3.128 In response to the original consultation in January 2019, the Council's Environmental Protection Officer suggested that further information was required to supplement the application. Reference was made to the applicant's acoustic evidence and lack of assessment from noise sources, delivery noise, operational and construction vibration and the how the scheme will satisfy prevailing noise standards. Additionally, the EHO officer indicated further assessment was required in relation to air quality, lighting, odour and daylight and sunlight. The Officer did, however, conclude that the Waste Management Strategy Report met the Essex County Council and Southend Borough Council's Waste Management Plan requirements and contained appropriate mitigation methods.

3.129 It is noted that the EHO did suggest a number of required conditions at this time, but these have since been superseded, by the Officer's response to the September 2019 submission, as detailed below.

#### **i) Noise**

3.130 As a follow up to the above, the Council's Environmental Protection Officer provided detailed comments on the application (following consideration of the September 2019 material). Reference was made to the applicant's acoustic evidence, and an evaluation of the potential noise sources on site, both operational and during construction. The Officer considered potential noise from a range of sources including building services (ventilation systems); noise from the cinema (particularly with regard to its proposed 0300 hours operation); noise from late-night leisure units and external seating areas; noise from an increased footfall of visitors, especially along Herbert Grove; noise from the car park (slamming doors and voices); deliveries (both intensity and timing); and the electrical substation. During construction, consideration was given to both the demolition process, and the required plant machinery, and activity associated with the building works.

3.131 With this as a background, the Officer had regard to the potential for noise management, through restrictions of use in certain areas of the site; management control (i.e. within the leisure building); the implication on the noise environment resulting from prevailing and proposed site conditions (i.e. topography, building layout, the 'canyon effect' of building form, etc.); the role of the Licensing Act 2003, and the ability to control nuisance using statutory legislation. Reference was also made to existing site conditions, both to appreciate existing noise sources and to understand the potential for cumulative impacts.

3.132 The officer concluded that, *"The development will contain a large and varied number of noise sources including from building services, ventilation extraction, amplified music, vehicles and customer voices. These will be introduced into a mixed residential/commercial area which primarily contains car parking with some late-night leisure. The information within (the submitted material) has assured Environmental Health that the development will have no significant impacts from noise and subsequent public health effects on neighbours and that the outstanding matters can be dealt with by conditions"*.

3.133 The officer suggests a number of conditions relating to:

- controlling noise from plant and equipment to 10dB(A) below background noise levels from the boundary of the nearest residential property;

- details of an acoustic barrier along the eastern boundary to be agreed;
- controls on external use of amplified music;
- control on the use of the external seating (1200-2000 hrs Monday to Thursday, 1200-2100 hours Friday to Saturday and 1200-2000 hours Sunday and Bank Holidays);
- control over delivery hours (Monday - Friday 0700-1900 hours, Saturday 0800-1300 hours and no time on Sundays and Bank Holidays);
- the application of acoustic insulation to the substation;
- agreement of a Demolition/Construction Method Statement; and,
- submission and approval of a Noise Management Plan, to include how customer noise and behaviour is managed on and off the premises; staff behaviour including opening/closing premises; deliveries; waste disposal and storage; external space management; site

## **ii) Air Quality**

3.134 Environmental Health Officers considered the September 2019 submission and noted agreement with the applicant's evidence confirming that there will be only negligible impacts on air quality during the operational phase of development. The development is approximately 2.5km from the Air Quality Management Area at Bell Junction (A127 and A1159 roundabout). The Officer acknowledged that the development could result in an increase in traffic drawn through the AQMA. The applicant's Air Quality Assessment Report (2018) (supplemented with a further Technical Memorandum (2019) provided a detailed review of this potential impact, concluding that the increases in annual mean concentrations at receptors in the AQMA would be very small - between 0.1 and 0.2 micrograms per cubic metre. The Officer confirms that such impacts are classed as 'negligible'. As such, the development is unlikely to have a significant impact on the AQMA or the air quality objectives for it. Any more local temporary impacts during the construction can be addressed through an agreement of Construction Method Statement that would include a Dust Management Plan, with mitigation measures and boundary particulate monitoring during site activity.

## **iii) Land Contamination**

3.135 Feedback from the Council's Regulatory Services Department confirmed that there was no objection in principle to the development. There are a number of issues on the site, these including the presence of Made Ground at the site; potential leaks and spill from vehicles and potential hydrocarbons impacted soil as a result of the use of the site as a car park. However, the proposals were considered acceptable, subject to the imposition conditions related to investigation and risk assessment; remediations; and, reporting of unexpected contamination. These are included as recommended conditions, as set out in **Appendix 5**.

## **iv) Odour**

3.136 Environmental Health Officer reviewed the submitted material and confirmed that the control of odour from noise extract ventilation can be addressed by the use of a condition. The recommended condition required the approval of details of the proposed ventilation with reference to noise and vibration attenuation. Such a condition is included in **Appendix 5**, that provides a full schedule of all suggested conditions.

## **v) Artificial Illumination**

3.137 Environmental Health Officer feedback in respect of the proposed lighting strategy recommended that the production of a suitable scheme in accordance with guidance by the

Institute of Lighting Engineers should be secured by the application of an appropriate planning condition. This is included in **Appendix 5**.

#### **vi) Daylight and Sunlight**

- 3.138 The Council Officer responded to the submitted applicant's assessment of potential daylight sunlight impacts, concluding that the methodology adopted was compliant with relevant guidance (in this instance, BRE Guide: Site layout Planning for Daylight and Sunlight, A Guide to Good Practice, 2011), and that the nature of the identified impacts was correct.
- 3.139 The Officer referenced the nature of the impacts anticipated, highlighting that the majority of properties in the surrounding area would retain suitable levels of daylight and sunlight post development. The Officer reviewed the detailed assessment for those properties in Herbert Grove that are worst affected (this material is considered in detail in Section 6.0 of this Report) and identified non-compliance with standards in Nos. 9-27 Herbert Grove, where medium and low impacts were predicted. Sunlight levels were confirmed as acceptable in 99.2% of all windows assessed, and where windows fail this test, the magnitude of change was considered to be medium. All overshadowing impacts were considered to be acceptable.
- 3.140 Overall, the Officer commented that *"The impact on daylight and sunlight for majority of properties surrounding the site are within the limits of the BRE Guidelines. The southern section of Herbert Grove is subject to a reduction in lighting levels identified in the Guidelines. This reduction given the context of the Seaways site is minimal. Whilst the BRE Guidelines provide numerical guidance for daylight, sunlight and overshadowing, these criteria should not be seen as absolute targets since, as the Guidelines advises, the intention is to help rather than constrain the designer. The BRE Guidance advises that it is not mandatory and should not be seen as an instrument of planning policy. Furthermore, it states that daylight criteria should be 'interpreted flexibly because natural lighting is only one of many factors'".*

#### **Council's SuDS Engineers and Lead Local Flood Authority (LLFA)**

- 3.141 On behalf of the Council (as Lead Local Flood Authority) AECOM reviewed the application in line with the Detailed Drainage Design Checklist provided by Essex County Council. This work concluded that whilst further detail was required to fully satisfy the checklist requirements, sufficient information had been submitted to enable it to consider the proposals. It concluded that it had no objections to the application, subject to the following conditions being attached to any planning permission and discharged provided prior to commencement of development:
- 1 Provide evidence of infiltration tests in accordance with BRE365 and if infiltration is found to be viable provide information in relation to the potential for ground instability or deterioration in groundwater quality because of infiltration.
  - 2 Provide an updated drainage layout plan indicating the dimensions, storage volumes, pipe sizes and gradients, manhole cover and invert levels, proposed discharge rates, flow controls and final discharge connection in accordance with the submitted calculations. Updated engineering plans should be provided for each of the SuDS and critical drainage elements, including the flow control features.
  - 3 Provide information on the management of health and safety risks in relation to feature design.
  - 4 Provide a system valuation (including capital costs, operation and maintenance costs, cost contributions) and a demonstration of long-term economic viability
  - 5 Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.

- 6 Provide a method statement for the management of surface water runoff arising during the construction
- 7 Provide evidence of consent from Anglian Water to discharge at the proposed discharge rate and location.

3.142 *October 2019: AECOM confirmed that its previous response to the application remains relevant.*

### **Department of Place - Culture (Parks)**

3.143 The Council's Parks Officer and Arboriculturalist considered the application proposals as amended in September 2019, and concluded as follows:

*"Overall, the landscaping scheme submitted is suitable for the location and a development of this nature.*

*There are twenty-eight individual trees and one group of six trees which will require removal for the proposed development to proceed. Of these trees nine are covered by Tree Preservation Orders. These are two London Planes (To15 and To16) five Norway Maples (To17, To18, To21, To24 and To25) and two sycamores (To22 and To28). These are not rare species and we would agree with the provided tree Report that none of these nine trees are category 'A' classification according to BS5837, i.e. are not trees of high quality.*

*Within the provided Landscape Strategy RIBA Stage 3 the Tree Strategy has proposed 93 new trees to be planted. There is a mixture of seven different species proposed which are all suited to this site".*

3.144 The following conditions are required:

- 1 A landscaping and maintenance plan to be submitted for agreements prior to the layout of these areas;
- 2 All tree works to be agreed and approved with the council in advance; and,
- 3 All trees and soft landscaping within the red line area to be maintained to establishment for five years. Any trees or plants that die during this time must be replaced and maintained to establishment.

3.145 The Officer also made a number of additional comments related to the design of the required tree pits, on-going landscape maintenance, tree protection measures and necessary tree pruning to existing trees.

### **Council Waste Management Team**

3.146 The Council's Waste Management Team considered the application proposals as amended in September 2019 and confirmed that it had no objection to the proposals. The Waste Management Strategy supplied with the proposal was considered to be comprehensive and addressed the key areas of concerns, such as recycling collections, ensuring adequate storage for waste between collections, hazardous waste considerations and employing private waste contractors. Planning conditions to secure implementation of these mitigation measures are required.

### **Council Design Officer**

3.147 The Council's Design Officer confirmed that overall, there is no objection to the development with the proposal offering an opportunity for the significant regeneration of the site and the wider area. The scheme design allows for better integration between the site, the Town Centre,

and the Seafront and support was also given to the principle of a new landmark building at this location.

- 3.148 The Design Officer supported the design concept for the development, with its bold sculptural form for the main building, whilst the scale of the development is also said to sit comfortably in the context of the Town Centre, subject to the adoption of a good quality design, materials and detailing.
- 3.149 The Officer confirmed that the positioning of the proposed leisure building framed views to the sea on approach from the Queensway, and the additional restaurant provides enclosure to the proposed St Johns Square. These concepts help to give legibility to the layout of the site for pedestrians.
- 3.150 The design changes made to the leisure building to incorporate more active frontages and the change to the colour scheme and materials adopted are both welcomed by the Design Officer. The Officer considers that the changes help enrich the design and provide a positive reference to the stonework on the adjacent Church, helping to integrate the proposal within the street scene. Cladding on the upper levels of the leisure building hides the inactive frontages of the cinema, giving the unit a distinctive profile. The Design Officer stated that these changes have enhanced the design of the building and the experience for visitors at a pedestrian level.
- 3.151 The Design Officer highlighted that the layering of the cladding panels will need careful consideration and should be controlled by condition. The Officer called for a design code to be secured by condition to ensure there is an appropriate and cohesive approach to the individual shop fronts and signage arrangements on the leisure unit, so these can be integrated well with the overall design of the building.
- 3.152 The design changes to the standalone restaurant unit proposed in the September 2019 submission were also welcomed by the Officer, with the building now sitting in the finer grain of the surrounding townscape.
- 3.153 In terms of heritage assets, the Design Officer confirms that the impact on the Clifftown Conservation Area is limited to the impact on the Palace Hotel and St John the Baptist's Church. The new hotel will become a landmark feature in the skyline for the seafront, but the historic Palace Hotel will remain separate in the skyline and remain the higher, dominant landmark in the wider and closer views of the seafront. The adopted approach to the detailed design of the development and in particular, the creation of a public square complements the historic building of St John the Baptist's Church, enhancing the setting of the Church and wider conservation assets in this location. The Design Officer considered this would have a positive impact on the setting of the church and the conservation area in this location.
- 3.154 Overall, and noting the limited intervisibility between the site and other parts of the Conservation Area, the Officer concluded that the proposal would have a neutral impact and will not cause harm to the character and appearance of the conservation area or its setting.
- 3.155 The Officer noted the changes to the glazing, cladding and palette have helped break up the mass of the building, allowing it to sit more comfortably against the townscape, including the heritage buildings on Marine Parade. The proposals were considered to have a neutral impact and therefore cause no harm to the significance and setting of the Falcon and the Cornucopia. The Kursaal, sitting apart from the main frontage some distance from the site. The proposal is considered to have a neutral impact on this building and therefore causes no harm to its significance or setting. Overall, the Officer concluded that the development will not cause harm to the character and significance of the surrounding heritage assets or their setting.



- 3.156 The Design Officer also concluded that the design changes made to the standalone restaurant unit, incorporating more active frontages, lowering the gabion wall and changing the exterior cladding colours are deemed acceptable, providing a positive transition between the historic church and the new leisure building.
- 3.157 The improvements sought to the landscaping and legibility of the site, including greater landscaping of the surface car park, the use of SuDS to provide a buffer between Herbert Grove and the leisure unit, and more feature lighting help to give greater priority to pedestrian movement across the site. The Design Officer indicated this has brought about a noticeable improvement in the overall design.
- 3.158 The following conditions are recommended to ensure the quality and detailing of the project:
- Details of materials to be agreed, including product details;
  - Detailing including cross sections for arrangement of cladding (individual panels and larger sections) in relation to the leisure building and car park to show fixings, profiles, offsets, angles and edge detail;
  - Details of balustrades for the leisure building balconies, A3 unit seating areas and standalone restaurant unit to be agreed;
  - A Design code for the various A3/A5/D2 units that front Herbert Grove, as well as the hotel, to ensure a cohesive approach to shopfronts, signage and outside seating areas;
  - A condition controlling Landscaping including planting, hard surfaces, furniture and boundaries;
  - Details of any plant/services and plant enclosures to be agreed;
  - A Lighting scheme to be submitted and agreed.

### **Archaeology**

- 3.159 Feedback from the Council's Archaeology Officer of the submitted Archaeological Evaluation Report (that provided details of 7 No. Test Pit Results) confirmed that this work had fully considered the archaeology potential of the site, and that insufficient potential had been found to require further investigation prior to commencement of development.

### **Planning Policy**

- 3.160 The site is allocated in the Southend Central AAP (adopted 2018) as an Opportunity Site, CS1.2 Seaway where it is recognised that the site presents a major opportunity for mixed use development, contributing to the leisure, cultural and tourism offer of Southend Central Area, which may include: restaurants, cinema, gallery, hotel, public and private open spaces, and vehicle and cycle parking. The proposed development, for mixed leisure uses (including a cinema), restaurants and cafes, hotel, car park and associated access and public open space works, complements this policy objective for the site.
- 3.161 Positively, the plans include a number of public realm works, including an enhanced link to the south west of the site via Lucy Road which should help to improve links with the High Street and wider Town Centre, as per SCAAP Policy CS1.4.ii.b and as depicted on the SCAAP Policies Map as an opportunity for a Key Public Realm Improvement and opportunity for New/Improved Pedestrian Links, complemented by an enhanced public realm, and improved accessibility, to the north which also provides important links to the High Street and Tylers Policy Areas, as per SCAAP Policy CS1.4.ii.b and again as depicted on the SCAAP Policies Map as an opportunity for a Key Public Realm Improvement and opportunity for New/Improved Pedestrian Links.

3.162 The proposals include provision for delivery of a wayfinding scheme, to enhance provision for pedestrians and cyclists, including branding marking and consideration of how wayfinding can encourage links with the town centre (High Street) and Central Seafront, as per SCAAP Policy CS1.4.ii.j.

3.163 The proposed layout has sought to address future potential for a southern link by seeking to ensure that development does not affect the pedestrian footpaths at Lucy Road and a public square (St John's Square) has been proposed to the south west of the site.

**Nicholas Pearson Associates (NPA) – the Council's Independent Landscape Consultants**

3.164 Nicholas Pearson Associates, Chartered Landscape Architects and a Registered Practice of the Landscape Institute were appointed by the Local Planning Authority to provide a Landscape and Visual Impact Assessment (LVIA) and Residential Visual Amenity Assessment (RVAA) scoping feedback and then to carry out a peer review of the adequacy of the content of the submitted LVIA.

3.165 Overall NPA state that the landscape and visual assessment report has been prepared in a manner that reflects the guiding principles for landscape and visual assessments, industry best practice. The LVIA and RVAA scope are proportionate and appropriate to the nature of this specific proposal. The information provided meets the main requirements agreed in the NPA Scoping Note.

3.166 NPA conclude *“Overall, the submitted LVIA is considered to comprise an adequate and proportionate assessment of the landscape and visual effects of the scheme. The limitations identified, in places within the assessment, are not enough to lead us to a different conclusion nor to have inhibited the assessment process. Despite their being differences in some professional judgements, we are in agreement with the LVIA overall conclusions, where, after accounting for proposed embedded mitigation and enhancement measures, the main effects of the Seaway scheme would be localised. We also have identified that there would be limited landscape or visual effects above ‘moderate adverse’ level and where some visual effects on immediate residents were initially potentially ‘substantial’ these have been mitigated to reduce and moderate associated residual effects. Our judgement is also that further reductions in landscape, visual and cumulative effects could be effectively secured by some recommended Planning Conditions, should the scheme be considered acceptable in the planning balance.”*

3.167 Nicholas Pearson Associate's advice is referred to elsewhere in the report when considering and assessing the Townscape and Visual impacts.

## 4.0 **Planning Policy Summary and Material Considerations**

### **Development Plan**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that development proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant development plans for Southend comprise the Core Strategy (2007), the Development Management Document (2015), and Southend Central Area Action Plan (SCAAP, 2018) noting that relevant saved policies in the Borough Local Plan (1994) have been superseded by policies within these documents.
- 4.2 The Essex Waste Plan (2017) also forms part of Southend’s development plan but this includes no relevant policies for the consideration of this application.

### **Emerging Plans**

- 4.3 A New Southend-on-Sea Local Plan - Planning for Growth and Change, is in preparation with an Issues and Options paper the subject of consultation in April 2019. The next stage of plan preparation is publication of a Preferred Approach consultation document due in winter 2019/2020. The proposed submission of the Local Plan to the Secretary of State for Examination is estimated for Winter 2021.
- 4.4 However, the very early nature of this document is noted and given this (in particular, its pre-examination status), and in accordance with the guidance in the NPPF (paragraph 48), no weight is given to this emerging Plan in the consideration of this application.
- 4.5 The Council, along with Basildon, Brentwood, Castle Point, Rochford, Thurrock and Essex County Council, are preparing a South Essex Joint Strategic Plan, but to date, other than the publication of a Statement of Common Ground, no documents have been published. Again, no weight is given to this emerging document in the consideration of this application.

### **Material Considerations**

- 4.6 Several other strategic and local documents are material to this application. The National Planning Policy Framework (“NPPF”), Planning Practice Guidance (“PPG”) and National Design Guide (2019) documents set out Government policies and explain how they should be applied. The Council’s Design and Townscape (2009); its Streetscape Manual (2015); and its Planning Obligations, A Guide to S106 and Developer Contributions (2015), are relevant material considerations. In addition, the Council’s Southend Car Parking Strategy (2018) provides relevant guidance, also material to the determination of this application. Also of relevance are the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

### **Development Plan Policy**

- 4.7 A full schedule of development plan policies relevant to the application proposals is provided at Appendix 3. This includes an appraisal of the proposals against each policy objective. The policies inform the key planning considerations that are identified and assessed in Section 6.0 of this report, where the outcome of this appraisal is referenced. The full schedule of policies is not repeated here, and reference should be made to Appendix 3 for this information. The exception to this approach is regarding Policies CS1.2 and DS5 of the SCAAP (2018) that provide specific policy in respect of the development of the application site. These policies are considered to be critical to the assessment of the application, with Policy CS1.2 identifying the car park as an

Opportunity Site, and Policy DS5 (and Part 2(b) in particular) providing advice in respect of car parking provision at this key visitor car parking site.

- 4.8 The ability of the application proposals to satisfy the detailed requirements of these policies will help inform an appraisal of the scheme's contribution towards satisfying other wider policy objectives in the Plan. The Council's Spatial Strategy and Development Principles (Policy KP1 and KP2 of the Core Strategy) and the remaining transport policy objectives set out in the remainder of Policy DS5 are considered to be particularly relevant. For ease of reference, a full account of Policy CS1.2 and DS5(2b) are reported in full, below.

### **Core Strategy (2007)**

- 4.9 Relevant policies:

- 1 Policy KP1 - Spatial Strategy
- 2 Policy KP2 - Development Principles
- 3 Policy KS3 - Implementation and Resources
- 4 Policy CP1 - Employment Generating Development
- 5 Policy CP2 - Town Centre and Retail Development
- 6 Policy CP3 - Transport and Accessibility
- 7 Policy CP4 - The Environment and Urban Renaissance
- 8 Policy CP6 - Community Infrastructure
- 9 Policy CP7 - Sport, Recreational and Green Space
- 10 Policy CP8 - Dwelling Provision

### **Development Management Document (2015)**

- 4.10 Relevant Policies:

- 1 Policy DM1 - Design Quality
- 2 Policy DM2 - Low Carbon development and Efficient use of Resources
- 3 Policy DM3 - The efficient and effective use of land
- 4 Policy DM4 - Tall and Large buildings
- 5 Policy DM 5 - Southend-on-Sea's Historic Environment
- 6 Policy DM6 - The Seafront
- 7 Policy DM12 - Visitor accommodation
- 8 Policy DM13 - Shopping Frontage Management outside the Town Centre
- 9 Policy DM14 - Environmental Protection
- 10 Policy DM15 - Sustainable Transport Management

### **Southend Central Area Action Plan (SCAAP) (2018)**

- 4.11 Relevant Policies:

- 1 Policy DS2 - Key Views
- 2 Policy DS3 - Landmarks and Landmark Buildings
- 3 Policy DS4 - Flood Risk management and sustainable Drainage

- 4 Policy DS5 - Transport Access and Public Realm
- 5 Policy CS1 - Central Seafront Policy Area Development Principles
- 6 Policy CS1.2 - Opportunity Site – Seaways
- 7 Policy CS2 - Nature Conservation and Biodiversity

4.12 Policy CS1.2, which is the site-specific policy for the application site states :

*“The Council will pursue with private sector party owners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include: restaurants, cinema, gallery, hotel, public and private open spaces, and vehicle and cycle parking. The potential for residential development may also be explored. Design and layout solutions should allow for:*

- (a) remodelling of the urban form to create a north-south axis on the Seaway site, providing a clear sight-line from Queensway dual carriageway to the sea;*
- (b) a stronger relationship with the Town Centre through the provision of safe and legible pedestrian and cycle routes;*
- (c) opportunities for a new link to Marine Parade from the Seaway site designed around ‘Spanish Steps’ and in doing so ensure that development does not prejudice its future delivery as a new link between the seafront and town centre;*
- (d) addressing the need for replacement car parking provision in line with Policy DS5: Transport, Access and Public Realm frontages to all new and existing streets and spaces;*
- (e) a palette of good quality materials to reflect the vibrancy and colour of the seaside;*
- (f) relocation of a coach-drop off point within the site. The relocation of coach parking bays may be provided either on or off-site or a combination of both, provided off- site provision is well connected to the Seaway site and would not significantly adversely impact the local transport network;*
- (g) urban greening projects, including the creation of new public and private green space within new development;*
- (h) innovative design which allows the site to take advantage of the elevation and creates a legible environment with views of the estuary, respecting the amenity of neighbouring residential uses;*
- (i) the provision of appropriate seating, signage and way-finding aids to improve connectivity to the Town Centre, Seafront and Opportunity Site CS1.3: Marine Plaza.”*

4.13 Policy DS5 Part 2 (b) states:

*"In order to support the vitality and viability of the SCAAP area the Council will ...*

- b. Require any development proposals that come forward on key visitor car parking areas in the south of the Southend Central Area (as identified in Table 5 and Map 4) to ensure that there is no loss of key visitor car parking; any planning application in these areas would need to be accompanied by a detailed transport assessment that would include an analysis of the impact of the additional parking demand generated by the proposed development on the identified key visitor car parks, having regard to:*

- *Adopted parking standards;*
- *Consideration of the extent to which linked/combined trips and opportunities for further mode shift through the travel plan process will reduce the need for additional publicly available car parking spaces;*
- *Availability of parking to the south of the Central Area within the area shown in Map 4; and,*
- *The need for any replacement parking to be provided within the area shown in Map 4, where it should be secured through a planning condition or obligation as part of the overall development scheme or through another means acceptable to the Council.*

4.14 As above, the tables at **Appendix 3** set out the relevant policies in more detail and provide a brief commentary to assess how the proposed development relates to the policy objectives.

## **Other Material Considerations**

### **National Planning Policy**

4.15 The National Planning Policy Framework (February 2019) sets out the Government’s planning policies and explains how they should be applied. It states that the purpose of the planning system is *“to contribute to the achievement of sustainable development”* (paragraph. 7). Paragraph 8 sets out the three dimensions of sustainable development; ‘economic’ in helping to build a strong, responsive and competitive economy, ‘social’ in supporting strong communities and providing the supply of housing required for present and future generations, and ‘environmental’ in protecting and enhancing the environment.

4.16 The NPPF identifies a presumption in favour of sustainable development (paragraph 10). Plans and local decisions should apply this presumption in favour of sustainable development, and where development proposals accord with an up-to-date-plan, they should be approved without delay (paragraph 11c).

4.17 Under the economic dimension of sustainable development, paragraph 80 confirms that significant weight should be placed on supporting applications for economic growth and productivity, considering local business needs and the wider opportunities for development. Linked to this, paragraph 85 relates to the vitality of town centres, confirming *“planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation”*.

4.18 Under Paragraph 118 the NPPF requires decision makers to *“give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs...”*.

4.19 Design is highlighted as an important aspect of planning decision-making, with Paragraph 124 of the NPPF confirming that *“the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”*. Planning decisions should ensure developments function well over the lifetime of the development; are visually attractive; sympathetic to local character and history; establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and, create places that are safe, inclusive and accessible.

4.20 The NPPF states under Paragraph 155 that *“inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at highest risk. Where*

*development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere”.*

- 4.21 Section 9 of the NPPF entitled, *‘Promoting Sustainable Transport’*, highlights a need for developments to encourage walking, cycling and public transport use. Proposals should create places that are safe, secure and attractive; should take into account the delivery of goods and access from emergency services; and, incorporate charging of plug-in and low emission vehicles in safe, accessible and convenient locations. Paragraph 107 refers to parking standards and confirm, *“maximum parking standards for residential or non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in the city and town centres and other locations well served by public transport”.*
- 4.22 With regard to traffic impact, Paragraph 109 makes it clear that *“Development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.*
- 4.23 Paragraph 170 emphasises the need to conserve and protect the natural environment. Planning decisions should *“prevent new and existing development from contributing to, and being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality...”.*
- 4.24 With reference to heritage assets, the NPPF continues at Paragraph 184, that *“these assets are an irreplaceable source, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.”.* In determining proposals, local planning authorities should require an applicant to describe the significance of any heritage assets affected. *“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise...to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”*
- 4.25 Paragraph 145 confirms that *“Where a proposed development will lead to substantial harm to ... a designated heritage asset, local authorities should refuse consent, unless it can be demonstrated that the substantial harm .... is necessary to achieve substantial public benefits that outweigh that harm”.*
- 4.26 Paragraph 196 confirms that where harm is less than *‘substantial’*, this should be weighed against the public benefits of the proposal. Effects on non-designated heritage assets also should be considered (Paragraph 197) in the overall balance. Case law established that considerable weight and importance should be given to any harm to designated heritage assets no matter the extent.

### **National Design Guide (2019)**

- 4.27 The National Design Guide forms part of the Government’s collection of planning practice guidance, and details what the Government considers ‘good design’ means in practice. As such it represents a relevant material consideration for the planning application. The Design Guide identifies ten characteristics that contribute to well-designed and well-built places. Paragraph 35 of the Guide states that *“well-designed places have individual characteristics which work together to create its physical character. The ten characteristics help to nurture and sustain a sense of Community. They work to positively address environmental issues affecting Climate.*

*They all contribute towards the cross-cutting themes for good design set out in the National Planning Policy Framework.”*

4.28 The ten characteristics are:

- 1 Context: Well-designed places should enhance the surroundings;
- 2 Identity: Proposals should be attractive and distinctive;
- 3 Built Form: Schemes should adopt a coherent pattern of development with compact permeable layouts;
- 4 Movement: Schemes should be accessible and easy to move around;
- 5 Nature: Opportunities to enhance and optimise natural assets should be grasped;
- 6 Public spaces: Spaces should be safe, social and inclusive;
- 7 Uses: Proposed land uses should be mixed and integrated;
- 8 Homes and buildings: Development should be functional, healthy and sustainable;
- 9 Resources: Well-designed spaces should be efficient and resilient reducing their resource requirements (including land, energy and water); and,
- 10 Lifespan: Well-designed spaces should be made to last.

### **Planning (Listed Building and Conservation) Act 1990**

4.29 Section 72 (1) of the Planning (Listed Building and Conservation Area) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Section 66 (1) of this Act states for development which affects a Listed Building or its setting that special regard shall be had to the desirability and preserving the building or its setting or any feature of special architectural interest that it possesses.

4.30 **Conservation of Habitats and Species Regulations 2017 (as amended), and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)**

4.31 All planning applications require consideration of whether it is likely to have significant effects (either alone or cumulatively) on protected *'habitat sites'*. Such sites within 10km of the application site are Benfleet and Southend Marshes SPA and Ramsar; the Outer Thames Estuary SPA; and, the Foulness (Mid-Essex Coast Phase 5) SPA and Ramsar.

4.32 Where the potential for likely significant effects cannot be excluded, the authority must make an appropriate assessment of the implications of the applications on habitat sites taking into account the potential effects of the application itself, and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the project for that site, in view of the site's conservation objectives. The competent authority may agree to the project only after having ruled out adverse effects on the integrity of the habitat's site. Where adverse effects cannot be ruled out, the project can only proceed if there are imperative reasons of the overriding public interest and if necessary compensation measures can be secured.

### **Design and Townscape Guide (2009)**

4.33 The Council's Design and Townscape Guide is a relevant material consideration for the consideration of this planning application.



- 4.34 The overarching principle of the Guide is for new developments, renovations, streets and urban spaces to be of a high-quality design and of a sustainable nature, whilst safeguarding and enhancing local character. New developments should be designed to allow access for all; conserve and enhance built heritage and natural resources; whilst not increasing the risk from climate change and flooding.
- 4.35 Development in Southend should create a quality, sustainable urban environment, where there is a diversity of activity. Creative design should be used to achieve sustainable development, whilst making the best use of previously developed land and improving the quality and attractiveness of residential areas.
- 4.36 The Guide recognises that through development, there can be opportunities to improve pedestrian, cycle and vehicular access. By creating new links and improving existing links, the use of sustainable modes of transport can become more attractive.
- 4.37 Another key aspect in the Design Guide is the recognition of the importance of protecting and enhancing existing historic landmarks. Views contribute to the character of an area and new developments should open views where possible to increase legibility and help integrate the scheme with the surroundings. Conservation Areas should also be preserved or enhanced, with the Guide recognising the importance of the layout, density and scale of buildings within any new proposal, as well as the relationship of open space, gardens and trees to buildings and streets. Views into and out of an area, focal points, roads, building alignments and street furniture are other aspects that can contribute to an area's character and it is important these aspects are maintained in proposals.
- 4.38 Large mixed-use development schemes will be expected to include as part of masterplans, an area of public open space that can be used by the wider community. The document recognises that a well-designed open space which has a clear function can play a significant role in the creation of a sustainable community. There is a general presumption against developments which lead to the loss of existing open space. The contribution of open spaces to biodiversity is another key area for consideration, achieved through careful landscaping.
- 4.39 With regards to car parking, the Guide advises that developers should be able to demonstrate the level of parking provision proposed is adequate and does not create overspill. In all types of development, cycle parking should be provided that is safe, secure and weatherproof. In large schemes, developers may be required to demonstrate that they have considered the additional needs of cyclists, such as shower, changing and locker facilities.

### **Streetscape (2015)**

- 4.40 The Guide aims to apply the “remove, relocate, rethink” principles to all new and existing schemes to provide a clutter-free environment, make the Borough's streets and public realm safe and accessible for all. It recognises the needs of vulnerable road users and encourages walking, cycling and other sustainable modes of transport; it seeks to improve the street environment for residents helping to attract visitors to the town and promote the regeneration of the Central Area, whilst also enhancing the Borough's Green Infrastructure.
- 4.41 The SPD provides guidance to encourage development proposals to *“strike a balance between reducing unnecessary street clutter and hazards, encouraging personal responsibility and community interaction, whilst maintaining the necessary movement of people in and out of vehicles. Where appropriate, the mixing of modes should be encouraged, giving priority to the most vulnerable road users, promoting accessibility to all areas in Southend in a safe, easily navigable way.”*

## **Southend Car Parking Strategy (2018)**

- 4.42 The Council commissioned consultants to produce a Borough-wide Parking and Access Strategy for Southend. The document, published in April 2018, sought to identify how Southend could provide the best experience for residents and visitors to the Borough, with regard to embracing new technologies and car park management techniques.
- 4.43 As part of its appreciation of prevailing conditions, it confirmed that Southend Central Area has 2,562 spaces in key visitor car parks, serving the Central Seafront and Town Centre. In addition, an additional 580 paid for spaces on street or in private car parks to the south of Southend Central Area were identified. Reference is made to the Gas Works site on the Eastern Esplanade that the Council acquired and is converting to a car park, to provide approximately 200 additional spaces. The Report acknowledges that a new 200 space underground car park will also be built as part of a new museum to be constructed on Cliff Gardens, and the presence of a further 2,800 spaces to the north of the Central Area that had the potential to be used by visitors; but in less convenient locations. It concludes that car parking provisions within and around Southend is relatively high, with visitors likely to be able to find a space except for busy peak days when there is a shortage of capacity close to seafront tourist attractions.
- 4.44 The strategy both acknowledges the allocation of the Seaway Car Park in the SCAAP for development, and the potential for the Gas Work site to enable car parking supply to be maintained, if other parks are reduced in capacity (paragraph 3.5).
- 4.45 With this background established, the Strategy presents a series of Objectives for the Borough, to be incorporated with a Visitor Access and Parking Management Plan.
- 4.46 Objective 1 of the strategy places its focus on reducing demand for parking by residents in key visitor car parks on peak days and congestion hot spots, encouraging walking, cycling and public transport as alternatives. Objective 2 seeks to improve Communications with travellers before they leave for Southend providing visitors with an online parking map, improved information on the Council's parking page, improved information and links to journey planners and car parks. Objective 3, the Council aims to improve travel information for visitors during their trip with improved signage at car park entrances, VMS, local area maps for pedestrians at exit points and payment machines. Objective 4 aims to provide a designated traffic management response crew on busy visitor days to manage the circulation of traffic at key junctions. Objective 5 proposes better collection of data of visitor behaviours to allow for a better understanding of the flows of visitors to Southend. Objective 6 considers improved access options such as bike shared docking stations, seafront bus route, seafront pedestrian/cycle route, cycle route signage, highways work such as Queensway improvement works, and improved walking routes. Finally, the Strategy proposes to increase its seasonal park and ride offer (Objective 7).
- 4.47 The Strategy also proposes a detailed signage strategy, to improve better direct drivers to the most appropriate car parks, especially on days of high demand.

## 5.0 **Planning History**

- 5.1 There is very limited relevant planning history for this long-standing town centre car park. Full details are provided at **Appendix 2**, but other than the current proposals (i.e. the submission of the request for an EIA Screening Council and the current application), the only relevant history relates to the site of the Former Rossi Ice Cream Factory, that falls within the application site. In July 2017, an application for Prior Approval for demolition for February was approved by the Council. This building has been demolished and the site cleared.

## 6.0 **Planning Considerations**

6.1 Within the context of prevailing Development Plan policy and with due regard to other material considerations, that include additional Policy Guidance, planning history and consultee comments, the following key planning considerations relevant to this planning application have been identified.

- 1 **Principle of Development;**
- 2 **Traffic and Transport;**
- 3 **Parking** (giving consideration to the net change in car parking provision and demand, coach parking and cycle parking);
- 4 **Residential Amenity** (considering noise and disturbance; air quality; daylight/sunlight impacts; views; and, privacy);
- 5 wider **Townscape and Visual Impact** matters;
- 6 **Design** (appreciating use design quality of the contemporary development);
- 7 **Landscaping** (referencing loss of trees, impact on existing open spaces and the quality of the proposed landscape strategy);
- 8 **Socio-Economic Impacts** (concerning both the potential positive and negative impacts upon local business and Southend more generally);
- 9 **Heritage Asset Impacts** (considering the potential impacts on the Conservation Areas and their settings, listed and local listed buildings and their settings and archaeology);
- 10 **Ecology;**
- 11 **Sustainability;**
- 12 **Other Environmental Matters** (considering ground conditions, Flood Risk and Drainage); and
- 13 within the context of the above overall Compliance with **Key Policy CS.1.2.**

6.2 Each is addressed in turn.

### **1) Principle of Development**

#### **Principle of Loss of Existing Uses**

6.3 *Housing and Visitor Accommodation:* The proposals involve the loss of three properties on Herbert Grove. Nos 1-3, to the north of the road is a double fronted operating guest house. No. 29 that occupies the end of terrace location at the south of the road, is a house.

6.4 The properties are being demolished to facilitate the delivery of the scheme. Considering the loss of the guest house, it is the case that Policy DM12 seeks to encourage the provision of such visitor accommodation within the Central Area. Policy states “*new visitor accommodation will be focused within the Southend Central Area ... and at key locations with good access and a clear and strong relationship with the Seafront...*”.

6.5 However, the application involves the creation of an 80-bedroom hotel, understood to be a Travelodge facility, hence ensuring that the proposals deliver a substantial net increase in both the quality and quantity of visitor accommodation post development. Relevant policy objectives for the Central Area in terms of adding to the hotel offer of Southend are therefore clearly satisfied. It is also noted that the removal of the guest house will enhance the master plan

qualities of the proposals. The area will be given over to an area of open space, extending the 'strip' of open land along the northern part of the site, contributing towards the proposed net increase in green space across the site, and assisting permeability.

- 6.6 The loss of the single residential property to the south of Herbert Grove will reduce the available housing stock within Southend when policy seeks an increase in provision. Policy CP8 states that the Council will “*resist development proposals that involve the loss of existing valuable residential resources, having regard to the limited land resources in the Borough, the need to safeguard an adequate stock of single family dwellings, and to protect the character of residential areas.*”
- 6.7 However, within the context of Policy CP8, and in particular the value of the residential resource involved, it is important to appreciate the limited nature of the proposed demolition, with the loss of just one residential property. Removal of a single property within the context of housing supply across Southend will not have a material impact on the Borough’s housing stock. The loss will not inhibit the redevelopment of other sites with residential-led schemes. The proposals will also significantly enhance the leisure offer available in the Central Area through the regeneration of this car park site, thus adding to the attractiveness of the Town and its surroundings as a place to live.
- 6.8 As such, No. 29 Herbert Grove on its own as a single property is not considered to comprise a valuable residential resource, as defined by Policy CP8, and hence its removal is acceptable when considered against this policy requirement.
- 6.9 Furthermore, it is relevant to note that the loss of the property is required to deliver the proposed new public square adjacent to Saint John the Baptist’s Church. In masterplan terms, the creation of this new square represents a key positive feature of the proposals. In addition to creating a new public recreational resource, the square will open up the site of the locally listed church, significantly enhancing its setting, and helping to give it increased prominence in the street scene.
- 6.10 *Protected Green Space:* The proposals involve the partial loss of an area of Protected Green Space. As referenced in Section 2.0 of this Report, the designated area extends along the northern boundary of the application site and includes land that is proposed to accommodate the hotel, and the fourth arm off the Queensway roundabout that provides the new site access.
- 6.11 Policy CP4 of the Core Strategy requires development proposals to contribute towards the creation of a high quality sustainable urban environment which enhances and complements the natural and built assets of Southend. The policy states that “*This will be achieved by protecting and enhancing the town’s parks, gardens and other urban open spaces...*”. Policy CP7 of this same document provides further policy guidance for such allocated assets, stating that “*All existing and proposed sport, recreation and green space facilities ... will be safeguarded from loss or displacement to other uses, except where it can clearly be demonstrated that alternative facilities of a higher standard are being provided in at least an equally convenient and accessible location to serve the same local community, and that there will be no loss of amenity or environmental quality to that community*”.
- 6.12 It is not the case, therefore, that the loss of any quantity of allocated green space should necessarily result in a conflict with development plan policy. Policy seeks to protect and enhance such spaces (CP4) but when read together with Policy CP7, there are clearly circumstances where the provision of high-quality alternative spaces will be considered satisfactory, and compliant with policy. If this was not the case, as suggested by a number of objectors to the scheme, Policy CP7 would not expressly reference when alternative provision will be acceptable.

- 6.13 To appraise the development proposal's performance against these policies, it is first appropriate to have regard to the quality of the existing open space. The allocated land has limited amenity value, located immediately adjacent to the Queensway roundabout. It is also dissected by both the entrance and exits from the existing car park as well as the east west footpath, that links Chancellor Road with the north end of Hartington Road. It does include a number of trees including 9 that benefit from recent TPOs. However, it is noted that the Council's Parks Officer and Arboriculturalist has confirmed that the trees to be lost from this area are not rare species and none are category 'A' classification according to relevant British Standards i.e. they are not trees of the highest quality. It is also noted that the area has negligible habitat and biodiversity value (see the findings of the 'Ecology' review, below). The current value of this allocated land to the community is therefore considered to be limited.
- 6.14 The proposals include a comprehensive landscape strategy designed to mitigate this limited loss. The strategy results in the creation of two new areas of public open space (St John's Square and Chancellor Green). Chancellor Green occupies a large proportion of the existing allocated green space, to the north of the leisure building and hotel. The space is in the form of an open green space with a mix of existing and new trees. An undulating grassed landscape is proposed to maintain the local character. Furthermore, with the demolition of Nos. 1-3 Herbert Grove, the width of the existing area of open space in this area is increased, and this extended area continues to the east, with the open space to the north of the leisure building substantially wider than the existing allocation. Planting to the rear of Hartington Road will also be provided, again widening the existing areas of landscaping along this site boundary. It is the case that the main site entrances dissect the green 'corridor', but this is no different from the impact of the existing car park access and exit on the current allocated area.
- 6.15 Across the site, and in addition, the applicant proposes the creation of a new public square adjacent to the St John the Baptist's Church; an extensive tree planting programme involving 93 new specimens; and the creation of a rain garden towards the south of Herbert Grove, to add to the urban greening of the site (whilst performing a SUDs role). It is noted that with regard to all these proposed landscape initiatives, there is a net gain of greenspace of around 2,300sqm.
- 6.16 Whilst the submitted landscaping strategy is detailed, a condition is suggested, requiring full details of both hard and soft landscaping to be submitted and approved by the Authority. In addition the draft s106 agreement requires the applicant to initially provide all landscaping across the site (including the works within the adopted highway). The landscaping shall be maintained by the applicant in perpetuity (on publicly accessible land) or for a five-year period (on highway land land), noting that a five-year period is considered sufficient to enable any landscaping to mature, prior to transfer to local authority maintenance. The exception is in regard to the proposed Rain Garden where the applicants will retain responsibility for upkeep and maintenance, in perpetuity.
- 6.17 Referring back to policy, it is considered that following development, both the quality and quantity of the open spaces across the site will be significantly improved from the existing situation. To a large extent, the existing areas of protected open space will be retained and extended in places, and with the creation of the new public square to the south, the community will secure access to a new external recreational resource. The proposed landscape strategy also delivers enhanced habitat provision. The application proposals, with its alternative green space proposition, clearly demonstrates circumstances where policy accepts the loss of allocated protected green space. As a consequence, and with regard to the loss of protected green space, the proposals are considered to comply with Policy CP4 and CP7.

## Principle of Proposed Uses

- 6.18 The principle of a large-scale leisure-focused development at the application site is strongly supported by prevailing policy at all levels. The site falls within the Central Seafront Policy Area as defined within the SCAAP where the Council has the ambition to “*create a thriving and vibrant tourism, leisure, recreational and cultural destination centred on the iconic Grade II listed Pier, which will be rejuvenated to reinforce its status as a key local landmark and attraction*”. (Central Seafront Policy Area: Aims Paragraph 5.9). Policy CS1: Central Seafront Policy Area Development Principles confirms that the Council will consider favourably proposals which enhance or diversify the range of arts, culture, entertainment, tourism, leisure and recreational facilities, within the area, specifically supporting the provision of hotels and visitor accommodation. It will seek to secure high quality and sustainable redevelopment of poor quality, vacant or underused sites and buildings to improve the local townscape, including provision of active ground floor frontages to add to the vibrancy and vitality of the streetscene. High-quality mixed-use schemes will be developed, including provision of hotel and visitor accommodation to encourage more overnight and longer stays, and heritage and natural assets conserved and enhanced.
- 6.19 With an application proposal that involves the creation of a new leisure facility and hotel, with a range of support facilities that will add to the vibrancy of the site, it is evident that the principle of the proposed development is in accordance with the Council’s ambitions for the Central Seafront Area. It is the case that policy support is subject to an appreciation of particular site and design considerations, with a requirement to ensure developments coming forward are of an appropriate scale, and character, and avoid unacceptable impacts on existing facilities and the environment. Equally, regard must be had to access and parking provision. However, as an overview, it is clear that the mix of uses proposed has the potential to deliver on the Council’s objectives to transform the Area.
- 6.20 This support is carried over in the specific policy for the site. The SCAAP identifies the Seaways Car Park as an Opportunity Site and paragraph 197 states “*Seaways, currently a surface level car park, presents a major opportunity for mixed use development, contributing to the leisure, cultural and tourism offer of Southend Central Area through the provision of uses such as restaurants and cinema, car parking, public open and green spaces, improved access and connectivity through the creation of ‘Spanish Steps’ linking this opportunity site to the promenade of Marine Parade, as well as possibly a hotel or residential.*”
- 6.21 This is then carried over into the site-specific policy (CS1.2) that states “*The Council will pursue with private sector partners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include: restaurants, cinema, gallery, hotel, public and private open spaces, and vehicle and cycle parking. The potential for residential development may also be explored.*”
- 6.22 The policy continues, with a series of objectives for the design and layout, and the following paragraphs of this section provide a review against these requirements, with a summary of the performance of the development proposals against each criterion of the policy, included as a summary in the concluding paragraphs. However, as an overview, with the application proposing a mixed-use leisure development, with a major new leisure destination; an 80-bedroom hotel; and a range of supporting A3 and A5 uses that together have the potential to create a new leisure destination for Southend, it is evident that the principle of the development is acceptable.

## **2) Traffic and Transport**

- 6.23 The site's existing status as a Primary Visitor's Car Park, and the creation of a new focal point for leisure activities on the site ensures the issues of potential traffic impact and the appropriate provision for alternative sustainable modes of transport are to the forefront of relevant planning considerations for this application.
- 6.24 This interpretation is supported by Policy and in particular, Policy DM15 of the Development Management Document. This establishes that development will only be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity on the local highway network to accommodate the type and amount of traffic generated in a safe and sustainable manner. Access to proposed development and any traffic generated must not unreasonably harm the surroundings, including the amenity of neighbouring properties and/or the public rights of way, whilst development proposals must prioritise the needs of pedestrians, including disabled persons and those with impaired mobility, and cyclists.
- 6.25 The policy continues, requiring all major development proposals to include provision for appropriate access to public transport, provide Travel Plans (which incorporate sustainable transport measures) and cater for servicing and emergency vehicles. Proposals should accord with Car Parking standards. The site-specific policy for Seaways (CS1.2 SCAAP) calls for a stronger relationship with the Town Centre through the provision of safe and legible pedestrian and cycle routes. Proposals should allow for opportunities for a new link to Marine Parade from the Seaway site designed around 'Spanish Steps' and in doing so, ensure that the development does not prejudice its future delivery as a new link between the seafront and Town Centre.
- 6.26 It is also noted that the NPPF provides clear guidance in respect of traffic impacts, advising that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
- 6.27 The prominence of traffic and transport issues in respect of this application is reflected in the nature of consultation responses received. Local residents and businesses stressed concerns in respect of the potential for significant congestion around the site, highlighting existing conditions on the Seaway roundabout during peak periods as evidence of an overloaded highway network. Linked to this was the implications arising from the changes to the car parking regime in Southend that would result following implementation of the project, with objectors concerned that displaced visitors to the Seaway car park would need to seek alternative locations to park, adding to local congestion and detracting from the visitor experience.

### **Traffic Impacts**

- 6.28 The applicant submitted a Transport Assessment (TA) in December 2018. As referenced in Section 3.0 of this report, following this submission, the Highway Officers requested further information, and challenged some of the assumptions made with regard to the nature of linked trips. In response, a Transport Assessment Addendum was submitted during September 2019, that re-ran the traffic modelling work with a sensitivity test, reducing the linked trip inputs from 40% down to 20%. The Highway Officers advise that this amended approach is now compliant with Trip Rate Information Computer System (TRICS) guidance. This approach only takes into account the linked trips between the on-site land uses. It is highly likely that there will be some additional linked trips between the seafront, town centre and proposed development which will reduce the number of vehicle trips to and from the site from the assessed, but these have not been included in these TA results. Therefore, the Assessment can be considered to be robust having taken into account a high number of vehicle movements to and from the site. This



updated modal split was used to assess the impact on car parking and also used for the VISSIM transport model.

- 6.29 The TA work includes a transport model, that predicts future traffic levels on the surrounding highway network, with the development operational. VISSIM transport modelling has been carried out using 2019 data for a Friday 16:00-17:00 peak and a Saturday 12:00-13:00. The VISSIM modelling includes increased traffic predicted from committed developments as well as having taken the background traffic peak for the Friday of 16:00-17:00 added to the developments peak of 17:00-18:00, and for the Saturday (with the background traffic peak of 12:00-13:00 added to the development peak of 13:00-14:00). The modelling has been carried out in accordance with WebTAG guidance with the survey data being used from the neutral month of March 2019. Both the 2019 and 2024 years were modelled.
- 6.30 The results of the model show that on an overall junction and network level, the development is predicted to have little impact on the operation of the modelled network. The development exit from Hartington Road does result in a worsening of the operation at the junction with Marine Parade, the modelling shows that a maximum of an 18 second delay for the left turn from Hartington Road is predicted for the Friday PM peak and a maximum of a 5 second delay for the Marine Parade east-bound link with Southchurch Avenue. However, the modelling concludes that there is predicted to be no significant capacity problems as a result of the proposed development for the Friday and Saturday peaks.
- 6.31 Given these conclusions, it is considered that there will be capacity on the local highway network to accommodate the type and amount of traffic generated, in a safe and sustainable manner, hence according with relevant SCAAP policy. Equally, there is no suggestion that the level of traffic generated will be anywhere near the 'severe' threshold identified in the NPPF, that represents a requirement for the refusal of development proposals on traffic grounds.

### **Traffic Safety**

- 6.32 The proposal involve works to the Seaway roundabout which will be made into a four-arm roundabout with the access and main exit to the proposed site from this new arm. The applicant has provided a Stage 1 Road Safety Audit (RSA), which identified that with the addition of the fourth arm, there could be a risk of side impact collisions occurring if two HGVs attempt to enter the roundabout at the same time heading westbound. As a consequence, the westbound approach entry width is proposed to be increased to ensure safety. The applicant recognises that this is a departure from the Design Manual for Roads and Bridges (DMRB) standards and therefore a Departure from Standards Form has been provided which explains the reason for the proposed widening of the westbound approach.
- 6.33 The Stage 1 RSA also identified the need for a consistent sign and road marking strategy and enhanced and improved street lighting. Proposed detailed highway designs including street lighting will need to be reviewed and formally approved by the Council at the detailed design stage with all the works on the public highway carried out under a S278 agreement. The proposed stopping-up of the highway (e.g. the amendments to the existing car park exit on Queensway) should be determined by the Department for Transport only if and after planning consent has been granted. The adoption of public highway will need to be carried out under Section 38. With these controls in place, it is considered that the proposed highway works will not harmfully impact upon highway safety, with the traffic generated from the development successfully able to be accommodated on the highway network.

## **Cycle Parking**

- 6.34 The development is proposing to provide 72 cycle parking spaces. A location plan and drawings of the type of cycle parking proposed have been provided which offer covered and secure cycle parking for visitors to the development at various locations on the development site. There appears to be no secure cycle parking offered to staff, and this should be provided separately to the public cycle parking, although staff should be free to use public cycle parking if they wish to do so. A total of 30 additional staff cycle parking spaces is considered necessary.
- 6.35 The level of cycle parking falls below that required by standard. However, as with car parking standards (see below), with a scheme of this nature that involves a concentration of different units and uses in one location, there is the potential for standards to require a level of provision that exceed likely demand. As above, there is scope for significant linked trips both within the site and with other nearby attractions. Given this, it is considered that strict application of the standards in this instance is not appropriate. Overall, therefore, subject to the use of a condition that requires staff facilities to be provided in addition to that shown, it is considered that nature of cycle parking proposed is acceptable. Such a condition is proposed, as detailed in **Appendix 5**.

## **Electric Vehicles**

- 6.36 As above, Policy DM15 of Southend's Development Management Document states "*The provision of facilities for charging electric vehicles and other ultra-low emission vehicles will be encouraged wherever practical and feasible*". This planning application proposes to re-use the two existing charging points that are located in Seaways car park, however this is the only confirmed provision in the new scheme (i.e. the applicant proposed the provision of two electric charging points within a car park of 555 spaces). With Southend Council's policy and the Government's latest guidance on electric vehicles it is reasonable to request the provision of more electric charging points. As these car parks will be newly built it will be feasible and practical to ensure that each parking space is future proofed so that electric charging points can be installed when demand requires. At least 20% of the car parking spaces should have electric charging points provided and this should be secured by a condition.

## **Coach Facilities**

- 6.37 Policy CS1.2(g) of the SCAAP states that "*Design and layout solutions should allow for: relocation of a coach-drop off point within the site. The relocation of coach parking bays may be provided either on or off-site or a combination of both, provided off-site provision is well connected to the Seaway site and would not significantly adversely impact the local transport network.*"
- 6.38 As per the policy, the application proposes to provide a coach drop-off bay on Lucy Road, hence satisfying this part of the requirement. It is the case that when the Policy was adopted, Seaways Car Park accommodated in the region of 20 coach spaces. The Council removed these spaces, acting as landowner, without the need for planning permission. This change was made within the broader context of the Council's strategy for the Gasworks site.
- 6.39 As referenced above, in anticipation of the likely redevelopment of Southend's Opportunity Sites, such as Seaways, the Council acquired land at the Gasworks on the Eastern Esplanade and created a car and coach park facility. This currently has 22 coach parking spaces, providing a suitable alternative facility to that previously provided at Seaways. Councils a temporary planning permission and the Council is committed to retaining the facility for at least one-year post opening of the Seaway application proposals. Once this period expires, it is possible that the site will be redeveloped, and whilst both the nature and timing of any redevelopment of the

site is unknown at this time, there is the potential for any scheme to provide some permanent coach parking. The Council ownership of this site (rather than private developer) would make this more likely. Under these circumstances the policy requirement to relocate the Seaway coach parking (or maintain the level of provision that existed at the time of the allocation) would likely be satisfied. Full compliance with the policy cannot therefore be assured at this time and so it is considered more appropriate to approach the application on the basis that there may be a degree of non-compliance with the policy.

## **Servicing**

6.40 The servicing drawings (that include vehicle tracking details) show that servicing vehicles can access and egress the proposed service yard on Lucy Road. Herbert Grove has residential buildings located on the western side, so delivery related traffic movements will need to be time restricted. This is proposed by the applicant. In summary:

- All normal hour deliveries to the leisure building to be via the Lucy Road servicing facility. For the standalone unit on Lucy Road, this will be via the service access to this building on its west elevation. The hotel will be serviced via its car park during this time.
- No delivery related traffic to be allowed on Herbert Grove between Monday - Friday: 1900 hours - 0700 hours, Saturday: 1300 hours - 0800 hours and at no time on Sunday, Bank or Public Holidays. During this time, all servicing activity for the hotel and the leisure building will be via the layby on the main site access.

6.41 With the increase in takeaway food delivery companies there is some concern that cycles, motorbikes, cars and vans could park along Herbert Grove for collections and deliveries once the permit holder restrictions have finished. The site management and A5 businesses will need to discourage vehicles from waiting on Herbert Grove. All deliveries for the units on Herbert Grove must be from the servicing area on Lucy Road, which can be addressed through parking management and servicing plans.

6.42 Subject to the imposition of conditions, the application proposals are capable of according with relevant development plan policy (i.e. the requirements of Policy DM15 of the Development Management Document).

## **Travel Plan and Sustainable Transport Options**

6.43 The site benefits from a sustainable location. It is a central location within a short walk of the seafront and the main retail streets in the Town Centre. The nearby travel centre for buses and the proximity of two railway stations add to the accessibility of the site.

6.44 In terms of pedestrian access, along the northern frontage of the site, the existing shared-use path from the northern end of Hartington Road will be retained, providing pedestrian and cycle connectivity into the site from the east. The shared-use path will be continued across the northern frontage of the site, west of the main site access road (via an uncontrolled crossing), providing access across Chancellor Road via the existing uncontrolled crossing to the shared-use path on the western side of the A1160 Queensway and also continuing west to Herbert Grove. Access into the site from the south will be via Hartington Road, Seaway and Lucy Road. Pedestrian access into the site from the west (towards the town centre) will be via Chancellor Road to the north (as above) and the pedestrian footpath at the western end of Lucy Road, providing access to Church Road and the southern end of the High Street.

6.45 The developer will fund new wayfinding signage in the local area to enable pedestrians to easily navigate to the development from the seafront and Town Centre. Funds will be secured via a s106 agreement with the Council carrying out this work. To enhance pedestrian accessibility to

and through the site, a new segregated north-south connection from Chancellor Road to Lucy Road will be provided. This will enhance pedestrian connectivity between the seafront and Town Centre as well as into the development and retained car parking.

- 6.46 Policy for the site calls for the development to allow for a stronger relationship with the Town Centre through the provision of safe and legible pedestrian and cycle routes. The application responds to this requirement as above, providing a new northern connection across the top of the site; creating a new north south link between Queensway and Lucy Road and the implementation of a new wayfinding strategy. It is the case that major off-site physical improvements are not proposed, with reliance on existing provision, now more clearly signposted. However, such an approach to accessibility is considered appropriate, as the resulting scheme will create a development located within a network of footpaths that efficiently link the site with its surroundings.
- 6.47 The creation of a ‘Spanish Steps’ feature, improving access between the Marine Parade and the application site has been a long-standing objective of the Council, and hence its incorporation at the time Policy CS1.2 was framed. However, contrary to a number of objections to the application, the policy does not require its provision as part of the development of this site. Instead, it requires layout solutions at Seaways to allow for opportunities for its provision. It must not prejudice its future delivery. The application proposals achieve this. The south side of Lucy Road (i.e. the location where any ‘Steps’ feature would breakthrough) remains unaffected by the development, and thus would create no impediment to its future provision. With the creation of such a feature requiring the demolition of all or part of one of the existing commercial properties on the north side of Marine Parade, it would not be appropriate to make the provision of the Steps an obligation upon developers of the Seaway site. Policy does not require it and the non-provision of such a feature as part of the application proposals should not carry any weight in the planning decision. In contrast, it is considered that the application accords with Policy CS1.2 in this regard.
- 6.48 To enhance the sustainable transport options available as a result of the site’s central location, a Framework Travel Plan has been provided with the planning application. The Travel Plan includes measures to increase use of sustainable travel modes and monitoring actions to report performance, although the Highway Officer notes that whilst this is welcomed, a more detailed Travel Plan will need to be agreed with the Council, prior to occupation. The Officer advises that in addition to the suggested measures, Travel Packs will need to be provided to the businesses for staff, and at six months of the development opening, travel monitoring surveys shall be carried out by the applicant in order to collect data on the flows and modes used at the site. This shall then be used to provide an up-to-date Travel Plan including updated targets and actions. The Travel Plan monitoring will need to be undertaken 6 months thereafter and then at least once a year during the first 5 years. The Travel Plan including the targets shall be updated yearly with SBC agreement to include the latest travel survey results for all visitors and staff who use the site. Council costs in respect of monitoring the Travel plan will also need to be met.
- 6.49 With the Travel Plan in place, it is considered that the application proposals will ensure the site takes benefit from its sustainable location, encouraging the use of attractive sustainable transport options, satisfying prevailing national and local policy in this regard.

### **Traffic Regulation Order (TRO) Amendments**

- 6.50 In detail, the proposals involve the following required amendment to highway conditions (that will necessitate amended TROs and Council costs in this regard provided by the applicant). The s106 will require the TROs to be implemented prior to occupation of any part of the development.

- 6.51 Existing permit holder restrictions on the eastern side of Herbert Grove and existing double yellow lines on the western side of Herbert Grove will be retained. The emergency access will no longer be required and therefore the yellow hatching at this access will be removed. The TRO for this section will need to be updated and its associated costs provided. There are proposals for the current turning head located on the eastern side of Herbert Grove to be relocated to the western side of Herbert Grove.
- 6.52 The proposal includes a number of changes to Lucy Road as shown in drawing 0213-WSP-00-GF-DR-TP-0002-01 including, widening from 7.3 metres to 8.8 metres, provision of a coach drop-off bay for one average sized coach (average length of a coach is 12 metres) provision of a 39m shared-use pay and display and evening taxi parking bays, service yard entrance and exit, build-out and uncontrolled pedestrian crossing as part of the car park exit arrangement. The addition of the coach drop-off bay and servicing area mean a reduction of the current pay and display on-street parking bays and a reduction of the taxi parking bays, however a 39 metres shared-used pay and display and taxi rank will still be provided on the north side of Lucy Road.
- 6.53 Currently there is a secondary entrance into Seaway car park accessed from Hartington Road, the proposed development would see this changed from an entrance to an exit only. The proposed revised exit arrangement will result in a loss of the on-street pay and display or permit holder parking (approx. 4 spaces) located either side of the entrance to the flats. The existing double yellow lines will also need to be amended.
- 6.54 The proposed s106 agreement requires that all contributions towards the identified highways works must be paid within six months of commencement.

### **3) Parking**

- 6.55 With the proposals involving the redevelopment of both a Primary Visitors Car Park as defined within the Boroughwide Parking and Access Strategy, and a facility that is well connected to both Southend Town Centre and the seafront, the issue of car parking and the potential for a change to car park capacity within Southend post implementation is a key consideration for this planning application. The importance of this issue was reflected in the consultation comments received from local residents and businesses, with car parking concerns the most frequent reference for those objecting to the scheme. The focus of representations was the potential for reduced parking capacity in the area, with the new development attracting more demand, adding to existing parking pressures, especially during peak periods.
- 6.56 Site specific policy for the site (SCAAP Policy CS1.2), whilst recognising the car park as an appropriate location for a high quality, mixed use development also seeks to address the need for replacement car parking provision in line with SCAAP Policy DS5. This Transport, Access and Public Realm policy establishes an objective for the Council to maintain parking capacity within Southend Central Area at a level that supports vitality and viability and does not undermine the Central Area's ability to accommodate visitor trips, whilst enabling the delivery of relevant opportunity sites (such as the Seaway Car Park). Specifically, it *"requires any development proposal that comes forward on key visitor car parking areas in the south of the Southend Central Area... to ensure that there is no loss of key visitor car parking..."* (SCAAP Policy DS5 (b)). Planning applications are required to demonstrate the impact associated with the additional demand generated through redevelopment on key visitor car parks, with reference to parking standards, the potential for linked trips and opportunities for modal shift (i.e. to reduce the need for additional spaces), the availability of other parking, and any need for additional provision.
- 6.57 Compliance with policy, therefore, is dependent upon the application demonstrating no loss of key visitor car parking. It is not a policy requirement that provision of car parking needs to be

on-site, but rather following implementation of the proposals, there is no loss of provision. There is also a requirement for the Council to be convinced that the proposals will maintain parking capacity at a level that protects the vitality and viability of the Central Area. Increased demand associated with the proposed new uses is therefore relevant. Objections received on the application incorrectly call for a level of car parking at the site that both maintains existing levels and provides sufficient spaces for all associated new demand. This is not the case. Policy requires development proposals at allocated opportunity sites to consider “the impact of the additional parking demand generated by the proposed development on the identified key visitor car parks” (i.e. to assess the wider implications on Southend’s car parking stock from this additional demand). So long as the proposals do not result in a loss of key visitor parking, and the impact of additional demand on other car parks is acceptable, policy requirements are satisfied

6.58 The car park at the application site has recently been remodelled, with the coach parking relocated and the space converted to additional car parking. As a consequence, the capacity of the site has, more recently increased from 478 (as referenced in Table 5 of the SCAAP) to 661 car parking spaces. The proposals are for 555 spaces, that will be publicly available on a first come first served basis. Reference is made to closing certain car park areas during periods of low demand, but there is an expectation (that can be reinforced through planning conditions) that all spaces will be available during peak periods. Any comparison between existing and proposed provision should, therefore, have regard to the new capacity figure of 555 spaces. Hence, following development, there will be a decrease in spaces from the recently reconfigured car park of 106 spaces. However, importantly in terms of Local Plan policy, there will be a net increase of car parking capacity of 77 spaces at the Seaway site from that at the time of the adoption of the Plan. Given this, the application proposals accord with the policy requirement to avoid a loss of key visitor spaces.

6.59 As above, the policy requirement to understand the full implications arising from the additional demand on the other car parks (and associated with this, the vitality and viability of Southend) remains. The starting point in appreciating the nature of any impact arising from increased car parking demand within Southend (as referenced in Policy DS5) is the application of adopted car parking standards to the development. In this case, the relevant standards are set out in Development Management Document (2015). This establishes the following requirements, noting that the standards are expressed as a maximum.

Use	Vehicle	Maximum Requirement
A3	1 space per 6 sqm	Between 0-753
A5	1 space per 25 sqm	Between 0-166
C1 Hotel	1 space per bedroom	80
D2 Cinema	1 space per 5 seats	250
D2 Other Uses	1 space per 20 sqm	273

6.60 Relevance of these car parking standards is lessened by an appreciation of the proposed development, and in particular, the make-up of likely visitors. Unlike standalone developments, the proposals have the potential for a range of type of visitors. Whilst some visitors will simply attend the Cinema or a restaurant, others will visit multiple units on the site during one visit. It would be a common occurrence for visitors to the cinema to also include a trip to a restaurant in their stay. Furthermore, due to the proximity of the development to the seafront and town centre, there will be a high propensity for linked trips to occur, with individuals or groups linking town centre shopping with a trip to the cinema, or seafront visitors extending their trip with a visit to a restaurant. Given this, the direct application of these car parking standards tends towards a significant over estimate of likely demand. In any event, they are maximum standards, allowing for a reduced provision in appropriate circumstances (i.e. in urban areas

including Town Centre locations where there is good access to alternative forms of transport and existing car parking facilities.).

- 6.61 The limited applicability of parking standards to developments of this nature is reflected in the Essex Planning Officer Association Parking Standards document, that provides the background study that supports the Development Management Document. This makes it clear that grouping parking standards into use classes will inevitably result in some developments not falling into any categories, advising that in such circumstances, each case should be considered on its merits. Here, the developer is advised to demonstrate that the level of provision is appropriate and will not lead to problems of on-street parking on the adjacent highway network. This will normally be demonstrated through a Transport Assessment (paragraph 2.1.1). Whilst in this example the land use classes are clear, the relationship between the different uses dictates that strict application of car parking standards does not provide a sensible appreciation of likely car parking demand.
- 6.62 The applicants have submitted a TA in support of the application proposals (updated in a TA Addendum, September 2019) that includes an assessment of the likely car parking demand arising from the proposed development and the implications for existing car parking facilities within Southend. The Addendum responded to feedback on the TA from the Council's Highway Officers, and in particular, initial concerns regarding the adopted daily mode share and level of linked trips used in the TA to predict the additional multi-modal trip generation, to and from the proposed development. The Addendum, therefore, includes alternative daily mode share and linked trip assumptions that were agreed with Officers, with this data now informing a revised car parking impact assessment. Officers are confident that the linked trip deductions now applied in this revised study provide a robust assessment of potential development-related traffic demand and impacts arising.
- The car parking impact assessment undertaken by the applicants demonstrates that the proposed 555 car parking spaces are sufficient to ensure that for the majority of the year, the Seaway car park will accommodate existing and development generated car parking demand. However, there will be days when demand exceeds capacity. In summary:
  - For the majority of the year the Seaway car park can accommodate the existing and development-generated car parking demand on-site with no overspill parking to surrounding car parks;
  - The analysis presented demonstrates that on typical weekday, typical Saturday, Bank Holiday, Friday and summer peak period weekdays, the Seaway car park will accommodate the existing and development generated car parking demand;
  - On a busy Saturday and seasonal peak periods (bank holiday weekends and summer weekend periods) not all the predicted development generated car parking demand can be accommodated on-site. The excess car parking demand that cannot be accommodated comprises both developments generated demand and existing users of the Seaway car park including seafront visitors and town centre users. During these times (11.00 to 19.00) car parking demand is likely to rely upon accommodation within other car parks within Southend.
- 6.63 The applicant's appraisal then provides an account of how the projected overspill car parking can be accommodated within other Southend car parks. This assessment concludes that on a busy Saturday and peak summer Saturdays all the excess demand could not be accommodated in surveyed Key Visitor South car parks. However, additional capacity in non-surveyed car parks (taken from 2015 and 2016 surveys) suggested that a proportion of the excess demand could be accommodated here. Failing that, all overspill could comfortably be accommodated within available spaces in the Central Area North. Overall, the applicants conclude that there is

sufficient car parking availability elsewhere in the Central Area South and North to accommodate the excess Seaway parking demand during peak seasonal periods.

- 6.64 It is important to note that for the majority of typical weekdays and weekends, the detailed car parking demand assessment shows that the proposed level of on-site car parking will be able to accommodate demands. Overspill is only likely to occur during particularly busy days with sufficient capacity for the rest of the year, and only then, during peak periods of the day i.e. during the afternoon period from around lunchtime to early evening. Furthermore, as demonstrated in the applicant's submission, there is likely to be sufficient capacity in other Southend car parks to accommodate demand.
- 6.65 Highway Officers having considered this assessment are satisfied that the conclusions are robust. It is noted that the Assessment is based upon an incorrect assumption regarding the existing capacity of the Seaway car park (i.e. 528 rather than 661), but such is the nature of existing capacity elsewhere (that exceeds this shortfall) and the limited occasions when this will be needed, this is not considered to undermine the results of the Assessment.
- 6.66 The applicant is proposing mitigation measures to assist with the efficient use of car parking supply in the Central Area. Improved VMS signage on radial routes into Southend to be secured via the proposed draft s106 agreement will inform seafront, development and town centre users in advance of the level of car parking availability within the Seaway car park. During peak seasonal demand periods when the Seaway car park is fully occupied, the signs will state where alternative car parking capacity exists. This measure will be combined with improved wayfinding signage into the town to direct people to the Seaway development from off-site car parking locations. The developer will provide a financial contribution through the proposed s106 agreement to fund these improvements to the VMS and wayfinding signage and the Council's officers have confirmed that this will be an important measure, particularly during seasonal peaks.
- 6.67 Prevailing policy requires development proposals on opportunity sites to provide a level of car parking that supports vitality and viability of the Town Centre and does not undermine the Central Area's ability to accommodate visitor trips. Given the increased capacity of the site to accommodate car parking demand; the level of the demand associated with the proposed uses; the limited requirement for car parking demand to be accommodated off-site; and, the extent of capacity in other Town Centre car parks, it is considered that the level of car parking provision at the site is appropriate. With the mitigation proposed, the operation of car parks during the periods of maximum demand can be better managed, increasing efficiency and positively contributing towards visitor experience. Overall, therefore, the proposals will maintain a level of parking that supports the prevailing vitality and viability of the Town Centre and does not undermine Southend's ability to accommodate visitor trips.
- 6.68 During the construction phase of the development, it is anticipated that the car park at Seaway will be shut. The applicants have suggested that there may be scope for the surface level car park to be constructed as an initial phase of the development, and this would be welcomed. A condition is included that requires the provision of such capacity if circumstances allow. However, with no guarantee that the early development of car parking capacity at the site can be guaranteed provided during the construction period of 12-18 months, for the purposes of this report and consideration of this application, it is assumed that the capacity of the Seaway car park will be lost.
- 6.69 Members will be aware that following a decision by Cabinet on 20 June 2017, the Council acquired the freehold of the former Esplanade House Site (i.e. part of the former Gas Works). The Council purchased the land as a long-term development opportunity, and to provide



strategic car parking capacity to address parking displacement while other major development proposals are progressed.

- 6.70 Temporary planning permission was granted for the use of this site for a car park from June 2018, for a period of 5 years (ref. 18/00634/BC3M). This facility has the capacity to accommodate 283 car parking spaces and 27 coach bays, and work to date has provided 156 car park spaces, 11 disabled parking spaces and 22 coach bays. A letter from the Head of Corporate Property and Asset Management (see Appendix 6) confirms that the Council is committed to retain the site in use for this facility until the Seaway development has been completed and is open and operational for no less than one summer season.
- 6.71 The loss of Seaway car parking capacity during construction (661 spaces) cannot be completely mitigated by the provision of the Gas Work facility, either partially built out (169) or fully developed (283). However, with reference to the surveys of current car park use at Seaway, it is evident that in most circumstances, there will be sufficient spaces at the Gas Works site to cater for displaced car parking from the Seaway site. Only during key peak periods will this facility have insufficient capacity to cater for all demand. The availability of parking in other locations in Southend Town Centre during these times (again as evidenced in the submitted studies) gives confidence that whilst this facility can only meet a proportion of demand, full visitor demands can be met across Southend. The Highway Officer identifies a requirement for a Displaced Parking Management Strategy (along with a detailed Construction Management Plan) to be agreed with the Council (via an appropriately worded condition).
- 6.72 The temporary nature of the construction period reinforces the view that the reduction in the capacity of the Seaway car park during the construction period will not harm prevailing vitality and viability.

### **Disabled Parking**

- 6.73 Provision is made for 28 disabled car parking spaces, that exceeds the minimum standard provision (27 spaces). Selected locations for these spaces have been confirmed. This appears to exclude any provision to the rear of the Hotel. This will need to be amended and further detail can be secured by way of an appropriately worded condition, to secure provision at key access points in the development.

## **4) Residential Amenity**

- 6.74 Policy DM1 of the Development Management Document (2015) requires that schemes “*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*”. The applicant has submitted a range of assessments addressing these issues. The applicant's interpretation of the potential impacts, and proposed mitigation is as follows:

### **a) Privacy and Overlooking**

- 6.75 There is potential for loss of privacy and overlooking for properties along Chancellor Road, Hartington Road and Herbert Grove, but landscape screening within the application may address these issues, along with the use of obscured glazing for hotel windows overlooking properties.

### **b) Outlook**

- 6.76 A Visual Amenity Assessment has been conducted by the applicant that concludes that residential properties on Herbert Grove, Chancellor Road, Hartington Road, Seaway and Queensway are expected to experience a significant change in their outlook. This primarily

arises due to the inevitable change in circumstance from a surface car park to a developed site accommodating a form of development that reflects its allocation in the SCAAP (i.e. a large building, with a cinema and other leisure uses).

### **c) Noise and Disturbance**

- 6.77 A Noise Assessment was submitted with the application in December 2018 and updated through the submission of an Addendum in September 2019. This work concludes that there is potential for noise impact in the absence of mitigation. The applicant identifies the following measures to mitigate impact, including the control of working hours during construction and delivery and opening hours during operation; use of continuous flight auger piling during the construction of the development; the use of plant and machinery screening; and careful consideration to the use of external areas during the evening and night through management. All the measures are to be secured by condition.

### **d) Pollution**

- 6.78 An Air Quality Assessment was submitted with the planning application in December 2018 and a technical note provided in September 2019. The applicants conclude that the main impacts are anticipated to occur during the construction period in relation to dust that can be controlled by on site management activities, with the details secured by a condition. During the operational period, the applicant proposes measures established in an Extract Ventilation Strategy to prevent nuisance from plant and extraction associated with the leisure uses.

### **e) Daylight and Sunlight**

- 6.79 A Daylight, Sunlight and Overshadowing Assessment has been conducted by the applicant which concludes that, for the majority of surrounding properties, that standards of daylight and sunlight will be achieved in accordance with guidance established by the Building Research Establishment (BRE).
- 6.80 For some properties in the south of Herbert Grove, there will be a noticeable reduction in daylight and sunlight in comparison with the existing conditions where lighting is not obstructed in any way across the open car park. The applicants conclude that, within the central urban area of Southend, an area that is characterised by high density development and tall buildings, the moderate impact predicted is not judged to be unreasonable and will not be so great as to be detrimental to health.

### **f) Residential Visual Amenity**

- 6.81 The applicant has prepared a Residential Visual Amenity assessment in September 2019. Some of these issues are also considered under 'Townscape and Visual Impact' below. However, this acknowledges that neighbours to the site are likely to have a substantial impact on current visual amenity due to the new buildings replacing current views. The landscaping proposals and choice of materials incorporated into the development can be considered to address the issues to some degree, but the subjective nature of how a viewer observes the development will also be of relevance.

### **Review of Key Issues**

- 6.82 *Privacy and overlooking:* To appreciate the nature of potential impacts on privacy it's important to understand the separation distances between various proposed buildings and existing properties on nearby roads. In some circumstances, these distances are substantial. As a minimum, it is noted that the separation distance between the leisure building and the

properties on Herbert Grove is some 27 metres; between Chancellor Road and the leisure building is 60 metres; and between the hotel (i.e. the nearest building) and properties on Hartington Road is approximately 30 metres. Distances between the Hartington Road properties and the leisure building range from 68 metres to 90 metres (although the boundaries of the rear gardens of these properties are as close as 35 metres).

6.83 In addition to the above separations, a consideration of the potential impacts on Herbert Grove have regard to:

- The existing public highway and proposed pedestrian and cycleway that separates the facades;
- The proposed landscaping along the east of this road, to add to the existing trees etc, that help screen views between the two;
- The elevated nature of the ground floor of the residential properties along this road;
- The lack of elevated windows on the leisure building, above ground floor;

6.84 It is the case that Herbert Grove will see an increased pedestrian footfall as a result of the development, bringing more activity to the road than existing. Whilst this has the potential to impact on prevailing privacy, the detailed design of this road environment helps mitigate impacts, with the new footpaths created alongside the leisure building most likely to attract the majority of new activity. Overall, given a combination of the above factors, it is not anticipated that the proposals will give rise to an unacceptable material loss of privacy on Herbert Grove.

6.85 With regard to Chancellor Road, it is noted that:

- There is a large area of landscaping greenspace proposed between the properties on this road and the site;
- A number of existing trees are to be retained in this area;
- There are no elevated windows on the leisure building, above the ground floor entrance to the Cinema and the A3/A5 units on the corner of the building.

6.86 Again, an increase in pedestrian footfall is predicted along Chancellor Road whilst the bus stop adjacent to the site on this road is expected to be busier. On this second point, the applicants suggest that in the region of 60 additional users will visit the bus stop per hour during peaks, but during this period, there are approximately 10-13 buses per hour. Hence whilst there will be more individuals waiting at the bus stop, the actual impacts arising from this will be limited given the typical short period between services (on average 5-6 minutes between buses). As such, with due regard to the application's design characteristics referenced above as well as the separation distances between buildings, it is not anticipated that the proposals will give rise to a significant loss of privacy on Chancellor Road.

6.87 Considerations in respect of Hartington Road properties relate to:

- The proposed location of the hotel, that 'blocks' any scope for overlooking etc from the leisure unit to the north. To the south, the leisure building accommodates the multi-level car park on this elevation, that has perforated cladding installed, restricting views across towards the residential properties;
- The existing landscaping along the eastern site boundary to the rear of the properties will be both retained and reinforced through new planting;
- The hotel will adopt obscured glazing along its eastern elevation, with limited window openings (required in any event for health and safety), limiting the potential for overlooking.

- No material increase in pedestrian footfall is anticipated along the road.

- 6.88 Given these characteristics and with the imposition of a condition that requires obscure glazing in the eastern elevation of the hotel, it is considered that the privacy of those residents in Hartington Road will be protected. As such, the requirements of Policy DM1, of the Development Management Document, that seeks to protect the amenity of the site, neighbours and surroundings with due regard to privacy and overlooking are satisfied.
- 6.89 *Outlook and Visual Enclosure:* The outlook for residents in properties in the surrounding streets will undoubtedly change. Whereas current views are dominated by a car park, with a corresponding array of parked vehicles, following implementation of the scheme, the outlook will be much changed. Views inwards towards the site will be dominated by a large leisure building and/or hotel, that is of a striking design embracing the principles of contemporary architecture. The open nature of the site will disappear, replaced with buildings of bulk and scale.
- 6.90 However, whilst this change will be substantial, it is not the case that it necessarily results in a negative impact on prevailing amenity. The quality of the design proposed will ensure that the buildings will create a development that sits well with its surroundings, positively referencing local colours and materials. The approach taken to the proposed development and the detailed design of each of the buildings allows the Council's Design Officer to conclude that the development integrates successfully with its setting. It is certainly not the case that the scheme will result in any sense of significant visual enclosure, given the separation distances referenced above, and the site layout proposed (with its associated landscaping and surface car parking).
- 6.91 Reference in this regard can be made back to the National Design Guide (2019) and its appreciation of the characteristics of developments that evidence good design (see Section 4.27). The proposal sits well within its context, establishing an appropriate north-south axis, framing protected views from the north down towards the Estuary. It adopts a distinctive design, contemporary in nature, to create a new architectural feature for Southend. The proposed pedestrian and cycle links that cross the site, linking to existing paths and routes beyond the site boundary, will create a permeable development. This will be supplemented by a proposed wayfinding strategy and detailed landscaping that enhances movement to, from and through the site. The net increase of green spaces across the site and the extensive tree planting, delivered as part of a landscaping strategy, will ensure the natural environment is protected, whilst the use of active frontages and a new public square provides safe, social and inclusive public spaces to the betterment of the local community. The proposal provides an appropriate mix of uses in the three main buildings on site, seeking to establish a new leisure destination for the Town. The proposals embrace sustainability, not least through the use of a previously developed site, but also through a range of sustainable and renewable energy design criteria. Exhibiting such characteristics points to a development that is well designed, and which will help add to a sense of community.
- 6.92 As such, with the proposals adopting good design characteristics, it is considered that whilst the outlook of the site will clearly change as a result of this development proposal, the change will not materially harm residential amenity. As such, the policy requirements of Policy DM1, of Development Management Document, that seeks to protect amenity with due regard to outlook, are satisfied.
- 6.93 *Noise and disturbance:* The issue of noise from the proposed development is a repeated concern raised by local residents, referring to potential for increased noise nuisance from a variety of sources, including construction; building services (plant etc); amplified sound from the new leisure and restaurant premises; noise from external seating areas; and from servicing activities.

- 6.94 The Council's Environmental Health Officers have also had regard to the relationship between the various buildings with active frontages and existing residential properties, particularly those along Herbert Grove. Officers have considered the scope for the 'canyoning' of noise, where noise levels increase beyond that predicted given the presence of large building frontages, that reflect noise towards the houses. Consideration has also been given to the likelihood of an increase of footfall along Herbert Grove and Chancellor Road, as visitors to the new buildings will be siphoned along this route, that will also now provide a more attractive option to access the Town Centre for those existing visitors to entertainment premises along Lucy Road.
- 6.95 With regard to this operational noise, (i.e. noise resulting from the operation of the development following completion), Officers had due regard to the applicant's proposed mitigation, that included the use of plant wells to screen equipment; the use of acoustic screening around the hotel roof plant; restricted hours of use in respect of the outdoor seating; and an agreement to avoid amplified noise in the seating area along Herbert Grove.
- 6.96 Environment Health Officers concluded that using a combination of planning conditions and other primary legislation, noise during operation could be limited to an acceptable level. Alternative noise conditions are recommended to that proposed by the applicant, to ensure conditions are enforceable and easier to address – conditions require that all the noise sources from each of the A3/A5/D2 units will not exceed 10 dB(A) below the background noise level over a 15-minute period. This will include building services and extract ventilation. This will result in a cumulative condition of 5 dB(A) below background noise level at the nearest noise sensitive premises (i.e. the combined noise from all the units) that is considered an acceptable level of noise generation.
- 6.97 In order to establish background noise levels to inform this condition, a representative survey will need to be undertaken prior to commencement of development in accordance with British Standards. Such an approach will ensure any concerns regarding changes since the original surveys were undertaken by the applicant can be addressed. In addition, conditions are proposed that curtail potentially noisy activities at the site, including hours of operation of the external seating areas across the site, and hours restriction on opening times (also see delivery restrictions proposed below). In order to maximise noise reductions from on-site management (i.e. through good housekeeping - door staff, signage, management control), a further condition is proposed that requires a noise management strategy to be submitted prior to the commencement of the development. With such conditions in place, residential amenity during operations will be satisfactorily protected (noting this creates a higher level of protection than achievable by statutory nuisance controls).
- 6.98 Noise from vehicles at the site (both cars and servicing) will increase as a result of the development. Officers reference the noise from slamming car doors and voices late in the evening (although it is noted that the multi-level car park facility will internalise this noise to some extent, and the site is currently an existing 24-hour car park facility). In response, Officers highlighted the need for robust acoustic screening on the eastern boundary of the site, as well as a screen around the hotel site. Such conditions are proposed.
- 6.99 In terms of deliveries, Officers highlight the relatively limited number of delivery movements anticipated at the site, stating that noise from such activity is unlikely to create significant noise problems. However, to protect prevailing amenity, hours restrictions on the use of Herbert Grove by delivery vehicles are proposed. All out of hour servicing must be via the servicing layby located on the main site access, i.e. away from noise sensitive premises.
- 6.100 It is also noted that an electricity substation is proposed on the eastern boundary, and in response, a condition is proposed that requires appropriate acoustic insulation of this facility.

- 6.101 In terms of construction impacts, it should be expected that the applicant or main contractor for construction and demolitions applies for a Prior Consent under section 61 of the Control of Pollution Act 1974. This is also recommended in the applicant's report. This will be particularly important in Herbert Grove due to having the closest proximity to the demolition proposals. A Prior Consent ensures that methods all phases of demolition and construction can be undertaken without fear of prosecution under the Control of Pollution Act 1974. The consent is conditional in that the applicant must demonstrate that they shall use the best practicable means at all times with regards to the plant and equipment that they use and the operational times. It also relies heavily on consultation with neighbours that are likely to be affected and a continual relationship including a point of contact throughout.
- 6.102 Additionally, a condition is recommended, requiring the applicant to submit for approval a detailed Construction Management Plan, again designed to respect prevailing residential amenity.
- 6.103 Potential noise impacts arising from the development are therefore considered to be acceptable, with residential amenity protected through a combination of proposed conditions and secured applicant mitigation. Policy DM1 of the Development Management Document that identifies a requirement to protect amenity, with regard to noise impacts is therefore capable of being satisfied. Equally, the NPPF requirement to mitigate and reduce to a minimum potential adverse impact from noise, and to avoid noise giving rise to significant adverse impacts are capable of being satisfied (paragraph 180).
- 6.104 *Pollution:* As above, the Air Quality Assessment by WSP dated 2 December 2018 and the Air Quality Technical Memorandum dated 11 July 2019, has concluded that there will not be harmful adverse impacts on air quality during the operational phase of the development. The Environmental Health Officer agrees with this conclusion. Officers also conclude that any temporary impacts during the construction phase can be addressed by a requirement for a Construction Method Statement, to include a dust management plan with mitigation measures and boundary particulate monitoring during demolition and construction.
- 6.105 Traffic will increase through the Air Quality Management Area at Bell Junction (approximately 2.5 kilometres from the site), but this will only have a negligible impact on prevailing air quality conditions. Whilst this is harmful, it is noted that the AQMA is the subject of an Air Quality Action Plan, that confirms that the Council is considering highway improvement schemes to assist in reducing air quality impacts at Bell Junction. The construction of improvements is scheduled for July 2020 (LAQM Annual Status Report, 2019).
- 6.106 Paragraph 181 of the NPPF requires development decisions to contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of AQMA, although noting this should direct plan preparation, rather than the consideration of planning applications. The air quality impacts predicted will not have material impact on national objectives, and only a negligible impact on the AQMA. The impacts will not prejudice the Council's AQMA Action Plan that, through the planned highway improvements, scheduled for next year will address existing air quality conditions. This has enabled Council Officers to conclude that the proposed development will not have unacceptable air quality impacts.
- 6.107 In respect of ground conditions, the Officers accept the findings of the Phase 1 Geotechnical and Geo-environmental assessment submitted by the applicants. Standard planning conditions are recommended requiring the submission of a follow up investigation, the agreement and implementation of a remediation scheme and a verification report. Requirements of Policy DM14 of the Development Management Document, that requires the submission of an appropriate Contaminated Land Assessment and the subsequent confirmation that no risks to human health, the environment and water exist, are therefore satisfied.

- 6.108 In respect of odour emissions, the Officers reference The Extract Ventilation Strategy report submitted with the application (along with its Addendum) and conclude that the control of odour from the site can be addressed by the use of an appropriately worded condition. Such a condition is proposed.
- 6.109 The prospect of lighting pollution (with reference to the submitted Lighting Strategy) has been considered with feedback from the relevant officers confirming that any risk of harm from artificial illumination which includes advertising, security lighting and delivery access areas can be addressed by the production of a suitable scheme which is undertaken in general accordance with the submitted Lighting Strategy and the guidance issued by the Institute of Lighting Engineers. Such a scheme is secured by a planning condition. The NPPF requirement to limit the impact of light pollution can therefore be achieved (paragraph 180).

### **Daylight Sunlight**

- 6.110 The implications for the Daylight Sunlight environment following the implementation of the project must be set within the context of an understanding of the site's existing character. It is an open site and residents in surrounding properties benefit from open and unobstructed views. The site's allocation for major new development dictates that this context will change, but it remains appropriate to understand the nature of this change, and the potential for harmful effects that result. In this regard, relevant considerations include both daylight and sunlight availability, and impacts of overshadowing on open amenity areas and (including existing gardens). These matters are considered below.
- 6.111 *Daylight:* As referenced in Section 3.0 of this Report, the Council Officer responded to the submitted applicant's assessment of potential daylight sunlight impacts, concluding that the methodology adopted was compliant with relevant guidance (in this instance, BRE Guide: Site layout Planning for Daylight and Sunlight, A Guide to Good Practice, 2011), and that the nature of the identified impacts was correct.
- 6.112 Reviewing this work, following an initial test of obstruction of daylighting where the majority of properties around the site demonstrated compliance with Guidance, further tests were applied in respect of both the Vertical Sky Component (VSC) (i.e. the amount of sky visible from a centre point within a window) and a No Sky line assessment (i.e. consideration of the amount of direct sunlight a room receives before and after development). In respect of the VSC assessment, 91% (562) of windows assessed comply with standard; whilst 9% (56) fall outside of standard. Of these 'failing' windows, 5.5% (33) are predicted to have a low impact, 3% (20) are predicted to experience a medium impact and 0.5% (3 windows) are predicted to have a high impact.
- 6.113 All of these windows are in the southern half of Herbert Grove. Further consideration of the 3 'high impact windows' confirms that they are located in recessed positions, at first floor on the Herbert Grove terrace. Here, an existing overhang already impacts daylight conditions. When tested without the overhang, the same windows pass the VSC test, with negligible impact between the baseline condition and the environment post development.
- 6.114 As above, the applicant also undertook a No Sky Line assessment for properties on Herbert Grove and Chancellor Road. This second level assessment concluded that of the 42 windows tested on Herbert Grove, 50% indicate an impact, with 21% indicating a low magnitude of change and 29% indicating a medium magnitude of change. No rooms have a high impact.
- 6.115 Combining the results of the VSC and No-Sky assessment, as recommended in the BRE Guide, results in 23 rooms in Herbert Grove experiencing a reduction in daylight conditions outside of the overall BRE criteria with level of impacts ranging from low to medium. Affected properties are Nos. 9-27 Herbert Grove. This level of impact, however, whilst creating a below BRE

guidance reduction in conditions, is not considered to be unacceptable given the nature of existing site conditions, the policy allocation of the site to accommodate a landmark building and its location in the Central Area of Southend. It is also relevant to note that Nos. 11-15 Herbert Grove is currently a guesthouse, with BRE guidance only applying to residential properties.

- 6.116 Sunlight: The majority of the properties (99.2%) around the site assessed (i.e. those within Hartington Road, Forest Avenue, St Leonards's Road, Stanley Road, Chancellor Road, Herbert Grove and Seaway) satisfy sunlight criteria. Those that do not meet the criteria are located on the southern part of Herbert Grove (Nos 1-29). In these properties, only 5 windows fall below the BRE standard and the impact on these windows is either low or medium, with no windows reported to have a high impact.
- 6.117 *Overshadowing*: all open amenity areas within the proposed development and the rear gardens of properties along Hartington Road will receive at least 2 hours of sunlight on 21st March (i.e. the worst case) and as such, will meet the requirements of BRE guidance.
- 6.118 Overall, it is important to note that for the vast majority of surrounding properties, the issue of daylight sunlight does not raise planning concerns given the limited nature of the impacts predicted. It is only with regard to Herbert Grove and in particular those properties to the south of this road that are located close to the new leisure building where impacts raise concerns in respect of compliance with guidelines. Here, the nature of predicted impacts ranges from low to medium. It is also important to note as referenced in the Council Officer's response to the application that these guidelines are just that i.e. they should not be seen as absolute targets or instruments of planning policy. Within this context, and with regard to the existing open nature of the site, the officer is able to conclude that the nature of the daylight sunlight impacts predicted are acceptable, and as such residential amenity will not be unduly harmed. As such, the requirements of Policy DM1 that seeks to protect the amenity with due regard to daylight/sunlight impacts are satisfied.
- 6.119 Policy DM1 of the Development Management Document requires the protection of the amenity of the site, its immediate neighbours and the surrounding area. With reference to the above assessment, it is considered that the development will not significantly harm existing levels of privacy; will change the outlook of the site, but not to the detriment of local residents; will not result in unacceptable impacts on the prevailing noise environment; and will not cause more than a negligible level of harm on air quality conditions, including conditions within the AQMA at Bell Junction. With regard to daylight sunlight impacts, referencing the nature of existing site conditions and the findings of the detailed assessment, the predicted impacts on properties on Herbert Grove are not considered to be unacceptable. Overall, through the imposition of conditions, residential amenity will be suitably protected.

## **5) Townscape and Visual Impact**

- 6.120 Policy KP2 of the Core Strategy (2007) states that development should (among other matters) "9. *Secure improvements to the urban environment through quality design [and] 10. Respect the character and scale of the existing neighbourhood where appropriate*".
- 6.121 Policy DM1 of the Development Management Document (2015) requires that schemes should "(i) *add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features...*".



- 6.122 Policy DM4 relates to tall and large buildings and states that they will be acceptable where “(i) they are located in areas whose character, function and appearance would not be harmed by the scale, mass or bulk of a tall or large building; and (ii) they integrate with the form, proportion, composition, and character of surrounding buildings, urban grain and public realm (including landscape features), particularly at street level and (iii) individually or as a group, form a distinctive landmark that emphasises a point of visual significance and enhances the skyline and image of Southend...”
- 6.123 The Area Action Plan identifies at Policy DS2 that “New development within Southend Central Area will be expected to demonstrate that it is compatible with/or enhances key views of:- The Seafront (and specifically views to and from the seafront); Southend Pier; The Kursaal (and specifically views from Lucy Road to the Kursaal); Royal Terrace and Clifftown Parade; All Saints Church (off Southchurch Road and outside of the AAP boundary); Porters (a predominantly Victorian residential area outside of the AAP boundary) and St Mary’s Church (at Prittlewell and outside of the AAP boundary)”
- 6.124 A number of representations have been received objecting to the overall scale of the development and its impact on local views and the local townscape. It is acknowledged that the successful regeneration of the existing Seaways Car Parking site, consistent with the site's allocation will inevitably lead to the introduction of a building(s) of some scale, that will always result in a considerable change to views, for those who live, work and visit the area. To quantify the nature of this inevitable change, the applicant conducted a Landscape and Visual Appraisal which was submitted with the planning application in December 2018 and was updated and upgraded to a Landscape and Visual Impact Assessment (LVIA) in September 2019 which included a Residential Visual Amenity Assessment (RVAA). The commentary below relates to the updated assessment. A site visit was conducted by Officers and the applicant’s assessor in July 2019 and additional information provided as a result. The applicant states that the assessment has been conducted in accordance with guidance including that published by the Landscape Institute.
- 6.125 For clarity, the submitted LVIA provides definitions of visual effects as follows:
- 1 *Substantial Adverse*: where the proposed changes will form the dominant feature, will be completely uncharacteristic and substantially change the scene in valued views.
  - 2 *Moderate Adverse*: where the proposed changes will form a notable part of the view, will be uncharacteristic, and will alter valued views.
  - 3 *Slight Adverse*: where the proposed changes to views will be perceptible and potentially uncharacteristic in the existing view.
  - 4 *Neutral*: where the project will be imperceptible or will be in keeping with and will maintain the existing views or where on balance the development will maintain the value of the views (which may include adverse effects of the development offset by beneficial effects for the same receptor).
  - 5 *Slight Beneficial*: where the proposed changes to the existing view will be in keeping with and will improve the value of the existing view.
  - 6 *Moderate beneficial*: where the proposed changes to the existing view will not only be in-keeping with, but will greatly improve the value of the scene through the removal of visually detracting features.
  - 7 *Substantial Beneficial*: where the proposed changes to existing views will substantially improve the character and value through the removal of large-scale damage and dereliction and provision of far reaching enhancements.

- 6.126 In terms of the duration of effect, the LVIA submitted defines the duration of effect as follows:
- 1 *“Short term: 0-2 years (an indicative construction contract)*
  - 2 *Medium term: 2-15 years (an indicative timescale for mitigation planting to achieve a notable screening benefit)*
  - 3 *Long term: effects lasting longer than 15 years.”*
- 6.127 The assessment states that the development will be seen mainly within a zone of influence extending up to 1-2km from the site. It is acknowledged that there may be potential for long range views from the south (even from the Isle of Grain or Sheerness in certain weather conditions) but the assessment considers that these are unlikely to be discernible to the naked eye.
- 6.128 Analysis has been carried out of 11 representative viewpoints of the development. These views are from public access positions around the site, selected to best represent the potential visual effects on the local setting (for example, views from the corner of Chancellor Road and Herbert Grove; looking east from Lucy Road, approach from the Queensway). In addition, analysis has been carried out of 12 of the key views within Southend to assess the impact of the development on those views. Policy DS2 identifies key views which comprise views of the seafront; Southend Pier; The Kursaal; Royal Terrace and Clifftown Parade; All Saints Church; Porters; and St Mary's Church. The Policy requires development to be compatible with and/or enhance views of these features. The applicant selected 12 views to demonstrate the intervisibility between these locations and the proposed development (noting that Policy DS5 does not identify an exact view considered to be important) and that some of the key views 'overlap' with representative views and were assessed as such.
- 6.129 Turning first to the **11 representative viewpoints** of the development, the most significant impacts are identified during the winter months when trees are not in leaf. During these winter months, the assessment concludes the following: -
- Slight adverse impact on views for pier visitors looking north from near the pierhead (view 10) and views for road users and pedestrians looking east from the junction of Chancellor Road and Church Road (view 11).
  - Slight to moderate adverse impact on views: -
    - a For road users, pedestrians and residents from the corner of Chancellor Road and Herbert Grove (view 1)
    - b For road users and pedestrians looking east from end of Lucy Road (view 2)
    - c For road users, pedestrians and residents looking northwest from the corner of Lucy Road and Hartington Road (view 3)
    - d For road users approaching from the east along Queensway (view 4)
    - e For road users, pedestrians and residents looking south-west above Queensway (view 5)
    - f For road users and pedestrians on the approach from the south along Queensway (view 6)
    - g For visitors to the Pier looking north from near the Pier shorehead (view 9)
  - Moderate adverse impact for visitors to the esplanade looking northwest from Marine Parade (view 7) and for visitors to the Pier looking north-east from Southend Pier (view 8)

- 6.130 In relation to the 12 key views within Southend, the assessment concluded no visual effect for most of the views but with a slight adverse impact looking south-west from the shops at Southchurch Avenue (important in the setting of the Kursaal), looking west from the jetty at Southchurch (important as part of Eastern Esplanade) and looking west from Gunners Park (contextual view of the entire seafront). A moderate-slight adverse impact is identified looking west along the Eastern Esplanade.
- 6.131 Nicholas Pearson Associates, Chartered Landscape Architects and a Registered Practice of the Landscape Institute were appointed by the Council to first contribute to providing a Landscape and Visual Impact Assessment and associated Residential Visual Amenity Assessment (LVIA/RVAA) scoping feedback to the applicant of the Seaway Scheme and then subsequently to carry out a peer review of the adequacy of the content of the submitted LVIA and of its quality.
- 6.132 The consultancy was able to conclude that the landscape and visual assessment report which forms part of the September submission had been prepared in a manner which reflects the guiding principles for landscape and visual assessments, and was consistent with industry best practice. It considered that the LVIA identifies and provides a commentary on an accurate and generally complete range of construction and operation effects and that the LVIA and RVAA cover day and night time visual effects and allow for seasonal and diurnal variations. Some minor limitations within the assessment were noted and some differences between the assessment findings and professional judgments regarding the nature of the identified landscape and visual effects were highlighted.
- 6.133 With regard to the 11 Representative viewpoints, the consultants agreed with the applicants, other than in respect of the following minor differences:
- for the residential receptors on Chancellor Road, the effects would likely be moderate to substantial adverse for the closest residents and moderate to slight adverse for road users and pedestrians (rather than moderate and/or slight adverse). Slight to moderate adverse effects (rather than moderate adverse) were predicted at night;
  - for the users of Marine Parade, at night time, slight to moderate adverse or neutral (as opposed to slight adverse or neutral) effects were predicted;
  - for users of the Pier, moderate adverse for both parts of the Pier are predicted (not moderate to slight).
- 6.134 In relation to the key views as ‘*identified*’ in Policy DS2, the consultants again mainly agreed with the applicants other than that the impact looking south-west from the shops at Southchurch Avenue should be a slight to moderate adverse (not slight adverse); the view from the jetty at Southchurch should be slight to moderate (not slight adverse); and the view from the Eastern Esplanade looking along the seafront should be moderate adverse or moderate to slight adverse (not moderate to slight adverse or slight adverse).
- 6.135 However, the consultancy was able to conclude that “*Overall, the submitted LVIA is considered to comprise an adequate and proportionate assessment of the landscape and visual effects of the scheme. The limitations identified, in places within the assessment, are not enough to lead us to a different conclusion nor to have inhibited the assessment process. Despite their being differences in some professional judgments, we are in agreement with the LVIA overall conclusions where, after accounting for proposed embedded mitigation and enhancement measures, the main effects of the Seaway scheme would be localised. We also have identified that there would be limited landscape or visual effects above ‘moderate adverse’ level and where some visual effects on immediate residents were initially potentially ‘substantial’ these have been mitigated to reduce and moderate associated residual effects.*”

6.136 As part of its assessment, the consultancy welcomed the additional positive measures included in the September submission which have improved the scheme and further reduced landscape and visual effects. It referenced the positive effects associated with the:

- Retention of some more mature trees on the northern frontage;
- Some additional and better positioned proposed tree planting in the northern greenspace to mitigate effects of the scheme on viewers, from the north;
- Some additional proposed trees along Herbert Grove to provide filtered views to residents toward the new leisure building, where previously there was a gap in the tree line;
- Re consideration of the sitting area and layout in front of 1-4 Seaways to maintain front pedestrian access and move seating areas further away from private amenity areas;
- Improved building design and materials informed by further Historic England consultation;
- Improvements to the pedestrian and cycle access route through the car park area to the seafront;
- Better passive surveillance and active building frontage to Lucy Road;
- Creation of new views from the leisure building and standalone unit on Lucy Road to St John the Baptist's Church and out over the estuary;
- Some improvement in the coordination of building colouring across the scheme to add some unity; and
- Greater variation/irregularity in the top line of the building and rhythm and a more harmonious colour palette to panels which break down the mass of the new leisure building façade.

6.137 To secure these betterments, the following conditions were recommended:

- Arboriculture method statement and tree protection fencing proposals,
- a Construction Management Plan and a Landscape and Ecological Management Plan to ensure protection of existing features and maintenance and aftercare of features that contribute to the scheme's mitigation;
- Agreement of the planting details to the rear of Nos. 47-53 Hartington Road;
- Further visual containment around elevated external dining areas in Herbert Grove;
- the use of semi mature tree stock in the landscaping strategy;
- a detailed planting scheme which secures a planted knee-high buffer to the wall, at ground level to protect the gable end and provide a buffer to the southern property on Herbert Grove, after demolition.
- Planning Condition that secures the inclusion of unobtrusive lighting design details and the submission of evidence of how this will be secured, in particular for sensitive areas including alongside adjacent residents.
- a Planning Condition referring to the submission of a detailed planting scheme would also need to include reference to effective coordination with drainage and other services being evidenced;
- detailed treatment of the plant room of the proposed leisure and hotel buildings, to use mid grey colouring and removal of lighting from this building component.

6.138 Such conditions have been included within the schedule of suggested conditions provided at **Appendix 5**.

- 6.139 Adopting the Council consultant's interpretation of effects (i.e. the highest effects predicted) it is clear that the development will result in changed views, albeit with a largely localised impact. The assessment work has identified a number of moderate adverse and moderate to slight adverse visual effects on key views (i.e. **from** Southend Pier, Marine Esplanade and the Eastern Esplanade) whilst views **to** the sea, the Pier, the Place Hotel and the Kursaal are changed, but from positions close to the site. The development is not expected to be visible from Pier Hill, Royal Terrace, Clifftown, Westcliff on the Eastern Esplanade, St Mary's Church or Porters (i.e. the other key views).
- 6.140 Policy DS2 requires development proposals to be compatible with key views (or to enhance them). The assessment work identifies at worst, a moderate effect on these views. Policy DM4 protects against adverse impacts on important local views where they contribute to the character of the area. It also protects against tall buildings that adversely impact upon the Skyline of Southend, as viewed from the shoreline, and other important viewpoints within or outside the Borough. The assessment work undertaken does identify changes in local views, (in one case moderate to substantial adverse). Views including those of the Estuary and Pier will also change, but it is not the case that these views will be completely lost. Views of the Estuary along Herbert Grove and views of the Kursaal along Lucy Road, will still be possible, albeit now framed by proposed buildings. Hence local views are not considered compromised to the extent of conflicting with this part of Policy DM4. However, with moderate impacts predicted from the Pier, any adverse impacts on important viewpoints as required by Policy cannot be avoided.
- 6.141 Policy DM6 requires development not to detrimentally impact on the Thames Estuary's openness, or views to the Thames and beaches. It is not considered that the openness of the Thames will be affected by this development, given its location, set back from the seafront, and appearance as a continuation of the built form of the seafront. This view already accommodates many modern alterations. However, some key views will be affected, and in this regard, the precise requirement to avoid all detrimental impacts cannot be satisfied.
- 6.142 However, set against these detailed considerations, the assessment work shows that the visual effects of the development are within a relatively tightly drawn zone around the site with most of the key views in the town unaffected by the development. Long range, it is accepted that the development is unlikely to be discernible to viewers towards Southend. This also needs to be measured against the likely softening over time within the short-range views due to the maturing of vegetation.
- 6.143 Importantly, it is the case that the existing open nature of the site as a surface-level car park combined with the delivery of development in accordance with the site's allocation (i.e. a large-scale building accommodating a mix of leisure uses including a cinema) will inevitably result in a change of local conditions. Bringing forward a development at this location that satisfies this policy context, whilst making good use of a previously developed site, regenerating a key site within the Central Area of Southend, can only be achieved with a change in some local views. The impact on views also needs to be considered against the identified and likely positive impacts on local townscape arising from the regeneration of the site to provide an appropriate range of uses, public realm improvements and new landscaping. Overall, whilst the development does not avoid all detrimental impacts on views and hence does not comply with the detailed requirements of Policy DS2 of the SCAAP (2018) and Policies DM4 and DM6 of the Development Management Document (2015), the level of effect predicted is considered acceptable in planning terms to enable the delivery of a development that satisfies the Council's key policy objective of delivering a major mixed-use leisure-led development at this allocated opportunity site.

## 6) Design

- 6.144 The selected design for the development at this strategically important site, with its modern contemporary approach to building design, the inclusion of a key landmark building within a landscaped and legible setting was referenced in a number of objections to the application. Design is an important consideration for this application, with the NPPF making it clear that good design is central to achieving sustainable development. Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions. The NPPF advises that “*where design of a development accords with clear expectations in plan policies, design should not be used by the decision maker as a valid reason to object to development*” (Paragraph 130). It continues, confirming that “*great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings*”. (Paragraph 131).
- 6.145 Relevant local design policy in respect of the Seaways site is provided by Policy CS1.2 (SCAAP) that expressly calls for the development at the Opportunity Site to adopt an “*innovative design which allows the site to take advantage of the elevation and creates a legible environment with views of the estuary, respecting residential amenity*”. The policy provides further guidance, highlighting a requirement for active frontages to existing streets and new spaces, the adoption of good quality materials to reflect the vibrancy of the seaside, the inclusion of new public and private green space and as an overview, to provide a north-south axis to provide a clear sight-line from Queensway dual carriageway to the sea.
- 6.146 Further policy advice is provided in Policy DS3 that (with cross reference to Table 3, Appendix 3), identifies the application site as a location for a potential landmark building. The policy confirms that the Council will support and encourage the creation of new landmarks at the application site where development proposals demonstrate a design, detailing and use of materials of exceptional quality and interest and where it helps to reinforce local character and distinctiveness. Proposals are required to provide a focal point for an existing vista/sight line or generate a new one, whilst not adversely affecting the amenity of local residents or harm nearby heritage assets.
- 6.147 Comments on the design of the proposals from interested parties range from concerns regarding the bulk and massing of the proposed development; the associated impact on prevailing character of the site and its surroundings, and on key views towards the Pier, The Kursaal, and the seafront; the loss of the historic grain of the site and impacts on heritage assets; the inappropriate nature of a tall building in this location; the choice of materials selected; the inappropriate nature of the green spaces created; and a failure to create an enhanced link through to the Town Centre.
- 6.148 The issue of townscape and visual impacts arising from the development is referenced above and this material is not repeated here, other than to highlight that the proposed design, whilst involving tall and distinctive buildings does not give rise to material concerns in respect of predicted impacts on the site and its surroundings. Equally, the impact on heritage assets is detailed below. Conclusions in this regard are not repeated other than to highlight the success of the proposals in protecting nearby heritage assets.
- 6.149 *Form, Massing and Scale:* The concept behind the development proposals is to create a bold sculptured form of the main leisure building towards the centre of the site, supplemented by the hotel and Lucy Road buildings that create site features, whilst also contributing towards the sense of enclosure for new open spaces. Together, the buildings adopt a form that frames views from the north towards the estuary, from the Queensway along both Herbert Grove and between

the hotel and leisure building, across the proposed surface car park, to the south. To the west side, the proposed standalone building on Lucy Road provides additional enclosure to a new public square focussed on the gable of St John the Baptist's Church, whilst also creating a new southern gateway to the site, providing a positive transition between the historic church and the new leisure building beyond. The leisure building is set back from Herbert Grove, with a landscaped buffer creating an appropriate separation between the activity associated with this building and the residential properties along this road. Clear routes through the site are created with shared footways and cycleways drawing pedestrians and cyclists through from the north, to either end of Lucy Road. To the north of the site, similar routes are created to link the site to the Town Centre and the existing public access close to the end of Hartington Road.

- 6.150 The leisure and hotel buildings are large in scale, with the leisure building in particular creating a new landmark building for Southend. The site allocation recognises this location as an opportunity site for a high-quality mixed-use development (which may include restaurants, cinema, hotel, and a gallery) and, the principle of a large-scale development such as that proposed, that is carefully designed to respect its surroundings, is considered appropriate. Furthermore, Policy DS3 specifically references the site as a potential location for a landmark building, and whilst this policy support is subject to design quality criteria (considered below) it is the case that this location can successfully accommodate buildings of the scale proposed, creating a new focal point for Southend whilst adding to the distinctiveness of its surroundings.
- 6.151 In more detail, the massing and layout of the proposed development establishes the north south axis on the Seaway site as required by policy, with the sightlines specified by Policy CS1.2 from Queensway south toward the Estuary firmly established, and appropriately framed. The environment is legible, with distinct routes through the site. Comments from the Council's Design and Conservation Officer confirm the appropriate nature of the adopted layout and scale of the proposals, concluding that *"The scale of the development proposal is significant, but the building sits comfortably in this context close to the town centre, subject to achieving a good quality design, materials and detailing"*.
- 6.152 *Detailed Design: Leisure Building:* the proposed building was the subject of substantive design changes in the September 2019 submission, as referenced in Section 2.0 of this report. The main feature of the northern block of the leisure building is the application of feature cladding in angled panels around the building at upper levels to conceal the inactive facades of the cinema and give the building a distinctive profile. The lower floor is wrapped with active uses to ensure a lively frontage at street level. The adopted colour scheme for the cladding was amended in the September 2019 submission, with the introduction of warmer tones and a reduced squarer format for individual panels. This change has enriched the design and will provide a positive reference to the stonework on the adjacent church, helping to integrate the proposal into the wider streetscene.
- 6.153 The southern end of the building contains much of the parking element of the proposals and again, the September submission amended the design, with the use of greater articulation and vertical rhythm to the cladding. This breaks up the scale of the building and better references the finer grain of the surrounding area. This has been achieved by layering a series of full height 'sail' like panels set at an angle along the facades of the building. The materials for this element remain perforated metal sheeting but the finish, colours and gradation pattern of the panels have been amended to reduce the reflective nature of the material and to reference the new warmer colour palette of the northern end of the development. It is considered that these changes successfully break up the bulk of the building and provide improved cohesion for the design.

- 6.154 The south elevation of the building has also been amended to significantly increase the level of glazing and active frontage both at ground and upper levels and this is also welcomed. The proposal now has a large double height glazed corner feature and glazed stair tower to this side which provides a focal point for the southern end of the building, greater natural surveillance and visually balances the impact of the service yard walls and solid car park plinth on this side.
- 6.155 The Design and Conservation Officer has called for the detailed treatment of the cladding to be the subject of a condition, to ensure that the appearance can be appropriately controlled, whilst the detailed treatment of the A3/A5 units on the ground floor should also be the subject of a design code, to be agreed with the Council prior to commencement of detailed facade works, to ensure this elevation retains an appropriate and cohesive approach. (This code should be extended to cover the Hotel, to again assist with the delivery of a cohesive development at 'street level'). These matters are addressed in the schedule of proposed conditions.
- 6.156 *Hotel:* the design of the hotel now includes significantly more glazing to the ground floor on its main west frontage and additional glass to the north and south flank elevations than originally proposed. The changes at ground floor will give the building a much more active frontage to the street and a more lightweight appearance generally and this is positive. The additional glass to the flanks and feature signage has added interest to these elevations and this is also an improvement. As with the leisure building warmer tones have been introduced into the cladding colours to provide greater cohesion with the rest of the site. It is noted that the gabions to the plinth of the hotel and throughout the site have also been changed from grey to warmer sandy tones and this has softened their impact in the streetscene and is also welcomed.
- 6.157 *Standalone Building on Lucy Road:* this building has also been the subject of amendments in September 2019 that have improved the design quality of the proposals. Additional windows, including a feature glazed corner, have been introduced to the south west of the site on the Lucy Road elevation. These changes will complement the enhanced glazed corner feature on the leisure building creating a southern gateway for the site and increasing the natural surveillance in Lucy Road both of which are to the benefit of scheme's integration with its surroundings. Other alterations to this block include a change in cladding materials to natural terracotta tile to the front section to better reference the materiality of the adjacent church and a change in colour and lowering of the gabion wall parapet to Lucy Road and introducing additional planting in this location which will provide a softer appearance to the street and this is also welcomed. Overall this building will provide a positive transition between the historic church and the new leisure building.
- 6.158 *Landscaping:* In addition to the changes to the built form the landscaping scheme to Lucy Road has also been enhanced to include additional trees bringing additional softening and height to the planting scheme in this location and instant green screens are proposed instead of gabion walls to mask views of the service yard. Whilst this will maintain an inactive frontage to part of the south elevation this is mitigated by the increased planting which will create a more attractive environment for pedestrians.
- 6.159 Overall, the Design and Conservation Officer positively concludes that *“the amendments to the building design and landscaping have significantly enhanced the proposal on a number of levels including improvements to the detailed design of the buildings themselves, reducing the impact of the proposal in longer views and on the setting of nearby heritage assets and ensuring a more positive pedestrian experience for visitors generally. These changes have all added to the design quality of the proposal and the design and impact on the wider area, including the setting of heritage assets, is now considered to be acceptable.”*
- 6.160 The response of Historic England is also noted, detailed in paragraphs 6.193 - 6.194. In summary, it does not retain an objection to the project, acknowledging that the changes to the



scheme secured in September 2019 allowed the amended proposals to sit more successfully within Southend's townscape in longer views, whilst the choice of palette of materials and the reduction in height ensures that the development better responds to its immediate locality.

- 6.161 The performance of the application when considered against the National Design Guide 10 Good Design Criteria, referenced at paragraph 6.91 is also noted. It is therefore considered that the application proposals successfully address key design requirements of policy, creating an innovative design that achieves assimilation of what will be key landmark buildings into the prevailing streetscene. It meets the expectation of Core Strategy, Development Management Document and SCAAP policy with a high-quality design set within a legible masterplan, that will create a new distinctive focal point for Southend.

## **7) Landscaping**

- 6.162 The applicant proposes a comprehensive landscape strategy for the site that results in the creation of two new areas of public open space (St John's Square and Chancellor Green).
- 6.163 Chancellor Green is a large area to the north of the leisure building and hotel where the applicant proposes to create an arrival space that promotes pedestrian and cyclist circulation. The space is in the form of an open green space with a mix of existing and new trees with a sinuous path running through the area to provide accessibility despite the change of levels in this area. An undulating grassed landscape is proposed to maintain the local character.
- 6.164 St John's Square is located to the north of the Standalone unit on the site of the former ice cream factory. The area is intended to comprise a multi-functional space where activities and events can take place. Existing mature trees are retained and the applicant identifies the opportunity for an art wall to be created on the end unit wall of Herbert Grove. A condition is proposed that will require the applicant to submit details of any art installation in the proposed new square, for approval by the Council.
- 6.165 A range of different coloured and textured paving is shown for the square. Street tree planting and seating is proposed alongside the road and, further south and adjacent to the Standalone unit, a rain garden is proposed that will also form part of the SuDS network within the site. The rain garden takes advantage of the natural gradient as the site falls towards the seafront.
- 6.166 Other elements of note forming part of the landscape strategy include a wayfinding strategy to link the site to other areas of interest within Southend. The applicant also proposes to create a sense of identity to the development through a reduced palette of materials that accords with the Council's Design and Townscape Guide. A similar approach will be given to street furniture to avoid a cluttered environment.
- 6.167 The landscape strategy also proposes a range of potential native, structural and ornamental planting for the site that maintain local character and create interest through the year.
- 6.168 In relation to trees, the applicant has submitted a tree survey in November 2018 that was updated in September 2019. The Agent has confirmed, as per drawing number 6113-D-AIA Rev. E, that currently there are a total of 42 individual trees on site, one group of trees and one area of trees. 21 trees within the site are covered by a Tree Preservation Order (TPO). A total of 26 individual trees, part of the tree group and the area of trees will be lost as a result of the implementation of the proposals. This includes 9 No. TPO trees. The Arboricultural Report also set out a range of lopping and monitoring works to various existing trees within the site.
- 6.169 93 new trees are proposed to be planted as a result of the development. The applicant proposes coastal resistant species that are specifically chosen for the location.

- 6.170 The arboricultural report recommends that, subject to planning permission, a detailed Arboricultural Method Statement and Tree Protection Plan should be prepared. This can be secured by way of a planning condition ensuring that these strategies are in place before any works that affect trees are carried out.
- 6.171 Policy DM2 of the Development Management Document seeks to encourage the use of urban greening measures within development both for aesthetic reasons and also to improve efficiency in the use of energy and resources. Urban greening includes plants, trees and open space within urban areas. Policy DM4 seeks to ensure that public realm includes landscape features to be integrated with their surroundings.
- 6.172 Policy CS1.2 of the SCAAP (2018) also establishes various policy tests to be met on the site including: -
- A palette of good quality materials to reflect the vibrancy and colour of the seaside;
  - Urban greening projects, including the creation of new public and private green space within new development;
  - Innovative design which allows the site to take advantage of the elevation
  - The provision of appropriate seating, signage and way-finding aids to improve connectivity to other locations within the town centre and seafront.
- 6.173 With reference to the above description of the approval of landscaping adopted by the applicant, it is considered that the landscape proposals accord with policy and deliver substantial improvements to the public realm and significant new planting for the site. It is also considered that through the implementation of the proposed landscaping works, with the net increase in green space of approximately 2,300sq.m and the significant planting across the site, prevailing biodiversity of the site will be enhanced (see 'Ecology' below). Conditions are proposed to ensure implementation of a detailed landscaping scheme in general conformity with the applicant's initial proposal, to be approved by the Council whilst long-term maintenance is secured via the required draft s106 agreement.

## **8) Socio-Economic Impacts**

- 6.174 Socio-economic benefits arising from the development proposals represent an important consideration for the application. The NPPF makes it clear that pursuing a strong and responsive and competitive economy represents a key objective (one of three) of sustainable development. Under the section title of *'Building a Strong, Competitive Economy'*, it advises that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. (Paragraph 80). Consistent with this, Strategic Objective 1 of the SCAAP seeks *"to improve and transform the economic vitality, viability and diversity of Southend Central Area by encouraging the establishment of a wider range of homes, businesses and shops whilst providing new opportunities for learning, recreation, leisure and tourism."* Reference is made to improving town centre vitality and viability and encouragement given to the expansion of businesses in the wider Southend Central Area.
- 6.175 It is evident that transforming a car park within the Central Area into a new focus for leisure activities will undoubtedly bring with it a host of economic benefits for Southend. However, the impact of bringing forward a scheme of this nature within prevailing economic conditions also requires careful consideration. Objections to the application from local businesses including the Seafront Traders and the Stockvale Group raise concerns in respect of the direct and indirect impacts on the High Street, and other important local business operators. This includes concerns about the impact upon the only other cinema within Southend (the Odeon) and the

leisure business (including a bowling alley in the Kursaal). The suggestion is that with the opening of the new development at Seaways, these existing businesses that are important to Southend, will be forced to close, as trade is drawn away to the new operators. For the Kursaal, this could have implications for the historic building's long-term viable future. Concerns were also expressed regarding the accuracy of some of the claims made by the applicant in terms of the economic benefits claimed.

6.176 By way of background, it is important to note that the issue of the economic benefits likely to arise from the development of the site was considered during the SCAAP Plan preparation process. The Inspector for the Local Plan examination concluded that *"Taking into account the above considerations, I am persuaded that firstly, the implementation of Policy CS1.2 would be an important catalyst in the regeneration of the seafront, especially if the scheme could open up direct pedestrian access to the seafront and views to the sea; secondly that the facilities proposed would be either supportive of or at least complementary to tourism..."* (Paragraph 97). Whilst the development proposal do not create the direct pedestrian access the opportunity for its future provision remains and these comments do create a positive context for the consideration of the potential economic implications arising from the application.

6.177 The applicant submitted an Economic Benefits Assessment in support of the application in the original submission, and supplemented this with an Addendum document, that responded to some of the above criticisms. Headline figures from these documents suggest that the development will be responsible for:

- An expected capital expenditure on construction of £47m, likely to support 78 FTE jobs during the construction phase with a further 16 FTE indirect and induced jobs. It is estimated that the construction expenditure would support Gross Value Added (GVA) equivalent, for comparison purposes, of approximately £4.4m GVA in the local economy over the construction period.
- During operation, the development would create between 270 to 323 FTE net additional jobs, delivering an additional £12.6m to £15.1m of GVA per annum.
- The net additional expenditure generated from the hotel accommodation is estimated to contribute some £0.96m to £1.23m per annum to the local economy, whilst the leisure element is estimated to yield an overall turnover of between £14.4m and £15.6m per annum;
- The linked trip potential to the town centre is estimated at between £1.5m and £1.7m.
- Between £0.77m and £0.84m per annum could be linked to additional tourism spend as a result of the proposed development.

6.178 The objectors to the application proposals suggest these figures are overstated, referencing a failure to have regard to displacements, leakage, or deadweight in the construction employment calculations, plus the potential for offsite build techniques to reduce job numbers during this phase. Further criticisms include the approach to calculating the GVA per worker, the type of job created (i.e. towards the entry level), and the nature of tourism benefits arising, all pointing towards an over-estimate of benefits by the applicant. Perhaps the primary concern relates to a failure of the applicants to give due consideration to the harmful effects of the development and the trade draw that could result.

6.179 Comfort in this regard is provided by the applicant in its Economic Addendum submitted in September 2019 that references both the nature of existing provision of leisure facilities within Southend-on-Sea and the high commercial demand from potential occupiers, that are new to the Town. With regard to cinemas, it highlights that there are no destination cinema anchored leisure facilities within the Town which is unusual given its size. The existing 8 screen Odeon

Cinema was opened in 1996 and offers a different experience to that to be provided at the site. The applicants contend that there is a tendency for residents of Southend to currently leave the town and visit Basildon, for a multiplex experience. Similarly, there is no provision for trampolining, ten pin bowling or climbing walls within Southend, all of which can be accommodated within the leisure building and again, residents tend to visit the facilities in Basildon for these experiences. It also highlights that the Kursaal bowling alley has now closed. With regard to restaurant supply, the applicants suggest that Southend is under represented in terms of the supply of nationally branded facilities.

6.180 With reference to demand, the applicant confirms that Empire Cinemas Hollywood Bowl and Travelodge have now committed to the site, suggesting that the arrival of these new businesses will create valued investment in the Town. It also details the nature of commercial discussions with A3 operators, highlighting a strong interest from a number of branded restaurant operators, whilst also suggesting that the scheme will accommodate an element of local independents. Whilst any planning permission will not guarantee particular occupiers in any given unit, the evidence submitted by the applicant provides a strong case that there is latent demand within Southend-on-Sea for the type of accommodation on offer. It will create a new attraction, drawing in trade that is currently diverting to other facilities beyond the Borough's boundaries, often at out-of-centre locations. As such, with a strong demand and limited supply, and the proposals in any event offering a bespoke destination family scheme not replicated elsewhere within Southend-on-Sea, any resulting impact on existing businesses from the creation of new accommodation is likely to be much reduced.

6.181 This concern regarding trade draw, however, fails to have any regard to the planning status of the site, and in particular its allocation as a site for a major new leisure development. The merits of the allocation have already been assessed and found to be acceptable in the context of the preparation and adoption of the SCAAP, that included consideration of the economic impacts of the development on the seafront and existing businesses in the Town. The outcome of this debate was the successful allocation, that allows for, and positively encourages, the creation of a cinema, restaurants, and hotel as part of a high quality, mixed use development. As such, subject to compliance with prevailing policy, any trade issues associated with development coming forward at this site relates more to competition between businesses, and as such, falls outside the scope of relevant material considerations for this proposal.

6.182 Returning to the nature of economic benefits arising, the criticisms of the applicant's methodology are noted. However, whilst there may be scope for a reduction in the precise 'quantities' referenced above, it is accepted that the scheme will deliver economic benefits to the Town, through job creation, capital expenditure, linked trip expenditure and increased tourist spend. As such, the proposals support the policy ambition of SCAAP objectives, bringing economic vitality to the Southend Central Area. Furthermore, consistent with the NPPF, the evidenced positive contribution the scheme makes towards the local economy should be given significant weight in the consideration of this application.

## **9) Heritage**

6.183 As detailed in section 1.0 of this report, the site is located within close proximity to a number of heritage assets whilst the application boundary, as it extends to include the existing footway adjacent to St John the Baptist's Church, falls within the Clifftown Conservation Area. There are a number of Grade II listed buildings along Marine Parade and the scale of the proposed development gives the proposals the potential to affect the character and appearance of the wider area, impacting on a number of important heritage assets.

6.184 Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 states that special attention should be paid to the desirability of preserving or enhancing the character or

appearance of the Conservation Area. Section 66(1) of this Act states for development which affects a Listed Building or its setting that special regard shall be had to the desirability of preserving the building or its setting or any feature of special architectural interest that it possesses.

- 6.185 Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) requires that “...*special attention be paid to the desirability of preserving or enhancing the character or appearance...*” of a conservation area.
- 6.186 The NPPF notes at Paragraph 192 that in considering applications, account should be taken of “...*the desirability of sustaining and enhancing the significance of heritage assets...*” and paragraph 193 confirms that “*great weight*” should be attached to conservation of designated heritage assets, “*the more important the asset, the greater the weight should be.*” Should harm or loss result from alteration, destruction or development within its setting, it requires “*clear and convincing justification*” (paragraph 194).
- 6.187 The NPPF continues, requiring local planning authorities to refuse consent for development which leads to “...*substantial harm...or total loss of significance of a designated heritage asset...*” unless it can be demonstrated that the harm/loss is necessary for substantial public benefits that outweigh that harm/loss, or the nature of the asset prevents all reasonable uses of the site; there is no viable medium term use; conservation by grant-funding or charitable/public ownership is not possible and the harm/loss is outweighed by the benefit of bringing the site back into use (Paragraph 195). For development proposals that lead to “*less than substantial harm*” to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. (Paragraph 196).
- 6.188 Paragraph 197 of the NPPF requires the effect of an application on the significance of a non-designated heritage to be taken into account. Where a non-designated heritage asset will be affected, a balanced judgement is required that considers the scale of any harm or loss and the significance of the heritage asset.
- 6.189 This guidance is reflected in local plan policy. SCAAP Policy CS1(d) provides clear guidance regarding the need to protect heritage assets, confirming that development proposals within the Central Seafront Policy Area that affect all designated heritage assets should conserve and enhance these buildings and their settings. Cross reference is made to policy DM5 of the Development Management Document, that adds to this requirement, highlighting the need for applications that affect heritage assets to be accompanied by an assessment of its significance, and to conserve and enhance its historic and architectural character, setting and townscape value. Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this.
- 6.190 DM5 continues, requiring development proposals that result in the loss of or harm to the significance of a non-designated heritage asset, such as a locally listed building or frontages of townscape merit, to normally be resisted, although a balanced judgement will be made, having regard to the scale of any harm or loss, the significance of the asset and any public benefits.
- 6.191 Consultation responses highlighted concerns in respect of the potential impact of the development on nearby assets, referencing the proximity of listed buildings to the site, and the potential for impacts resulting from the scale of the new buildings proposed. Impacts on the Kursaal and the Pier were referenced in a number of objections received. Historic England, a key

statutory consultee, provided its initial comments in February 2019. As detailed in Section 3.0 of this report, whilst recognising the potential for large buildings at the site, it raised concerns regarding the impact of the development on the Clifftown Conservation Area. Its updated response that appraised the amended design as submitted in September 2019, however, concluded that it had no objection to the application on heritage grounds (a more detailed account of comments is identified below, to inform the appraisal).

- 6.192 In accordance with policy requirements, the applicants informed the submission with a Heritage Assessment (amended in September 2019) that assessed the significance of all the heritage assets potentially affected by the development, including the extent to which their settings contribute towards their significance. This concluded that the proposed development will not affect the significance of any of the listed buildings. It stated *“For the most part the development will be blocked from view and will not adversely affect views of the primary elevations of the buildings. While views down Marine Parade will change (particularly from the east), the change will not distract from the appreciation of the form, roof scape and group values of the heritage assets. The skyline features of the dome of the Kursaal and the Palace Hotel, will remain the dominant, and most visual, structures in the area”*.
- 6.193 The report concludes that *“the only view affected from within the Clifftown Conservation Area will be the one from the listed pier. This view has been greatly considered in the design of the buildings, and due to this the proposed buildings would not stop the important elements of the view being appreciated, and would also fit into the view and add another dimension to it. No other views from within the conservation area, or important views from outside the conservation area, would be changed. Overall, the proposals would have a neutral effect on the character and appearance of Clifftown Conservation Area”*.
- 6.194 Objectors to the application have highlighted that this assessment fails to properly appreciate the importance of the relationships between historic buildings on the Seafront and incorrectly assesses the effects of the proposals on the fine grain of the Southend Old Town character area. Impacts are therefore understated.
- 6.195 In appreciating the nature of heritage impacts, the position of Historic England, that has no objection to the application, is clearly an important consideration. In addition to this supportive position, it did make some detailed comments on the amended proposals. It welcomed the use of greater vertical emphasis on the elevations of the leisure building, that *“better reflect the vertical emphasis found in more traditional buildings in the townscape nearby, albeit at a greater scale and in a contemporary scale”*. The changes to the standalone building on Lucy Road were also welcomed, with the new design recognised for creating *“a more appropriate sense of rhythm and responds more positively to its immediate neighbouring buildings including St Johns and the public space to the north”*. It stated that the use of terracotta or other clay-derived tiles in the colour palette complements the Church to a greater extent than the previous design approach.
- 6.196 It is also important to note its concluding two paragraphs:
- “Overall, as we have previously set out, we consider the development of this site has the potential to result in an enhancement to the setting of the conservation area and other heritage assets, with the introduction of an element of urban form to an otherwise underutilised open space. The development proposals remain considerable in scale, and will result in a new building that appears in multiple views and vistas within Southend. However, in comparison to the earlier scheme, we consider that the changes to the materials and design reduce the proposed development’s visual impact, and despite its scale and massing will allow it to sit more successfully within Southend’s townscape in longer views.*

*The alterations to the R1 building in terms of its palette of materials, and reduction in height to the south, are considered likely to better respond to its immediate locality, including the locally listed church and Clifftown conservation area, but we would suggest that the proposed public space could be enhanced further through the incorporation of public art, to increase visual and aesthetic interest to the south facing wall of that space”.*

- 6.197 This positive interpretation of the application proposals is also reflected in the Council’s Design and Conservation Officer comments on the application. In addition to the support given to the design of the scheme, detailed earlier in this report, the Officer identifies the potential for heritage impacts. In respect of the Conservation Area, the Officer acknowledges that to the west side the site adjoins and slightly overlaps with the boundary of Clifftown Conservation Area. The Officer confirms that this Conservation Area is a combination of different character areas. The character area to the eastern end includes the former Palace Hotel and St John the Baptist’s Church and Pier Hill and has a distinctly different more lively character to the main residential area to the western side. The Palace Hotel, which sits on the cliff top and is much taller than the surrounding buildings, acts as a buffer between the site and the majority of the Conservation Area to the west. It is therefore considered that the impact of the site on the Conservation Area is principally limited to the impact on the Palace Hotel and Church.
- 6.198 The Palace Hotel commands a significant presence on the skyline and is a key landmark for the seafront. The scheme will be seen in conjunction with this landmark, but the historic hotel will remain separate in the skyline and significantly higher than the proposal. As such it will still be the dominant landmark in wider and closer views of the seafront. The Officer concludes that as a consequence, the proposals will have a neutral impact on this heritage asset and its setting.
- 6.199 St John the Baptist’s Church is less visible in these longer views and does not have the landmark presence of the Palace Hotel in this respect however, it will nevertheless remain a distinct feature in the panorama. In terms of the close views of this heritage asset, the proposal has sought to enhance its setting by creating a public plaza to the east side of the church which utilises the east gable of the church as its focal point. The proposal here includes simple landscaping and high-quality paving to compliment the historic building and create a quieter area of public space which is distinct from the terraces on the west side of the leisure building. The Council’s Design and Conservation Officer considered that this new public space will significantly enhance the setting of the historic church and wider conservation area in this location and is a positive aspect of the proposal. Overall, the Officer concludes that the proposal will have a positive impact on the setting of the Church and the Conservation Area in this location.
- 6.200 The Landscape Visual Impact Assessment confirms that the proposal will not be visible from other parts of the Conservation Area to the west and will only be seen in the same view as the Conservation Area in long views from the pier where the former Palace Hotel will serve as a buffer between the development and the listed buildings in Royal Terrace and the clifftop development beyond. The Officer’s conclusion in this regard is that the proposal will have a neutral impact and will not cause harm to the character and appearance of the Conservation Area or its setting.
- 6.201 Turning to the potential impact on nearby listed buildings along Marine Parade, it is noted that the proposed changes to the scheme have successfully addressed earlier concerns. The change in form and materials for the southern end of the leisure building, for example, has softened the impact of the development in longer views from the seafront. Concerns were previously raised in relation to the impact of the bulk and form of the proposal which will form the backdrop to the Marine Parade frontage in longer views and in particular the impact that this would have on the setting of a number of listed and locally listed buildings within this frontage and in the wider

vicinity. However, the Council's Design and Conservation Officer concludes in this regard that "It is considered that the increased glazing, the feathering of the façade cladding and the more varied and softer tones of the cladding have all contributed to a more articulated design which has successfully managed to break up the mass of the development and diminish its impact in these longer views. The proposal now sits more comfortably against the finer grain of the surrounding townscape including the heritage buildings on the Marine Parade frontage".

6.202

In detail, with regard to the proposed changes within the setting of the historic assets and the potential for an effect on an asset's significance, it is considered that:

- *Hope Hotel (Grade II)*: The Hope Hotel is the closest listed building to the proposed development as it sits directly south of the site. The significance of this heritage asset is derived from its age, historical associations and its principal frontage onto Marine Parade. The listed building is set within the busy commercial frontage of Marine Parade and is surrounded by a variety building forms. The majority of these buildings have no historical interest. The principal view of the listed building is of its main frontage to the south which is best appreciated in close views. The visual impact assessment confirms that proposal will not impact on these as the proposal will only be seen in the backdrop of the Hope Hotel in longer views. The amended design with its enhanced form and finer grain, increased transparency and softer material finishes will enable it to blend in the wider lively context of the seafront in these longer views so it will not appear out of place in this context. It is also noted that the proposed landscaping of Lucy Road to the rear of the listed building will have a positive impact on its setting on this side. Overall it is considered that the proposal will have a neutral impact and therefore cause no harm to the significance and setting of this heritage asset;
- *Nos. 1-3 and 4 Marine Parade (Grade II)*: The buildings on Marine Parade would block views of the proposals to the north from view points along the seafront. Equally, the view from the pier would be blocked by Adventure Island. Hence, the change within the setting of the buildings would not inhibit the appreciation of the building. The significance of the buildings would not be harmed;
- *The Kursaal (Grade II)*: Close views of the Kursaal would not be affected within limited inter-visibility between the site and this asset. Views of the dome may be affected from the car park, and longer views from the pier would change, but given the separation distances (i.e. 120 metres) the appreciation of the Kursaal would not change. The change within the setting of the Kursaal would not harm its significance;
- *Pleasure Pier (Grade II)*: The view from the pier will change, with the upper floors of the leisure building visible. Key views of the pier will not be affected. The change to the view from the pier, however, will not affect the significance of the structure and the change to its setting will not harm its significance;
- *St John the Baptist's Church (Locally Listed)*: As above, the proposed new public square will improve the view out of the Church, and hence improve its setting and the proposals will not harm the significance of the building;
- *Palace Hotel (Locally Listed)*: The Hotel will remain the dominant building in the area and views of the Hotel will remain largely unchanged. Longer views from the pier and along Marine Parade will change, but not to affect the appreciation of the building, nor harm its significance;
- *Cornucopia and Falcon Public Houses*: The proposed buildings will not be visible to close views, and in longer views, along Marine Parade, there will be changes, but not to the detriment of the building's appreciation. The building's significance will not be harmed by the changes in its setting



- 6.203 In each of the above cases, it is considered that neither the existing car park nor the buildings on Herbert Grove scheduled to be demolished, contribute to the significance of any listed building. These changes would only have a neutral effect.
- 6.204 The above assets will not be less significant as a result of the proposed changes to the setting, as a result of the implementation of the application proposals. No harm to the heritage assets is therefore predicted.
- 6.205 Overall, and in accordance with the NPPF, the effect of the application on the significance of designated and non-designated heritage assets should be taken into account, making a balanced judgment. It is evident that the proposals involve the addition of large new buildings at a location in close proximity, and in the setting of, a variety of heritage assets. However, as a result of a combination of existing site conditions and the adoption of sensitive detailed design for the proposed buildings and the masterplan as a whole, along with the use of new public open spaces (particularly adjacent to the Church), the impact on these assets has been successfully mitigated.
- 6.206 As above, the Officer references an acceptable impact on the Conservation Area, highlighting proposed enhancements to the setting of the Church and the wider area, and the protection of the Palace Hotel, that will remain a dominant landmark in key views. Historic England reference the amended scheme now sitting “*more successfully*” in Southend’s historic townscape and sustains no objection to the proposals. Hence whilst it is accepted that there will be a change to the setting of the Conservation Area, this change is considered to have a neutral effect on the appreciation of the appearance and character. The only view affected would be from the pier, but this change would not be necessarily harmful. Overall, therefore, impacts on the Conservation Area and its setting are predicted to be neutral.
- 6.207 Equally, the approach taken to all aspects of the design of the development, ensures that the proposals do not cause harm to the significance of any designated heritage assets or their setting.
- 6.208 With a neutral impact on the Conservation Area and a lack of harm to both non-designated and designated assets, the proposals accord with prevailing policies. There is no need to apply the balanced judgement, weighing harm against a wider public benefit of the scheme. Should Members consider that contrary to the above account, the proposals would result in an element of harm to the historic assets, in accordance with the NPPF, it would be necessary to have regard to the wider public benefits of the scheme, to establish if they offset any harm associated with its implementation. The wider benefits of the scheme are discussed in more detail in consideration of the planning balance towards the end of this Section. In short, the benefits relate to the regeneration of the previously developed site within Southend’s Central Area, creating a new leisure destination for town; creation of an enhanced open space provision across the site, including the new square adjacent to the Church; the creation of improved pedestrian and cycle links across the site to aid permeability; biodiversity enhancements (with an increase in tree and green space, and new habitat provision), and economic benefits for the town in terms of job creation, capital expenditure, linked trip expenditure and tourist spending. There is strong policy support for the principle of the proposed development at the site and a planning balance case that overwhelmingly supports the application proposals. Should Members take the view that the proposals do cause some harm to heritage assets, it is suggested that any harm to heritage assets would be less than significant. Whilst considerable weight must be given to any such harm to designated heritage assets, it must be weighed against the public benefits from the scheme. With regard to non-designated heritage assets to the church, a balanced judgement needs to be taken. Officers are clear that in either eventuality, the public benefits that would be

secured from the implementation of the project would out-weigh this harm, and permission would not need to be refused.

6.209 With regard to archaeology, Officers are clear that overall, it is unlikely that features of archaeological interest are located within the development area. The assessment work undertaken, including the test pit evaluations, demonstrates insufficient archaeological potential to require any further investigation prior to commencement of development.

6.210 There remains a requirement for appropriate conditions in respect of materials, cladding, details of balustrades for the leisure building balconies, art in the public square etc, and the requirement for a design code for the proposed A3/A5 units on the ground floor of the leisure building, but the application proposals are considered to respond appropriately to the heritage context of the site, and are considered more than acceptable in this regard.

## 10) Ecology

### Habitat Regulations Assessment

6.211 A Habitats Regulations Assessment (HRA) refers to the several distinct stages of Assessment which must be undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) to determine if a plan or project may affect the protected features of a habitats site before deciding whether to undertake, permit or authorise it. European Sites and European Offshore Marine Sites identified under these regulations are referred to as 'habitats sites' in the National Planning Policy Framework.

6.212 All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects either alone or in combination with other plans or projects on that site. This consideration - typically referred to as the 'Habitats Regulations Assessment screening' - should take into account the potential effects both of the plan/project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.

6.213 Officers have carried out an assessment of the application under the Conservation of Habitats and Species Regulations 2017 (as updated). The Habitat Regulations set out a two-step process. Firstly, it is necessary to consider whether the development is likely to have a significant effect either alone or in combination with other plans or projects and if it does, the next step is to then conduct an appropriate assessment.

6.214 The applicant has submitted a Habitats Regulations Assessment Screening Report (July 2019). This is concerned with the recreational impact of visitors to the development on European sites. It establishes a 10km zone of influence which is identified as the anticipated recreational catchment from the site. It identifies three European zones within this area as follows: -

- *Benfleet and Southend Marshes SPA and Ramsar*: located 100 metres to the south of the site;

- *Outer Thames Estuary SPA*: located 100 metres to the south of the site. However, this site has been discounted from further consideration as the nature of the site means that it is highly unlikely to be significantly affected by recreational activity from the hotel; and
- *Foulness (Mid Essex Coast Phase 5) SPA and Ramsar*: located 4.5km to the east. However, this site has been discounted from further consideration as access to the site for recreation is heavily restricted by the Ministry of Defence.

6.215 In relation to the Benfleet and Southend SPA and Ramsar, consideration has been given to the various types of possible recreational activity that hotel visitors may undertake. As the main interest of the designated site is in the winter months when recreational activity from hotel visitors will be relatively low, then there is limited potential to impact and no significant effect are considered likely (either alone or in combination with other plans or projects). The applicant notes that they have consulted with local bird watching groups and conservation bodies as part of the HRA and they have made it clear that current levels of dog walking within the Benfleet and Southend SPA and RAMSAR is not a significant problem with respect to the disturbance of wintering birds that are the designated interest features of the SPA. Dog walking is also not considered to be a problem by Natural England in its condition assessment of the Site. This is mainly due to the fact that the most important high tide refuge areas for wintering SPA birds are not accessible to dog walkers. It is not considered that any increase in levels of dogs walking in the local area as a direct result of dogs staying at the new hotel is likely to be significant given the existing restrictions in place to keep key SPA bird areas free from recreational disturbance.

6.216 In relation to the rest of the development, the report concludes that it is primarily an indoor recreational facility. Its use will pose no direct threat to designated sites and will provide a new recreational opportunity away from the designated sites.

6.217 It is therefore considered that the proposals will not have a significant effect, either alone or in combination with other plans or projects, on habitat sites. As such, an Appropriate Assessment is not required in respect of the development.

### **Site Ecology**

6.218 Local planning policy in respect of ecology is set within the Core Strategy Policy CP4, that requires development proposals to enhance and complement prevailing natural assets, protecting and enhancing biodiversity values of an area. The NPPF states the following:

6.219 *“When determining planning applications, local planning authorities should apply the following principles:*

- *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments) should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest...”. It continues, confirming that “opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity”.*

- 6.220 A Preliminary Ecological Appraisal (November 2018) was submitted with the planning application. This report has been updated and resubmitted on a number of occasions, reflecting a requirement to provide further clarification in respect of Bats (see below). The most recent of these submissions (in October 2019) confirmed that the site carries no wildlife designation but is in relatively close proximity to the Outer Thames SPA and the Benfleet and Southend Marshes RAMSAR and SSSI. Consideration of the latter two designated sites is considered earlier in this report under ‘Habitat Regulations Assessment’ but it is noted that the site is separated from the designated sites by existing uses on the seafront. Natural England has confirmed that the proposals would not have a significant adverse impact on statutory protected sites or landscape.
- 6.221 The Ecological Appraisal (October 2019) confirms that the majority of the site is hard standing with negligible habitat and biodiversity value “*with smaller areas of amenity grassland, introduced shrubs, semi-mature planted trees and species poor semi-improved neutral grassland/tall ruderal mosaic of low relative habitat and biodiversity value*”. The report concludes that none of the habitats on site present a development constraint and their loss is of minor adverse impact. In contrast, reference is made to the proposed new landscaping to be provided across the site that offers the opportunity for biodiversity enhancements. In this regard, benefits associated with the proposed herbaceous/shrub planting, the rain garden and the planting of new trees all assist with delivering benefits.
- 6.222 The Report goes on to recommend restrictions on the cutting back and clearance of trees or shrubs that may have value for bird nesting, to ensure this work is undertaken outside of the nesting season. It also suggests that further biodiversity enhancement can be secured through the provision of integrated bird and/or bat boxes into new buildings where it is practicable to do so. A planning condition is proposed to address these recommendations.
- 6.223 As above, planning policy at a national and local level seeks to ensure that biodiversity has been taken into account as part of the decision-making process and that opportunities to enhance biodiversity are taken into account. It is considered that through the implementation of the proposed additional tree and shrub planting within the site, plus the proposed rain garden, there will be an enhanced habitat provision across the site, as part of this development with a net gain in biodiversity. Policy ambitions to deliver a net improvement in site conditions have therefore been achieved.

## **Bats**

- 6.224 The original Preliminary Ecological Appraisal in November 2018 identified three buildings as having *low* potential for bat roosting and recommended that further bat activity surveys should be conducted within the recognised May to August survey window. The recorded buildings were identified as those at No 29 and 1&3 Herbert Grove as well as one of the collection of small low buildings in the south-east of the site in use (partly) as public toilets (recorded by the applicant as ‘building 7’). None of the other structures on site were recorded as being of interest as possible bat roosting sites. None of the trees on site were identified to be of a size or condition that means that they have potential value to tree-roosting bat species.
- 6.225 An updated Preliminary Ecological Appraisal was submitted by the applicant in July 2019 which outlined the findings from a follow up bat roost survey conducted in May 2019 along with a bat roost emergence survey conducted of 1&3 and 29 Herbert Grove. The report confirmed that no bats were seen to emerge from either property during the survey. Two foraging common pipistrelle bats were heard and were recorded foraging in the church yard and back gardens off Herbert Grove.

- 6.226 Clarification was sought from the applicant to confirm whether a bat emergence survey was conducted for Building 7 as outlined in the November 2018 report, and if a second survey was undertaken of all three buildings, again reflecting the recommendations of the first submitted report. This resulted in the submission of the October 2019 Preliminary Ecological Appraisal. Within this document, the applicant confirmed that a bat emergence survey was not conducted at Building 7 as the conclusions of the follow up bat roost survey conducted for the whole site indicated that Building 7 should be reclassified as being of *negligible* value for bat roosting. The applicant indicated that the survey reported in the November 2018 report was over-precautionary and did not take account of the building's isolated location. The applicant noted that the building is surrounded by extensive hard standing, some distance from habitats that could be considered to offer value to foraging bats. With the wider site generally lacking bat activity and with no evidence of bat presence at the building, it was appropriate to downgrade the building. The downgrading of the building's value means that a bat emergence survey for this building was not deemed to be required in this circumstance. The report also confirmed that a second bat activity survey to supplement the May 2019 findings was unnecessary, given that no bats were seen to emerge from No 29 and Nos. 1&3 Herbert Grove during the original survey work.
- 6.227 A further Preliminary Bat Roost Assessment was submitted by the application, in which a full external and internal bat roost inspection of Building 7 was undertaken on 25<sup>th</sup> November 2019 by a suitably qualified Ecologist. This report states that the urban and isolated location of building 7 limits its value as a bat roost. This report concludes *"The survey completed today was far more comprehensive than any survey completed to date and included an endoscope inspection of the roof void and a visual inspection of the interior spaces and also recorded no evidence of bats externally or internally. All potential bat roost locations in the roof void behind each potential bat access point have now been closely inspected and no evidence of bat presence has been found in associated with any of them. Had bats been roosting in the roof void with their roost access via the identified holes in the fascia boarding, I would have expected to have seen evidence of bats in the form of bat droppings (recent or historic) inside the roof void in association with the various potential bat access points. In summary, all factors considered, including the building's location in the urban centre of Southend-on-Sea I conclude that the building is of negligible value to roosting bats, and that follow-up bat activity survey is unnecessary and unreasonable in my professional opinion."*
- 6.228 Given the findings of the latest Preliminary Bat Roost Assessment, the local planning authority is satisfied that there is no evidence of bat roosts in building 7 and therefore there is no reason why planning permission for its demolition should be withheld.
- 6.229 Given the above findings, and subject to an additional condition, the local planning authority considers that the development is acceptable and policy compliant in the above regards.

## **11) Sustainability**

- 6.230 To appreciate the sustainable credentials of the development proposals, it is appropriate to initially set out the key aspects of sustainable development, as defined by prevailing policy. The NPPF, as referenced in Section 4.0 of this Report, confirms that the purpose of the planning system is to contribute towards the achievement of sustainable development, which is delivered through the pursuit of three overarching objectives. The economic objective requires support for the economy, encouraging growth, innovation and improved productivity. The social objective looks to support strong, vibrant and healthy communities, whilst the environmental objective seeks to protect and enhance the natural, built and historic environment, making effective use of land, helping biodiversity, minimising waste and pollution, and adapting to climate change.

- 6.231 Policy KP2 of the Core Strategy reflects of the sustainable themes referenced in the NPPF, calling for development proposals to make best use of previously used land; avoid flood risk; reduce the need for travel; ensuring good levels of accessibility; the promotion of public transport; protection for natural and historical assets; a reduction in the use of resources; the adoption of renewable and recycled energy, water and other resources (including a target of 10% of energy needs to be met by on-site renewable options); and the adoption of SUDs techniques. Policy KP1 embraces the economic objectives of sustainability, identifying a spatial development strategy that identifies the Southend Town and Centre and Central Area as the primary focus for regeneration. Policy CP4 of the Core Strategy mirrors much of these policy requirements, again prioritising the use of previously developed land; the adoption of sustainable and renewable resources in construction and development; creating accessible development and spaces; protecting heritage assets and existing open spaces; and reducing all forms of pollution.
- 6.232 Applying these identified sustainable themes to the application proposals results in a positive appraisal of the development's sustainable credentials:
- 1 *Previously developed site:* the proposals involve development on the Seaways Car Park, a previously developed site with limited landscaping. Whilst the proposals involve the loss of a small area of public open space, the existing quality of this area (i.e. linked to the highway infrastructure along Queensway and adjacent to the Seaway roundabout) mitigates this loss, and the development proposals present a new landscaping scheme, with a net increase in open space provision, including the creation of a new public square;
  - 2 *Location:* The car park is centrally located, in the Southend Central Area, within convenient walking distance of both the Town Centre and the seafront. The area is the planned focus for Council regeneration initiatives, and its allocation as an Opportunity Site in the SCAAP further supports the suitability of the site's location to deliver sustainable development;
  - 3 *Sustainable Travel:* The site's connections with the Town Centre and its public transport facilities ensures it offers opportunities for visitors to the location to embrace sustainable transport alternatives to the private car. The on-site improvements to pedestrian and cycle circulation, aids this process. The site is an accessible location and this characteristic is enhanced by the development proposals;
  - 4 *Economy:* with the transformation of a car parking site into a mixed-use leisure focused development, creating a new destination attraction for Southend, the proposals accord with the varied economic strands of sustainable development. Whilst the precise nature of the economic benefits arising are open to detailed interpretation consistent with the finding of the SCAAP inquiry Inspector it is clear that the application proposal will deliver job creation, increased capital expenditure, additional linked trip expenditure and increased tourist spend;
  - 5 *Renewable Technologies and Energy:* The application is accompanied by a BREEAM Pre-assessment Report which predicts that the scheme can achieve a BREEAM rating of very good. In addition, the proposals involve the installation of solar photovoltaic panels to deliver 10% of predicted energy demands through renewable sources;
  - 6 *Open Space and Landscape:* As above, a loss of open space is compensated by the creation of new spaces, including the delivery of a public square immediately adjacent to St John the Baptist's Church. Overall, there is a net gain of 2,300sqm of green space, following implementation of the proposals. Some 26 individual trees, part of a tree group and an area of trees will be lost, including 9 trees that benefit from TPOs, but this loss is mitigated with the proposed planting of 93 new trees, across the site;
  - 7 *Heritage:* As referenced in paragraphs 6.198 above, the proposals are found to have a neutral effect on the character and appearance of Clifftown Conservation Area and its

setting. Equally, the approach taken to all aspects of the design of the development ensures that the proposals do not harm the significance and setting of any designated heritage assets;

- 8 *Biodiversity*: the development is not predicted to impact upon statutory designated sites, whilst the site itself has negligible habitat and biodiversity value. An updated Preliminary Ecological Appraisal was submitted in July 2019 which outlined the findings from a follow up bat roost survey conducted in May 2019 along with a bat roost emergence survey conducted of 1 and 3 and 29 Herbert Grove. The report confirmed that no bat was seen to emerge from either property during the survey. A preliminary bat roost assessment was submitted on 25<sup>th</sup> November 2019 in which a full external and internal bat roost inspection of building 7 was undertaken which recorded no evidence of bats externally or internally and concludes all factors considered, the building is of negligible value of roosting bats. Through the implementation of the landscape strategy proposed as part of the development, overall the biodiversity value of the site can be enhanced.
- 9 *Flooding*: The majority of the site is at very low risk (<0.1% Annual Exceedance Probability (AEP)) of flooding from surface water. The proposals will adopt Sustainable Drainage Systems (SuDS) and will provide betterment of surface water quality treatment over the existing site network.
- 10 *Pollution*: With the application of a number of appropriately worded conditions relating to noise, prevailing residential amenity in nearby residential properties can be protected. There will be negligible impacts on air quality during the operational phase of the development and any temporary impacts during the construction phase can be addressed by a rigorous construction method statement, to be agreed with the Council. Conditions are also proposed in respect of existing ground conditions, again to the protect amenity.

6.233 With regard to energy and the reliance on the installation of solar photovoltaic panels to deliver 10% of predicted energy demands through renewable sources, and achieving the BREEAM rating of 'Very Good', RPS on behalf of the Stockvale Group raises concerns in respect of the ability to meet these policy standards through the renewable technologies proposed. In response, the applicants have submitted a Technical Note that further evidences the approach proposed, that give confidence that the required policy standards can be achieved. To secure performance in this regard, appropriately worded conditions are suggested, that notwithstanding the nature of submission made in support of the application, require both the BREEAM and renewable energy standard to be satisfied, prior to occupation of any building.

6.234 Overall, it is considered that the development proposals are sustainable in nature. The above review of project characteristics demonstrate that the sustainable benefits delivered through the implementation of the development, most noticeably through the transformation of a previously developed Central Area car park into a new leisure-focussed destination for Southend are of considerable merit. The NPPF identifies a presumption in favour of sustainable development, requiring local authorities to approve such proposals where they accord with the development plan. In this instance, the proposals are considered to comply with the Development Plan with the scheme consistent with majority of policies within the statutory documents. Hence the application proposals should benefit from this presumption, and it is appropriate that the sustainable nature of the development proposals should weigh heavily in favour of the application, in the consideration of the overall planning balance.

## **12) Other Environmental Matters**

### **Ground Conditions**

- 6.235 Policy DM14 of the Development Management Document (2015) requires that an appropriate contaminated land assessment be conducted in respect of the site. A Phase 1 Desk Study has been included with the planning application which does not identify any significant sources of contamination at the site other than arising from the current use of the site as a car park (e.g. from leaks and spills from vehicles).
- 6.236 The users of the development are not anticipated to come into contact with any contaminated soils at the site and risks are therefore considered low. However, it is recommended that prior to any development taking place that a detailed investigation be conducted, and a strategy put in place for reducing the risk of construction operatives or future users or workers coming in contact with any areas of concern. This can be achieved through remediation or management strategies during both the construction and operational periods. These can be secured via planning condition.

### **Flood Risk and Drainage**

- 6.237 A Flood Risk Assessment, Surface Water Drainage Strategy and Foul Water Drainage Strategy have been submitted with the planning application. The site is in Flood Zone 1 with a low risk from river or sea flooding. The site was not flooded during the flooding events in 2013 and 2014.
- 6.238 Hartington Road to the south-east has a high risk of sewer flooding (and has been affected by an event in the past) which is considered to place the site at medium risk (albeit it is considered that sewer drainage will generally be away from the site). There are existing Anglian Water sewers below ground under the site.
- 6.239 Foul and surface water will be discharged via connections to existing surface water and sewerage drainage systems and Anglian Water have confirmed their acceptance. Capacity has been identified in the foul drainage network to accommodate the development.
- 6.240 In relation to surface water, a vortex flow control device will be utilised to control flow to the surface water drainage network and SuDS will be utilised on site to control flows to 90% of the current unattenuated rates. Maintenance of the SuDS will be by the landowner or a nominated party.
- 6.241 With the application of an appropriate condition requiring the submission of full details of the drainage proposals prior to commencement of development and the on-going maintenance of the system throughout the lifetime of the project it is considered that the approach adopted by the applicant to site drainage is acceptable and policy compliant.

## **13) Policy CS1.2**

- 6.242 The above review of the planning issues relevant to the consideration of this planning application has repeatedly referred to Policy CS1.2 of the SCAAP, that provides a site-specific policy against which to appraise the current proposals. It is considered helpful to summarise the performance of the proposals when assessed against this policy. Whilst it remains one policy in the development plan and clearly other policies are also relevant in this regard, the performance of the scheme against Policy CS1.2 is considered important and should carry significant weight in any decision. Reference should also be made to Appendix 3, where a detailed appraisal against all relevant policies is provided.



<b>Policy CS1.2 Opportunity Site: Seaways</b>	<b>Commentary</b>	<b>Compliance</b>
<b>Introduction</b>		
The Council will pursue with private sector partners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include: restaurants, cinemas, gallery, hotel, public and private open spaces, and vehicle and cycle parking.	Proposals involve the creation of a mixed-use leisure development; an 80-bedroom hotel; a range of supporting A3 and A5 uses that together have the potential to create a new leisure destination for Southend.	Compliant
The potential for residential may also be explored. Design and layout solutions should allow for:  a) remodelling of the urban form to create a north-south axis on the Seaway site, providing clear sight line from the Queensway dual carriageway to the sea	The masterplan for the site is based on a north-south axis with sight lines protected from the north of the site at the Seaways roundabout through to Lucy Road and beyond.	Compliant
b) a stronger relationship with the Town Centre through the provision of safe and legible pedestrian and cycle routes	Pedestrian access to the site is via either Chancellor Road to the north or the existing footpath that passes St John the Baptist's Church to the south. Within the site, new connections are provided that cross the site, north to south, and footways are created along the north of the site adjacent to Seaways roundabout. The opportunity to improve the footway that passes the church has not been taken and this is unfortunate, but it remains the case that safe and legible routes are provided that link to the Town Centre	Compliant
c) opportunities for a new link to Marine Parade from the Seaway site designed around the 'Spanish Steps' and in doing so ensure that development does not prejudice its delivery as a new link between the seafront and town centre;	No provision of the Spanish Steps, but policy does not require this. Instead, the proposals do not prejudice its future delivery, with the south side of Lucy Road free from development.	Compliant
d) addressing the need for replacement car parking provision in line with Policy DM5	On site provision is increased from that when the SCAAP was adopted (spaces increase from the 478 available at that time to 555, in the application proposals). On site capacity is sufficient for all but the busiest days and off-site capacity is sufficient to cater for this overspill.	Compliant
e) active frontages to all new and existing streets and spaces	The development proposals provide active frontage to all new and existing streets and spaces. It is not the case that all building facades comprise such active	Compliant

<b>Policy CS1.2 Opportunity Site: Seaways</b>	<b>Commentary</b>	<b>Compliance</b>
	uses, but rather an appropriate proportion is active, as part of a design for the site that is supported by Council Design Officer	
f) a palette of good quality materials to reflect the vibrancy and colour of the seaside	The amended design adopts an appropriate array of colours that enable the development to positively respond to its setting. Precise material specifications can be secured by condition	Compliant
g) relocation of the coach-drop off point within the site. The relocation of coach parking bays may be provided either on or off-site or a combination of both, provided off-site provision is well connected to the Seaway site and would not significantly adversely impact the local transport network	<p>A new coach drop off is provided within the site. Whilst it is noted that no coach parking is currently provided at the Seaways site, no permanent alternative coach parking is provided to off-set those spaces that were on-site at the time of the adoption of the Plan.</p> <p>The alternative provision at the Gasworks site provides temporary mitigation and it may be the case that coach parking is retained following the redevelopment of this site, providing a permanent provision. However, given this cannot be guaranteed at this time, some degree of non-compliance with this element of the policy remains possible.</p>	Part Compliant
h) Urban greening projects, including the creation of new public and private green space within new development	New public green space is created to the north of the site, adjacent to the Seaways roundabout and Chancellor Road. Whilst some allocated public open space is lost, overall there is a net gain of greenspace of around 2300sqm.	Compliant
i) Innovative design which allows the site to take advantage of the elevation and creates a legible environment with views of the estuary, respecting the amenity of neighbouring residential uses	The design is distinctive, contemporary, and bold. The environment created is legible and accessible, with framed views to the seafront created from the roundabout, drawing pedestrians through the site. The amenity of residents is protected.	Compliant
j) the provision of appropriate seating, signage and way finding aids to improve connectivity to the Town Centre, Seafront and Opportunity Site Marine Plaza	An appropriate level of seating, signage and way finding is provided (and secured by condition) to ensure the site is well connected to its surroundings, ensuring visitors ease of passage between Seaways and these other key locations.	Compliant

## 7.0 Other Issues

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

7.1 With the proposals providing a net increase in floorspace over 100sqm, it is liable for the Community Infrastructure Levy. The amount charges for the development will be calculated in accordance with Regulation 40 of the CIL Regulations 2010, with all charges based on the gross internal floorspace area created (with possible deductions for existing floorspace that is being demolished that satisfies the “in-use test”). The Council’s CIL charges taking into account inflation, will attract a rate of £12.23 currently.

7.2 This application is CIL liable and there will be a CIL 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 approximately 14,322 sqm, which may equate to a CIL charge of approximately £175,158.06 (subject to confirmation).

### Equality and Diversity

7.3 Section 149 of the Equality Act 2010, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

(a) *Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*

(b) *Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*

(c) *Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”*

7.4 For the purposes of this obligation the term “protected characteristic” includes:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

7.5 Officers have, in considering this application and preparing this report, had regard to the requirements of this section and have concluded that a decision to grant planning permission for this proposed development will comply with the Council’s statutory duty under this important Legislation.

7.6 The development will provide facilities for leisure and recreation for the whole community, the whole spectrum of people who share a “protected characteristic” and those who do not.

- 7.7 The new buildings proposed as part of the application would be required to comply with current legislative requirements in respect of equality and diversity related matters, for example access for the disabled under Part M of the Building Regulations. Disabled parking is to be provided, and a condition is recommended in this respect. Lifts are provided within the car park, cinema, first floor leisure unit (Unit L3) and hotel.
- 7.8 With the conditions recommended the proposal is found to accord with development plan policies as they relate to the relevant equalities and diversity matters by providing a high quality inclusive design approach which creates an environment that is accessible to all and would continue to be over the lifetime of the development. The development would therefore have a positive effect in terms of equalities and diversity matters.
- 7.9 It is considered by officers that the submission adequately demonstrates that the design of the development and the approach of the applicant are acceptable with regard to equalities and diversity matters. The proposals support the council in meeting its statutory equality responsibilities.

## 8.0 Planning Obligations and Conditions

### Planning Obligations

8.1 Paragraph 56 of the NPPF states that *“Planning obligations must only be sought where they meet all of the following tests:*

*(a) Necessary to make the development acceptable in planning terms;*

*(b) Directly related to the development; and*

*(c) Fairly and reasonably related in scale and kind to the development”*

8.2 Paragraph 57 of the NPPF states *“where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage”.*

8.3 Core Strategy Policy KP3 requires that:

*“In order to help the delivery of the Plan’s provisions the Borough Council will:- ...*

*... 2. 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; a. roads, sewers, servicing facilities and car parking; b. improvements to cycling, walking and passenger transport facilities and services; c. off-site flood protection or mitigation measures, including sustainable drainage systems (SUDS); d. affordable housing; e. educational facilities; f. open space, ‘green grid’, recreational, sport or other community development and environmental enhancements, including the provision of public art where appropriate; g. any other works, measures or actions required as a consequence of the proposed development; and h. appropriate on-going maintenance requirements.”*

8.4 The Council is the freehold owner of the Seaway Car Park, and it is only in the event of a planning permission for the redevelopment of the site being issued that the applicants will enter into a long-term lease for the site. Given that the Council is unable to enter into a S106 agreement with itself, it is necessary in this instance to move away from the typical scenario of executing the s106 prior to the issuing of a planning permission. Instead, a planning condition is proposed, that prevents any form of development at the site (or the discharge of any planning conditions) prior to the execution of an appropriate s106 agreement. The condition requires that the details of the s106 must be substantially the same as a draft of this document, the Heads of Terms of which are provided at **Appendix 8** to this Report.

8.5 Whilst not a typical approach, it is noted that the relevant guidance allows for such an arrangement in exceptional circumstances. A negatively worded condition such as that proposed, requiring a planning obligation to be entered into before certain development can commence is considered appropriate. The guidance requires that there needs to be clear evidence that the delivery of the development would otherwise be at serious risk. In this regard, it is noted that at Seaways, with the Council as the landowner, and reflecting the pending signing of the lease post-decision, it would not be possible to secure the s106 any earlier.

8.6 The guidance continues, stating that where such a condition is proposed, it remains necessary to satisfy the ‘6 tests’ as defined by Paragraph 55 of the NPPF. In this regard, it is considered that the condition requiring the applicant to enter into a planning obligation satisfies these tests, in

that it is necessary, relevant to planning; relevant to the development permitted; enforceable; precise; and reasonable in all other respects.

- 8.7 The guidance is also clear that where consideration is given to using a negatively worded condition of this sort, it is important that the local planning authority discusses with the applicant before planning permission is granted, the need for a planning obligation or other agreement and the appropriateness of using a condition. The Heads of Terms or principal terms need to be agreed prior to planning permission being granted to ensure that the test of necessity is met and in the interests of transparency. In this regard, it is confirmed that the applicant is fully aware and supportive of the use of the condition. Furthermore, a draft s106 planning obligation has been both discussed and the contents agreed with the applicant. The draft Heads of Terms are detailed at **Appendix 8**. Confirmation of the applicant's position is provided at **Appendix 9**.

### **Heads of Terms of Required s106 Agreement**

- 8.8 As above, the Heads of Terms for the s106 agreement are provided at **Appendix 8** of this Report, and suggested condition No. 1 requires the execution of a s106 that is substantially the same as this, prior to any work (or any discharge of planning conditions) taking place.
- 8.9 The key features of the draft s106 related to highway and open space considerations. In summary these are as follows:

#### **Highways**

- 1 Prior to commencement of development, a requirement to enter into a Section 278 and Section 38 agreement in relation to the highway works shown on plan no. SO19/P3056 rev. pl2 including inter alia a new access from Queensway/Chancellor Road, access restrictions on Lucy Road and Herbert Grove, extension of shared used path, road widening at Lucy Road and the provision of a segregated path through the site. The highway works must be completed prior to occupation.

#### **Traffic Regulation Order (TRO) Contribution**

- 2 Prior to commencement of development, £15,000 is required to cover the cost of amending the signing (£3,000) and the lining (£6,000) and amendment to existing traffic regulation orders and/or implementation of any future traffic regulation orders (£6,000) in relation to the Development and adjacent roads.
- 3 TROs to be in place prior to commencement of highway works approved under any Section 38 or Section 278 agreement.
- 4 TROs must be implemented prior to occupation of the development.

#### **Travel Plan**

- 1 Travel Plan to be approved prior to opening and first use of the development.
- 2 The Travel Plan must include a communication strategy, which shall include the provision of individual travel packs to engage with future owners/occupiers of the commercial units of the development to ensure their compliance with the Travel Plan.
- 3 A contribution of £4,000 per year for five years after the year of opening of the development for the Council's costs in respect of monitoring the Travel Plan implementation and operation. The first payment is to be made prior to opening and first use of the development and then annually thereafter.

## **Transport and Highway Works Monetary Contributions**

- 4 The following contributions would be payable within six months of commencement of development:
  - a A contribution of £35,000 for a Variable Message Sign (VMS) to be located on the internal access road that displays the availability of spaces and provides directions for the multi-storey and surface car parks. This sign must be integrated with the Council's VMS system. The location and design of the equipment must be agreed with the developer prior to installation.
  - b Contribution of £150,000 for the temporary and fixed VMS signage for the construction period to be put towards upgrading the VMS signs, which must be integrated with the Council's system. This cost will cover the council's contractor installing four VMS signs and the associated electrical work and communications protocol.
  - c Contribution of £25,000 for the Council to provide onsite wayfinding pedestrian and cycle signage that links to the existing town centre signage in order to direct people from the site to the main travel locations, High Street and seafront. This cost will cover the Council's contractor installing three wayfinding signs on the site.
  - d Contribution of £25,000 for the Council to provide offsite pedestrian and cycle wayfinding signage that links to the existing town centre signage in order to direct people to the site from the main travel locations, High Street and seafront. This cost will cover the Council's contractor installing three wayfinding signs offsite. The location and design of the signs must be agreed with the developer prior to installation.
  - e A contribution of £46,000 for real time information screens to be provided within the site at key locations to inform of bus times and services for both Chancellor Road and the Travel Centre. This cost will cover the Council's real time contractor installing one indoor display in the hotel, one indoor display in the cinema and one double sided outdoor display located at the main entrance to the site and restaurants. The location and design must be approved by the developer and relevant tenants prior to installation.
  - f The Council will be granted access to the site as necessary in order to undertake the works set out above, provided such works do not fetter or interrupt the construction of the development or fit-out works. The Council must agree the programme and specification of all works with the developer.

## **Open Space and Landscaping**

- 5 Prior to commencement of development, details of the open space and landscaping works shown on plan no. 739\_PL\_001\_PO7\_General Arrangement Plan must be agreed with the Council.
- 6 Requirement to provide the trees and soft landscaping within the open space areas shown on 739\_PL\_001\_PO7\_General Arrangement Plan on adopted public highway land; and a requirement to maintain these areas for a period of 5 years from the completion of the soft landscaping/planting under the terms of a Section 278 agreement, during which time any planting must receive regular maintenance and watering with any trees and soft landscaping that die during this time being replaced.
- 7 Requirement to provide the trees and soft landscaping within the open space areas shown on 739\_PL\_001\_PO7\_General Arrangement Plan that are not on adopted public highway land; and a requirement to maintain these areas for a period of 5 years from the completion

of the soft landscaping/planting, during which time any planting must receive regular maintenance and watering with any trees and soft landscaping that die during this time being replaced.

- 8 Requirement to provide rain gardens within the open space on the adopted public highway land under the terms of a Section 278 agreement and maintain in perpetuity.
- 9 Requirement for notice to be served to the Council at the end of the 5 year maintenance period and provision for the Council to confirm if the trees and soft landscaping are in good condition and have been maintained to the Council's reasonable satisfaction in accordance with the Maintenance Programme, which is to be agreed pursuant to a planning condition. If not, the maintenance period can be extended for a further five years. When the owner/developer has received written confirmation from the Council that the trees and soft landscaping have been satisfactorily maintained for the required period, the open space areas shown on 739\_PL\_001\_P07\_General Arrangement Plan on adopted public highway land shall thereafter be maintained by the Council and the open space areas shown on . 739\_PL\_001\_P07\_General Arrangement Plan that are not on adopted public highway land shall thereafter be maintained by the developer/owner.
- 10 The above requirements will survive any adoption of public highway by the Council pursuant to an agreement made under section 38 or section 278 of the Highways Act 1980.

#### **S106 Monitoring Contribution**

- 11 £10,000 towards the monitoring of compliance with the terms of the Section 106 Agreement payable prior to commencement

8.10 The s106 contributions as set out above are considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Should the application be approved, the identified contributions are deemed necessary to make the scheme acceptable in planning terms, they are directly related to the development and are reasonably related in scale and kind to the development.

#### **Planning Conditions**

8.11 A full schedule of suggested conditions is provided at **Appendix 5** of this Report. In addition to the condition referred to above in respect of the s106 agreement, additional conditions are proposed in respect of a range of matters including construction, noise, landscaping, contamination, odour, flooding, hours of operation, lighting, waste management, design, car parking, energy and sustainability, ecology, CCTV provision, public art and highways.



## 9.0 **Conclusions and Recommendation**

### **Application Proposal**

- 9.1 The application, submitted by Turnstone Southend Ltd. seeks detailed planning permission for the comprehensive redevelopment of the Seaway car park, to create a mixed-use leisure-led development at the site. Proposals involve the erection of three main buildings:
- 1 a mixed-use leisure building set back from and parallel with Herbert Grove incorporating a cinema, potentially a bowling alley and a mix of restaurant and cafes, and hot food takeaways and more leisure uses (noting that the precise breakdown of uses is not known at this time). This building will also incorporate a new multi-level car park;
  - 2 an 80 bedroom hotel with café located towards the Queensway roundabout; and,
  - 3 standalone building on Lucy Road that will either be a restaurant/café, a takeaway, or a further leisure facility.
- 9.2 Proposals involve the demolition of Nos. 1, 3 and 29 Herbert Grove and the existing toilet block on Lucy Road. A new access to the site will be created via a fourth arm off the Seaway Roundabout, with access to Herbert Grove retained as existing. A surface car park will be created to the south of the site, accessed as above, with an exit from this car park facility will be provided onto Lucy Road. New public open space will be created across the site, including a new square adjacent to St John the Baptist's Church. The erection of an electricity sub-station on the eastern site boundary is also proposed.

### **Policy**

- 9.3 A full schedule of development plan policies relevant to the application proposals is provided at **Appendix 3**. This includes an appraisal of the proposals against each policy objective. Policy CS1.2 of the SCAAP (2018) provides a specific policy in respect of the application site, identifying it as an Opportunity Site. This confirms that the Council will pursue a high quality, mixed use development at the Seaways Car Park that will include the provision of leisure, culture and tourist attractions. It may include restaurants, a cinema, a gallery, hotel, public and private open spaces, and vehicle and cycle parking. The policy continues with a detailed schedule of further design criteria against which the application proposals will be assessed.

### **Consultation**

- 9.4 In response to the Council's consultation exercises undertaken in respect of the application, a total of 199 responses have been received raising comments across a wide range of issues. The most repeated concerns expressed related to the inadequacies in the level of car parking provided; traffic impacts associated with the scheme; the impact on local businesses from a loss of trade; a lack of need for the proposed facilities; the quality of the design adopted, a failure to provide an enhanced pedestrian links to both the Town Centre and the seafront; impacts on residential amenity (noise and crime); heritage and townscape impacts; and ecology concerns.
- 9.5 The Stockvale Group employed consultants, RPS, to comment on the application proposals. These representations are extensive in nature and cross refer to a number of consultant studies submitted to support the representations made. Copies of these representations are provided at **Appendix 7**.
- 9.6 Subject to the application of appropriate conditions, no statutory consultee objects to the application proposals, including Historic England, Natural England and the Environment Agency.

- 9.7 Council Officer input was received in respect of design, heritage, noise, air quality, land contamination, drainage, odour, lighting, parks and trees, waste daylight and sunlight and archaeology. Subject to the imposition of conditions, all officers feedback was in favour of the development proposals, with no in-principle objections raised.

### **Compliance with the Development Plan**

- 9.8 As detailed in Section 4.0 of this Report, Section 38(6) of the Planning and Compulsory Purchase Act requires that development proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The relevant development plans for Southend comprise the Core Strategy (2007), the Development Management Document (2015) and the Southend Central Area Action Plan (SCAAP, 2018). Within these documents there are key policies that provide site specific policy requirements for the Seaways car park site. Central to the consideration of this application, therefore, is the extent to which the application proposals are consistent with these key policies, namely Policy CS1.2 and Policy DS5 2(b) of the SCAAP.
- 9.9 To assist in this regard, Part 13 of Section 6.0 provides a detailed appraisal of the scheme's compliance with the full requirements of Policy CS1.2, which identifies the Seaways Car Park as an Opportunity Site. Overall, the development proposals are considered to comply with all but one aspect of Policy CS1.2. The land uses proposed accord with policy requirements, with the proposals creating a high-quality mixed-use leisure-focussed development. The layout incorporates a north south axis; establishes a stronger relationship with the Town Centre through enhanced access and permeability; it does not prejudice the future delivery of 'Spanish Steps'; protects key visitor car parking provision and ensures sufficient provision to support town centre vitality and viability; creates active frontages on all streets; adopts quality materials and an appropriate colour palette; provides a coach drop off point; enhances the quantity and quality of green spaces; adopts an innovative design; and, incorporates seating, signage etc.
- 9.10 It is noted that the development proposals do not provide replacement coach parking as required by part of this policy. However, it is acknowledged that there is currently no on-site provision (there were spaces when the policy was adopted) and there is alternative coach parking facilities within the Gas Works car park. The Council is committed to retaining this temporary facility until at least one year after opening of the Seaways site. This commitment helps to mitigate potential impacts. Following this period, there is uncertainty as to the timing of any redevelopment and in any event, redevelopment proposals of the Gas Works site may well permanently retain coach parking. However, the non-provision of coach parking as part of the application proposals remains, and this is inconsistent with this part of the policy (the second requirement of part g). This contrasts with the application's compliance with the remainder of the policy (the introductory text and parts a-f, h-j and the first part of part g).
- 9.11 Part (d) of Policy CS1.2 cross refers to Policy DS5 Transport Access and Public Realm and a requirement to address the need for car parking. Part 2(b) of Policy DS5 requires any development proposals that come forward on key visitor car parking areas in the south of the Southend Central Area (i.e. the application site) to ensure there is no loss of key visitor car parking. The SCAAP references a capacity of the Seaway Car Park site of 478 car parking spaces. The proposals involve the creation of 555 spaces, hence delivering a net increase in provision, in accordance with this policy requirement. This compliance with policy remains regardless of the more recent increase in capacity at the site with the policy seeking to protect the identified 478 spaces.

- 9.12 Policy DS5 Part 2(b) continues, requiring development proposals to include an appraisal of parking demand generated by the proposed development, on the identified key visitor car parks. Car park studies undertaken by the applicant and endorsed by Council Officers demonstrate that the car parking at the site will typically have sufficient capacity to accommodate both the existing site demand, and that likely to be generated by the new uses. Only on the busiest days will there be overspill and, in these circumstances, other Southend Town Centre car parks have sufficient capacity to cater for demands.
- 9.13 As referenced in paragraph 6.58 since the SCAAP was adopted, the Seaways car park has been remodelled and it now accommodates a total of 661 car parking spaces and no coach facilities. Council Officers have confirmed that this increased existing capacity does not affect the conclusions of the car park capacity assessment work undertaken, with the increase in numbers still able to be accommodated in existing car parks during peak periods. The applicant's proposed contributions towards the Council's VMS system will assist with the efficient distribution of car parking demand during peak and off-peak periods. As such, with a net increase in key visitor car parking numbers and the availability of sufficient spaces both on and off site to accommodate demand from the proposed new uses, the application accords with this key policy requirement.
- 9.14 In terms of proposed demolition works, the loss of the single residential property to the south of Herbert Grove does not represent the loss of a valuable residential resource, and hence its loss does not conflict with development plan policy (Policy CP8, Core Strategy). It is just one property and hence, not material in the context of the Borough's housing demand. It is also relevant that the demolition of the property is required to deliver the proposed new public square adjacent to St John the Baptist's Church, a key benefit of the scheme from an open space, heritage and community perspective.
- 9.15 The demolition of Nos. 1-3 Herbert Grove involves the loss of a guest house. This is more than compensated for by the creation of a new 80-bedroom hotel as part of the development proposals. The principle of the demolition of this property and its replacement with an hotel, with an associated net increase in accommodation, therefore, accords with policy objectives for the Central Area, where increases in visitor accommodation will be welcomed (SCAAP Policy CS1.1 and Development Management Document Policy DM12).
- 9.16 The principle of the proposed uses is strongly supported by policy at all levels. In addition to the above policy requirement (SCAAP CS1.2) for a high-quality mixed-use development (that may include a cinema, hotel, open spaces and parking) to be brought forward at the site, there is additional support in the Council's stated objectives for the Central Seafront Area. Policy CS1.1 calls for proposals that enhance the range of entertainment, tourist, and leisure facilities on offer in the Area with hotels specifically supported. The policy support for hotels is repeated in Development Management Document Policy DM12. The nature of the proposal therefore accords with development plan policies. Support in the NPPF calling for the efficient use of previously developed land provides further weight to this benefit.
- 9.17 Traffic impact assessment work undertaken in support of the application demonstrates that the development proposals will not give rise to unacceptable impacts on the local network, with sufficient capacity on local roads to accommodate predicted traffic flows. Equally, there is no suggestion that the level of traffic generated will be anywhere near the 'severe' threshold identified in the NPPF, that represents a requirement for the refusal of development proposals on traffic grounds. Development at this centrally located site with its good access to existing public transport provision will ensure availability of alternative modes of transport to the car. With the provision of an appropriate level of cycle parking (to be supplemented with additional staff facilities, secured by condition), the adoption of a Travel Plan, and a servicing arrangement

that respects prevailing residential amenity as well as road conditions, it is considered that the proposals are consistent with the requirements of Policy CP3 of the Core Strategy and Development Management Document Policy DM15.

- 9.18 The protection of residential amenity encompasses a number of different potential impacts, particularly in a site of this nature that is in close proximity to existing residential properties. Policies reference the need to protect privacy, outlook, and prevailing daylight sunlight conditions, whilst adverse impacts from pollution are to be avoided. The scheme will inevitably result in the creation of a large-scale building at the site, to deliver on its specific site allocation. With this comes change to the local environment. Those living close to the site will experience adverse harm to prevailing visual amenity. However, whilst site conditions are transformed, it is not the case that the amenity is significantly harmed - privacy is largely protected, and the outlook of the site, whilst now accommodating buildings of bulk and scale, remains appropriate. Daylight Sunlight impacts are limited to an acceptable level. Pollution in all its forms (including noise, air quality, ground conditions) is limited. Overall, therefore through the adoption of good design principles, the changed nature of the environment will not give rise to unacceptable residential amenity impacts. Subject to the imposition of planning conditions the scheme is capable of appropriately protecting residential amenity and is therefore capable of being controlled so as to ensure compliance with development plan policy in this regard. (Core Strategy Policies KP2, CP4, and CP6; Development Management Document Policies DM1 and DM4, and SCAAP Policies DS3 and CS1). The scheme appropriately protects residential amenity and therefore accords with development plan policy in this regard. (Core Strategy Policies KP2, CP4, and CP6; Development Management Document Policies DM1 and DM4, and SCAAP Policies DS3 and CS1).
- 9.19 The proposals will result in moderately harmful effects on a number of key views. Policy DS2 requires development proposals to be compatible with key views (or to enhance them). Policy DM4 protects against adverse impacts on important local views where they contribute to the character of the area. It also protects against tall buildings that adversely impact upon the Skyline of Southend, as viewed from the shoreline, and other important viewpoints within or outside the Borough. The assessment work undertaken does identify changes in local views, including those on the Estuary and Pier, but it is not the case that these views will be completely lost. Views of Estuary along Herbert Grove and views of the Kursaal along Lucy Road, will still be possible, albeit now framed by proposed buildings. Hence local views are not considered compromised to the extent of conflicting within this part of Policy DM4. However, with moderate impacts predicted from the Pier, any adverse impacts on important viewpoints as required by Policy cannot be avoided.
- 9.20 Similarly, Policy DM6 requires development not to detrimentally impact on the Thames Estuary's openness, or views to the Thames and beaches. It is not considered that the openness of the Thames will be affected by this development, given its location, set back from the seafront, and appearance as a continuation of the built form of the seafront. This view already accommodates many modern alterations. However, some key views will be affected, and in this regard, the precise requirement to avoid all detrimental impacts is not satisfied. However, it is noted that the nature of the impacts is limited, predominantly to within a tightly drawn zone around the site and long-range views are unlikely to be affected. Furthermore, as landscaping matures, local impacts are reduced. However, it remains that the visual impact of the project conflicts with the above policy requirement.
- 9.21 The proposals offer a distinctive design approach to the site, embracing contemporary architecture and creating what will be a new feature building in Southend. The detailed design treatment adopted will result in the development sitting comfortably within its setting. Detailed design features of the proposals now work to reduce the sense of bulk. With the adoption of a

landscaping strategy to complement the built form, with areas of planting (both for screening and place creation), the scheme integrates well with its surroundings. The leisure building will be a landmark feature, and this is specifically supported by Policy DS3 of the SCAAP. The NPPF's support for good design is also noted, and with the proposals regenerating a car park that currently detracts from the prevailing streetscene, the design of the application proposal is considered to positively transform the site. Also, with regard to the Government's National Design Guide, it is evident that the application proposals successfully adopt key characteristics of good design, ensuring the development creates a physical environment that sustains a sense of community whilst respecting and enhancing its environmental setting. It is noted that the NPPF confirms that when the design of the development accords with clear expectations in plan policies, design should not be used as a valid reason to object to the proposal. With compliance with design requirements set out within a combination of Policy CS1.2, DS3, and DS5, it is considered that policy expectations are satisfied.

- 9.22 In landscaping terms, the loss of part of an allocated protected green space is noted, along with the felling of 26 individual trees, part of a tree group and an areas of trees (9 of which are covered by a TPO). However, the noted quality of the trees to be lost; the replacement public spaces created; the net increase in greenspace across the site; the increase in tree planting (93 new trees are to be planted); and the quality of the landscaping strategy proposed, all contribute towards a considered net enhancement of local conditions. As a consequence, it is considered that the landscape impacts of the project are broadly positive. It is also noted that Policy CP7 of the Core Strategy allows for the loss of green spaces where it can be demonstrated that alternative facilities are provided, with no loss of amenity or environmental quality to the community. The replacement green spaces at the site are both larger and of a higher quality than the spaces lost, offering a far enhanced resource for the local community, whilst also improving biodiversity. As such, the proposals accord with the requirements of Policy CP7.
- 9.23 The proposals, through job creation, capital expenditure, linked trip spending and increased tourist spending, will bring economic benefits to Southend, both to the site, the Town Centre and the seafront. The potential for negative economic impacts is recognised, but an appreciation of the extent of demand for the proposed facilities, and the distinct nature of what is proposed compared to existing businesses, should reduce the risk of any such negative economic impacts materialising. Within the region of 300 new jobs created as a result of the proposals, and a significant new capital investment within the Central Area, the overriding economic impact of the proposals will be positive. The economic credentials of the development are in accordance with policy C1 of the Core Strategy, and DM10 of the Development Management Document, delivering on the Council's ambitions to strengthen the local economy.
- 9.24 With regard to the heritage setting of the site, it is considered that due to a combination of existing site conditions and the adoption of a sensitive design approach, along with the creation of the St John the Baptist's Church new public square the application proposal responds well to its heritage setting. The impact on the application proposals on the Clifftown Conservation Area is considered to be neutral, thus complying with relevant policy, including Policy DM5 of the Development Management Document (2015) and Policy DS2 of the SCAAP (2018). Furthermore, no harm is predicated to both designated and non-designated heritage assets, again in accordance with the above policy requirements as well as Core Strategy Policies KP2 and CP4; Development Management Document Policies DM1, DM6, DM14; and SCAAP Policies DS4, and CS1.1.
- 9.25 The site has negligible habitat and biodiversity value at present, given its existing character, with large areas of hard standing, and limited areas of grassland. Debate regarding the bat roosting potential of existing buildings on site due for demolition concluded that the likelihood of bat roosting across the site was negligible. The proposals involve the implementation of a soft

landscaping strategy, that provides urban greening within the site, with the inclusion of native and ornamental planting, rain gardens, hedges, climbing plants and open grass areas, alongside an extensive tree planting strategy. The area of green spaces across the site also increase in size, by an estimated 2,300sqm. As such, it is considered that the proposals are likely to deliver enhancements to the habitat provision and biodiversity value of the site, in accordance with prevailing policy (Core Strategy Policies KP2 and CP4; and SCAAP Policies DS4, and CS1.1). The NPPF's guidance to incorporate biodiversity improvements in and around developments, especially where this can secure measurable net gains for biodiversity, is also satisfied.

- 9.26 The planning system is required to deliver sustainable development. The application proposals exhibit a series of sustainable characteristics. The proposals create the opportunity to transform a previously developed site, at an accessible location within Southend's defined Central Area. The application will contribute towards job creation, establishing a leisure destination facility for the Town's community and its visitors alike. The masterplan adopts sustainable design principles, in a scheme layout that secures enhanced provision of green spaces and biodiversity and delivers a new public square, whilst appropriately protecting local heritage assets, ecological conditions and prevailing residential amenity. The detail of the project includes the provision of renewable energy sources for generation, and a commitment to deliver the buildings as BREEAM Very Good standard. Development Plan policies embrace and support the principle of sustainable development - Core Strategy (KP2, CP1, CP3, CP4, CP6); Development Management Document Policies DM1, DM2, DM10, DM15 and SCAAP Policies DS4, and DS5.
- 9.27 The NPPF is clear regarding the presumption in favour of development. Where an application accords with an up-to-date Development Plan, the presumption should apply and planning permission should be granted, without delay.
- 9.28 Overall, in respect of the development plan, it is clear that the proposals are substantially compliant with prevailing policy. In all but one aspect (i.e. off-site coach provision), the proposals accord with the site's specific policy allocation (SCAAP Policy CS1.2). With a net increase in key visitor car parking numbers and the availability of sufficient spaces both on and off site to accommodate demand from the proposed new uses, the application accords with Policy DS5 2(b) of the SCAAP. The loss of the single residential property to the south of Herbert Grove does not conflict with Policy CP8, Core Strategy. The principle of the proposed uses at the site is supported by both the site allocation (SCAAP CS1.2) and Policy CS1.1 and Development Management Document Policy DM12. The traffic and transport implications of the scheme comply with policy (Core Strategy Policy CP3). The scheme promotes good design as required by policy (Core Strategy Policies KP2, CP4; Development Management Document Policies DM1, DM5, DM6; SCAAP Policies DS3 and CS1.1); and the economic benefits of the scheme deliver on a range of policy objectives (Core Strategy Policy CP1; Development Management Document Policy DM10).
- 9.29 Whilst recognising that some residents living in close proximity to the site will experience some harmful effects to visual amenity, overall, given the location and policy allocation at the site, the impact on amenity is not considered unacceptable. Subject to the imposition of planning conditions the scheme is therefore, capable of appropriately protecting residential amenity (Core Strategy Policies KP2, CP4, and CP6; Development Management Document Policies DM1 and DM4, and SCAAP Policies DS3 and CS1). Environmental policy requirements including those relating to ecology, green space protection and heritage considerations are also similarly satisfied (Core Strategy Policies KP2 and CP4; Development Management Document Policies DM1, DM5, DM6, DM14; and SCAAP Policies DS4, and CS1.1).

9.30 It is only with regard to coach parking (Policy CS1.2 - the second requirement of part g), and impacts on some views (Policy DS2, part of Policy DM4 and part of Policy DM6) where there are elements of actual and potential conflict with detailed policy requirements. Despite this where compliance exists with the majority of policies as is clearly the case here, it still remains appropriate to consider that the development proposal accord with development plan when read as a whole. Given the above review and with cross reference to the detailed assessment undertaken in Section 6.0 of this Report, it is considered that the application proposals at Seaways Car park do comply with the development plan when read as a whole. There are no material considerations which warrant a decision other than in accordance with the development plan. Given the absence of coach parking on site today, the planned provision of a drop off and pick up coach parking point on Lucy Road is considered adequate provision. The impact on views does not warrant refusing this scheme which would deliver the council's longstanding policy objectives for the regeneration of this site. As such and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act and paragraph 11 C) of the NPPF , the application is recommended for approval, subject to the planning conditions provided at **Appendix 5**.

### **Planning Balance**

9.31 With the statutory status of the Development Plan as the starting point for decision-making, this conclusion regarding Development Plan compliance is clearly central to the planning merits of the proposal. A planning balance exercise is typically undertaken when non-compliance with development plan policy is identified, and it is necessary to consider if other material considerations indicate that the policies within the development plan should not be followed. The above assessment does not identify such a conflict.

9.32 Notwithstanding this conclusion, it is considered helpful to undertake a planning balance exercise, to illustrate the identified planning benefits and disbenefits of the scheme, to help inform the decision.

### **Benefits**

9.33 The proposals will deliver a new leisure destination in Southend Central Area, transforming a site currently used as a car park to create a vibrant focus for leisure activity in the heart of the Town. It offers bespoke facilities not found elsewhere within the Borough, that will add to the leisure attraction of Southend. Additionally, it will increase the capacity, range and quality of available visitor accommodation at this strategically important location, thereby encouraging more overnight and longer stays within the Town. The regeneration of this previously developed, centrally located site for a range of appropriate new uses that will positively contribute towards Southend's status as a leisure and tourist destination represents a key benefit of the project and one that one that should carry significant weight in the planning balance.

9.34 From an economic perspective, through job creation, capital expenditure, linked trip expenditure, and increased visitor expenditure, Southend will receive an economic benefit as a result of the implementation of the development. Substantive new job creation and the provision of a new major leisure and visitor attraction in the centre of Southend will represent a significant boost for the local economy, particularly given the nature of evidenced demand and current supply. The NPPF is clear that significant weight should be given to proposals that support economic growth and productivity, and as such, these benefits should weigh heavily in the planning balance, in favour of the application.

9.35 The proposals will also deliver benefits by way of the proposed landscaping strategy, adding significantly to the areas of the site given over to greenspace, whilst creating new habitats that

ensure a net increase in biodiversity. Trees will be lost, and some of these are TPO specimens but with an extensive tree planting scheme proposed, as part of this site-wide landscaping strategy, the proposals will be responsible for the delivery of landscape improvements. This is not confined to the 'green' areas across the site, as the development will create a new public square adjacent to the Church, that will act as a new local community resource. Landscaping considerations therefore contribute positively to the overall planning balance with moderate weight.

- 9.36 From a design perspective, the application will create a new landmark building at the site in a manner that allows the development to sit comfortably within its setting. In contrast to the existing car park that detracts from the prevailing streetscene, the new buildings proposed will add interest to this important location, creating a contemporary feature that will add positively to the identity of Southend. Design considerations should therefore contribute positively towards the overall planning balance, with moderate weight.
- 9.37 The location of the site, and in particular the proximity of available public transport facilities (both rail and bus) underlies the sustainable transport credentials of the development. With this availability of alternative modes of transport to the private car, there is every prospect of increased patronage of existing public transport services, and this support will be further enhanced through the operation of the applicant's proposed Travel Plan (secured by the required s106 agreement). Pedestrian links across the site and towards public transport services will also encourage increased public transport use. The proposals, therefore, will result in increased use of public transport services, enhancing the sustainable credentials of the scheme but also adding to the patronage of existing services. As such, the public transport accessibility of the site will add to the planning benefits of the project, contributing positively to the planning balance to a moderate degree.
- 9.38 A key planning benefit of the proposals relates to its sustainable characteristics. Transforming a previously developed site at an accessible location, the scheme embraces the principles of sustainability, and this positive context is reinforced by adopted design details, referenced above, that further accord with these principles. The development will deliver a sustainable development for the Town that will over the long term continue to contribute towards its economic well-being, whilst supporting the community and typically enhancing prevailing environmental conditions. The sustainable nature of the development proposals should weigh in favour of the planning application and should carry substantial weight in this regard.

### **Neutral Considerations**

- 9.39 The proposals do add to the overall number of key visitor car parking spaces available whilst at the same time adding to prevailing demand, with the introduction of new attractions at this the central Southend site. The technical assessment submitted with the application, endorsed by the Council's Highway Officers concludes that on all but the busiest of days, car parking demand will be accommodated within the 555 spaces to be created across the site. During peaks, when there is an element of overspill, this demand can be accommodated within other existing car parks. Hence, the issue of car parking provision is considered as a neutral contributor towards the overall planning balance.
- 9.40 Similarly, the technical work in support of the application demonstrates that the type and amount of traffic generated by the development can be accommodated on the existing highway network in a safe and sustainable manner. Traffic matters, therefore, are not considered to either weigh in favour or against the development proposals.
- 9.41 The impacts on heritage assets including enhancement of the setting of St John the Baptist's Church are detailed in length at Part 9 of Section 6.0 and the conclusions of this work confirm



that there will be a neutral impact on the Conservation Area and no impact on other designated and non-designated heritage asset. As such, in the overall planning balance, this matter is considered to offer a neutral consideration.

9.42 Prevailing residential amenity will change as a result of the development proposal, but as above, it is not the case that change necessarily results in a significant negative impact. Views of the car park site from surrounding residential properties will change, which is an inevitable consequence of bringing forward development at this important site. Separation distances that range from 26 metres to 90 metres help to mitigate impacts and further mitigation is provided via the adoption of master planning, landscaping, and detailed design characteristics. As a consequence, privacy is largely protected, and the outlook of residents from residential properties whilst changed, is considered acceptable. Pollution in terms of predicted noise levels, air quality conditions and contamination is also limited to an acceptable level. Only with regard to daylight/sunlight impacts (considered below) are impacts considered to comprise a disbenefit of the scheme. In all other aspects, amenity issues are considered a neutral contributors towards the planning balance.

9.43 Similarly, the loss of one house as part of the development proposals is noted, but such is the limited nature of this loss within the context of Southend's housing supply that this matter does not weigh against the proposals to any material extent.

### **Disbenefits**

9.44 As above, the proposals will result in harmful effects on the townscape of the site and its surroundings, impacting on a number of key views, albeit this impact is limited. With maturing landscaping over time, this impact is likely to reduce, but despite this, it must be the case that this matter is seen as a disbenefit of the scheme, weighing moderately against the development proposal.

9.45 The lack of coach parking within the new parking areas at the site is again a disbenefit of the project. In this instance, however, with the lack of any existing facilities at Seaways, and the role of the Gas Works site referenced above, this matter is not considered to contribute with anything more, no real weight should be given to the loss of coach parking on site because a) there is none there now and b) you have provision for drop off and pick up and off site provision elsewhere albeit not on a permanent basis.

9.46 Finally, very localised daylight/sunlight impacts are predicted to arise as a result of the implementation of the application proposals. For the vast majority of surrounding properties, the limited nature of predicted impacts do not give rise to planning concerns. For a number of properties along Herbert Grove, a range of low to medium impacts are predicted, and whilst the nature of these impacts are not considered unacceptable, they do weigh in the planning balance against the development proposals with moderate weight.

### **Summary**

9.47 It is very clear, therefore, that any assessment of the overall planning balance of the merits of the proposals weighs heavily in favour of the development with the planning benefits of the proposals far outweighing the limited harm identified. The conclusions of this exercise supports the above appraisal of the development when considered against development plan policy, where clear compliance has been established. As above, the application is recommended for approval, subject to the planning conditions detailed in **Appendix 5**.

## **Recommendation**

- 9.48 Members are recommended to GRANT PLANNING PERMISSION subject to planning conditions detailed in **Appendix 5** of this Report.

# Appendices

- Appendix 1     Review of Consultation Responses
- Appendix 2     Planning History
- Appendix 3     Policy Background
- Appendix 4:     Affected Trees covered by TPO
- Appendix 5.     Planning Conditions
- Appendix 6:     Letter from Head of Corporate Property and Asset Management, Southend Borough Council, Dated 14 October 2019
- Appendix 7:     Representations received on behalf of The Stockvale Group (submitted by RPS) (Letters only)
- Appendix 8     Heads of Terms for S106 Agreement
- Appendix 9.     Applicant's Response to Heads of Terms of S106 Agreement
- Appendix 10     Key Application Plans
- Appendix 11:     Southend Borough Council's EIA Screening Response, dated 31 October 2019.

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**Appendix 1: Review of Consultation Responses**

**Summary of public and local business comments from the first submission dated 15 January 2019**

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
1	Resident	Withheld information Insufficient car parking/loss of car parking Impact on Seaside businesses and the High Street Loss of jobs	Lack of transparency with the information given by the council	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Withheld Information: See paragraphs 2.1-2.8
2	Resident	Insufficient car parking Resultant transport issues Loss of jobs and businesses Poor Design		Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Design: Section 6, Point 6 Jobs: Section 6, Point 8
3	Resident	Insufficient car parking Resultant transport issues Impact on local businesses Poor design	Poor design for a prominent location	Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
4	Local Business employee	Insufficient car parking Impact on local businesses Impact on local environment – air quality, loss of mature trees Resultant transport issues Impact on residents	Introduction of more late-night bars/restaurants will increase noise for residents backing onto the development. Loss of mature trees – loss of habitat for local wildlife	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Air Quality: Section 6, Point 4 Traffic Impact: Section 6, Point 2 Design: Section 6, Point 6

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Poor Design -not innkeeping with the local character		Trees: Section 6, Point 10
5	Resident	Parking Duplicate facilities Drainage System Pressure		Car Parking: Section 6, Point 3 Need: Section 6, Point 1 Drainage: Section 6, Point 12
6	Resident	Loss of car parking Impact on the High Street and local business		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
7	[not stated]	Not enough car parking Traffic Concerns Impact on businesses	Proposal is more suited to 'out of town development'	Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Trade Draw: Section 6, Point 8
8	Resident	Impact on local businesses Loss of jobs Parking concerns		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
9	Resident	Parking concerns Loss of jobs Impact on businesses		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
10	Local Business Owner	Parking concerns Resultant traffic concerns Impact on local businesses Loss of jobs Poor Design	Poor designed scheme for a prominent location	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Traffic Impact: Section 6, Point 2 Design: Section 6, Point 6 Jobs: Section 6, Point 8
11	Resident	Parking Concerns		Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Resultant traffic concerns Impact on local businesses		Traffic Impact: Section 6, Point 2 Jobs: Section 6, Point 8 Trade Draw: Section 6, Point 8
12	Resident	Parking Concerns Resultant Traffic concerns Loss of jobs Impact on high street and local businesses		Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Jobs: Section 6, Point 8 Trade Draw: Section 6, Point 8
13	Resident	Parking Concerns Resultant Traffic Concerns Impact on High Street businesses	No provision for resident parking	Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Trade Draw: Section 6, Point 2
14	User of Southend Town Centre	Parking concerns Resultant traffic concerns Duplicate facilities Impact on town centre and local businesses		Need: Section 6, Point 1 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
15	Delivery Driver	Parking Concerns Resultant traffic impacts Impact on local businesses/town centre/seafront businesses		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
16	Resident	Parking concerns		Car Parking: Section 6, Point 3
17	Local Business Employee	Parking concerns Impact on local businesses/high street		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2



No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic concerns Loss of jobs Poor design		Jobs: Section 6, Point 8 Design: Section 6, Point 6
18	Resident	Impact on local businesses/high Street Poor Design Parking Concerns Traffic Impacts Loss of jobs	Closure of significant buildings in the area - Kursaal	Trade Draw: Section 6, Point 8 Design: Section 6, Point 6 Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2 Jobs: Section 6, Point 8
19	Local Business Employee	Impact on local businesses Parking concerns Duplicate facilities Poor Design Traffic Impacts		Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3 Design: Section 6, Point 6 Traffic Impacts: Section 6, Point 2 Need: Section 6, Point 1
20	Local Business Employee	Parking Concerns Impact on local businesses Loss of jobs Traffic concerns	Reduction in tourists to the area due to lack of parking – Southend relies on tourists Delays to deliveries	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Traffic Impacts: Section 6, Point 2
21	Local Business Employee	Parking Impact on local businesses/high street Lack of public consultation Duplicate facilities	Lack of public consultation	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Need: Section 6, Point 1 Public Consultation: Section 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Loss of jobs		
22	Resident	Traffic concerns Parking concerns Loss of jobs Impact on local businesses Impact on residents Environmental impacts – loss of trees/wildlife, pollution Loss of major attractions	Noise from the bars and clubs impacting on residents	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Jobs: Section 6, Point 8 Noise: Section 6, Point 4 Trees: Section 6, Point 7 Ecology: Section 6, Point 10 Pollution/Air quality: Section 6, Point 4 Trade Draw: Section 6, Point 8
23	Resident	Parking Concerns Traffic Concerns Impact on local businesses Poor Design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
24	Resident	Parking concerns Impact on the High Street Loss of jobs	Drawing trade away from the High Street	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
25	Resident	Parking Concerns Traffic Concerns Impact on local businesses/seafront business	Decline in tourism	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
26	Resident	Parking Concerns		Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic Concerns Impact on local businesses Poor Design		Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
27	Essex Chambers of Commerce	Parking Concerns Traffic Concerns	Parking provision goes against SCAAP policy DS5	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
28	Business Owner	Parking Concerns Traffic Concerns Impact on local businesses Poor Design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
29	Resident	Traffic Concerns Impact on local businesses		Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
30	Unknown	Parking Concerns	Parking provision goes against SCAAP policy DS5	Car Parking: Section 6, Point 3
31	Business Owner	Impact on local businesses Traffic Concerns Parking Concerns Poor Design		Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Car Parking; Section 6, Point 3 Design: Section 6, Point 6
32	Business Manager	Duplicate facilities Parking Concerns Impact on local businesses Loss of jobs	Concern for The Kursaal and Odeon	Need: Section 6, Point 1 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
33	Resident	Parking concerns	3am licence will cause problems for residents', noise	Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic Concerns Residential impact - Noise Impact on local businesses Loss of jobs	and disruption	Traffic Impacts: Section 6, Point 2 Noise: Section 6, Point 4 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
34	Local Business Employee	Traffic concerns Parking concerns Impact on local businesses/high street Environmental Impact	Lack of ecological surveys and loss of trees	Trees: Section 6, Point 7 Ecology: Section 6, Point 10 Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
35	Resident	Impact on local businesses Loss of jobs Parking Concerns Residential Impacts - noise	3am licence will cause problems for residents', noise and disruption	Noise: Section 6, Point 2 Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3
36	Resident	Undefined opposition	-	-
37	Resident	Parking concerns Traffic concerns Impact on local businesses Poor design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
38	Resident	Impact on local businesses/high street Parking concerns		Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
39	Resident	Parking Concerns Traffic Concerns Impact on local businesses/High Street Crime Environmental Impact	Late night, noisy drinking and restaurant venues will increase crime to the town  Loss of mature trees	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Residential Amenity: Section 6, Point 4 Trade Draw: Section 6, Point 8 Noise: Section 6, Point 4 Trees: Section 6, Point 7
40	Resident	Poor Design Duplication of facilities Impact on local businesses Loss of jobs Crime Traffic Concerns	Over developed the site Too many hotels all in one area	Design: Section 6, Point 6 Need: Section 6, Point 1 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Residential Amenity: Section 6, Point 4
41	Resident	Parking concerns Impact on local businesses/high street Loss of jobs Traffic concerns		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Traffic Impacts: Section 6, Point 2
42	Resident/local Business Employee	Impact on local businesses Duplicate of facilities Poor Design	Appraisal of the sustainability of two cinemas? Lack of integration with the existing urban grain	Need: Section 6, Point 1 Design: Section 6, Point 6 Trade Draw: Section 6, Point 8 Integration: Section 6, Point 13

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
43	Resident	Duplicate of facilities Parking concerns Traffic concerns	Development period will cause more traffic issues	Need: Section 6, Point 1 Car Parking: Section 6, Point 3 Traffic Concerns: Section 6, Point 2
44	Resident	Parking Concerns Impact on local businesses/High Street Residential impact - noise		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Noise: Section 6, Point 1
45	Resident	Duplicate of facilities Impact on local businesses/high street Traffic concerns	Construction period causing traffic problems	Need: Section 6, Point 1 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
46	Resident	Parking concerns Traffic concerns Residential impact – noise Impact on local businesses/high street		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Noise: Section 6, Point 4 Trade Draw: Section 6, Point 8
47	Visitor to Southend	Impact on local businesses Traffic Concerns Parking concerns		Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3
48	Business operator	Parking concerns Impact on local businesses/high street Duplicate of facilities Loss of jobs Traffic concerns	Impact on residential properties - lack of privacy, visual impacts Other car parks are further away from the town to walk	Car Parking: Section 6, Point 3 Privacy: Section 6, Point 4 Visual Impact: Section 6, Point 5 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Need: Section 6, Point 1

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		<p>Air pollution</p> <p>Noise for residents</p> <p>Impact on residential amenity</p> <p>Lack of integration to the town centre</p>		<p>Residential Amenity: Section 6, Point 4</p> <p>Air Quality: Section 6, Point 4</p> <p>Pedestrian Links: Section 6, Point 13</p>
49	Local Business Employee	<p>Parking Concerns</p> <p>Traffic concerns</p> <p>Impact on local businesses</p> <p>Loss of jobs</p> <p>Duplicate facilities</p> <p>Noise for residents</p>		<p>Car Parking: Section 6, Point 3</p> <p>Traffic Impacts: Section 6, Point 2</p> <p>Jobs: Section 6, Point 8</p> <p>Trade Draw: Section 6, Point 8</p> <p>Need: Section 6, Point 1</p> <p>Noise: Section 6, Point 4</p>
50	Local Business employee	<p>Parking concerns</p> <p>Impact on local businesses</p> <p>Duplicate facilities</p> <p>Loss of jobs</p> <p>Traffic Concerns</p>		<p>Car Parking: Section 6, Point 3</p> <p>Trade Draw: Section 6, Point 8</p> <p>Need: Section 6, Point 4</p> <p>Jobs: Section 6, Point 8</p> <p>Traffic Impacts: Section 6, Point 2</p>
51	Driver (local employee)	<p>Traffic concerns</p> <p>Parking concerns</p> <p>Impact on local businesses</p>		<p>Traffic Impacts: Section 6, Point 2</p> <p>Car Parking: Section 6, Point 3</p> <p>Trade Draw: Section 6, Point 8</p>
52	Resident	<p>Parking concerns</p> <p>Traffic concerns</p> <p>Impact on local businesses/high street</p>		<p>Car Parking: Section 6, Point 3</p> <p>Traffic Impacts: Section 6, Point 2</p> <p>Trade Draw: Section 6, Point 8</p>

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Job losses Noise for residents		Jobs: Section 6, Point 8 Noise: Section 6, Point 4
53	Business Owner	Duplicate of facilities Parking concerns Traffic concerns		Need: Section 6, Point 1 Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
54	Local Business employee	Impact on local businesses/high street Duplicate facilities	Need more initiatives to bring investment to the high street e.g. parking initiatives Concern too many A3 units in Southend Town	Need: Section 6, Point 1 Trade Draw: Section 6, Point 8
55	Resident	Parking concerns Duplicate facilities Impact on local businesses/high street		Car Parking: Section 6, Point 3 Need: Section 6, Point 1 Trade Draw: Section 6, Point 8
56	Local Business owner	Parking concerns Impact on local businesses/high street		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
57	Resident	Residential amenity - noise Duplicate facilities Traffic concerns Environmental concerns – air pollution	Disrupts residential views to the sea Don't need another multi-storey car park, should just be surface car parking	Visual Impact: Section 6, Point 5 Need: Section 6, Point 1 Traffic Impacts: Section 6, Point 2 Air quality: Section 6, Point 4
58	Resident	Parking concerns		Car Parking: Section 6, Point 3
59	Local Business owner	Parking Concerns Job losses Traffic concerns	Design is not in keeping with the local area	Car Parking: Section 6, Point 3 Jobs: Section 6, Point 8 Traffic Impacts: Section 6, Point 2



No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Poor Design Residential amenity – noise Impact on local businesses Duplicate of facilities		Design: Section 6, Point 6 Noise: Section 6, Point 4 Trade Draw: Section 6, Point 8 Need: Section 6, Point 1
60	Local Business employee	Parking concerns Traffic concerns	Other cars parks too far away from seafront to meet parking demands	Car Parking: Section 6, Point 3 Traffic Impacts:
61	Resident	Parking concerns Poor design Residential amenity – noise Duplicate facilities Impact local businesses Job losses	Out of place with surroundings	Car Parking: Section 6, Point 3 Design: Section 6, Point 6 Noise: Section 6, Point 4 Need: Section 6, Point 1 Jobs: Section 6, Point 8 Trade Draw: Section 6, Point 8
62	Resident 61 (objecting on behalf of 7 other residents)	Parking concerns Poor design Residential amenity – noise Duplicate facilities Impact local businesses Job losses		Car Parking: Section 6, Point 3 Design: Section 6, Point 6 Noise: Section 6, Point 4 Need: Section 6, Point 1 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
63	Local Business owner	Parking concerns Traffic concerns Impact on local businesses/high street	Businesses forced to relocate out of town Development suited to 'out of town'	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Location is not right		
64	Resident	Parking concerns Impact on local businesses/seafront/high street		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
65	Resident	Parking concerns Traffic concerns Impact on local businesses Loss of jobs		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 1 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
66	Resident	Parking concerns Traffic concerns Impact on local businesses/seafront		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
67	Local Business Employee	Parking concerns Impact on local businesses/high street/seafront Traffic concerns	Southend lacks other parking facilities	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 8
68	Resident	Over developed Duplicate facilities Impact on local businesses/high street Loss of jobs Crime Traffic concerns	Too many hotels in one area	Need: Section 6, Point 1 Design: Section 6, Point 6 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Residential Amenity: Section 6, Point 4 Traffic Concerns: Section 6, Point 2
69	Resident	Residential amenity – noise		Noise: Section 6, Point 4

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Parking concerns Impact on local businesses Crime		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Residential Amenity: Section 6, Point 4
70	Resident	Impact on local businesses/seafront Duplicate facilities Parking concerns		Trade Draw: Section 6, Point 8 Need: Section 6, Point 1 Car Parking: Section 6, Point 3
71	Resident and Local Business Employee	Parking concerns Impact on local businesses/seafront		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
72	Resident	Traffic concerns Parking concerns Environmental concerns – poor air quality	Significant improvements to the town's road networks are needed	Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Air Quality: Section 6, Point 4
73	Resident	Parking concerns Traffic concerns Impact on local businesses		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
74	Resident/employee	Traffic concerns Parking concerns Impact on local businesses/seafront Loss of jobs		Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
75	Local Business Employee and Resident	Parking concerns Duplicate of facilities	Need to improve parking initiatives to continue to attract people e.g. free parking	Car Parking: Section 6, Point 3 Need: Section 6, Point 2 Traffic Impacts: Section 6, Point 2

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic concerns Crime Loss of jobs Impact on local businesses/high street and education		Jobs: Section 6, Point 8 Residential Amenity: Section 6, Point 4 Trade Draw: Section 6, Point 8
76	Local Business Employee	Heritage impacts Fails to integrate the town and seafront Parking concerns Traffic concerns Impact on local businesses Poor design Lack of integration with town centre and seafront Job losses	Not in accordance with SCAAP Policy CS1.2	Heritage: Section 6, Point 9 Pedestrian Links: Section 6, Point 13 Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Design: Section 6, Point 6 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Integration: Section 6, Point 13
77	Resident	Parking concerns Impact on local businesses/high street		Car Parking: Section 6, Point 3 Trade Draws: Section 6, Point 8
78	Resident	Parking concerns Impact on local businesses/high street Job losses Duplicate facilities Traffic concerns	Should be improving the facilities Southend already has	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Need: Section 6, Point 1 Traffic Impacts: Section 6, Point 2
79	Resident	Impact on local businesses/high street Job losses	No connections to the wider streetscape, inward facing development	Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Parking concerns Anti-social behaviour Crime Heritage Impact on residents Poor Design Quality Lack of public space	Narrow and unlooked spaces because of proposal	Car Parking: Section 6, Point 3 Residential Amenity: Section 6, Point 4 Heritage: Section 6, Point 9 Design: Section 6, Point 6 Public Space: Section 6, Point 7
80	Local Business	Lack of relationship to the surrounding area Impact on local businesses/high street Parking concern Traffic concerns Location Lack of integration with surrounding area Residential amenity impacts - noise Poor Design	Fails to create a legacy for Southend Temporary gas works car park fails to provide a long-term parking solution 'out-of-town' scheme Fails to provide linkages to the Seafront Lack of permeability through the site to provide a connection to City beach No unity between the different scale and massing of buildings on the surrounding roads, particularly residential houses	Design: Section 6, Point 6 Car Parking: Section 6, Point 3 Pedestrian Links: Section 6, Point 13 Spanish Steps: Section 6, Point 13
81	Resident and Representative of a local football group	Impact on local businesses/high street Parking concerns Traffic concerns		Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
82	Resident and Local Business Employee	Traffic concerns Parking concerns		Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
83	Resident	Residential amenity impact – noise Traffic concerns		Noise: Section 6, Point 4 Traffic Impacts: Section 6, Point 2
84	Business Employee	Traffic concerns Parking concerns Impact on local businesses/high street	Traffic concerns during and after development works	Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
85	Resident	Impact on local businesses/high street Parking concerns		Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3
86	Resident/business owner	Parking concerns Traffic concerns Impact on local businesses/high street Job losses Poor design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Design: Section 6, Point 6
87	Local Business Employee/ Resident	Parking concerns Impact on local businesses/high street Traffic Concerns Loss of jobs		Car Parking: Section 6, Point 3 Jobs: Section 6, Point 8 Trade Draw: Section 6, Point 8
88	Resident	Loss of jobs Impact on local businesses/high street Traffic concerns		Jobs: Section 6, Point 8 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2
89	Local Business	Parking concerns Impact on local businesses		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic concerns Duplicate of facilities		Need: Section 6, Point 1 Trade Draw: Section 6, Point 8
90	[unkown]	Parking concerns Traffic concerns Impact on local businesses/high street		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
91	Local Business Employee	Parking Concern	Introduction of parking incentives	Car Parking: Section 6, Point 3
92	[unkown]	Traffic Concerns Impact on local businesses Loss of jobs Heritage Parking concerns	Loss of the heritage building The Kursaal	Heritage: Section 6, Point 9 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Heritage: Section 6, Point 9 Car Parking: Section 6, Point 3
93	Resident	Duplicate facilities Parking concerns		Need: Section 6, Point 1 Car Parking: Section 6, Point 3
94	Resident	Parking concerns Impact on local businesses/high street/seafront Residential amenity impact – lack of residential parking in side roads Loss of jobs	Lack of residential parking in side roads near proposed development	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Residential Amenity: Section 6, Point 4 Jobs: Section 6, Point 8
95	Resident	Ecological impact Impact on local businesses/town	Mature trees removed as part of proposal	Trees: Section 6, Point 7 Trade Draw: Section 6, Point 8
96	Resident	Undefined opposition	-	-

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
97	Resident	Parking concerns Traffic concerns Impact on local businesses/seafront/high street		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
98	Resident	Parking concern		Car Parking: Section 6, Point 3
99	Business Employee/Resident	Parking concern Traffic concerns Impact on local businesses/high street Poor design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
100	Resident	Duplicate of facilities Impact on local businesses/high street/seafront Poor design		Need: Section 6, Point 1 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
101	Resident	Traffic concerns Impact on local businesses/high street Environmental impact - pollution	Take away parking from residents	Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Air Quality: Section 6, Point 4
102	Business	Parking concerns Traffic concerns Impact on local businesses/high street Shared space Poor design Lack of integration with the seafront and high street	Car parking surveys undertaken were not carried out on the seafront and High Street – does not provide valid evidence Department for Transport guidelines stop the creation of any new shared space Mode shares should be conducted for the seafront not for the town centre	Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 No shared surface: Section 3 - Highways Design: Section 6, Point 6 Pedestrian Links: Section 6, Point 13
103	Business	Parking concerns	Car parking surveys undertaken were not carried out	Car Parking: Section 6, Point 3



No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		<p>Traffic concerns</p> <p>Impact on local businesses/high street</p> <p>Shared space</p> <p>Poor design</p> <p>Lack of integration with the seafront and high street</p>	<p>on the seafront and High Street - does not provide valid evidence</p> <p>Department for Transport guidelines stop the creation of any new shared space</p> <p>Mode shares should be conducted for the seafront not for the town centre</p>	<p>Traffic Impacts: Section 6, Point 2</p> <p>Design: Section 6, Point 6</p> <p>Integration: Section 6, Point 13</p> <p>No shared space: Section 3 - Highways</p>
104	Resident	<p>Duplicate of facilities</p> <p>Parking concerns</p> <p>Traffic concerns</p> <p>Impact on local businesses/high street</p>		<p>Need: Section 6, Point 1</p> <p>Car Parking: Section 6, Point 3</p> <p>Traffic Impacts: Section 6, Point 2</p> <p>Trade Draw: Section 6, Point 8</p>
105	Resident	<p>Parking concerns</p> <p>Poor Design</p> <p>Lack of connectivity to nearby areas</p> <p>Poor offer of facilities</p> <p>Impact on local businesses/high street</p>		<p>Car Parking: Section 6, Point 3</p> <p>Design: Section 6, Point 6</p> <p>Pedestrian Links: Section 6, Point 13</p> <p>Trade Draws: Section 6, Point 8</p>
106	Resident	<p>Impact on local businesses/high street</p> <p>Job losses</p> <p>Location issues</p> <p>Competition from other multi complexes</p>		<p>Trade Draw: Section 6, Point 8</p> <p>Jobs: Section 6, Point 8</p> <p>Need: Section 6, Point 1</p>
107	Luken Beck (on behalf of AEW UK owners of Kursaal)	<p>Impact on local businesses</p> <p>Job losses</p> <p>Duplicate of facilities</p>	<p>Economic Benefits Assessment makes no assessment of the potential impact on the viability of similar existing leisure/tourism businesses</p>	<p>Trade Draw: Section 6, Point 8</p> <p>Jobs: Section 6, Point 8</p> <p>Need: Section 6, Point 1</p>

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		heritage		Heritage: Section 6, Point 9
108	Seafront Traders Association	<p>Parking concerns</p> <p>Poor design</p> <p>Pressure on sewage and drainage systems</p> <p>Duplicate of facilities</p> <p>Impact on local businesses/high street</p> <p>Loss of jobs</p> <p>Anti-social behaviour</p>	<p>Residents on Marine parade can obtain a resident's annual pass for seaway – where do they park during construction?</p> <p>Include parking initiatives e.g. free parking</p> <p>Greater policing presence required with greater numbers of drinking establishments proposed</p>	<p>Car Parking: Section 6, Point 3</p> <p>Design: Section 6, Point 6</p> <p>Drainage: Section 6, Point 12</p> <p>Need: Section 6, Point 1</p> <p>Trade Draw: Section 6, Point 8</p> <p>Jobs: Section 6, Point 8</p> <p>Residential Amenity: Section 6, Point 4</p>
109	Business Owner	<p>Parking concerns</p> <p>Impact on local businesses/high street/seafront</p>		<p>Car Parking: Section 6, Point 3</p> <p>Trade Draw: Section 6, Point 8</p>
110	Resident	<p>Impact on local businesses/high street</p> <p>Job losses</p> <p>Parking concerns</p> <p>Anti-social behaviour</p> <p>Crime</p> <p>Heritage</p> <p>Impact on residents</p> <p>Poor Design Quality</p>	<p>No connections to the wider streetscape, inward facing development</p> <p>Narrow spaces with lack of natural surveillance because of proposal</p>	<p>Pedestrian Links: Section 6, Point 13</p> <p>Active Frontages: Section 6, Point 6</p>

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Lack of public space		
111	Resident	Parking concern Traffic concern Impact on local businesses/seafront/high street Lack of integration with the high street or seafront Residential amenity-noise impacts	Gas works site is short term and is less spaces than the Seaways site	Car Parking: Section 6, Point 3 Traffic Impacts: Trade Draw: Section 6, Point 8 Pedestrian Links: Section 6, Point 13 Noise: Section 6, Point 4
112	Resident	Parking concerns Traffic concerns Impact on local businesses/high street/seafront Poor design Loss of jobs Competition for other complexes	Parking incentives should be investigated	Parking Concerns: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6 Jobs: Section 6, Point 8 Need: Section 6, Point 1
113	Business owner	Parking concerns Impact on local businesses Traffic concerns		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2
114	Resident	Parking concerns Residential impact – lack of parking Impact on local businesses Loss of jobs Traffic concerns	Issues for residential parking	Car Parking: Section 6, Point 3 Residential Impact: Section 6, Point 4 Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Traffic Impacts: Section 6, Point 2
115	Resident	Duplicate of facilities	More inclined for residential flats on the site to make	Need: Section 6, Point 1

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Loss of jobs Impact on local businesses Traffic concerns Poor design Residential amenity impact – noise Heritage impact	the most of the views	Jobs: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Design: Section 6, Point 6 Noise: Section 6, Point 4 Heritage: Section 6, Point 9
116	Local Business Employee	Parking concerns Traffic concerns Impact on local businesses/high street Poor design		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6
117	Local Business Employee	Parking concerns Impact on local businesses/high street Duplicate facilities		Car Parking: Section 6, Point 3 Trade Draws: Section 6, Point 8 Need: Section 6, Point 1
118	Resident	Parking concerns Traffic concerns Environmental Impacts – air pollution, loss of mature trees Residential impact – noise, loss of amenity, pollution Impact on local businesses/seafront/high street		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Air Quality: Section 6, Point 4 Trees: Section 6, Point 7 Residential Amenity: Section 6, Point 4 Trade Draw: Section 6, Point 8
119	Resident	Parking concerns		Car Parking: Section 6, Point 3
120	Local Business	Parking concerns		Car Parking: Section 6, Point 3

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
	employee	Traffic concerns Duplicate facilities Impact on local businesses/high street Lack of integration with the area		Traffic Impacts: Section 6, Point 2 Need: Section 6, Point 1 Trade Draws: Section 6, Point 8 Pedestrian Links: Section 6, Point 13
121	Local Business employee/ Resident	Parking concerns Traffic concerns Duplicate facilities Impact on local businesses/high street		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8 Need: Section 6, Point 1
122	Resident and Local Business Employee	Impact on local businesses/high street Loss of jobs Duplicate of facilities		Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8 Need: Section 6, Point 1
123	Local Business Employee	Parking concerns Impact on local businesses Duplicate of facilities	Parking initiatives should be considered Competitors multi complexes	Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Need: Section 6, Point 1
124	Resident	Parking concerns Impact on local businesses Traffic concerns Poor Design		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8 Design: Section 6, Point 6 Traffic Impacts: Section 6, Point 2
125	Business Owner	Parking concerns		Car Parking: Section 6, Point 3
126	Resident	Parking concerns Impact on local businesses/high street		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Traffic concerns		Traffic Impacts: Section 6, Point 2
127	[unkown]	Poor Design		Design: Section 6, Point 6
128	Resident	<p>Competition from other multiplex facilities</p> <p>Duplicate of facilities</p> <p>Lack of public consultation</p> <p>Poor Design</p> <p>Lack of integration with the high street</p> <p>Traffic concerns</p> <p>Impact on local businesses</p> <p>Parking concerns</p>	<p>Residential units should be considered in this town centre location</p> <p>Jobs proposed as part of the scheme are unlikely to be filled by labourers in the local area.</p>	<p>Policy CS1.2 - site allocation:</p> <p>Socio-economic: Section 6, Point 8</p> <p>Need: Section 6, Point 1</p> <p>Design: Section 6, Point 6</p> <p>Public Consultation: Section 3</p> <p>Pedestrian Links: Section 6, Point 13</p> <p>Traffic Impacts: Section 1, Point 2</p> <p>Car Parking: Section 6, Point 3</p>
129	Resident	<p>Parking concerns</p> <p>Traffic concerns</p> <p>Impact on local businesses</p>		<p>Car Parking: Section 6, Point 3</p> <p>Traffic Impacts: Section 6, Point 2</p> <p>Trade Draw: Section 6, Point 8</p>
130	Local Hotel (represents 14 employees)	<p>Parking concerns</p> <p>Duplicate of facilities</p> <p>Loss of Jobs</p> <p>Impact on local businesses/high street</p>		<p>Car Parking: Section 6, Point 3</p> <p>Need: Section 6, Point 1</p> <p>Jobs: Section 6, Point 8</p> <p>Trade Draw: Section 6, Point 8</p>
131	Resident	<p>Traffic concerns</p> <p>Parking concerns</p> <p>Impact on local businesses/high street</p> <p>Crime</p>	<p>Crime in the area is already an issue and likely to get worse with a new multi storey car park and late-night openings</p>	<p>Residential Amenity: Section 6, Point 4</p> <p>Traffic Impacts: Section 6, Point 2</p> <p>Car Parking: Section 6, Point 3</p>

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
				Trade Draw: Section 6, Point 8
132	Resident/Local Business employee	Parking concerns Poor Design Traffic concerns Waste of public money		Car Parking: Section 6, Point 3 Design: Section 6, Point 6 Traffic Impacts: Section 6, Point 2 Socio-economic: Section 6, Point 8
133	Local Business Employee/Resident	Impact on local businesses/seafront/high street Traffic concerns Parking concerns		Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3
134	Resident	Parking concerns		Car Parking: Section 6, Point 3
135	Resident	Traffic concerns Parking concerns		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
136	Resident	Parking concerns Traffic concerns Impact on local businesses/high street	Road improvements needed on the A127	Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
137	Resident	Impact on local businesses Traffic concerns Heritage Poor Design Lack of integration to surrounding area		Trade Draw: Section 6, Point 8 Traffic Impacts: Section 6, Point 2 Heritage: Section 6, Point 9 Design: Section 6, Point 6 Integration: Section 6, Point 5
138	Resident	Parking concerns Drainage system pressure	What is the long-term solution to car parking? Gas works is only a short-term solution	Car Parking: Section 6, Point 3 Drainage: Section 6,

No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Loss of jobs Environmental Impacts – pollution Crime		Jobs: Section 6, Point 8 Air Quality: Section 6, Point 4 Residential Amenity: Section 6, Point 4
139	Local Business	Parking concerns Traffic concerns Poor Design Impact on local businesses Job losses		Car Parking: Section 6, Point 3 Traffic Impact: Section 6, Point 2  Design: Section 6, Point 6  Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8
140	Resident	Parking concerns Heritage Impact on local businesses		Car Parking: Section 6, Point 3  Heritage: Section 6, Point 9  Trade Draw: Section 6, Point 8
141	Resident/ business employee	Parking concerns Traffic concerns Duplicate of facilities Impact on local businesses/high street Loss of jobs Poor Design Crime Residential amenity impact - noise		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2  Need: Section 6, Point 1  Trade Draw: Section 6, Point 8 Jobs: Section 6, Point 8  Design: Section 6, Point 6  Residential Amenity: Section 6, Point 4
142	Resident	Environmental Impacts – dust	Construction impacts for residents especially dust	Air Quality: Section 6, Point 4
143	Resident	Residential Amenity	Brick dust in particular a concern from experience of	Residential Amenity: Section 6, Point



No	Consultee	Key matters of concern	Further details	Where is matter addressed in report
		Construction Impacts, dust, noise	the Rossi Ice Cream Factory demolition	4 Construction: Section 6, Point 4
144	Essex Field Club	Ecology concerns	Inadequate information for consultation and decision making about biodiversity and protected species.  Ecological appraisal is not fit for purpose.  Insufficient bat surveys	Ecology: Section 6, Point 11

#### Consultee Responses from the second submission dated 20 September 2019

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
1	Local Business Owner and Operator	Car Parking Concerns	Not policy compliant, especially policies in SCAAP.	See Appendix 3
2	Resident	Residential Amenity – during construction in particular  Duplicate of facilities  Traffic Concerns  Loss of trees  Impact on local businesses  Crime/ Antisocial behaviour		Residential Amenity: Section 6, Point 4  Need: Section 6, Point 1  Car Parking: Section 6, Point 3  Traffic Impacts: Section 6, Point 2  Trees: Section 6, Point 10
3	Resident	Parking Concerns		Car Parking: Section 6, Point 3
4	Resident	Poor Design  Lack of integration with town centre	Southend would benefit from a development of this nature, but it is an “out of town” scheme.  Southend would benefit from the proposed functions, but they must be	Design: Section 6, Point 6 Integration: Section 6, Point 5

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
			integrated with the existing offer.	
5	Local Business Employee	Car Parking Loss of Jobs		Car Parking: Section 6, Point 3 Jobs: Section 6, Point 8
6	Resident	Supports the Principle of the Development but concerns around:  Poor Design  Impacts on local businesses  Lack of integration	Site better suited for a residential led mixed-use development  Should be subject to design competitions or design reviews.	Policy CS1.2. Review: Appendix 3  Design: Section 6, Point 6  Trade Draw: Section 6, Point 8
7	-	Public Consultation	Extension for Comments	Public Consultation: Section 3
8	Local Sports Club	Lack of public consultation  Ecology Impacts  Biodiversity Impacts	Insufficient ecology work undertaken on site - potential for bat roosts	Ecology: Section 6, Point 11
9	Resident	Parking Concerns  Residential Amenity – noise, traffic  Value of property reduced	Compensation or special concessions should be offered to residents and owners of properties in the vicinity such as triple glazing and noise insulation	Car Parking: Section 6, Point 3  Residential Amenity: Section 6, Point 4
10	Resident	Residential Amenity concerns – noise and vibration during construction	No formal objection to the plans to redevelop the area.  Concerns the demolition of no.3 Herbert Grove will impact other properties on Herbert Grove.  How long will the demolition process take?	Residential Amenity: Section 6, Point 4

**Consultee Responses from the updated submission dated 15 October 2019**

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
1	Seafront Traders Association	Biodiversity Ecology	Lack of information in relation to biodiversity and protected species since the Preliminary Ecological Appraisal for the Council to make a decision	Ecology: Section 6, 11
2	Resident	Environmental Issues Sustainability Lack of Information		Sustainability: Section 6, Point 11 Public Consultation: Section 3 Lack of Information: See paragraphs 2.1-2.8
3	Resident	Lack of information Lack of balanced public consultation process Environmental Issues Pollution	No commitment to prioritise safe and accessible pedestrian or cycle routes to the wider area  Lack of encouragement for more local sustainable businesses	Public Consultation: Section 3 Pollution: Section 6, Point 4 Environmental Concerns: Section 6, Point 4
4	Resident	Job Creation Investment to Southend High Street Well-known facilities e.g. Hollywood bowl Car Parking Trees	Support for the proposal	Jobs: Section 6, Point 8 Investment to the area: Section 6, Point 8 Land uses: Section 6, Point 1 Car Parking: Section 6, Point 3 Trees: Section 6, Point 10

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		All year round land uses		
5	-	Public Consultation	Extension for comments Submitted comments after the deadline	Public Consultation: Section 3
6	Resident	Car Parking Traffic Impacts		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
7	Resident	LVIA Heritage Impacts Car Parking		LVIA: Section 6, Point 5 Heritage: Section 6, Point 9 Car Parking: Section 6, Point 3
8	Resident	Heritage Impacts Car Parking Traffic Impacts		Heritage: Section 6, Point 9 Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2
9	Business	Car Parking Impact on Businesses		Trade Draw: Section 6, Point 8 Car Parking: Section 6, Point 3
10	Local Business Employee	Car Parking Traffic Impacts		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		Pollution Impact on Local Businesses/High Street Duplicate of facilities		Pollution: Section 6, Point 4 Trade Draw: Section 6, Point 8 Need: Section 6, Point 1
11	Resident	Car Parking Poor Design Impact on Town Centre		Design: Section 6, point 10 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
12	Resident	Impact on local businesses Costs to taxpayers		Trade Draw: Section 6, Point 8
13	Resident	Car Parking Traffic Impacts Impact on local businesses		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
14	Resident	Duplicate of facilities Job losses		Need: Section 6, Point 1 Jobs: Section 6, Point 8

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		Car Parking Impact on local businesses		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
15	Local Business Employee	Duplicate facilities Car Parking Impact on local businesses/town centre		Need: Section 6, Point 1 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
16	Resident	Poor Design Car Parking Traffic Impacts Impact on local businesses		Design: Section 6, Point 6 Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade draw: Section 6, Point 8
17	Visitor	Car Parking		Car Parking: Section 6, Point 3
18	Local Business	Land Use  Poor Design  Car Parking	Proposals should be taken through an independent design review panel  Proposal doesn't reflect the uniqueness/importance of the seafront  Temporary car park is not centrally located – does not provide a long term solution	Land Uses: Section 6, Point 1  Design: Section 6, Point 6  Car Parking: Section 6, Point 2  Trade Draw: Section 6, Point 8

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		<p>Impact on Town Centre/businesses</p> <p>Traffic Impacts</p> <p>Lack of Integration</p> <p>Residential Amenity Impacts</p> <p>Non- compliant with Policy</p> <p>Historic Environment</p>	<p>Design is an 'out-of-town' scheme</p> <p>Lack of linkages to the Seafront, main access into the site is a bland retail box, proposed buildings are orientated the wrong way around fronting the main commercial activity on Herbert Grove, no new pedestrian link through to the seafront, poor inter relationship of the proposed buildings, poor use of materials and composition; and leisure building provides a negative impact on residential amenity and outlook.</p> <p>The proposal does not reflect that it is a Gateway.</p>	<p>Traffic Impacts: Section 6, Point 2</p> <p>Pedestrian Links: Section 6, Point 13</p> <p>Residential Amenity: Section 6, Point 4</p> <p>Policy Compliance: Appendix 3</p> <p>Historic Environment: Section6, Point 9</p>
19	Local Hotel and resident	<p>Poor Design</p> <p>Car Parking</p> <p>Lack of jobs</p>		<p>Design: Section 6, Point Car Parking: Section 6, Point 3</p> <p>6</p> <p>Jobs: Section 6, Point 8</p>
20	Resident	<p>Car Parking</p> <p>Poor Design</p> <p>Job losses</p>		<p>Car Parking: Section 6, Point 3</p> <p>Design: Section 6, Point 6</p> <p>Jobs: Section 6, Point 8</p>
21	Resident	Car Parking:		Car Parking: Section 6, Point 3

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		Traffic Impacts: Impact on the town centre/local businesses		Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
22	Resident	Poor Design Car Parking Impact on the High Street/businesses		Design: Section 6, Point 6 Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
23	Resident	Car Parking Impact on the high street/businesses		Car Parking: Section 6, Point 3 Trade Draw: Section 6, Point 8
24	Resident	Car Parking Traffic Impacts Impact on local businesses		Car Parking: Section 6, Point 3 Traffic Impacts: Section 6, Point 2 Trade Draw: Section 6, Point 8
25	Resident	Stretch policing resourcing and health services Residential Amenity Car Parking Duplicate Facilities Loss of Jobs		Resources: Section 6, Point 4 and 6 Residential Amenity: Section 6, Point 4 Car Parking: Section 6, Point 3 Need: Section 6, Point 1 Jobs: Section 6, Point 8



No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
26	Resident	<p>Crime</p> <p>Poor Integration with surrounding area</p> <p>Coach Parking</p> <p>Car Parking</p> <p>Poor Design</p> <p>Impact on local businesses</p> <p>Loss of Jobs</p> <p>Ecology</p>	<p>Failure to undertake a bat emergence survey of the toilet block</p> <p>Loss of mature trees</p>	<p>Crime: Section 6, Point 6</p> <p>Pedestrian Links: Section 6, Point 13</p> <p>Coach Parking: Section 6, Point 2</p> <p>Trade Draw: Section 6, Point 8</p> <p>Jobs: Section 6, Point 8</p> <p>Ecology: Section 6, Point 10</p>
27	Resident	<p>Impact on High Street</p> <p>Loss of jobs</p>		<p>Trade Draw: Section 6, point 8</p> <p>Jobs: Section 6, Point 8</p>
28	-	Integration	Requesting further information from the Council regarding cycling routes and facilities to the proposed development from the area	<p>Cycling: Section 6, Point 3 and 13</p> <p>Integration: Section 6, Point 13</p>
29	Resident	<p>Car Parking</p> <p>Traffic Impacts</p> <p>Impact on the Town Centre/local businesses</p>		<p>Car Parking: Section 6, Point 3</p> <p>Traffic Impacts: Section 6, Point 3</p> <p>Trade Draw: Section 6, Point 8</p>
30	Local Business Employee/resident	Car Parking		Car Parking: Section 6, Point 2

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
31	-	Car Parking Lack of Integration Impact on businesses		Car Parking: Section 6, Point 3 Integration: Section 6, Point 13 Trade Draw: Section 6, Point 8
32	Resident	Noise Traffic Congestion Insufficient parking Antisocial behaviour Private ownership of car park Large buildings impacts views and light	Noise concerns relate to noise from people using the facility and traffic  Concerns of antisocial behaviour due to multi-storey car park. Who will fund policing?  Private ownership could mean blue badge holders will no longer be able to park for free.	Residential Amenity Section 6, Point 4 Traffic Impacts: Section 6, Point 2 Car Parking: Section 6, Point 3 Crime: Section 6, Point 6  Car Parking: Section 6, Point 3  Design: Section 6, Point 6, Residential Amenity Section 6, Point 4 and Townscape and Visual Impact: Section 6, Point 5
33	-	Car Parking Duplicate Facilities Traffic Congestion	Need more parking not less.  Already have cinema in the High Street which is easier to access via public transport.  Concerns A127 congestion on sunny days.	Car Parking: Section 6, Point 3 Need: Section 6, Point 1  Traffic Impacts: Section 6, Point 2
34	-	Car Parking	Reduction in car parking will impact economic development. If strategy is to switch to other modes, significant infrastructure and a strategy is needed.	Car Parking: Section 6, Point 3 and Socio-Economic Impacts: Section 6, Point 8

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
		Contract concerns		
35	-	Car Parking	Loss of parking. Parking is already insufficient.	Car Parking: Section 6, Point 3
36	-	Car Parking Duplicate Facilities Poor Design		Car Parking: Section 6, Point 3 Need: Section 6, Point 1 Design: Section 6, Point 6
37	-	Impact on High Street  Duplication Facilities  Car Parking	Concerns will result in the existing cinema closing which will lead to closure of other shops.  Already oversupply of A3/A5 restaurants which are struggling to survive.  Already an oversupply of hotel accommodation.  Reduces car parking which is detrimental to the trading activities of seafront traders.	Trade Draw: Section 6, point 8  Need: Section 6, Point 1  Car Parking: Section 6, Point 3
38	Local Business/Resident	Will leave the owners of Elizabeth Guest House homeless and without their business		Principle of Development, Section 6, Point 1
39	Local Business Owners and Operators	Economic Viability of other leisure facilities  Impact on the Kursaal        Residential Amenity	Concerns relating to impact on economic viability of other leisure uses, particularly the Kursaal and the subsequent impacts on the Kursaal from a heritage perspective, including concerns that it will be left vacant as a result of the development which would impact the Listed Building. Proposals have not fully considered the impact on the heritage assets.       Residential impact to Herbert Grove and Chancellor Road in terms of outlook and sense of enclosure and daylight and sunlight. Sense of enclosure and loss of privacy o Hartington Road.	Trade Draw: Section 6, point 8  Historic Environment: Section6, Point 9      Residential Amenity Section 6, Point 4
40	-	Ecology concerns	In progressing application to DCC officers are acting contrary to Legislation on European Protected Species	Ecology: Section 6, Point 10

No	Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
			Lack of bat emergence surveys to toilet block – cannot be determined before this.  Concerns relating to the downgrading of building 7 from low to negligible bat roost potential.	
41	Essex Field Club	Ecology concerns	Inadequate information for consultation and decision making about biodiversity and protected species.  Ecological appraisal is not fit for purpose.	Ecology: Section 6, Point 11
42	Resident	Parking concerns  Contract concerns	Side streets already difficult to park in during summer months.  Parking impacts residents daily lives.  Concerns site sold for £1.	Car Parking: Section 6, Point 3

Two standardised letters of support have also been received. The letters refer to the creation of up to 550 new jobs, re-energise the high street with a £50 million leisure facility that will boost the area by £15 million a year, deliver an 11 screen cinema with IMAX, Hollywood Bowl and Travelodge, delivery plenty of parking with 555 spaces, to plant 93 trees and make sure the site is used all year round, no matter what the weather.

#### The Stockvale Group Comments

Consultee	Key Matters of Concern	Further Details	Where is matter addressed in report
Stockvale Group (owners of Adventure Island, Sea Life Adventure Aquarium and other businesses in Southend)	Non Policy Compliant  Impact on local businesses/high	Contrary to Policy. Fails to comply with own policies SCAAP CS1 2. Not policy compliant with KP2, DM2 and DM4, DS5 and NPPF.  The main objections are related to:	See Section 6 and 9 of report

	<p>street Parking Concerns</p> <p>Poor Design</p> <p>Residential amenity Impact</p> <p>Lack of Public Consultation</p> <p>Traffic Concerns</p> <p>Lack of Integration</p> <p>Coach Parking</p> <p>Heritage</p> <p>Duplicate of facilities</p> <p>Loss of Jobs</p> <p>Impact on the Town Centre and Local Businesses</p> <p>Car Parking</p> <p>Traffic Impacts</p> <p>Ecology Impacts (bats nesting in disused buildings and 29 Herbert Grove)</p>	<p><i>Principle of development:</i> weak relationship with the Town Centre. The links provided do not consider traffic impediments or inclusivity.</p> <p>Proposal does not provide the opportunity for Spanish Steps to link to Marine Parade.</p> <p>Concerns related to the car parking calculations and methodology.</p> <p>Fails to provide active frontages along Lucy Road, despite policy requiring this on all new frontages.</p> <p>Limited coach parking and drop-off provided. No off-site provision has been provided either which policy allows for.</p> <p>Designs lack innovation and creativity.</p> <p>Lack of consideration given to residents, active frontages used throughout the evening and 3am licences for restaurants will impact residents. The proposed development has no through access and lacks integration to the wider area.</p> <p>Fails to comply with policy KP2 of the Core Strategy that developments “do not place a damaging burden on existing infrastructure.” The proposal will exacerbate parking issues and fails to improve car parking facilities in the town. The design and layout of the proposal harms the historic environment, lacks legibility and is out of scale.</p> <p>Fails to provide pedestrian and cycle improvements</p> <p><i>Economic Benefits:</i></p> <p>Concerns regarding the stated economic benefits set out within the submitted Economic Benefits Assessment, especially with regards to the displacement effects on existing leisure operations in the town, the Odeon and The Kursaal.</p> <p><i>Transport:</i></p> <p>Objections on the grounds of, no construction plan, no assessment of the effects of the loss of parking during construction.</p> <p>The cycle proposed does not meet the requirements of policy DS5.</p>	
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	<p>Trees</p> <p>EIA</p> <p>LVIA</p> <p>Sustainability</p> <p>Other Matters</p>	<p>The changes proposed to Chancellors Road/Queensway act as a deterrent for pedestrians and cyclists.</p> <p>Insufficient coach drops off and pick up points.</p> <p>Parking accumulation assessments have not been undertaken.</p> <p>Objects that the application should not be approved until car parking allocations have been rectified and calculations calculated appropriately.</p> <p>Results in a net reduction in total car parking on site.</p> <p>Would cause severe impact in NPPF terms.</p> <p>Pedestrian safety concerns.</p> <p><i>Ecology:</i></p> <p>Proposal fails to comply with Policy CP7 and paragraph 175 of the NPPF.</p> <p>Application fails to provide necessary ecological information within the statutory determination period of the application</p> <p>Lack of appropriate ecology surveys undertaken by the council.</p> <p>Protected species surveys and mitigation are part of the Local Validation List and a material consideration to the application that needs to be addressed. Ecology surveys have not been undertaken and cannot be undertaken for some time.</p> <p>Lack of bat surveys.</p> <p>Concerns relating to classification of Building 7 as having negligible bat roost potential and the content and findings of the applicants submissions. RPS have undertaken their own bat roost assessment for building 7 and state that building 7 has a low bat roost potential. RPS raise concerns regarding the findings and conclusions of the additional bat roost assessment submitted by the applicants on 25<sup>th</sup> November 2019 and maintain that building 7 has a low bat roost potential.</p>	
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		<p><i>Heritage:</i> Issues with the potential harm to heritage assets. The sight line between Palace Hotel and Kursaal Dome. The leisure unit will be significantly taller than the surround heritage assets and represents an unsympathetic form along the seafront where the development can be viewed from the Pier and Marine Parade.</p> <p>Impacts on the church from the proposed restaurant unit and leisure unit.</p> <p>Failure to conserve and enhance the Conservation Area or other designated heritage and non-designated heritage assets</p> <p><i>Trees:</i> Reduction in mature trees on site. The trees that are to remain along Herbert Grove have been given little protection and susceptible to construction damage.</p> <p>The removal of trees at the site is a non-emergency activity and it was announced on 29<sup>th</sup> July 2091 by a relevant Cabinet Member all non-emergency tree removals will be stopped.</p> <p>Alternatives must be explored which do not involve the removal of two trees subject to a recent TPO (TPO order)</p> <p><i>Noise and Residential amenity:</i></p> <p>Against Policy DM1 and SCAAP CS1 2.</p> <p>Noise from proposed restaurants and bars will be late into the evening and a regular occurrence for residents and noise from vehicles.</p> <p>Daylight and Sunlight concerns.</p> <p><i>Public consultation:</i></p> <p>Public consultation has relied on an outdated consultation for a different scheme.</p> <p>Council's policy of not publishing statutory and public comments deemed to be prejudicial to the process</p>	
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		<p><i>Design:</i> Design Comments</p> <p>'No precise schedule of areas' for the scheme</p> <p>Re-start application process once all documents have been received</p> <p><i>EIA:</i></p> <p>The EIA Screening Statement and the Cover Letter attached to the revised planning application refer to a subsequent 'Air Quality Technical Memorandum'. Appendix G of the Opinion Statement only encloses the December 2018 report which was published as a draft and marked confidential. This is requested to be provided online (as of 9<sup>th</sup> October 2019 this was provided online by the Council).</p> <p>Heritage Report submitted with the EIA Screening for the proposed development indicates they have provided a response to RPS's original objections made on 7<sup>th</sup> February 2019, but not the most recent objections dated 20<sup>th</sup> September 2019. Appendix 3 is missing from both Heritage Assessments submitted for EIA Screening Opinion Requests and the one submitted with the planning application. The Applicant has not appropriately responded to concerns raised by RPS.</p> <p>RPS request the consultation period for both applications to be extended by 21 days to ensure all parties are able to make comment on the claimed assertions of the Applicant regarding air quality. Any decision before this becomes available is likely to be subject to a challenge.</p> <p>Disagree with Council's decision that the scheme is not EIA development. RPS submitted a Screening Direction to the Secretary of State in this respect.</p> <p><i>LVIA:</i></p> <p>Errors in the LVIA report and it downplays effects</p>	
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		<p>Heritage – proposal has potential to adversely affect a number of heritage assets</p> <p>Impact on views from the Pier</p> <p>Socio-economic effects with the proposal</p> <p>Impact on habitat of protected species</p> <p>Air Quality Impacts</p> <p>HRA fails to assess the impact of dog walking activities properly</p> <p><i>Sustainability:</i> Absence of a sustainability statement means sustainability has not been adequately addressed.</p> <p>Council Energy and Sustainability Manager not consulted</p> <p>Failed to provide a Sustainability Statement as part of the application</p> <p>Objections over the BREEAM report as being unclear. The proposal fails to meet policies KP2, DSQM and CS1.2.</p> <p>Objects to the proposal under the impression an EIA is required before the development be approved in relation to the above points where the development is not compliant.</p> <p>Concerns relating to the land deal</p>	
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## **Appendix 2: Planning History**

## Appendix 2: Planning History - Table of Relevant Applications

Address	Reference	Application Description	Status
Rossi Ice Cream Factory 31 Lucy Road Southend-on -Sea Essex SS1 2AT	17/00902/DEM	Demolish former Rossi Ice Cream Factory (Application for Prior Approval for demolition)	Prior Approval Required and Granted (July 2017)
Seaway Car Park Seaway Southend-On-Sea SS1 3DS	17/01463/RSE	Redevelopment of car park with cinema complex, hotel and retail units (Request for Screening Opinion)	EIA not required
Seaway Car Park Seaway Southend-On-Sea SS1 3DS	19/01706/RSE	Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block, the erection of 3 no new buildings comprising a mixed-use leisure building with a cinema (3,590sqm of Use Class D2 floorspace), 3,256sqm of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sqm of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,612sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park, an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe, and, a 580 sqm building (Use Class A3, A5 or D2) Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station	EIA not required

## **Appendix 3: Policy Background**

### Appendix 3: Policy Background

This analysis examines in more detail the policies that are most relevant to the planning application and appraises the proposed development against these statutory development plan policies. This analysis focuses on the most relevant policies to the determination of the application.

The below tables are set out under each statutory document. The tables both list and describe the policies and provides commentary to assess how the proposed development addresses to the policy requirements. Further detail is provided in the main body of the report where appropriate.

The overall conclusion is that the development accord with plan policies subject to the proposed mitigation measures and controls set out in the recommended planning conditions and Section 106 Obligations, or that there are material planning considerations which justify a recommendation to grant planning permission, despite conflict with specific aspects of development plan policy and national guidance.

**Table 1: Analysis of the proposal’s compliance with the Southend Core Strategy (2007)**

Policy	Key Requirements	Comment	Compliant /Non-Compliant
KP1 - Spatial Strategy	The primary focus of regeneration and growth within Southend will be in Southend Town Centre and Central Area – to regenerate the existing town centre, as a fully competitive regional centre, led by the development of the University Campus, and securing a full range of quality sub-regional services to provide for 6,500 new jobs and providing for at least 2,000 additional homes in conjunction with the upgrading of strategic and local passenger transport accessibility, including development of Southend Central and Southend Victoria Stations as strategic transport interchanges and related travel centres. Successful regeneration and growth on the scale planned will require substantial improvements to transport infrastructure and accessibility in the Borough.	The proposal regenerates a key site within Southend Central Area to regenerate the current car park site and current car park in the Southend Central Area to provide a new leisure facility that will become a destination for the Town. Economic benefits will be delivered to the Town contributing towards the economic objectives of sustainability. The proposal will create a number of new jobs in the subsequent facilities proposed, contributing towards the Policy objective to provide up to 6,500 new jobs.	Compliant
KP2 – Development Principles	All new development should contribute to economic, social, physical and environmental regeneration in a sustainable way. Achieved by Making the best use of previously developed land, ensuring development proposals do not place a damaging burden on existing infrastructure, ensuring that sites and buildings are put to	The proposal converts a previously developed site, from a car park to a new leisure facility and associated uses. Replacement parking provision is proposed, ensuring there is no significant impact on the existing infrastructure, and ensuring there is no loss of key visitor car parking below that provided at the time of the adoption of the Plan.	Compliant

Policy	Key Requirements	Comment	Compliant /Non-Compliant
	<p>best use, securing improvements to transport networks, infrastructure and facilities, promoting improved and sustainable modes of travel, securing improvements to the urban environment through quality design, proposals should reflect the character and scale of the existing neighbourhood where appropriate, reducing the use of resources and maximising the use of renewable and recycled energy, water and other resources, enhance the ecological and amenity value of the environment and avoid and mitigate potential pollution impacts.</p>	<p>The development will regenerate part of Central Southend and provide a new leisure destination for the Town Economic benefits will be delivered The proposal will not impact on existing highway conditions, with traffic accommodated successfully on the network A public square is to be created as part of a new landscaped setting The proposals through careful design treatments will respect its setting in character and scale Sustainable design characteristics are adopted including renewable energy technologies</p>	
<p>KS3 – Implementation and Resources</p>	<p>Planning obligations with developers should be provided to ensure the provisions of infrastructure and transportation measures required because of the development proposed, including provisions such as roads, sewers, servicing facilities, car parking, improvements to cycling, walking and passenger transport facilities, educational facilities, affordable housing, open space, environmental enhancements</p>	<p>Planning obligations and conditions are proposed These require transport mitigation measures, (i.e. Travel Plan contributions towards VMS, wayfinding schemes, real time by time displays etc) Conditions relate to hours of operation, Construction Management Plans, Noise and Vibration and Dust Management Plans to be agreed, Lighting Management Plans and Drainage Plans</p>	<p>Compliant</p>
<p>CP1 – Employment Generating Development</p>	<p>Provision is made for no less than 13,000 net additional jobs by 2021 6500 in Southend Town Centre and Central Area between 2001-2021. Offices retailing, leisure and other uses generating large number of people should be focussed in the town centre Permission will not normally be granted for proposals that involve a loss of existing employment land and premises unless it can be clearly demonstrated the proposal will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.</p>	<p>The proposal is estimated to create 78 full time employee jobs during the construction phase The final development could provide in the region of 300 FTE jobs during operation. Located in proximity to Southend Town Centre and within the Central Area, the proposal will deliver jobs in highly accessible locations, whilst the development will create a new visitor destination at this important site.</p>	<p>Compliant</p>

Policy	Key Requirements	Comment	Compliant /Non-Compliant
	<p>The development will be expected to enhance the town's role as a cultural and intellectual hub, provide for the development and growth of appropriate technology and knowledge-based industries, and improve the opportunities for small and medium size enterprises in all economic sectors, especially education, healthcare, leisure and tourism</p>		
<p>CP3 – Transport and Accessibility</p>	<p>Improvements to transport infrastructure and services will be sought where they are necessary to unlock key development sites and secure the sustainable jobs led regeneration and growth in Southend. Achieved by improving accessibility to key development opportunity sites.</p> <p>High density developments or proposals that generate large traffic movements will be directed to areas well served by a range of transport modes.</p> <p>All development will need to reduce reliance on the car for accessibility by sustainable modes of transport</p>	<p>The site is in a well-connected location with links to bus stops and central train stations and good pedestrian links to its surroundings. It is allocated for the proposed use and embraces sustainable transport opportunities</p>	<p>Compliant</p>
<p>CP4 – Environment and Urban Renaissance</p>	<p>Development proposals are expected to contribute to high quality, sustainable urban environments achieved by high quality, innovative design. Maximise previously developed land, ensuring design solutions maximise the use of sustainable and renewable resources in the construction of development and the final development.</p> <p>Maintain and enhance amenities, appeal and character of residential areas, protecting urban open spaces and the biodiversity of the area</p>	<p>The proposal converts a current car park to a new leisure facility and associated uses.</p> <p>The development will ensure brownfield land is put to the best use, regenerating part of Central Southend and providing new facilities for the town.</p> <p>It is proposed a minimum of 10% of the development's energy demand can be delivered from renewable technologies. This will be in the form of photovoltaic panels, Air Source Heat Pumps and a BREEAM 'Very Good' rating is expected. An area of open space is lost, but this is replaced by a larger area of green space.</p> <p>Development has achieved without inappropriately harming prevailing site character.</p>	<p>Compliant</p>
<p>CP6 – Community Infrastructure</p>	<p>Development proposals must mitigate their impact on community</p>	<p>This proposal will provide a new leisure facility for Southend creating a leisure destination that will add to</p>	<p>Compliant</p>



Policy	Key Requirements	Comment	Compliant /Non-Compliant
		the availability of facilitates in the Town. Material impacts on existing businesses are not anticipated.	
CP7 – Sport, Recreation and Green Space	All existing sport, recreation and green spaces, and small areas of important local amenity, community resource or biodiversity value, will be safeguarded from loss or displacement to other uses, except where it can be demonstrated that alternative facilities of a high standard are being provided in an equally convenient and accessible location to serve the same local community, and there would be no loss of amenity or environmental quality to that community	As the site is currently largely hard surfacing with limited green space apart from the highway verges in the north of the site adjacent to the roundabout This area is allocated as a public open space However, the green spaces lost will be the areas along the highway which are of a low quality. The new green space provided (increasing site provision by 2300sqm) will be of a high quality and integrated into the scheme, to the benefit of the community	Compliant
CP8 – Dwelling Provision	Provisions is made for 3,500 net additional dwellings between 2001 and 2011 and for 3,150 net additional dwellings between 2011 and 2021 distributed within the Town Centres and Central Area as 1,000 between 2001 and 2011, 750 between 2011 -2016, 250 between 2016 and 2021 and a total of 2,000 over 2001 -2021 The Council will resist development proposals that involve the loss of existing valuable residential resources, having regard to the limited land resources in the Borough, the need to safeguard an adequate stock of single family dwellinghouses, and to protect the character of residential areas	The loss of the single residential property does not comprise the loss of an existing valuable residential resource, within the context of housing supply in the Borough The loss will not inhibit the redevelopment of other sites with residential-led schemes, whilst the development will enhance the attractiveness of the Town Centre as a place to live The loss of the property is required to deliver the proposed new public square which represents a key positive feature of the proposal Creating a new public square will open up the site of the locally listed Church, significantly enhancing its setting and helping to increase its prominence in the street scene.	Compliant

**Table 2: Analysis of the proposal's compliance with the Development Management Document (2015)**

<b>Policy</b>	<b>Key Requirements</b>	<b>Comment</b>	<b>Compliant/ Non-compliant</b>
DM1 – Design Quality	<p>Developments should be of a good quality, innovative design that contributes positively to the creation of successful places of a high quality, sustainable design</p> <p>In order to reinforce local distinctiveness, all development should add to the overall quality of the area and respect the character of the site and the surrounding context in terms of height, size, scale, form, massing, density, layout, material, proportions</p> <p>Proposals should enhance the distinctiveness of place, contribute positively to the space between buildings and their relationship to the public realm, 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, and, ensure the accessibility of the site for all users, prioritising pedestrians and cyclists, and accessibility to public transport</p>	<p>The proposed development provides an appropriate and high-quality design approach to the buildings, spaces and streets which together create a development that sits comfortably in its context</p> <p>The design provides a positive response to its setting. It will introduce a large-scale building into the site, changing the local environment. Some living close to the site will experience adverse harmful effects on their prevailing visual amenity. However, whilst site conditions are transformed, amenity is protected to an acceptable level. Pollution in all its forms (including noise, air quality, ground conditions/is limited, outlook whilst changing remains appropriate, appropriate privacy is retained (through separation distances, landscaping, topography and window treatments in the new development) and daylight/sunlight conditions, whilst again acknowledged to result in a reduction from existing conditions, are considered to be acceptable. Hence, the policy objective to protect amenity is satisfied. The proposal will also create an accessible location for pedestrians and cyclists</p>	Compliant
DM2 – Low Carbon Development and Efficient Use of Resources	<p>All proposals should contribute to reducing energy demand and carbon dioxide emissions</p> <p>New development that creates additional commercial units should be energy and resource efficient including prioritising the use of sustainably sourced material, adopting sustainable construction methods and urban greening measure that</p>	<p>The proposed development adopts renewable energy technology and is predicted to achieve BREEAM 'very good' status. Urban greening is achieved through the creation of a new public square open green space. Trees, planting and rain gardens have been incorporated into the proposed scheme to promote biodiversity</p>	Compliant
DM3 – The Efficient and Effective use of Land	<p>Support for well-designed development that optimises the use of land in a sustainable manner that responds</p>	<p>The proposed development provides an appropriate and high quality design response to its urban setting, making efficient use of the</p>	Compliant

Policy	Key Requirements	Comment	Compliant/ Non-complaint
	positively to local context and does not lead to an over-intensification, which would result in undue stress on local services, infrastructure (including transport capacity)	existing car park site It responds positively to its setting, protecting amenity as appropriate (see commentary on Policy DM1 above), with a neutral impact on the Conservation Area and no impact on heritage assets There is sufficient capacity on existing highway infrastructure to accommodate traffic	
DM4 – Tall and Large Buildings	<p>Tall/large buildings are supported in all appropriate locations within Southend Central Area. Tall/large buildings will be considered acceptable where they integrate with the surrounding buildings character and public realm, form a distinctive landmark that emphasises a point of visual significance and enhances the skyline and image of Southend, and where ground floor activities provide a positive relationship to the surround streets</p> <p>Tall/large buildings will not be acceptable where they adversely impact their surroundings in character, microclimate, overshadowing, noise, glare, wind turbulence and navigation interruptions, if they impact on a local view that makes an important contribution to the character of the area, impact upon the skyline of Southend as viewed from the foreshore and other important viewpoints, or they negatively impact upon the setting or heritage assets</p>	<p>The Seaways car park is identified as an appropriate location for a tall building The height of the leisure building has been designed to respect the scale of the locally listed St John the Baptist Church whilst the relationship between the proposed leisure unit and hotel frame views towards the Estuary</p> <p>The development site sits comfortably in its setting, integrating with the character of its surroundings Ground floor activities provide a vibrant outlook, and links to sustainable transport options are well-defined and efficient.</p> <p>The height of the proposed building will alter the skyline views, but this has already been altered to incorporate many modern alterations</p> <p>Whilst there will be adverse impacts on views, these will be in a relatively tightly drawn zone around the site, with most key views unaffected Impacts will also be reduced over time as landscaping matures Important local views will change, with framed views of the Estuary and the Kursaal remaining. However, some views will be affected Heritage assets will not be negatively impacted</p>	<p>Part-Compliant</p> <p>There will be some impact on key views hence non-compliant with part 2 (ii) and (iii) of policy</p>
DM5 – Southend-on-Sea’s historic environment	Development should protect heritage assets, including listed Buildings, Conservation Areas and archaeological remains, according to their significance All proposals that affect a	A Heritage Assessment has been submitted. Impacts on the Clifftown Conservation Area considered neutral, with no harm to the significance of any designated heritage assets.	Compliant

Policy	Key Requirements	Comment	Compliant/ Non-complaint
	<p>heritage asset will be required to include an assessment of its significant and enhance its historic and architectural character and setting</p> <p>Proposals that result in the loss or harm of a locally listed building will normally be resisted, although a balanced judgement will be made.</p>	<p>Historic England do not object to the application</p>	
DM6 – The Seafront	<p>Development within or near the Seafront area must not detrimentally impact upon the Thames Estuary openness or views and backdrops to the Thames and Southend beaches</p>	<p>Located near to the seafront, the proposal involves the development of an open car park. The masterplan allows for the retention of some views across the site, with the buildings now framing these views. Within the context of the site's allocation for a major new landmark building, the nature of the resulting impacts are considered acceptable.</p> <p>The standalone food and drink unit has incorporated a terrace to provide views out to the Thames Estuary from the site, and the location of the hotel is to promote views from the Queensway across the site towards the seafront and Thames Estuary.</p> <p>However, it is the case that views across the site will change, and the assessment work has identified a number of key views where a moderate effect is predicted, including views to and from the Pier. Hence policy compliance in respect of avoiding any detrimental impact cannot be avoided.</p>	<p>Part-Compliant</p> <p>Identified moderate adverse effects on views to and from the Pier, result in non-compliance with the precise requirement of Point 4 of this policy.</p>
DM12 – Visitor Accommodation	<p>New visitor accommodation should have good access and a clear relationship with the Seafront. Visitor accommodation should be focused in several areas including Southend Central Area.</p>	<p>The proposed new hotel to the East of the site is accessed off the A1160 Seaway roundabout, with good access to the Town Centre and associated railway stations and bus stops.</p> <p>The policy identified visitor accommodation should be focused in the Southend Central Area.</p>	Compliant

<b>Policy</b>	<b>Key Requirements</b>	<b>Comment</b>	<b>Compliant/ Non-compliant</b>
DM10 – Employment Sectors	Development that contributes to the promotion of sustainable economic growth by increasing employment land, floorspace and jobs will be encouraged The Southend Central Area will form the primary location for major economic growth Tourism and associated leisure activities such as hotels, restaurants and tourism activities will be directed to Priority Location Areas in Southend Central Area and seafront	Approximately 300FTE are anticipated during operations with the development contributing positively to the economic performance of the Town. Its location within the Southend Central Area, and specifically around the seafront where new leisure activities, restaurant and hotels are encouraged, further supports the compliant nature of the development	Compliant
DM13 – Shopping Frontage Management outside the Town Centre	All new shop frontages will be of a high standard of design, compatible with the architectural style and character of the building and surrounding area. Regard should have been made to the Design and Townscape Guide SPD and blank frontages should be avoided.	The proposals incorporate active frontages at ground floor level, with a mix of A3, A5 and D2 uses. A large proportion of glazing is used throughout, to add activity. A Design-Code for all ground floor units in the main leisure building and hotel (Café Unit) is proposed via a condition, to assist with the delivery of a quality and consistency of design, in keeping with the buildings' architectural designs and surrounding context.	Compliant
DM14 – Environmental Protection	Development on or near land that which may be affected by contamination will only be permitted where an appropriate contaminated land assessment has been carried out to identify there are no risks to human health, the environment or water quality	The contaminated land report submitted with the application demonstrate a lack of risks associated with the development of this site, subject to the imposition of appropriate conditions	Compliant

Policy	Key Requirements	Comment	Compliant/ Non-compliant
DM15 – Sustainable Transport Management	Sustainable transport should be delivered as part of developments. Access to/traffic generated by the proposed developed must not cause unreasonable harm on the surroundings, including the amenity of neighbouring properties. Developments should prioritise the needs of pedestrians including secure cycle parking on site and safe, convenient and legible access to public transport for pedestrians and cyclists. The provision of facilities for charging electric vehicles and other ultra-low emission vehicles will be encouraged wherever practical and feasible.	72 secure cycle parking spaces in four cycle shelters are proposed around the site. Additional provision will be made for staff. New and improved paths and public spaces have been created. The proposal also encourages the use of low emission vehicles by providing plug in charging points on site. The implementation of these features encourages the use of sustainable transport. The transport assessment as part of the proposed development highlights that the surrounding highway network will have the capacity to accommodate the type and number of vehicles predicted. The application is supported by an updated Travel Plan which sets out how to promote alternative 'smarter choice' measures to reduce dependency on private vehicles.	Compliant

**Table 3: Analysis of the proposal's compliance with the Southend Central Area Action Plan (2018)**

Policy	Key Requirements	Comment	Compliant/Non-Compliant
DS2 – Key Views	Development is expected to be compatible with or enhance key views to the most notable buildings around the development site, including The Seafront, The Kursaal and Southend Pier.	The layout of the site has been positioned in such a way to frame views. A key sightline from the North of the site towards the Thames Estuary and seafront has been preserved using the changes in topography to an advantage. The demolition of the Rossi Ice Cream Factory enhances these views. Impacts on existing views vary, but harmful effects are within a tightly drawn zone around the site with most of the key views in the town unaffected. Long range views are unlikely to be affected. Impacts will reduce over time as landscaping matures.	Non- Compliant
DS3 – Landmarks and Landmark buildings	The policy seeks to protect landmarks and landmark buildings from adverse impacts.	The new public square in front of the Church opens views to the historic landmark and frames views.	Compliant

Policy	Key Requirements	Comment	Compliant/Non-Compliant
	<p>associated with new development and will support the creation of new landmarks in certain areas, including the Seaways Car Park opportunity site</p> <p>Developments should encourage the provision of open space and public realm improvements which provide views to landmarks, resist adverse impacts of new development by restricting heights, massing and bulk, and ensure development proposals respect views, setting and character</p> <p>The creation of new landmarks will be supported where they do not affect amenity of locals, do not harm the setting of nearby heritage assets, location provides a focal point for an existing sight line, and design of the proposal reinforces local character and distinctiveness</p>	<p>of the south</p> <p>The height of the leisure building has been designed to respect the scale of the locally listed St John the Baptist Church</p> <p>Local amenity is to a large extent protected and nearby heritage assets are not unduly harmed. Views are respected with harmful effects limited to an acceptable level.</p> <p>Historic England do not object to the proposal</p>	
<p>DS4. Flood Risk Management and Sustainable Drainage</p>	<p>Proposals which are within a flood risk zone will be accompanied by a flood risk assessment. The policy sets out the approach to flood risk and drainage that needs to follow accordingly.</p> <p>Development proposals should locate more vulnerable uses in the least at-risk area of the site and provide safe access and egress routes away from the flood risk during a flood event or provide clear justification why these procedures are not required.</p> <p>All proposals for development should remain structurally sound during a flood event, provide appropriate flood resistance, not increase flood risk elsewhere, provide a flood plan and provide a safe refuge above the extreme flood level</p>	<p>A flood risk assessment has been undertaken for the site. It is within Flood Zone 1, which has the lowest risk of flooding. The proposals, which accept a SuDS scheme, are considered acceptable from a flooding and drainage perspective</p>	<p>Compliant</p>

Policy	Key Requirements	Comment	Compliant/Non-Compliant
DS5 – Transport, Access and Public Realm	<p>Requires development to adopt sustainable transport measures, parking standards, satisfy adequate new pedestrian and cycle priority routes, integrated signage strategy, street lighting and public realm works</p> <p>Businesses should provide appropriate service and delivery arrangements, whilst visually active frontages and traffic calming measures will be encouraged</p> <p>Proposals should maintain car parking at a level that supports vitality and viability and does not undermine the Central Area’s ability to accommodate visitor trips, proposals should ensure there is no loss of key visitor car parking and applications should be supported by a transport assessment detailing the impact of the additional parking demand generated from the proposed development</p> <p>The costs and benefits of an extension to the existing VMS scheme and improved information about the range of parking and sustainable travel options for visitors to Southend should be identified to ensure the vitality and viability of the SCAAP area</p>	<p>The development proposes 555 car parking spaces At the time of the adoption of the Plan, the Seaway car park accommodated 478 spaces There will be a net increase in car parking provision from this level.</p> <p>The Gas Works site has been granted permission as a temporary car park for 5 years, to help mitigate the impact of the loss of car parking whilst the development is under construction Assessment work undertaken demonstrates that there is sufficient capacity in the surrounding car parks to accommodate overspill</p> <p>The proposal includes an obligation to contribute towards an update to VMS</p> <p>Links to and from the site utilise and create new pedestrian and cycle paths that are direct and well lit. Through the proposed wayfinding strategy and landscaping, signage will ensure the site is easily connected to the Town Centre and seafront A Transport Assessment is supplied Service provision has been made along Lucy road and an out of hours short handling service facility in a layby near the hotel</p>	Compliant
CS1 – Central Seafront Policy Area Development Principles	<p>Decisions will favour proposals which enhance or diversify the range of tourism, leisure and recreational facilities on offer, subject to impacts on the surrounding area Hotels and visitor accommodation will be promoted subject to satisfactory car parking provision and conservation and enhancement of landmarks and landmark buildings to ensure new development respects views to and from them</p> <p>Proposals which pursue urban</p>	<p>The proposal would enhance the leisure offer of Southend which would draw greater numbers of visitors to use the facilities</p> <p>The Hotel has a small number of car parking spaces available for hotel use, but the main surface car park and multi-storey car park provide adequate spaces to meet policy requirements</p> <p>The development respects key views and whilst harmful effects are identified, the extent of harm is considered acceptable (i.e. views</p>	Compliant



Policy	Key Requirements	Comment	Compliant/Non-Compliant
	greening, improve traffic management with the aid of VMS and improve parking, taxi ranks, and coach drop offs will promoted.	are respected), given the policy allocation of the site and the ability for views to be enhanced once on site planting matures.	
CS1 2 Opportunity Site Seaways	The Council will pursue with private sector partners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include restaurants, cinemas, gallery, hotel, public and private open spaces, and vehicle and cycle parking. The potential for residential may also be explored	Proposals involve the creation of a mixed use leisure development, an 80 bedroom hotel; a range of supporting A3 and A5 uses that together have the potential to create a new leisure destination for Southend	Compliant
	Design and layout solutions should allow for a)remodelling of the urban form to create a north-south axis on the Seaway site, providing clear sight line from the Queensway dual carriageway to the sea	The masterplan for the site is based on a north-south axis with sight lines protected from the north of the site at the Seaways roundabout through to Lucy Road and beyond	Compliant
	b) a stronger relationship with the Town Centre through the provision of safe and legible pedestrian and cycle routes	Pedestrian access to the site is via either Chancellor Road to the north or the existing footpath that passes St John the Baptist Church to the south. Within the site, new connections are provided that cross the site, north to south, and footways are created along the north of the site adjacent to Seaways roundabout. The opportunity to improve the footway that passes the church has not been taken and this is unfortunate but it remains the case that safe and legible routes are provided that link to the Town Centre	Compliant
	c) opportunities for a new link to Marine Parade from the Seaway site designed around the 'Spanish Steps' and in doing	No provision of the Spanish Steps, but policy does not require this. Instead, the proposals do not prejudice its future delivery, with	Compliant

Policy	Key Requirements	Comment	Compliant/Non-Compliant
	so ensure that development does not prejudice its delivery as a new link between the seafront and town centre,	the south side of Lucy Road free from development	
	d) addressing the need for replacement car parking provision in line with Policy DM5	On site provision is increased from that when the SCAAP was adopted (spaces increase from the 478 available at that time to 555, in the application proposals). On site capacity is sufficient for all but the busiest days and off site capacity is sufficient to cater for this overspill	Compliant
	e) active frontages to all new and existing streets and spaces	The development proposals provide an element of active frontage to all new and existing streets and spaces. It is not the case that all building facades comprise such active uses, but rather an appropriate proportion is active, as part of a design for the site that is supported by Council Design Officers	Compliant
	f) a palette of good quality materials to reflect the vibrancy and colour of the seaside	The amended design adopts an appropriate array of colours that enable the development to positively respond to its setting. Precise material specifications can be secured by condition	Compliant
	g) relocation of the coach-drop off point within the site. The relocation of coach parking bays may be provided either on or off-site or a combination of both, provided off-site provision is well connected to the Seaway site and would not significantly adversely impact the local transport network	A new coach drop off is provided within the site. Whilst it is noted that no coach parking is currently provided at the Seaways site, no alternative coach parking is provided to off-set those spaces that were on-site at the time of the adoption of the Plan. The proposals do not comply with this requirement	Part compliant
	h) Urban greening projects, including the creation of new public and private green space within new development	New public green space is created to the north of the site, adjacent to the Seaways roundabout and Chancellors Road. Whilst some allocated public open space is lost, overall there is a net gain of greenspace of around 2300sqm	Compliant
	i) Innovative design which allows the site to take advantage of the elevation and creates a legible environment with views of the estuary,	The design is distinctive, contemporary, and bold. The environment created is legible and accessible, with framed views to the seafront created from the	Compliant

Policy	Key Requirements	Comment	Compliant/Non-Compliant
	respecting the amenity of neighbouring residential uses	roundabout, drawing pedestrians through the site The amenity of residents is protected.	
	J) the provision of appropriate seating, signage and way finding aids to improve connectivity to the Town Centre, Seafront and Opportunity Site Marine Plaza	An appropriate level of seating, signage and way finding is provided (and secured by condition) to ensure the site is well connected to its surroundings, ensuring visitors ease of passage between Seaways and these other key locations	Compliant

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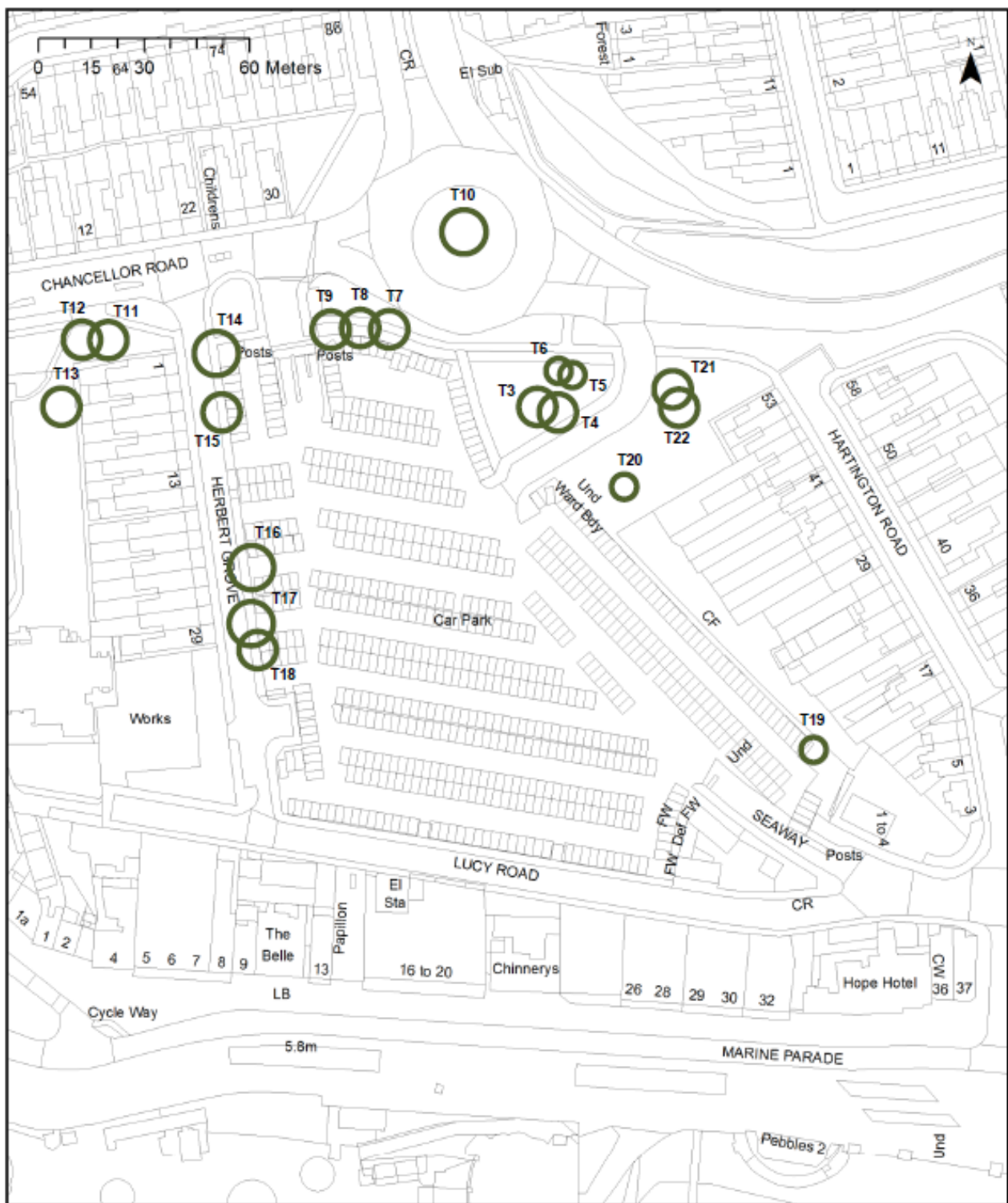
**Appendix 4: Affected Trees covered by TPO**

## Appendix 4: Affected Trees covered by TPO

Arboricultural Report Tree No	TPO Plan Ref (Below)	Species	Work Required
T015	T1	London Plane	Fell to permit development
T016	T2	London Plane	Fell to permit development
T017	T4	Norway Maple	Fell to permit development
T018	T3	Norway Maple	Fell to permit development
T021	T6	Norway Maple	Fell to permit development
T022	T5	Sycamore	Fell to permit development
T024	T21	Norway Maple	Fell to permit development
T025	T22	Norway Maple	Fell to permit development
T028	T20	Sycamore	Fell to permit development

Plans identifying all trees covered by TPO in and close to the site are provided below





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## Appendix 5: Planning conditions

General	
01	<p>No development is allowed to commence nor any condition to be discharged prior to the owner and the Council executing a Section 106 obligation in substantially the same form as the obligation annexed to the planning permission granted in respect of the application bearing ref. no. 18/02302/BC4M.</p> <p><i>Reason:</i> To ensure the development is not progressed until the necessary planning obligation is executed.</p>
02	<p>The development hereby permitted shall be begun no later than 3 years beginning with the date of this permission.</p> <p><i>Reason:</i> Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990.</p>
03	<p>The development shall be carried solely out in accordance with the approved plans:</p> <ul style="list-style-type: none"> <li>- S019/P3000.pl2 - Location Plan – submitted September 2019</li> <li>- S019/P3001.pl2 - Existing Site Plan (Topographical Survey) – submitted September 2019</li> <li>- S019/P3002.pl1 - Existing Building Elevations – Submitted January 2019</li> <li>- S019/P3003 - Existing Building Elevations – Submitted January 2019</li> <li>- S019/P3004 - Existing Building Plans - Submitted January 2019</li> <li>- S019/P3005.pl3 - Demolition Plan – Submitted September 2019</li> <li>- S019/P3006.pl2 - Proposed Site Plan – Submitted September 2019</li> <li>- S019/P3007.pl2 - Proposed Lower Ground Level Plan – Submitted September 2019</li> <li>- S019/P3008.pl2 - Proposed Ground Level Plan – Submitted September 2019</li> <li>- S019/P3009.pl2 - Proposed Cinema Level Plan – Submitted September 2019</li> <li>- S019/P3010.pl2 - Proposed Auditorium Level Plan – Submitted September 2019</li> <li>- S019/P3011.pl1 - Proposed Roof Level Plan – Submitted September 2019</li> <li>- S019/P3012.pl1 - Proposed Car Park Plans – Submitted September 2019</li> <li>- S019/P3013.pl1 - Proposed Sections A and B – Submitted September 2019</li> <li>- S019/P3014.pl1 - Proposed Sections C and D – Submitted September 2019</li> <li>- S019/P3015.pl1 - Proposed Section E and F – Submitted September 2019</li> <li>- S019/P3016.pl1 - Proposed Section G – Submitted September 2019</li> <li>- S019/P3017.pl1 - Proposed Site Sections 1 – Submitted September 2019</li> <li>- S019/P3018.pl1 - Proposed Site Sections 2 – Submitted September 2019</li> <li>- S019/P3019.pl1 - Proposed Site Sections 3 – Submitted September 2019</li> <li>- S019/P3020.pl2 - Proposed North Elevations – Submitted September 2019</li> <li>- S019/P3021.pl2 - Proposed East Elevation – Submitted September 2019</li> <li>- S019/P3022.pl2 - Proposed South Elevation – Submitted September 2019</li> <li>- S019/P3023.pl2 - Proposed West Elevations – Submitted September 2019</li> <li>- S019/P3024.pl2 - Unit R1 Proposed Ground Floor Plan – Submitted September 2019</li> <li>- S019/P3025.pl1 - Unit R1 Proposed First Floor and Roof – Submitted September 2019</li> <li>- S019/P3026.pl5 – Unit R1 - Proposed North and West Elevations –Submitted September 2019</li> <li>- S019/P3027.pl5 – Unit R1 Proposed East and South Elevations – Submitted September 2019</li> <li>- S019/P3028.pl1 - Unit R1 Proposed Section – Submitted September 2019</li> <li>- S019/P3029.pl2 - Hotel Proposed Ground Floor Site Plan – Submitted September 2019</li> <li>- S019/P3030.pl1 - Hotel Proposed Floor Plans – Submitted September 2019</li> <li>- S019/P3031.pl2 - Hotel Proposed North Elevation – Submitted September 2019</li> <li>- S019/P3032.pl2 - Hotel Proposed East Elevation –Submitted September 2019</li> <li>- S019/P3033.pl2 - Hotel Proposed South Elevation – Submitted September 2019</li> <li>- S019/P3034.pl3 - Hotel Proposed West Elevation – Submitted September 2019</li> <li>- S019/P3035.pl1 - Hotel - Proposed Section A-A and B-B – Submitted September 2019</li> <li>- S019/P3037.pl2 – Elevation/Section Detail 1 – Submitted September 2019</li> <li>- S019/P3038.pl2 – Elevation/Section Detail 2 – Submitted September 2019</li> <li>- S019/P3039.pl2 – Elevation/Section Detail 3 – Submitted September 2019</li> </ul>

	<ul style="list-style-type: none"> <li>- S019/P3040.pl2 – Elevation/Section Detail 4 – Submitted September 2019</li> <li>- S019/P3041.pl2 – Elevation/Section Detail 5 – Submitted September 2019</li> <li>- S019/P3042.pl2 – Elevation/Section Detail 6 – Submitted September 2019</li> <li>- S019/P3043.pl2 – Elevation/Section Detail 7 – Submitted September 2019</li> <li>- S019/P3044.pl2 – Elevation/Section Detail 8 – Submitted September 2019</li> <li>- S019/P3045.pl1 – Elevation/Section Detail 9 – Submitted September 2019</li> <li>- S019/P3047.pl2 - Proposed Substation – Submitted September 2019</li> <li>- S019/P3048.pl1 - Proposed Public Toilet Plan – Submitted September 2019</li> <li>- S019/P3050 - Proposed South Elevation - Marine Parade – Submitted September 2019</li> <li>- S019/P3051 - Proposed South Elevation - Lucy Road – Submitted September 2019</li> <li>- S019/P3052.pl1 - Proposed Cycle Shelters (plans) – Submitted September 2019</li> <li>- S019/P3053 - Proposed Cycle Shelters (Elevations) – Submitted September 2019</li> <li>- S019/P3054.pl1 - Proposed Site Plan (Adopted Highway Boundary) – Submitted September 2019</li> <li>- S019/P3056.pl2 Proposed Site Plan (with proposed area for stopping-up and adoption) – Submitted September 2019</li> <li>- S019/P3057 - Proposed Site Sections 1 (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3058 - Proposed Site Section 2 (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3059 - Proposed Site Sections 3 (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3060 - Proposed North Elevations (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3061 - Proposed East Elevation (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3062 - Proposed South Elevation (Existing Ground Line Overlay) – Submitted September 2019</li> <li>- S019/P3063 - Proposed West Elevations (Existing Ground Line Overlay) - Submitted September 2019</li> <li>- S019/P3066 - Servicing Strategy Diagram – Proposed Site Plan – Submitted September 2019</li> <li>- S019/P3067 - Servicing Strategy Diagram - Proposed Lower Ground Floor Plan – Submitted September 2019</li> <li>- S019/P3068 - Servicing Strategy Diagram - Proposed Ground Level Plan – Submitted September 2019</li> <li>- S019/P3069 - Servicing Strategy Diagram Service Corridor Plan – Submitted September 2019</li> <li>- S019/P3070 - Servicing Strategy Diagram Service Corridor Section – Submitted September 2019</li> <li>- 739_SC_300_P02 Landscape Sections 1 of 2 - Submitted September 2019</li> <li>- 739_SC_301_P02 Landscape Sections 2 of 2 – Submitted September 2019</li> <li>- 739_PL_001_P07 General Arrangement Plan - Submitted September 2019</li> <li>- 739_PL_002_P05 Rendered Landscape Masterplan – Submitted September 2019</li> <li>- 6113-D-AIA_E – Prelim AIA – Submitted September 2019</li> </ul>
	<p><i>Reason:</i> To ensure the development is carried out in accordance with the development plan.</p>
<b>Construction</b>	
04	<p>No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy to include a Dust Mitigation Strategy has been submitted to, and approved in writing by the local planning authority. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Statement shall provide, amongst other things, for:</p> <ul style="list-style-type: none"> <li>i) the parking of vehicles of site operatives and visitors</li> <li>ii) loading and unloading of plant and materials</li> <li>iii) storage of plant and materials used in constructing the development</li> <li>iv) the erection and maintenance of security hoarding</li> <li>v) measures to control the emission of dust and dirt during construction</li> <li>vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.</li> <li>vii) a dust management plan to include mitigation and boundary particulate monitoring during</li> </ul>

	<p>demolition and construction.</p> <p>viii) details of the duration and location of any noisy activities.</p> <p><i>Reason:</i> This pre-commencement condition is required in the interests of the amenities of nearby and surrounding occupiers pursuant to Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of Southend Central Area Action Plan (2018).</p>
05	<p>No development shall take place, including any works of demolition, unless and until a Construction Noise and Vibration Management Plan and Strategy has been submitted to, and agreed in writing by the local planning authority, for the control, mitigation and monitoring of noise and vibration from the construction phase. The approved Construction Noise and Vibration Management Plan and Strategy shall be adhered to in full throughout the construction period.</p> <p><i>Reason:</i> This pre-commencement condition is required the interests of visual amenity and the amenities of occupiers and in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of Southend Central Area Action Plan (2018).</p>
06	<p>Demolition and construction works associated with this permission shall not take place outside 7.30am to 6pm Monday to Friday, 8.00am to 1.00pm Saturdays and at no time on Sunday or public holidays.</p> <p><i>Reason:</i> In order to protect the character and visual amenities of the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Polies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of Southend Central Area Action Plan (2018).</p>
07	<p>No development shall take place, including any works for demolition unless and until a Car Park Construction Mitigation Strategy, including a communication strategy along with a temporary signage strategy that includes providing supplementary temporary VMS signage linked to the Council's VMS, has been submitted to and approved in writing by the Local Planning Authority. This shall include details of available on-site public car parking during the construction period, which shall be made available where reasonably practicable. The approved Car Park Construction Mitigation Strategy shall be fully adhered to during the period of construction.</p> <p><i>Reason:</i> This pre-commencement condition is required to ensure that adequate car parking is provided and retained in accordance with Policies KP2, KP3 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Document (2015) and Policies DS5, CS1 and CS1.2 of Southend Central Area Action Plan (2018).</p>
<b>Noise</b>	
08	<p>Prior to the first occupation of any buildings hereby approved by this permission or the bringing into use any area of car parking, a Noise Management Plan shall be submitted to and approved in writing by the local planning authority. This shall include details of how customer noise and behaviour is managed on and off the premises; staff behaviour including but not limited to opening/closing premises; deliveries; waste disposal and storage; external space management; site maintenance; signage, staff training and, dealing with customer complaints. The Noise Management Plan shall be implemented as approved prior to the first use of the development and thereafter retained in perpetuity.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP and Polices KP2 and CP4 of the Core Strategy (2007).</p>
09	<p>Notwithstanding the details shown on the documents submitted and otherwise hereby approved, noise as a result of this development, from all noise sources including plant and equipment together with extract ventilation from any A3, A5 and D2 units shall not exceed 10 dB(A) (including tonal elements) below the background noise level as measured and expressed as a LA90, over a 15 minute period, from the boundary of the neighbouring residential properties, in perpetuity. Before the development is brought into use background noise levels shall be established for the following periods:</p>

	<p>Daytime: 0700 to 1900</p> <p>Evening: 1900 to 2300</p> <p>Night: 2300 to 0700</p> <p>In order to establish background noise level a representative baseline noise survey shall be undertaken in accordance with BS 4142:2014+A1:2019 at the boundary of the nearest residential properties. This shall be undertaken by a suitably competent person and shall be submitted for approval prior to the installation of any plant or equipment across the site or the site being brought into use. The background noise level survey shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the development hereby approved.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).</p>
10	<p>No development shall be undertaken other than demolition unless and until details of an acoustic barrier along the eastern boundary of the site adjacent to the rear of the residential properties along Hartington Road, and around the hotel has been submitted to and approved in writing by the local planning authority. The approved acoustic barrier shall be completed in accordance with the approved details prior to any demolition or construction works and shall thereafter be retained in perpetuity.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).</p>
11	<p>There shall be no external speakers installed at any part of the site. There shall be no amplified music played or use of public address systems in any external areas of the site. This shall include any amplified music from speakers in the doorways of all premises of any use hereby approved.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their residential amenities, in accordance with Policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).</p>
12	<p>Notwithstanding the information submitted and otherwise hereby approved, the proposed substation shall not be constructed unless and until full details of the acoustic insulation of this building have been submitted to and approved in writing by the local planning authority. The substation shall be constructed in full accordance with the approved details prior to its first use and shall be retained as such thereafter in perpetuity.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).</p>
13	<p>Notwithstanding the information submitted and otherwise hereby approved, the proposed leisure building incorporating the cinema shall not be constructed unless and until the full details of the acoustic insulation of the cinema have been submitted to and approved in writing by the local planning authority. The leisure building shall be constructed in full accordance with the approved details prior to its first use and shall be retained as such in perpetuity.</p> <p><i>Reason:</i> To protect the amenities of residential occupiers from undue noise and disturbance in order to protect their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).</p>

<b>Landscaping</b>	
14	<p>No development, excluding works of demolition, shall take place unless and until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details must include the following as a minimum:</p> <ol style="list-style-type: none"> <li>i. Proposed finished levels or contours;</li> <li>ii. Means of enclosure;</li> <li>iii. Car parking layouts;</li> <li>iv. Other vehicle and pedestrian access and circulation</li> <li>v. Hard surfacing materials;</li> <li>vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc);</li> <li>vii. Details of the number, size, e.g. semi-mature trees species and location of the trees and shrubs to be planted together with a planting specification and details of the management of the site e.g. the uncompacting of the site prior to planting, the staking of trees and removal of the stakes once the trees are established and details of measures to enhance biodiversity within the site;</li> <li>viii. Maintenance Programme;</li> <li>ix. Timetable for completion of the soft landscaping and planting.</li> <li>x. Evidence of compatibility of landscaping scheme with the proposed drainage and other site services.</li> <li>xi. Details of any trees to be retained at the site.</li> </ol> <p>The hard landscaping shall be completed prior to first occupation of the development and soft landscaping/planting shall be completed within the planting season following first occupation of the development. If any trees are removed or found to be dying, severely damaged or diseased within 5 years of planting them, they must be replaced with trees of a similar size and species as may be agreed with the Local Planning Authority.</p> <p><i>Reason:</i> In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to policy KP2 and CP4 of the Core Strategy (2007), DM1 of the Development Management Document (2015) and CS1 and CS1.2 of the SCAAP (2018).</p>
15	<p>No development shall take place, including any works for demolition unless and until, a detailed Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the local planning authority. Details must include:</p> <ol style="list-style-type: none"> <li>(a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;</li> <li>(b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;</li> <li>(c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;</li> <li>(d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site</li> <li>(e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.</li> </ol>

	<p><i>Reason:</i> This pre-commencement condition is required to minimise the environmental impact of the development and to minimise the risk to retained trees in accordance with KP2, CP4 of the Core Strategy (2007), Policy DM1 of the Development Management Document (2015) and Policy CS1.2 of SCAAP (2018).</p>
<p><b>Land Contamination</b></p>	
<p>16</p>	<p>(a) Notwithstanding the details submitted and otherwise hereby approved, no development shall take place, other than that required to carry out additional necessary investigation which in this case may include demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the local planning authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be submitted to and approved in writing by the local planning authority.</p> <p>The report of the findings must include:</p> <p>i) A survey of extent, scale and nature of contamination;</p> <p>ii) An assessment of the potential risks to:</p> <ul style="list-style-type: none"> <li>• human health;</li> <li>• properly (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;</li> <li>• adjoining land;</li> <li>• groundwaters and surface waters;</li> <li>• ecological systems;</li> <li>• archaeological sites and ancient monuments; and</li> <li>• An appraisal of remedial options, and proposal of the preferred option(s).</li> </ul> <p>This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.</p>
	<p>(b) <i>Remediation Scheme:</i> Notwithstanding the details submitted and otherwise hereby approved, no development shall be undertaken, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. This must be conducted by a competent person and in accordance with DEFRA and the Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning.</p>
	<p>(c) <i>Implementation of Remediation Scheme:</i> Notwithstanding the details submitted and otherwise</p>

<p>hereby approved, no development shall be undertaken unless and until the measures set out in the detailed remediation scheme approved under part (b) of this condition have been implemented. The Local Planning Authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The Local planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.</p>	
<p><i>(d) Reporting of Unexpected Contamination:</i> In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 7 days to the local planning authority. Development must be halted on that part of the site until an assessment has been undertaken in accordance with the requirements of part (a) of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of part (b) of this condition. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority before the development is brought into use.</p>	
<p><i>Reason:</i> This pre-commencement condition is required to ensure that any contamination on site is identified and treated so that it does not harm anyone who uses the site in the future and in accordance with Policy KS2, KP3 and CP4 of the Core Strategy (2007), DM14 of the Development Management Plan (2015) and CS1.2 of the SCAAP (2018).</p>	
<p><b>Odour</b></p>	
<p>17</p>	<p>Notwithstanding the details submitted and otherwise hereby approved, prior to the occupation of each building a scheme for the ventilation of that building and the treatment of all smells and fumes including the details of the acoustic attenuation of all equipment for that building shall be submitted to and approved in writing by the local planning authority. The schemes shall include details of equipment for the suppression of fumes, odours and/or dust including details of noise and vibration attenuation together with a maintenance schedule for the future operation of that equipment. The approved scheme for each building shall be implemented and completed prior to the first occupation of that building and managed in accordance with the approved maintenance regime in perpetuity.</p> <p><i>Reason:</i> In order to protect the amenities of occupiers of the development and surrounding occupiers and to protect the character and visual amenities of the area in accordance with Policy PK2 and CP4 of the Core Strategy (2007).</p>
<p><b>Flooding</b></p>	
<p>18</p>	<p>No drainage infrastructure shall be installed unless and until the detailed design of a surface water drainage scheme incorporating the following measures has been submitted to and agreed in writing with the local planning authority in consultation with the Lead Local Flood Authority. The approved scheme shall be implemented and completed prior to the first occupation of the development and maintained in accordance with the approved details for the lifetime of the development. The scheme shall address the following matters:</p> <p>a. Provide evidence of infiltration tests in accordance with BRE365 and if infiltration is found to be viable provide information in relation to the potential for ground instability or deterioration in</p>

	<p>groundwater quality because of infiltration.</p> <p>b. Provide an updated drainage layout plan indicating the dimensions, storage volumes, pipe sizes and gradients, manhole cover and invert levels, proposed discharge rates, flow controls and final discharge connection in accordance with the submitted calculations. Updated engineering plans shall be provided for each of the Sustainable Urban Drainage Systems (SuDS) and critical drainage elements, including the flow control features.</p> <p>c. Provide information on the management of health and safety risks in relation to feature design.</p> <p>d. Provide a system valuation (including capital costs, operation and maintenance costs, cost contributions) and a demonstration of long-term economic viability</p> <p>e. Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.</p> <p>f. Provide a method statement for the management of surface water runoff arising during the construction</p> <p>g. Provide evidence of consent from Anglian Water to discharge at the proposed discharge rate and location.</p>
	<p><i>Reason:</i> To ensure adequate drainage is provided by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with Policy KP2 of the Core Strategy (2007) and DS4 SCAAP (2018).</p>
<b>Hours of Operation/ Servicing</b>	
19	<p>No service vehicles associated with the development hereby approved shall be permitted along Herbert Grove between the hours 1900 hours - 0700 hours Monday - Friday, 1300 hours - 0800 hours Saturday and at no time on Sundays and Bank or Public Holidays.</p> <p>No deliveries shall be taken at or dispatched from the approved service bays on Lucy Road, the service area that serves the standalone building on Lucy Road or the service area to the rear of the hotel between the hours of 1900 hours 0700 hours Monday - Friday, 1300 hours - 0800 hours Saturday and at no time on Sundays and Bank or Public Holidays.</p> <p>During these restricted service hours, all servicing at the site must take place on the service lay by on the main site access, as approved and shown on drawing S019 P3054.pl.</p>
	<p><i>Reason:</i> In the interests of the amenities of neighbours and to ensure a general environmental standard in accordance with the National Planning Policy Framework (2019), Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan (2015).</p>
20	<p>Notwithstanding the details submitted with this application no take-away collection or pick-up delivery activities other than by non-motorised vehicles shall be undertaken from the public highway in Herbert Grove associated with the A3, D2 and A5 uses hereby approved at any time.</p>
	<p><i>Reason:</i> In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)</p>
21	<p>The A3, A5 and D2 uses (other than the permitted cinema facility) hereby approved shall not be open to customers outside the hours of 0700 hours - 0000 hours.</p>
	<p><i>Reason:</i> In the interests of the amenities of neighbours and to ensure a general environmental standard in accordance with the National Planning Policy Framework (2019), Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan (2015).</p>
22	<p>The cinema facility hereby approved shall not be open to customers outside the hours 0700 hours - 0000 hours, with the exception of a maximum of three screens and the associated circulation space that shall be allowed to operate 0700 - 0300 hours.</p>
	<p><i>Reason:</i> In the interests of the amenities of neighbours and to ensure a general environmental standard in accordance with the National Planning Policy Framework, Policies KP2 of the Core Strategy (2007),</p>



	Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan (2015).
23	<p>The use of all external seating areas associated with and served by the buildings hereby approved shall be restricted to 1200 - 2000 hours Monday to Thursday, 1200-2100 hrs Friday to Saturday and 1200 - 2000 hours Sunday, Public holidays and Bank Holidays. The use of the external balcony of the unit on Lucy Road shall be restricted to 1200-2300 hours at all times. No customers shall be seated or served outside, during the excluded hours.</p> <p><i>Reason:</i> In the interests of the amenities of neighbours and to ensure a general environmental standard in accordance with the NPPF, Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan (2015).</p>
<b>Lighting</b>	
24	<p>Notwithstanding the details submitted and otherwise hereby approved, all details of the external lighting to be installed in the development hereby approved shall be submitted to and approved by the local planning authority before any part of the development is commenced, other than demolition. The development shall be carried out in accordance with those approved details before the development is first occupied or brought into use and retained as such thereafter.</p> <p><i>Reason:</i> In interest of the safety and amenities of the area, and to protect the amenities of surrounding occupiers in accordance with Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan. (2015).</p>
25	<p>Notwithstanding the details submitted and otherwise hereby approved, a detailed Lighting Management Plan, including measures to reduce unnecessary light pollution and energy uses shall be submitted to and approved by the local planning authority prior to the first occupation of the development hereby approved. The lighting at the site shall be managed in accordance with the approved details of the approved plan and retained as such thereafter.</p> <p><i>Reason:</i> In interest of the safety and amenities of the area, and to protect the amenities of surrounding occupiers in accordance with Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2007) and Policies DM1 and DM3 of the Development Management Plan (2015).</p>
<b>Waste Management</b>	
26	<p>Notwithstanding the details submitted and otherwise hereby approved, prior to the first occupation of any part of any building hereby approved a Waste Management Plan and Service Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include full details of the refuse and recycling facilities. Waste Management and Servicing of the development hereby approved shall be implemented prior to occupation in strict accordance with the approved details and carried out in perpetuity thereafter.</p> <p><i>Reason:</i> To ensure that the development is satisfactorily serviced, and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007), and Policies DM1 and DM3 of the Development Management Plan (2015).</p>
<b>Design</b>	
27	<p>A design code for the ground and lower ground floor units in the leisure building and the café unit in the hotel building, hereby approved, shall be submitted to and approved in writing by the local planning authority prior to the commencement of development (excluding works of demolition). The Design Code shall include details of shopfront treatments and signage strategy for these units. All treatments of the external facades of the units including applications to discharge Condition No. 31 shall be required to be implemented in accordance with the approved Design Code.</p> <p><i>Reason:</i> To safeguard character and appearance of surrounding area, the adjacent listed and locally listed buildings and the Clifftown Conservation Area in accordance with Polices KP2 and CP4 of the Core Strategy (2007), and Policies DM1, DM3 and DM5 of the Development Management Plan (2015) and Policy CS1.2 of the SCAAP (2018).</p>

28	<p>Prior to commencement of development (excluding works of demolition), the details of any external seating areas associated with and served by the development hereby approved, shall be submitted to and approved by the local planning authority. Details are to include layout, details of any temporary or permanent structures and visual containment proposals to protect prevailing residential amenity. The seating areas shall be operated and laid out in accordance with the approved details and shall remain as such in perpetuity.</p>
	<p><i>Reason:</i> In order to protect the character and visual amenities of the area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).</p>
29	<p>No development above ground level shall be undertaken unless and until full details and plans of the cladding on the main leisure building (to include sections of individual panels and larger sections) have been submitted to and approved in writing by the Local Planning Authority. The details shall include design specifications for the cladding and include details of all fixings, profiles, offsets, angles and edge details. The development shall be carried out in accordance with the approved details before it is occupied and be permanently retained as such thereafter.</p>
	<p><i>Reason:</i> In order to protect the character and visual amenities of the area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).</p>
30	<p>Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development of the hotel hereby granted permission shall not be occupied unless and until plans are submitted to the local planning authority and approved in writing which clearly specify all the windows and other openings in the development that are to be permanently glazed with obscured glass and fixed shut or provided with only a fanlight (or other similar) opening and the manner and design in which these windows and openings are to be implemented. The development hereby permitted shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use and shall be permanently retained as such thereafter. The windows included within such agreed scheme shall be glazed in obscure glass which is at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.</p>
	<p><i>Reason:</i> In the interests of the amenities of neighbours and to ensure a general environmental standard in accordance with the National Planning Policy Framework (2019), Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Plan (2015)</p>
31	<p>Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until samples, full specifications and details of the materials to be used on all external elevations of all buildings hereby approved, including all cladding, roofs, balconies, balustrades, fenestration and all screen/boundary walls and fences, have been submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.</p>
	<p><i>Reason:</i> In order to protect the character and visual amenities of the area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Polices KP2 and CP4 of the Core Strategy (2007).</p>
32	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any order revoking and re-enacting that Order with or without modification, no structure such as canopies, fences, loggias, trellises, telecommunication apparatus or satellite or radio antennae shall be installed within the development or on the buildings without the receipt of express planning permission from the local planning authority.</p>
	<p><i>Reason:</i> In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Kursaal Conservation Area in accordance with policies DM1 and DM5</p>

	of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Polices KP2 and CP4 of the Core Strategy (2007).
33	<p>Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until full details of the proposed plant enclosures have been submitted to and approved in writing by the local planning authority. The details shall include specification of materials, colours and any lighting proposed. The plant enclosures shall then be implemented and completed in complete accordance with the approved details prior to the first use of the development and thereafter retained permanently.</p> <p><i>Reason:</i> In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Kursaal Conservation Area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Polices KP2 and CP4 of the Core Strategy (2007).</p>
34	<p>Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until full details of the glazing to the south-western corner of the leisure building have been submitted to and approved in writing by the local planning authority. The glazing shall be implemented and completed in accordance with the approved details prior to the first use of the development hereby approved.</p> <p><i>Reason:</i> In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Kursaal Conservation Area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Polices KP2 and CP4 of the Core Strategy (2007).</p>
<b>Transport/Car Parking</b>	
35	<p>No part of any building hereby approved shall be occupied and the car park shall not be first opened to the public until a Car Parking Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall include details of the layout and number of car parking spaces, timings for the delivery of on-site car parking spaces, the proposed car park charging scheme, and the management of availability of car parking spaces during low and high peak periods. The parking spaces shall be made available in full accordance with this approved Plan from its approval. All parking spaces in the development shall be available for members of the public and shall not be reserved for the use of any particular building or users.</p> <p><i>Reason:</i> To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy DM15 of the Council's Development Management Document (2015), Policy CP3 of the Core Strategy (2007) and Policies CS1.2 and DS5 of the SCAAP (2018).</p>
36	<p>Prior to first occupation of any part of any building hereby approved or the car park being open to the public, details of the number and location of electric car charging points to be installed in the car park shall be submitted to approved in writing by the local planning authority. At least 20% of all the car parking spaces shall have an electric charging point provided capable of charging vehicles from the outset and every car parking space shall be future proofed so that electric charging points can be installed when demand requires, e.g. four-way duct and drawpits to all service bays. The development shall be implemented in accordance with the approved details before it is brought into use.</p> <p><i>Reason:</i> In the interests of providing sustainable transport choices in accordance with Policy KP2 and CP3 of the Core Strategy (2007) and DM2 and DM15 of the Development Management Plan (2015).</p>
37	<p>No part of any building hereby approved shall be first occupied unless and until full details of the covered and secure cycle parking have been submitted to and approved in writing by the local planning authority. This shall include provision for not less than 102 cycle spaces, of which 30 must be made available for staff cycle parking. The development shall be carried out in accordance with those approved details before the development is first occupied or brought into first use and shall be retained as such in perpetuity.</p> <p><i>Reason:</i> To ensure that adequate cycle parking is provided and retained to serve the commercial</p>

	development in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policies DM1 and DM15 of the Development Management Plan (2015).
38	<p>Notwithstanding the details submitted with this application, no part of any building hereby approved shall be first occupied unless and until full details of the proposed disabled car parking across the site's car parks have been submitted to and approved in writing by the local planning authority. Details shall include the number of spaces, locations and specification of layout. The spaces shall be implemented in full compliance with the approved details prior to the first occupation of the development, or the bringing into use of the surface car park and shall be retained in perpetuity thereafter.</p> <p><i>Reason:</i> To ensure that adequate disabled car parking is provided and retained to serve the commercial development in accordance with Policies KP2 and CP3 of the Core Strategy (2007), Policies DM1 and DM15 of the Development Management Plan (2015) and DS5 and CS1.2 of SCAAP (2018).</p>
<b>Energy and Sustainability</b>	
39	<p>No development (excluding demolition) shall take place above ground floor slab level until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve Very Good BREEAM level.</p> <p><i>Reason:</i> This pre-commencement condition is required in the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).</p>
40	<p>No building hereby approved shall be first occupied unless and until a final Certificate has been issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating "Very Good" has been achieved for that building.</p> <p><i>Reason:</i> In the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).</p>
41	<p>Prior to the first occupation of any building within the development hereby approved a scheme detailing how at least 10% of the total energy needs of that building is to be supplied using on site renewable sources must be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the first occupation of the building in question. This provision shall be made available for use for the lifetime of the development.</p> <p><i>Reason:</i> To ensure that the development maximises the use of renewable and recycles energy, water and other resources, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Plan (2015).</p>
<b>Ecology</b>	
42	<p>No development above ground level (excluding works of demolition) shall be undertaken unless and until details of the number, location, and specifications of bat and bird boxes have been submitted to and agreed in writing by the local planning authority. The installation of the approved bird and bat boxes shall be carried before the development hereby approved is first occupied or brought into first use and shall thereafter be retained in perpetuity.</p> <p><i>Reason:</i> To minimise the environmental impact of the development and to minimise the risk to protected species in accordance with Policies KP2 and CP4 of the Core Strategy (2007).</p>
43	<p>All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive, unless it is necessary for works to commence in the nesting season, then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out by a suitably qualified ecologist. Only if there are no active nests present shall work be allowed to commence within the bird nesting season.</p> <p><i>Reason:</i> To minimise the environmental impact of the development and to minimise the risk to protected species in accordance with Policies KP2 and CP4 of the Core Strategy (2007).</p>

44	<p>Notwithstanding the details submitted and otherwise hereby approved, no demolition hereby approved shall take place in the bat breeding season unless and until all buildings to be demolished have been first checked by a suitably qualified ecologist and it has been demonstrated that there are no signs of any bat roosting activity in the buildings to be demolished.</p>
	<p><i>Reason:</i> To minimise the environmental impact of the development and to minimise the risk to protected species in accordance with Policies KP2 and CP4 of the Core Strategy (2007).</p>
<b>CCTV</b>	
45	<p>Prior to the first occupation of the development hereby approved, details of a CCTV scheme to serve the internal and external areas of the development shall be submitted to and agreed in writing with the local planning authority. The details shall include the location of CCTV equipment (including CCTV to cover the multi-level car park in the leisure building hereby approved), its management, monitoring of activity, policing and maintenance. The installation of the CCTV shall be carried out in accordance with the approved details before the development hereby approved is first occupied or brought into first use. The CCTV shall thereafter be operated in accordance with the approved details and shall be retained permanently thereafter.</p>
	<p><i>Reason:</i> To protect the residential amenities of nearby occupiers, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy CS1.2 of SCAAP (2018).</p>
<b>Public Art</b>	
46	<p>Notwithstanding the details shown on the plans submitted, and otherwise hereby approved, the development shall not be first occupied unless and until full details of the public art to be provided to the north of St John's Square has been submitted to and approved in writing by the local planning authority. The approved public art shall be provided in full prior to the first use of the development hereby approved</p>
	<p><i>Reason:</i> To comply with policies KP2 and CP4 of the Core Strategy (2007), Policy DM1 of the Development Management Document (2015) and Policy CS1.2 of SCAAP (2018).</p>
<b>Highways</b>	
47	<p>No development above ground floor slab level shall be undertaken unless and until, the Local Planning Authority has approved in writing a full scheme of highway works (including detailed designs and contract details) associated with the development which has previously been submitted to the local planning authority. The development and the associated highway works shall thereafter be undertaken in accordance with the approved details before the development is brought into use.</p>
	<p><i>Reason:</i> In the interests of Policies KP2, KP3 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Plan (2015) and Policy DS5 of SCAAP (2018).</p>
<b>Toilets</b>	
48	<p>The toilet facilities accessed via Lucy Road hereby approved shall be open to the public at all times and shall be retained in public use in perpetuity.</p>
	<p><i>Reason:</i> In the interest of amenities in the area, to protect the level of provision of amenities for the community in accordance with Policy CP6 of the Core Strategy 2007.</p>
<b>Positive and Proactive Statement</b>	
	<p><i>The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.</i></p>

Informatives	
1	In relation to Condition 47 you are advised to contact our Highways Service to discuss the requisite Highways Agreements under the Highways Act 1980, Town and Country Planning Act 1990 and Road Traffic Regulation Act 1984. You are advised that we are likely to accept the completion of a legal agreement under section 278 and section 38 of the Highway Act in order to satisfactorily discharge this condition. The relevant legal agreements must be in place before any works are carried out to the public highway. A separate Stopping Up Order under Section 247 of the Town and Country Planning Act 1990 will be required for that part of the site within the public highway.
2	Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). A Community Infrastructure Levy (CIL) Liability Notice will be issued as soon as practicable following this decision notice. 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 <a href="http://www.southend.gov.uk/cil">www.southend.gov.uk/cil</a> .
3	Highways Informative  You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that the Council may 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 borough.
4	Additional comments from Essex & Suffolk Water include:  Essex and Suffolk Water are the enforcement agents for The Water Supply (Water Fittings) Regulations 1999 within our area of supply, on behalf of the Department for the Environment, Food and Rural Affairs. We understand that a planning application has been made for the above premises which are to be notified under Regulation 5 of the Water Supply (Water Fittings) Regulation 1999.
5	For clarity notwithstanding the information submitted and otherwise hereby approved this permission does not permit the installation of any shared space.
6	The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended), the Licensing Act 2003 and the noise provisions within the Control of Pollution Act 1974.  Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ER'.
7	Demolition Prior to demolition of the existing buildings an appropriate Asbestos survey of the buildings shall be undertaken and a scheme implemented to remove and safely dispose of any asbestos-containing materials.  It is recommended that the Council's building control department is notified of the demolition in order

	that requirements can be made under the Building Act 1984.
8	The applicant must consult with Anglian Water regarding the provision of sewerage for foul and surface water. As a major application the applicant shall also need to consult with the Lead Local Flood Authority for the provision of SUDs.
9	It is recommended that applicants consult any premises licensing conditions attached to premises and also note the general obligations under the Licensing Act 2003 for the prevention of public nuisance. Notwithstanding this it is advisable to take all necessary precautions to prevent a nuisance occurring from entertainment on the premises and to this effect monitor noise around the perimeter of the premises during events.
10	The Council shall expect that the applicant or main contractor for construction and demolitions applies for a Prior Consent under section 61 of the Control of Pollution Act 1974.
11	<p>Please note that if a crane or piling rig is required 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 London Southend Airport.</p> <p>Any crane applications should be directed to <a href="mailto:sam.petrie@southendairport.com">sam.petrie@southendairport.com</a>.</p>
12	The applicant is reminded of their responsibilities under the provisions of the Wildlife and Countryside Act.

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**Appendix 6: Letter from Head of Corporate Property and Asset Management, Southend Borough Council, Dated 14 October 2019**

## **Appendix 6: Letter from Head of Corporate Property and Asset Management, Southend Borough Council, Dated 14<sup>th</sup> October 2019**

**Planning Application Reference: 18/02302/BC4M - Seaway**

Following a decision by Cabinet on 20 June 2017 (Minute 88 refers), Southend on Sea Borough Council acquired the freehold of the former Esplanade House Site in 2017. The land formed part of the former Gasworks.

The Council purchased the land as a long-term development opportunity, to intervene in the market on a site with a long history of non-delivery and to provide strategic parking capacity to address parking displacement while other major development developments, including Seaway, are progressed. The land may also provide capacity to assist with the development of other strategic town centre sites.

Following the acquisition, a temporary planning permission, for 5 years from 6 June 2018, was secured. The consent (ref 18/00634/BC3M) provides for 283 car parking spaces and 27 coach bays. To date, the consent has been partially built-out. I am advised by the Council's engineers that the site currently provides 169 car parking spaces and 22 coach bays.

Subject to the planning permission 18/00634/BC3M as referred above and after any consent at Seaways is in place the Council will ensure that the site is used for public car parking and for coach parking at least until the Seaway development has been completed and is open and operational for no less than one summer season.

Kind regards

**Appendix 7: Representations received on behalf of The Stockvale Group  
(submitted by RPS) (Letters only)**

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**From:**  
**Sent:** 08 November 2019 13:13  
**To:**  
**Subject:** FW: 18/02302/BCM Seaway Development - Trees and access issue  
**Attachments:** 9809 L 191105 NGNL Seaway Objections\_final pdf, JNY9057- 10 Highway Layout Avoiding TPOs-A3 pdf, JNY9057- 09 Highway Layout Avoiding TPOs-A3 pdf, 9809 Seaway\_Notes on Alternative Access Route pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Red Category

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**Sent:** 07 November 2019 06:47

**Subject:** Ref: 18/02302/BCM Seaway Development - Trees and access issue  
**Importance:** High

Dear

You may be aware of our recent objections to the above scheme. I attach these herewith. We have significant concerns regarding the proposal's compliance with respect to transport and parking related policies as you will read. We would be grateful for the opportunity to discuss these with you.

However, the purpose of my email is to draw your attention to the section under the sub-heading 'Trees'. Our objections set out clearly there are adopted Development Plan policies and material guidance that indicate the trees should be preserved. As well, you may be aware that the Council has adopted an interim tree policy, which indicates that the Council will not authorise the loss of Council-owned trees for private development where alternatives exist (referred to within both Section 2 and Section 3 of the Interim Policy). Indeed, the relevant Cabinet member announced on 29<sup>th</sup> July 2019 that all non-emergency tree removals will be stopped. The removal of trees at the Seaway Car Park is clearly a non-emergency activity. The land and trees will remain Council-owned with the proposed development and so the policy applies.

The Applicant has argued that there is no way to facilitate access to the site without the removal of two trees subject to recent Tree Preservation Orders (TPOs). We strongly dispute the applicant's claim. You will see under the trees section of our attached report that we indicate that there are alternatives. I attach two drawings which show how the access can be re-routed around the preserved trees, and this includes appropriate buffers for future growth. I also attach some notes to assist you. Of course the building shape and design is not fixed, and could be easily re-designed to save the TPO trees. Therefore, in accordance with Council's most recently adopted interim Tree Policy as well as adopted Local Plan policies (as referred to in our letter), the alternatives must be explored or the application must be refused on this reason alone.

I am also making you aware of this because I am sure you'll agree that there would be a serious public perception and relations issue if the Council goes ahead and authorises the removal of its owned – legally preserved – trees so recently after the Cabinet and the Portfolio Member issued an important policy regarding their preservation especially when easy alternatives exist We are all acutely aware of how Sheffield Council mis-handled the removal of Council owned trees, as set out in the Interim Tree Policy's background report.

We would be grateful for your review of this information, which I am sure you'll agree demonstrates that there is no justification for the loss of TPO trees and the developer's claims that no alternatives exist are wholly incorrect because they simply have not explored in any detail the available alternatives I have copied in Rick Milsom (tree officer), Clr Mulrone, the Cabinet Member for Planning and Environment (who made the policy announcement) and others to facilitate discussions.

I would be happy to discuss anything in our objections (either tree related or transport/parking related) at your earliest convenience. I am also happy to discuss this with the Cabinet Member or Tree Officer as appropriate.

I would also be grateful if you would kindly confirm receipt of this email as some emails are not going through to the Council

Kind regards,



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RPS Group Plc web link <http://www.rpsgroup.com>

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**Sent:** 08 November 2019

**Subject:** FW Seaway Application Ref 18/02302/BC4M - Landscaping & Heritage Objections

**Attachments:** 9809 Seaway\_Heritage Statement\_reduced pdf

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

**Categories:** Red Category

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**Sent:** 08 November 2019 09:31

**Subject:** RE. Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

**Importance:** High

Dear

I attach the Heritage Statement. The LVIA will be submitted in two parts in subsequent emails.

As I mentioned, I am very surprised that you did not receive my emails, as there was no indication that these were not successfully sent (e.g. by way of an undeliverable bounce back email). I note that NPA were copied in as an external party, and their email address also did not generate a bounce back that would suggest the email was not successfully sent. So from my perspective, both emails were sent.

The fact that you did not get either email nor I received a bounce back also raises questions of confidence in the Council's consultation procedures. How can anyone be certain that by submitting their objections, these will be duly received and considered? And of course, you would have no way of knowing someone has submitted such comments because you don't get them? So I have copied in [redacted], and I urge the Council to review its consultation procedures. I strongly believe that your policy of not publishing statutory and public comments regarding applications on the application website have been demonstrated to be prejudicial to the process. Since you are only one of a handful of Councils who do not do this, this also suggests there is no legal basis for SBC's current approach. Of course, if you did publish comments received online shortly after they were received (as is the practice with most other Councils across the UK), I would have had the opportunity to verify that you had received the documents that I submitted to you on our client's behalf on 20<sup>th</sup> September 2019. You would also be able to save costs regarding FOI requests, as interested parties could then access the information in an instant on your website.

With regards to my FOI request which prompted the discovery of these missing emails, for your benefit, I have now submitted a formal complaint to the Information Commissioner's Office. I have also requested that the ICO investigate whether the practice of withholding public comments and statutory consultee comments from the application website, as well as undertaking meeting with applicants without agenda and meeting notes, are lawful practices. I will come back to you regarding this as soon as I hear anything. Of course, your practice raises questions regarding whether any decision you make on the Seaway application could be subject to a successful judicial review based on procedural errors, and we are taking advice on this.



Turning to the EIA Screening Opinion you have made, it appears you have made this decision whilst overlooking our duly made representations made on 20<sup>th</sup> September, and which we referred to in both the body of the email and within our EIA Review document sent to you on 11<sup>th</sup> October 2019 @ 09 58 (see Paragraph 2.7), and also referred to in my email sent on 12<sup>th</sup> October 2019 @ 00 23. Of course, I actually have no confidence that you received these emails, as according to my email system, they were appropriately sent, but as we have clear evidence your email system appears faulty. We would therefore urge the Council to review their EIA Screening Opinion as a matter of urgency to reflect our comments. In this regard, we are investigating whether the Opinion can be challenged.

I will send you the LVIA in follow-up emails

Please would you confirm receipt of this email.

Kind regards,

Sent: 05 November 2019 16:15

Subject: RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections


CAUTION: This email originated from outside of RPS.


Dear


I refer to your email below. Unfortunately I did not receive either of your emails dated 11<sup>th</sup> October 2019 or 20<sup>th</sup> September 2019.


Please can you resend the objection email with the attachments which aren't attached to your latest email (noting that we cannot receive emails with attachments over 10MB). Please also note that the Council is unable to access documents via file transfers.

Regards,

 [Twitter@southendbc](https://twitter.com/southendbc)

 [Facebook.com/SouthendBCOfficial](https://www.facebook.com/SouthendBCOfficial)

 [Flickr.com/southendbc](https://www.flickr.com/photos/southendbc/)

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**Please note:** Any opinion given in this correspondence is that of an officer of the Council. It does not necessarily reflect the view that might be taken by the Council itself. Consequently any opinion expressed will not bind the Council.

*Please note I do not work Thursdays*

**Sent:** 05 November 2019 14.35

**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

Do you know where this FOI request is? It is well overdue

**Sent:** 11 October 2019 19.27

**Subject:** FW Seaway Application Ref 18/02302/BC4M - Landscaping & Heritage Objections  
**Importance:** High

Dear

From this email below, you will note that I raised a FOI request, as follows: *"In the meantime, may I ask that you kindly initiate a new FOI request for copies of all correspondence between any planning officer (including the Group Planning Manager and yourself), any Conservation and Design officer (including \_\_\_\_\_), any Transport/Highways Officers (including \_\_\_\_\_), any Environmental Health officer, or any other third party acting on the Council's behalf (including Nicholas Pearson Associates and Town Legal (the latter of which we understand from recent FOI responses is acting for the Council but their bills may be paid by the Applicant)) and the applicant and/or their agents or consultants regarding this application or any technical matter related to this application (since we cannot see this online) I look forward to receiving an update on where the application is at present. Thank you "*

Can you confirm that this was been initiated immediately upon receipt and that I will receive the relevant responses within 30 days (i.e. by 20 October)? Please would you kindly let me know

Kind regards,

**Sent:** 20 September 2019 15:47

**Subject:** Seaway Application Ref 18/02302/BC4M - Landscaping & Heritage Objections  
**Importance:** High



critique, and a further Heritage Statement objection, which complement the objections we set out in February 2019 as well as other objections we have submitted. The versions attached to this email are reduced file size versions of the documents (for email purposes), but a high quality version can be downloaded via this link: <https://filetransfer.rpsgroup.com/link/5pMNAxcDp4i4zgMsQS0Yhc>

You will note that both documents explain why more detail is required as the information submitted thus far is substantially deficient to the extent that it would be difficult for the Council to rely on this to make any determination of the application on these key technical considerations. In particular, it is completely unclear how the Council could rely on the Applicant's Heritage Statement to discharge your responsibilities under the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Reliance on these documents would likely render any application at risk of a legal challenge, noting that until recently, the Council had no expert support on landscape matters to make any qualified judgments (as noted with our email on EIA matters set out below). I have copied in Nicholas Pearson Associates into this email, and I will forward our previous EIA screening email to them (see below) given these relate to landscape matters.

You will see that we maintain our objections that the proposed development fails to comply with the relevant landscape/townscape/design and heritage policies and the NPPF, and without obvious material considerations that clearly outweigh these policy conflicts, the Application should be refused on these grounds alone (one could argue that the negotiation of the application should have already stopped until all relevant information is supplied to avoid waste of resources, or simply refuse the application on a lack of information, among other reasons).

In more detail, the applicant's submitted Heritage Statement indicates that there would be 'no harm' caused by the proposed development. As you will see from our own assessment set out in Table 5 of the attached, it is clear that there would be at least 'less than substantial' harm, if not 'substantial harm' caused by the proposed development to designated and non-designated heritage assets. Historic England has raised similar concerns, and so it can be certain that our objections have significant bearing as being on the same side as the statutory consultee. The fact remains that the relevant policy tests have not been complied with, but regardless, the information submitted by the Applicant certainly fails to comply with NPPF Paragraph 189, particularly that not all sensitive receptors have been assessed (e.g. Clifftown Conservation Area), and without such information, you cannot make informed heritage related decisions.

With regards the Landscape and Visual Appraisal (LVA) document submitted by the applicant, both it and the DAS fail to report in clear terms the heights of the various parts of the buildings proposed, which makes it difficult to assess the impact of the buildings on its surrounds, and in particular, impossible to verify if any visualisations prepared are indeed accurate. The LVA's study area of only 1km is well below the expected study area of 5km according to normal practice. Furthermore, it omits assessments on direct and indirect effects, there are no winter assessments at Year 1, nor are there night time assessments of landscape character or visual amenity. There are no photomontages of the locations of the most sensitive receptors to provide details of what is being assessed. The LVA assessed simply does not comply with industry guidance and thus cannot be relied on as part of the considerations of a proposal of this scale, and which the Council can then draw a conclusion as to whether the proposals comply with policy, etc. Indeed, RPS's own assessment indicates that the proposals are contrary to relevant policy and without appropriate justification, the application should be refused. We welcome the appointment of Nicholas Pearson Associates, who will confirm that the submitted LVA is far short of what is required to comply with industry guidance on the landscape/townscape impact matter.

As I set out above, we note that Historic England have picked up on our objections and concerns, particularly the impact of the proposed development on the interrelationship between key historic landmarks within the town. In this regard, we will be forwarding these reports to Essex County Council Landscape team, Historic England, and other parties, for their interest and comment, since the Council continues to refuse to publish comments made on the application and enable there to be a clear and transparent audit trail regarding its decision making on this project (noting the Council's own potential for conflicts because it is also the land owner and has arranged contracts with the applicant and its associated parties).



We would be happy to discuss any of the details found within this reports, although I believe it is clear that along with matters of principle, transport and parking, trees, landscape/townscape, heritage, environmental health, and Environmental Impact Assessment, the application fails policy and statutory requirements related to landscape and heritage considerations and therefore the application should be refused. As set out in my email below, we thoroughly expect the Council to request an Environmental Statement from the Applicant before continuing to process the application, as the EIA Screening process previously undertaken was flawed, and this would likely revisit the landscape and heritage matters within that context

In the meantime, may I ask that you kindly initiate a new FOI request for copies of all correspondence between any planning officer (including the Group Planning Manager and yourself), any Conservation and Design officer (including \_\_\_\_\_), any Transport/Highways Officers (including \_\_\_\_\_), any Environmental Health officer, or any other third party acting on the Council's behalf (including Nicholas Pearson Associates and Town Legal (the latter of which we understand from recent FOI responses is acting for the Council but their bills may be paid by the Applicant)) and the applicant and/or their agents or consultants regarding this application or any technical matter related to this application (since we cannot see this online) I look forward to receiving an update on where the application is at present Thank you

I will write to you separately regarding the TPO trees shortly

I look forward to hearing from you

Kind regards,

Sent: 27 August 2019 15:07

**Subject:** Application Ref. 18/02302/BC4M - EIA Screening Opinion Assessment  
**Importance:** High

Dear

In our original objection letter dated 7<sup>th</sup> February 2019, we promised to write to you regarding Environmental Impact Assessment (EIA) matters. In light of the planning application documentation and recent consultee responses, we have re-assessed the proposed development associated with the above application against the Town And Country Planning (Environmental Impact Assessment) 2017 Regulations, as amended. We are pleased to provide you with our report, which concludes that the Council should revisit its Opinion due to a number of shortcomings with its approach and with the information that it previously relied on to make its determination that the proposed Seaway development was not EIA development. I set out some key points regarding it below:

- In relation to landscape/townscape, the information accompanying the Opinion clearly stated that up to substantial effects on local views are possible. These could be considered 'significant' in EIA terms. However, with the application, the assessed effects were lowered, because there was a downgrading of the sensitivity of residential receptors. It is not clear how this downgrading was determined, noting good practice and the author's methodology, but it does raise questions regarding whether the developer has sought to underplay the potential effects without justification. In addition, some of the trees on site are now confirmed to be valuable. We have not seen any drawings which suggest they will be retained with the proposed development, and their loss with the proposed development has to be considered in the EIA context. This alone warrants a revisit of the Opinion.



More importantly, we are also unclear how the Council was able to assess the 'substantial' effects identified by the developer's own team and conclude these were not significant when no professional landscape/townscape person was in the employ of the Council at that time to take a professional view on the matter. This alone suggests that there have been procedural errors with the Opinion issued by the Council and alone this warrants its revisiting. In this regard, RPS is preparing a LVIA which looks at these issues, and this will be issued shortly, but we also understand that the Council has now employed such professionals (we welcome such a move). You are now in a position to revisit what was reported during the Screening process versus what is being reported at applicant stage, to determine if there has been errors in the developer teams approach.

Separately, we would appreciate if you are able to let us know which firm has been appointed and the lead contact there, noting it is a public contract (please treat this as a FOI request, if necessary).

- In terms of Heritage matters, it is clear that Historic England has indicated there would be effects on heritage assets (including non-designated ones). These may be significant given the concerns raised by Historic England, and warrants a revisit of the information from a EIA context. In this regard, RPS is preparing a Heritage Assessment which in our view, better complies with NPPF Paragraph 189 (the submitted assessment is, in our view, inadequate and does not discharge the requirements of NPPF Paragraph 189). We will be issuing this shortly, and which we'll share this with Historic England and other bodies to ensure others can comment as well. With this information, the Council should revisit whether there would be significant effects on both designated and non-designated heritage assets.
- It is clear from the evidence that there would be significant effects arising from the development with regards to economic matters. We also note that in our comments on the economic assessment submitted with the application (prepared by Aventia Consulting and submitted with our main objection letter dated 7<sup>th</sup> February 2019) that there was a lack of information on some of the other potential effects, so there is certainly a need to revisit this from a EIA perspective once a comprehensive assessment has been carried out.
- In terms of transport effects, the information relied upon at Screening Opinion stage appears to underplay the level of traffic generation (the model split) and the temporary effects on parking has not been addressed. We understand your transport team are in discussions with the applicant regarding the provision of such additional information. The proposed development should be re-screened once appropriate transport information has been provided to ensure there would be no significant effects arising from traffic, parking and transport matters.
- It is also noted that no information was provided which lends to the Council's conclusion that significant operational noise effects are not likely, so it is unclear how this conclusion was reached. Indeed, your Environment health team's comments on the application clearly reflect our view that there is a lack of information to assess effects. This alone warrants a revisit of the Opinion once such information is provided.
- There is also no information regarding cumulative effects.

You will see from the above and attached that there are serious issues regarding the way in which the Opinion was reached, and which a proper assessment may have concluded that the development is EIA development. If the Council relies on the current Opinion as it stands, it is quite possible that any decision is challengeable from an EIA perspective, as we have demonstrated. We therefore urge the Council to revisit the EIA Screening Opinion once the relevant information is available, and halt the processing of the application until such information is available (or ask that the application is withdrawn until such information is available).

We note that once you have revisited the Opinion, if you conclude the development is EIA development, EIA Regulations 11 and 20 set out how you can then consider a validly made application that is subsequently found to be EIA development. We trust that these regulations will be followed as appropriate, and we look forward to participating in the process.

We would be more than happy to provide any clarifications with regards to our report and conclusions, should it be necessary I'll be in touch shortly with the LVIA and Heritage Assessment

Kind regards,



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**Sent:** 08 November 2019 13 16

**Subject:** FW [EXT] RE Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref No 18/02302/BC4M )

**Attachments:** 9809 L 191105 NGNL Seaway Objections\_final.pdf, 9809 Seaway\_November Objection Letter Enclosures pdf

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

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**Sent:** 08 November 2019 12 54

**Subject:** FW: [EXT] RE. Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref. No: 18/02302/BC4M )

**Importance:** High

Dear

You will see from an abbreviated version of the email chain below that your sustainability officer has been quite concerned about the lack of sustainability and energy features of the proposed Turnstone Development, against policy requirements. As you will have seen in sub-heading 'Sustainability' of our attached recent representations that we had re-iterated our concerns that the proposals fail to comply with your adopted sustainability policies

I have copied [redacted] into this email, because whilst he was kind enough to converse with us about the concerns that he shares with our sustainability team (we are all seeking the same result – a highly sustainable development), he was unfortunately not requested to provide comment by you back in February and may not have been approached now (we have no clue, as you continue to refuse to publish statutory consultee comments). We are surprised by this given that we had already indicated to you that it would be inappropriate not to consult with him because of the requirements of Policies KP2, Point 11, DM2 and DM4 and others, and the scheme's conflicts with those matters. You should be aware of his comments anyway, which represent his professional view

If you conclude that the proposal complies with such policies without obtaining the professional advice of your sustainability officer, may I ask why the Council appoints a professional whose job it is to advise on these matters? It certainly puts [redacted] into a difficult position, which is not my intention with this email. However, the Council has the unique ability to insist on a high level of sustainability as the land owner (and LPA) in accordance with your own policies, to demonstrate that you take sustainability seriously (your adopted policies state you should). We are in 2019 and there is a climate emergency, and which Southend being a coastal resort, should be well aware of, making even more important for future developments to take the right steps to mitigate against anything that may be coming. I am also aware of [redacted] recent motion on carbon neutrality, and the 2050 goal that exists regardless. If the Turnstone scheme is approved which fails to achieve such levels, I can't see how [redacted] or the LPA as a whole can continue to insist on policy adherence with other schemes that come forward when SBC officers have been clear that this scheme represents a key future for Southend. Questions of precedent and missed opportunity come to mind

The applicant has also failed to provide a Sustainability Statement, which is a clear requirement of your validation check list, so we are unclear how you could have validated the application without it. Are officers provide favourable treatment because the site is owned by itself? Continued processing of this application does raise that question, as if I had submitted an application for a similar scheme on a client's behalf, my client would have been strictly held to the validation check list by the LPA (its purpose, of course, is to ensure that appropriate evidence is supplied to determine any application). This question may be raised if there is any Judicial Review of any positive decision, and which you have overrode your adopted policies in granting permission. Something for you to bear in mind as you consider the application.

I would be happy to discuss this matter with you, along with any other matter, at your earliest convenience. Feel free to call on

As with current practice, I would be grateful if you would confirm receipt of this email, noting the 'missing' emails incidents

Kind regards,

Sent: 07 November 2019 18:13

**Subject:** RE [EXT] RE: Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref No 18/02302/BC4M )

Hi

I didn't hear back from you on this, so I am unclear whether you were consulted on the application. We assume you haven't been consulted on this application without any other indication otherwise, and we do wonder how the case officer can conclude that the application is meeting sustainability targets without consulting with you

However, for your benefit, I attach our submitted representations. You can see under the 'Sustainability' section that we are objecting to the scheme. I also attach our more detailed comments in the enclosures. As I am sure you are aware, Council's Policy DM4 clearly states that tall and large buildings should exceed requirements for sustainability features, and we have strong doubts regarding whether the scheme could ever achieve such levels of sustainability

The lack of engagement on this matter raises questions regarding whether sustainability is really anywhere on the Council's agenda, if they can't even get developers of their own land to push for the highest levels. That doesn't say much about the Council's ambitions regarding the climate emergency either, it seems

We would welcome any discussion regarding our objections

Kind regards,

**Sent:** 07 February 2019 17.03

**Subject:** RE. [EXT] RE Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref No: 18/02302/BC4M )

As I wrote to you yesterday on energy, I will be happy for you to recommend to the planners that they consult with me on this and I am happy to help. What I cannot do is to address the issue directly without their invitation.

Regards

**Sent:** 06 February 2019 18 17

**Subject:** RE [EXT] RE Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref No: 18/02302/BC4M )

As previously mentioned by my colleague , please find attached a letter detailing our key concerns with regards to sustainability for the planning application (Ref. No: 18/02302/BC4M). In short concerns include

- A Sustainability Statement has not been produced in accordance with the Validation Checklist.
- In the absence of a formal Sustainability Statement, sustainability has not been adequately addressed within the submitted planning application reports and drawing in accordance with the adopted planning policy and supporting SPDs.
- The way the BREEAM Pre-Assessment has been produced is unclear, confusing and doesn't provide a clear picture of what is achievable in terms of BREEAM. One BREEAM Fully Fit Pre-Assessment has been produced for the whole site even though there are three different building types. For a development of this kind, the BRE requires three assessments to be carried out based on the building mix and assessment types. The BREEAM report does state that the assessment will be subdivided further with the BRE for registration and that percentage weighting will differ. However, the BREEAM Pre-Assessment submitted provides a distorted



picture of what is achievable and does not fully account for the relevant requirements for the different buildings and assessment types. There is also potential for further BREEAM assessments to be required based on the final mix of building uses and depending on whether some building can be assessed under BREEAM similar buildings principles

- Following a critical review of the BREEAM Pre-Assessment and associated Planning Application reports we believe the development is at risk of not achieving BREEAM 'Very Good'

Overall, we believe Sustainability and BREEAM have not been adequately addressed

If you require further clarifications based on the above and the attached letter, please do not hesitate to contact me.

Kind regards



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Sent: 06 February 2019 11:18

**Subject:** RE: [EXT] RE: Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref. No: 18/02302/BC4M )

Thank you for your email and for your complimentary words around expertise.

You will appreciate that in their role as the Planning Authority, the team retain a fierce independence from the functions of the Local Authority. As such they choose who they seek comment from and this is mainly dictated by the statutory consultees. In the case of Energy, most of this discussion is centred on the Building Regs and the 10% renewables rule (which is local) and these discussions are usually handled by building control

I am more than happy for you to suggest that [redacted] refers to me but that is her decision and not mine. Likewise, I would be happy to consult with the Developer to improve their Environmental response and, ironically, I would be able to propose some actions which, in my view, would make a very strong net electricity generation case more viable than traditional energy solutions with maybe a full net energy block being appropriate.

I appreciate that this is frustrating but, unless invited, I cannot get involved with this once the planning application has been submitted.

Regards

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**Sent:** 05 February 2019 18:24

**Subject:** RE: [EXT] RE: Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref. No: 18/02302/BC4M )

Dear Jeremy,

Thank you for your response. We will of course draw this to [redacted] attention as the planning case officer that the proposed development falls short of the Council's policies on energy. The reason we have contacted you is of course [redacted] like myself, are planners and we are not specialists in technical matters. We rely on the comments of specialists like yourself to inform us of technical compliance, etc along with policy compliance of proposed developments when we weigh up the planning balance of all matters relevant to the scheme.

In this regard, [redacted] has already consulted with a number of your colleagues in various departments in the Council who will make comment on their areas of expertise (I attach the extract of the list from the application website, for your benefit). Our contact to you is that we believe that you have a vital role to play in ensuring key developments in Southend going forward match the ambitions of the Council as set out in adopted sustainability and energy policies, so Southend takes a step forward in this regard. This is a key regeneration site so it should be an exemplar (if not here, then when?). Unfortunately, you were overlooked in the list

The development as proposed does not comply with the requirements, and the best person to tell [redacted] about this is you, given your role within the Council. Hence we are asking you to forward our comments to [redacted] with your own analysis - i.e. that the proposed development will not comply with policy so further enhancements should be sought. We would imagine that if the applicant is unwilling to bring forward key energy-related features, the application should be refused as it fails to comply with the Council's own adopted policies.

We will be providing comments from a BREEAM and sustainability perspective shortly. I trust you would be happy to receive them.

I would be happy to discuss this further. Please call me on [redacted], or speak with [redacted], who knows the technical details.

Kind regards,

Sent: 05 February 2019 16:41

**Subject:** [EXT] RE Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref No 18/02302/BC4M )

Thank you for your email and your interesting analysis of the Seaway proposal. I have to advise you that neither I nor my team are involved in assessing planning applications although we are available to advise both the planning team and the developer should they choose to approach us and we are bringing forward work that might assist both to achieve their obligations.

Accordingly, I have to advise you that I cannot act on your objection and you should instead submit this to the Planning Authority directly.

I am sorry not to be able to assist in this matter

Regards

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Sent: 05 February 2019 15:57

**Subject:** Seaway Car Park - Planning Application objection on the submitted Energy Report (Ref. No: 18/02302/BC4M )

Dear

We have been asked by our client to object to a planning application (Ref No. 18/02302/BC4M ) for a proposed leisure-led redevelopment of the main car park supporting the tourist area of Southend (**Seaway Car Park, Seaway Southend-On-Sea, Essex, SS1 3DS**) We have been appointed to critically review the planning submitted Energy Strategy Report produced on 6<sup>th</sup> December 2018 for the development and assess the methodology used, identify any shortcomings and omissions, non-compliance with adopted policy, Government guidance or best practice.

Therefore, I would like to draw your attention on our main concerns, outlined below, with regards to non-compliance with the planning policy targets.

After reviewing the study, the following conclusions have been drawn:

- 1 Development Management Document (July 2015) Policy DM2, requires the energy hierarchy to be followed (be lean, be clean, be green). There is a specific reference under section 2.12 and 2.15 of the same document stating the following '*Policy DM2 should be read in conjunction with KP2 and these policies will*

*collectively set the planning framework .* Relevant formatting and detailed calculations at each stage of the Energy Hierarchy have not been provided within the report, showing calculations for each stage of the Energy Hierarchy (in CO<sub>2</sub>/yr and kWh/yr), therefore it is not clear how the proposed development meets Policy DM2

- 2 The report does not outline how the good passive measures have been examined and applied (thermal mass, internal/ external shading etc ) as per point 1 (i) of the Policy DM2 and sections 2 18 and 2 19.
3. Reference to decentralised renewable or low carbon energy sources is not made within the report. This is a requirement in line with Policy KP2, which requires the following *'At least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources), such as those set out in SPD 1 Design and Townscape Guide, wherever feasible'*. Reference is only made to ASHP and PVs There are many options available for renewable power generation, listed in Appendix 7 of the SPD1 Design and Townscape Guide, however these have not been examined or discussed within the report
- 4 It is not clear from the Discussion section of the report which option is suggested for the proposed development to meet the Local Council's target, as two options have been presented.
- 5 Policy CP4 of the Core Strategy states *' ensuring design solutions that maximise the use of sustainable and renewable resources in the construction of development and resource and energy conservation (including water) in developments . '* Roof plans for each building type have not been provided to confirm whether the use of renewable resources has been maximised
- 6 Document 'Southend Central Area Action Plan DPD (SCAAP), adopted February 2018' Policy CS1 Central Seafront Policy Area Development Principles is applicable to the proposal, however this does not seem to have been taken into account for this report Under point 1-g, the SCAAP states the following *'promote energy efficiency as appropriate, including opportunity for decentralised energy supply, and the retrofit of existing development in line with local policy'*, Section 1 4 of the same document states that *'All policies within this Area Action Plan should be read in conjunction with relevant national and local planning policies and guidance'* The opportunity for decentralised energy supply has not been examined within the report
- 7 The percentages presented from energy demand supplied by ASHP heating for Iteration 3 in Tables 8, 12 and 4 3 1 are incorrect These results should be identical to the percentages provided in Iterations 1 and 2 on each table as the only difference in Iteration 3 is the increase of PV panels, which does not affect the performance of the ASHP
- 8 The report concludes that either Iteration 2 or 3 could be a feasible option However, the report does not seem to be compliant with the policy target (Policy KP2) of 10% of the energy needs of new development to come from on-site renewable options, for Iteration 2 For the calculation of the percentages, the assessor seemed to have added the heating (from ASHP) and the renewables (from PV) of the Actual column, in Tables 10, 14 and 17 and compared to the total actual number to determine the savings However, the figure of heating is referring to heating consumption not savings, as it represents the energy consumption by the use of ASHP If the assessor wanted to present savings from heat pump they should have compared this with a notional building using gas boilers not ASHP By comparing to a building using an ASHP, the savings are down to the efficiency of the system not the actual use of the system

Overall, we believe that this Energy Strategy Report is not compliant with the relevant planning policies and mandatory elements have been missed or are deficient

Please feel free to contact me should you require any further clarification on the above mentioned points

I look forward to hearing back from you.

Kind Regards



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INCOMING EMAIL

Date: 11/10/2019 08:13:11

Subject: FW: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

Attachments:

- (1) image001.png(1 B)
- (2) Extracts from Original PEA November 2018.pdf(2 KB)
- (3) Extracts from Revised PEA July 2019.pdf(4 KB)

Please enter as a neighbour representation

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**Sent:** 10 October 2019 00:33

**Subject:** RE: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear

Straight to the point, it is come to light that the Applicant has failed to complete all relevant bat emergence surveys, and therefore the application cannot be determined before this information is submitted. The information can only be collected between May and August, and therefore it can only be provided next summer. Any decision before this is provided is likely to result in a successful legal challenge because the Council cannot be certain to have discharged its statutory duties. I set out the reasons for this below.

As set out in the email below, you may recall that we objected to the Applicant's proposals on the basis that there was a lack of ecology information (bat emergence surveys), and which are required in order for the Council to discharge its responsibilities regarding protected species (I come to this again below). We were clear that the Council should have invalidated the application due to a lack of ecology information, given it would take many months before the information could be provided. We were disappointed that you did not do this, even though it was clearly contrary to your own Local Validation List. That said, we are where we are now, which brings me to the current point.

The original Preliminary Ecological Appraisal (PEA) Report (November 2019) indicated that they surveyed the site on 19 October 2018 by Polly Lockyer. At Paragraphs 3.22 and Paragraph 4.10, it was identified that Buildings 1 (29 Herbert Grove), 3 (1&3 Herbert Grove), and 7 (public toilet block) had LOW value for roosting bats, and thus should be surveyed (see attached extracts). We indicated in our objection letter (see Page 8 of our Cover Letter dated 7<sup>th</sup> February 2019) that further bat emergence surveys will be required. Figure 3.1 indicates the Building 7 was of 'low' potential, along with Buildings 1 and 3 and therefore a survey should be carried out within the recognised period of 'May-August' according to the relevant guidance.

The Applicant has now submitted a revised PEA, dated 26<sup>th</sup> July 2019. A number of key points

- Paragraph 2.12 confirms that a bat roost emergence survey was carried out on the evening of 29<sup>th</sup> May 2019 on Buildings 1 and 3 (1-3 and 29 Herbert Grove). No record was noted of any survey or examination of Building 7.
- Paragraph 3.22 confirms that the same Buildings 1, 3 and 7 are still assigned LOW value to roosting bats.
- Paragraph 5.8 indicates that *"The site was of limited overall value to protected species, with interest relating predominantly to the potential value of Buildings 1 and 3 (see Figure 3.3) to building – roosting bats, all of which were assessed as being of Low potential according to current best practice guidelines for assessing building for their bat roost potential. Follow-up bat activity survey has been completed that confirms bat roost absence from both buildings."*

Again, there is no mention of a survey for Building No 7, the toilet block. The absence of emergence survey information is a substantial omission and which means the Council cannot be confident of discharging its responsibilities related to protected species until this survey is completed. I come to this again below.

- Indeed, the update PEA's Figure 3.3 sets out which building locations have value to roosting bats, and which require further surveys. The record on this drawing has been changed to refer to 'negligible' although the description in revised PEA Paragraph 3.22 remains the same as it was recorded in the original PEA (see attached extracts). It is wholly misleading change therefore, and its LOW value requires the requisite emergence surveys.
- We note that [redacted] was the same ecologist who undertook both the 19<sup>th</sup> October 2018 survey and the 29<sup>th</sup> May 2019 surveys, and is a Natural England Level 2 licenced bat worker, so capable of identifying relevant roosts.
- Importantly, the PEA was substantially updated in July 2019 without any change to Building 7's description and features, so this would strongly indicate that the potential for bat roosts remains.
- A survey of the building is therefore required to be conducted between May and August (optimal) or April/September (sub-optimal) 2020 before the Council can determine the application.
- RPS notes that in Paragraph 2.16 that the surveys recorded 2 bats foraging in the church yard and back gardens of Herbert Grove, and 30 minutes after sunset (which suggests they may have come from elsewhere). Indeed, as these did not emerge from Buildings 1 & 3 which were being surveyed at the time, their roosts are likely elsewhere. Noting the identified potential of Building 7, it is not unreasonable to conclude that these bats possibly came from the toilet block (which if the ecologist had surveyed it, they would have known for certain, but in the absence, it cannot be excluded given it has features that would support bat roosts). Approving its demolition of these buildings as part of this application without relevant emergence surveys would be an unreasonable risk to take.

Indeed, on the above basis, a precautionary approach regarding the presence of a bat roost in the toilet block is required. Indeed, this is set out clearly in 'Circular 06/05 BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM'. It states at Paragraph 99

***"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being***



*present and affected by the development Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below."*

There are no exceptional circumstances in this scenario. There was clear evidence that a survey was required for Building 7, as identified in the original PEA (Paragraph 4.10). The building's description was not changed between the original PEA and revised PEA, despite there being numerous other changes between the two reports. The same ecologist, who is bat licenced, identified the potential. The omission of the survey by the Applicant's team is not an exceptional circumstance. The Council must therefore conclude that there remains a need for this survey, and the change to Figure 3.3 in the revised PEA must be treated as a substantial error. On the above basis, the Council cannot categorically state that they would be able to discharge its statutory obligations with respect to protected species and enable them to grant planning permission for the development **until they have evidence of the bat emergence survey for Building 7. The survey cannot be undertaken until next May at the earliest.**

The error arising from Figure 3.3 raises substantial questions regarding the PEA's accuracy and evidence as the change is not substantiated by the written evidence (so the reason for the change is unclear)

In this circumstance, the Council has no professional ecologists that can verify either PEA's data and has not sought consultation from Essex County Council's ecologists. It would be wholly prudent and appropriate of the Council to independently engage a certified ecologist to verify the whole of the evidence within the PEA given this substantial oversight between the two versions of the PEA (in the same way as the Council has now engaged a landscape architect following RPS's concerns). Any other action (i.e. granting of planning permission without the additional survey) would likely result in a legal challenge given the Council would have failed to comply with Circular 06/05, and which the Council would not be able to professionally defend.

Indeed, I have copied in both Natural England consultations and Essex County Council ecologists, who I am sure would agree with RPS that there is a precautionary need to delay any decision until the Applicant has completed the relevant emergence in the correct period and verified its PEA data on the whole. Since Southend has no in-house ecologists, Essex County Council is the closest relevant statutory consultee.

Returning to my point that the application has insufficient information to determine it on ecology grounds, the Council must either refuse the application **now** due to a lack of information on ecology, or deem that the application is invalid and take action to force the application's withdrawal. It would be wholly unreasonable to hold an application in abeyance (although we'd argue there are many other reasons to refuse permission until this survey can be completed) given the blight that will occur to residents and land owners of the surrounding properties whilst the application remains on hold for what is another 7-8 months until the next survey season.

There are also question marks regarding ecology matters in EIA terms noting the outstanding risk to habitats.

I formally request that you provide me with a response as to what action the Council will take with regards to this substantial error, prior to making any decision on the application.

I will write you again shortly with our other objections to the EIA Screening Opinion Request and planning applications. However, as you'll see from those errors, and others we have already identified, it is becoming increasingly clear that the Council may want to fully re-think its relationship with Turnstone Southend Ltd at the earliest opportunity, since such basic errors are being committed.

I would be willing to discuss this further as required.

Kind regards,

Sent: 28 February 2019 10:56

**Subject:** Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group  
**Importance:** High

Dear

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table 'When to carry out a survey' and look for 'Bats (Summer Roosts): May to mid-September.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: "*Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid.*"

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:*

- *reasonable having regard, in particular, to the nature and scale of the proposed development; and*
- *about a matter which it is reasonable to think will be a material consideration in the determination of the application*

*These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country*

*Planning (Development Management Procedure) (England) (Order) 2015  
Paragraph: 040 Reference ID: 14-040-20140306"*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard) Indeed, if you follow the Government's Protected Species Checklist for planning applications (see attached), you'll see that you have to answer 'No' to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can't do, obviously), or refuse the application I take this opportunity to remind you that the damage or destruction of breeding or resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine (<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined.

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the consultation period that has just recently closed as the Council willing engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my our experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council's own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019 It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to site within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref: 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place Indeed, the officer's report for that application makes no reference to Biodiversity. As removal took place between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clear notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regs 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council can confirm it has not taken actions to facilitate that development without due care to protected species We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and

Habitats Regulations

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,

Sent: 07 February 2019 23:58

Subject: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt.

Regards,

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INCOMING EMAIL

Date: 11/10/2019 10:02:11

Subject: FW: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

Attachments:

- (1) image001.png(1 B)
- (2) 11279 EIA Review 191010.pdf(209 B)
- (3) Notes on Heritage Statement September 2019 submission.pdf(129 B)
- (4) Notes on LVIA and Screening Statement September 2019 submission.pdf(135 B)

Please enter as neighbour representation

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**Sent:** 11 October 2019 09:58

**Subject:** RE: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

Dear All – please disregard the previous email. One email address was incorrect ( ) and there was an error in the air quality section of the previous email.

Dear

To the point, the development is likely to be considered EIA Development and requires the submission of an Environmental Statement. You should conclude such as you have no evidence not to. We set out reasons for this below, but if the Council is unwilling to draw this conclusion for any reason, then our client will request a Screening Direction from the Secretary of State, who may take the same view as RPS. This will result in a further substantial delay to the planning application for the same development (Ref 18/02302/BC4M). In fact, RPS would argue the current application should be withdrawn because the submission of an Environmental Statement is too substantial and this would amount to a material change to the application so it should not be considered under the 2018 application.

Please find attached a report setting out the EIA considerations in relation to the Applicant's request for a new EIA Screening Opinion. It is an updated version of the report which you received on 27<sup>th</sup> August 2019 based on information submitted by the Applicant. Its conclusions are no different, however, and the

development will likely give rise to significant effects and therefore should be considered EIA Development I also attach specific commentary on landscape and heritage matters (prepared before Appendix 3 was provided, but which is unlikely to change the conclusions) that are relevant to the EIA matters, and completement the reports submitted to you on 20<sup>th</sup> September 2019

In summary, RPS's view is that the proposed development should be found to be EIA development as it will give rise to significant effects, as follows

- Landscape/townscape/visual impact – there are numerous errors with the LVIA report, including assessments of sensitivity or attempts to downplay effects, and so the approach fails to comply with relevant GLVIA guidance The cumulative effects fails to assess filling and incremental change. The Applicant has already acknowledged that the development will give rise to substantial effects as you are already aware The Opinion Statement argues these are local and not significant in the round, but there is simply no test for that approach. The question is whether it would give rise to significant environmental effects (anywhere or altogether), and that question on these grounds must be answered as 'yes' An Environment Statement assessing those effects must be prepared See Paragraph 69 of our RPS Notes on LVIA and Screening Statement attached to this email for more details, as well as our previous submission sent to you on 27<sup>th</sup> August and 20<sup>th</sup> September 2019.
- Heritage - the proposed development has the potential to adversely affect a number of heritage assets in the area, both designated and non-designated ones Indeed, the Heritage Assessment acknowledges on Page 4.35 that there will be 'considerable change' to the Conservation Area, which might well be classified as a significant effect (Paragraph 20 of the RPS Notes on the Heritage Statement). Furthermore, it acknowledges in Heritage Assessment Paragraph 4.32 that the 'biggest change' - which must be more than 'considerable', will arise from the Pier looking back at the development The Heritage Assessment is not clear as to whether the building would be seen from the Conservation Area, but this is a 'is or is it not' (Paragraph 17 of the RPS Notes on Heritage Statement) It appears to fail to assess the cumulative impact of the development on heritage assets (see Paragraph 19 of RPS Notes in Heritage Statement regarding the historic townscape character). An EIA is required on heritage impact grounds alone, given the likely effect on listed buildings (the Pier, the Kursaal), the Conservation Area and locally listed buildings, and the cumulative effect on all of these assets arising from the proposed development.
- The assessment of the impact on the views from the Pier both in terms of landscape/townscape/visual impact and heritage considerations is misleading/erroneous in both the LVIA and Heritage Assessment, noting both RPS and Historic England have raised substantial concerns regarding this There are other conflicts between the two submitted documents, such as in relation to the long views of the Palace Hotel (see Paragraph 16 of the Notes on Heritage Statement).
- There will be significant socio-economic effects with the proposed development This is acknowledged in the planning application documentation, but which was not submitted to you as part of the EIA Screening Request application. See Page 8 of the Carter Jonas Cover Letter related to the planning application, along with the Economic Benefits Assessment and Addendums (Lambert Smith Hampton) submitted by the Applicant, which include references to the significant effects
- There could be a significant effect on the habitat of protected species, given the absence of emergence surveys regarding roosts at the toilet block (Building 7 in the Preliminary Ecological Appraisal) I refer to my email from yesterday on this point
- There may be a significant effect arising from air quality, taking into account the cumulative effects arising from traffic generation from all allocated sites RPS has only received a copy of the Air Quality Technical Note because it was not published on the website until Wednesday 9<sup>th</sup> October, 2019, so we will update this section shortly
- The Habitat Regulations Assessment (HRA) fails to properly assess the impact of dog walking activities from hotel visitors, particularly in the winter time, which could add pressure to the European designated sites The report inadequately demonstrates how it concluded that there would not be

significant effects. Specifically, RPS notes there are far fewer visitors to Southend in winter periods, the key period for the habitat and species, and so the extent of change arising from the hotel and increased visitors to close proximity of the European Site could substantially increase pressure and potentially have a significant effect. Without providing any details of a winter time visitor impact assessment, the conclusions of the HRA are questionable and a precautionary approach should be applied by the Council.

There may be other effects which are significant (e.g. noise). The appropriate Environmental Statement topics will obviously be determined at scoping stage, and will enable a full consideration of alternatives (e.g. to protect the TPO trees).

Based on the Applicant's own assessments as well as RPS's own view, if the Council reaches any other conclusion than the proposed development is EIA Development which requires an Environmental Statement to be prepared to adequately assess relevant effects, our client will test the Council's view and seek a Screening Direction from the Secretary of State using much of the information provided by the Applicant as well as our own research (some of which is provided herewith). This will result in substantial delay to the processing of the planning application. It may also shed clear light on the Council's incorrect determination of the EIA Screening Request in November 2017, when they drew conclusions contrary to professional opinion without any basis (the substantial effects identified by the Applicant's landscape consultant at that time).

Indeed the whole purpose of undertaking a Screening exercise for Schedule 2 developments is because of the scale of development, there is a good chance it can give rise to significant effects. In the case of Turnstone's proposed development at Seaway Car Park, both the Applicant and RPS already agree that **there will be significant effects, so the logical conclusion is that these require further assessment under the EIA Regulations. The Council must conclude the same.** Whilst it is acknowledged that other similar Schedule 2 leisure developments (those located on the edge of towns) may not have such sensitive receptors so close to the development site (existing residential properties, heritage assets, European Sites, etc) and could be screened out, this is simply not the case here.

I formally request that you send me a copy of your Screening Opinion as soon as it is made public, so we can review and determine the next course of action (e.g. Direction request to the Secretary of State). I look forward to reading that you have finally confirmed that the development is EIA Development and an Environmental Statement is required. We can then all turn to the Scoping process. In the meantime, the planning application process should certainly be paused whilst this is concluded, but there is certainly an argument to state that the planning application should be entirely withdrawn until the EIA matter is wholly and adequately resolved (by the Secretary of State if necessary).

I would be more than happy to discuss anything found within this email at your earliest convenience.

Kind regards,



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INCOMING EMAIL

Date: 14/10/2019 07:48 14

Subject: FW: Application Ref. 18/02302/BC4M - Objections on behalf of The Stockvale Group

Attachments

(1) image001.png(1 B)

(2) Notes on Heritage Statement September 2019 submission.pdf(129 B)

(3) Notes on LVIA and Screening Statement September 2019 submission.pdf(135 B)

(4) Response to SBC Design March 2019.pdf(147 B)

**Sent:** 12 October 2019 00:20

**Subject:** RE: Application Ref 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear

ther to the email below, I attach key documents in relation to notes on the Landscape and Visual Impact EIA Screening Request application earlier this week. I also attach a landscape/townscape comments on the Conservation and Design Officer's consultee response to the application, and I have copied the Officer in this email for her benefit. Summaries of the comments can be found below. The documents must be read in conjunction with our Outline LVIA and Heritage Assessment critique reports submitted in an email to you on 20<sup>th</sup> September 2019.

*Heritage Statement Comments*

A revised Heritage Assessment has been submitted to the LPA, dated September 2019, and thus supersedes the previous Heritage Statement dated November 2018. It has been prepared by the same consultants (Heritage Collective). RPS has provided a note on the updated Heritage Assessment (Heritage Collective, September 2019), and this is enclosed.

As a general point, we have noted little substantive difference between the newly submitted document and the previous one, and important sections are missing (notably Appendix 3). We still consider it to be a serious omission for this document not to consider archaeological and historic landscape/townscape issues.

The enclosed RPS note identifies a large number of issues and contradictions within this document, including a surprising number of statements that are clearly incorrect. Key issues raised include a misunderstanding of the importance of the relationships between key historic buildings on Southend seafront and a failure to assess the effects on the historic townscape character and fine grain of the Southend Old Town character area, the HCHA underplays the impacts of the scheme on the overall historic environment. Our response also points out some very serious omissions, which mean that the document, as it currently stands, is not fit for purpose. As such, the conclusions drawn within the HCHA cannot be relied upon by the decision-maker.

*Landscape and Visual Impact Assessment Comments*

The advice of Nicholas Pearson Associates appears to have been taken and a full Landscape and Visual

Impact Assessment (LVIA) has been carried out. It is surprising that this was not carried out and submitted when the planning application was first submitted. The RPS response to the Landscape and Visual Impact Assessment (Richard Morrish Associates, September 2019) is in the enclosed note. These are issues that will need to be addressed by the applicant, although fundamentally the RPS landscape architect is concerned that this generic out of town multiplex and hotel is inappropriate in this fine grained seaside town. In our view, significant amendments to the scheme will need to be made to resolve these issues.

In both regards, you will already be aware that the proposed development will cause significant effects related to landscape and heritage matters, which means the development is EIA development and requires an Environmental Statement covering both topics.

In any event, the scheme should be refused on these points as well as others as there are clear policy conflicts regarding landscape, design and heritage matters.

I would be happy to discuss the above at your earliest convenience.

Kind regards,

**Sent:** 11 October 2019 23:59

**Subject:** RE Application Ref. 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear

Please find attached our first set out objections to the planning application by Turnstone Southend Ltd for a revised leisure-led scheme at the Seaway Car Park. As noted below and in previous emails, substantial key information has been missing from the application website, and therefore we reserve the right to provide further responses, particularly related to technical matters, upon receipt of all relevant information.

In the meantime, you'll see that the proposals fail to comply with Policy CS1.2 of the Southend Central Area Action Plan and KP2 of the Core Strategy. There are limited material considerations that weigh in favour of the conflicts with the policy, which are numerous.

If the Council seeks to approve the development, it must consider it a Departure from the Development Plan and process it as such. Otherwise, the Council is at risk of having any decision challenged in the courts on procedural grounds, given the conflicts.

Of course, the proposed development will be found to be EIA Development, and in any event, there needs to be further ecology surveys that must be prepared in May at the earliest. So there is plenty of time to make further comment, and so I'll be in touch again soon.

I would be happy to discuss as required.

Kind regards

Sent: 11 October 2019 21:26

**Subject:** Application Ref 18/02302/BC4M - Objections on behalf of The Stockvale Group  
**Importance:** High

Dear

Regarding the above, the Planning Statement Addendum sets out in Paragraph 1.4 a list of the uses in units in Table 1, but also refers to a 'precise schedule of areas' for the scheme in Appendix 2 at the start of the paragraph. Turning to Appendix 2 of the Planning Statement Addendum, the schedule is not found but in fact Appendix 2 is represented by a Surrounding Land Uses plan (as per the title of that Appendix). I can find no Appendix (or elsewhere within the report) that sets out the 'precise schedule of areas' within the Planning Statement Addendum. As this schedule is fundamental to the proposals (the potential floorspace of the uses of the scheme), it is quite difficult to make meaningful comment on the application, as the schedule has implications on parking, transport, jobs, design (active frontages), environmental health (noise) and many other key aspects of the scheme, and which the Applicant relies on to explain why permission should be given. The public consultation must be extended and only restarted when this becomes available.

I also note that the Planning Issue Sheet and the Extract Ventilation Statement Addendum were only uploaded to the application website today, and which by chance I only just noticed (no notification was given of another key document becoming available). So it seems to be a re-occurring pattern. I would strongly suggest that you halt the consultation process, submit a request to the Applicant's team to verify that all documents, Appendices, drawings, diagrams, schedules, etc are actually available to the public, and then only restart the process once you have firm from the Applicant that it is all available.

I have copied in \_\_\_\_\_, along with \_\_\_\_\_ and \_\_\_\_\_, as they may have the power to extend consultation periods to avoid prejudicing the public process.

Kind regards,

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**Sent:** 28 August 2019 15 07  
**To:** Planning Registration Team  
**Subject:** FW Application Ref 18/02302/BC4M - EIA Screening Opinion Assessment  
**Attachments:** 9809 Seaway EIA Technical Review 190808 FV pdf  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed  
**Categories:** Green Category

Sent: 28 August 2019 15 06

**Subject:** FW. Application Ref. 18/02302/BC4M - EIA Screening Opinion Assessment  
**Importance:** High

Please enter as a neighbour representation

Thanks

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**Sent:** 27 August 2019 15:07

**Subject:** Application Ref: 18/02302/BC4M - EIA Screening Opinion Assessment  
**Importance:** High

Dear

In our original objection letter dated 7<sup>th</sup> February 2019, we promised to write to you regarding Environmental Impact Assessment (EIA) matters. In light of the planning application documentation and recent consultee responses, we have re-assessed the proposed development associated with the above application against the Town And Country Planning (Environmental Impact Assessment) 2017 Regulations, as amended. We are pleased to provide you with our report, which concludes that the Council should revisit its Opinion due to a number of shortcomings with its approach and with the information that it previously relied on to make its determination that the proposed Seaway development was not EIA development. I set out some key points regarding it below

- In relation to landscape/townscape, the information accompanying the Opinion clearly stated that up to substantial effects on local views are possible. These could be considered 'significant' in EIA terms. However, with the application, the assessed effects were lowered, because there was a downgrading of the sensitivity of residential receptors. It is not clear how this downgrading was determined, noting good practice and the author's methodology, but it does raise questions regarding whether the developer has sought to underplay the potential effects without justification. In addition, some of the trees on site are now confirmed to be valuable. We have not seen any drawings which suggest they will be retained with the proposed

development, and their loss with the proposed development has to be considered in the EIA context. This alone warrants a revisit of the Opinion.

More importantly, we are also unclear how the Council was able to assess the 'substantial' effects identified by the developer's own team and conclude these were not significant when no professional landscape/townscape person was in the employ of the Council at that time to take a professional view on the matter. This alone suggests that there have been procedural errors with the Opinion issued by the Council and alone this warrants its revisiting. In this regard, RPS is preparing a LVIA which looks at these issues, and this will be issued shortly, but we also understand that the Council has now employed such professionals (we welcome such a move). You are now in a position to revisit what was reported during the Screening process versus what is being reported at applicant stage, to determine if there has been errors in the developer teams approach.

Separately, we would appreciate if you are able to let us know which firm has been appointed and the lead contact there, noting it is a public contract (please treat this as a FOI request, if necessary).

- In terms of Heritage matters, it is clear that Historic England has indicated there would be effects on heritage assets (including non-designated ones). These may be significant given the concerns raised by Historic England, and warrants a revisit of the information from a EIA context. In this regard, RPS is preparing a Heritage Assessment which in our view, better complies with NPPF Paragraph 189 (the submitted assessment is, in our view, inadequate and does not discharge the requirements of NPPF Paragraph 189). We will be issuing this shortly, and which we'll share this with Historic England and other bodies to ensure others can comment as well. With this information, the Council should revisit whether there would be significant effects on both designated and non-designated heritage assets.
- It is clear from the evidence that there would be significant effects arising from the development with regards to economic matters. We also note that in our comments on the economic assessment submitted with the application (prepared by Aventia Consulting and submitted with our main objection letter dated 7<sup>th</sup> February 2019) that there was a lack of information on some of the other potential effects, so there is certainly a need to revisit this from a EIA perspective once a comprehensive assessment has been carried out.
- In terms of transport effects, the information relied upon at Screening Opinion stage appears to underplay the level of traffic generation (the model split) and the temporary effects on parking has not been addressed. We understand your transport team are in discussions with the applicant regarding the provision of such additional information. The proposed development should be re-screened once appropriate transport information has been provided to ensure there would be no significant effects arising from traffic, parking and transport matters.
- It is also noted that no information was provided which lends to the Council's conclusion that significant operational noise effects are not likely, so it is unclear how this conclusion was reached. Indeed, your Environment health team's comments on the application clearly reflect our view that there is a lack of information to assess effects. This alone warrants a revisit of the Opinion once such information is provided.
- There is also no information regarding cumulative effects.

You will see from the above and attached that there are serious issues regarding the way in which the Opinion was reached, and which a proper assessment may have concluded that the development is EIA development. If the Council relies on the current Opinion as it stands, it is quite possible that any decision is challengeable from an EIA perspective, as we have demonstrated. We therefore urge the Council to revisit the EIA Screening Opinion once the relevant information is available, and halt the processing of the application until such information is available (or ask that the application is withdrawn until such information is available).

We note that once you have revisited the Opinion, if you conclude the development is EIA development, EIA Regulations 11 and 20 set out how you can then consider a validly made application that is subsequently found to be

EIA development We trust that these regulations will be followed as appropriate, and we look forward to participating in the process

We would be more than happy to provide any clarifications with regards to our report and conclusions, should it be necessary. I'll be in touch shortly with the LVIA and Heritage Assessment.

Kind regards,



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Date: 09/10/2019 14:05:09

Subject: FW: Seaway Application Ref: 18/02302/BC4M - Air Quality Memorandum

Attachments:

(1) image001.png(1 B)

Please upload as neighbour representation

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**Sent:** 08 October 2019 22:24

**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Air Quality Memorandum

**Importance:** High

Dear

Further to my email below, the Heritage Report submitted with the EIA Screening Request for the proposed Turnstone development at Seaway Car Park (Ref: 19/01706/RSE) indicates at Paragraph 1.11 that they have provided a response to RPS's original objections made on 7<sup>th</sup> February 2019 in Appendix 3 (but not our most recent objections submitted on 20<sup>th</sup> September 2019). Appendix 3 is missing from both Heritage Assessments submitted for EIA Screening Opinion request and the one submitted with the planning application. It is clearly impossible to draw any conclusions regarding whether the Applicant has appropriately responded to concerns raised by RPS in February, which has a bearing on whether there are potential significant effects on heritage assets.

In the same way as the missing Appendix G related to the Air Quality Technical Note, we urgently request that you obtain this from the Applicant and publish this as part of both the EIA Screening Request and the planning application online record. The consultation period for both applications must also be extended and should only commence once this document and other missing documents are made available for public comment, given the Applicant's reliance on these for both EIA Screening and planning application purposes.

I will write to you again if there are any other fundamental omissions from the application package.

Kind regards,

**Subject:** Seaway Application Ref. 18/02302/BC4M - Air Quality Memorandum  
**Importance:** High

Dear

Both the Carter Jonas EIA Screening Opinion Statement (Appendix G) and the Carter Jonas Cover Letter attached to the revised planning application (starting at Page 17) refer to a subsequent 'Air Quality Technical Memorandum' regarding air quality matters, which is an update on the December 2018 report. Appendix G of the Opinion Statement only encloses the December 2018 report, which was published in 'draft' and marked 'confidential' on its front cover. The Memorandum is relied on by the Applicant regarding both matters. As such, we urgently request that you arrange for this to be provided online ASAP, and that the consultation period for both applications is extended by 21 days to ensure all parties are able to make comment on the claimed assertions of the Applicant and their team regarding air quality matters. I note that we have raised concerns on this matter in our previous commentary on EIA matters (see my email to you of 27th August 2019). Any decision before this becomes available is likely to be subject to a challenge.

Thank you for your urgent assistance

Kind regards,

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[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 07 February 2019 23:59  
**To:** Charlotte White  
**Cc:** Planning Registration Team, council, [REDACTED]  
**Subject:** Application Ref. 18/02302/BC4M - Objections [REDACTED]  
**Attachments:** [REDACTED]

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** Green Category

Dear Ms White,

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt

Regards,

[REDACTED]

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 07 February 2019 23:53  
**To:** Charlotte White  
**Cc:** council, Planning Registration Team [REDACTED]  
**Subject:** Application Ref 18/02302/BC4M [REDACTED]  
**Attachments:** [REDACTED]

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** Green Category

For the Attention of Ms Charlotte White, Case Officer

Re Application Ref 18/02302/BC4M Proposed Leisure Development at Seaway Car Park [REDACTED]  
[REDACTED]

Dear Ms White,

Please find attached our objections to the proposed leisure development at Seaway Car Park, made on behalf [REDACTED]  
[REDACTED]

We would be happy to discuss this at your convenience.

I would be grateful if you would kindly confirm receipt of this email

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 08 March 2019 08:14  
**To:** Planning Registration Team  
**Subject:** FW: Application Ref 18/02302/BC4M - Objections [REDACTED]

**Categories:** Green Category

Please enter as a representation

Thanks  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 07 March 2019 15:43  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Application Ref 18/02302/BC4M - Objections [REDACTED]

Dear [REDACTED]

Please let me know when you have decided what to do with this application. In our strong view that this application should be considered invalid (the applicant can resubmit the application once the surveys have been prepared and mitigation proposed, of course). Any other approach is highly questionable and quite possibly renders any future decision of the Council challengeable, particularly noting the Council's financial interest in the application.

Indeed, I draw your attention to the following extract from the Planning Practice Guidance, which is clear that additional information should not be provided where it affects the validity of the application. Protected species surveys and mitigation are part of the Local Validation List, and identified by the applicant as necessary. They are always material to the application, as the LPA has a responsibility with respect to protected species and development (in accordance with case law).

***"Changes after validation of an application***

***Can additional information be requested by the local planning authority after an application has been validated?***

*Information can be requested after the application has been validated, although normal time periods for determining the application continue to apply unless a longer period is agreed in writing between the applicant and local planning authority to extend the determination period.*

*Any request for further information under section 62(3) of the Town and Country Planning Act 1990 must meet the tests in section 62(4A) and must not affect the validity of an application, where it has been validated and registered.*

*Paragraph 060 Reference ID: 14-060-20140306*

*Revision date: 06/03/2014"*

You will be aware the Applicant has had many years to prepare the planning application (for example, they rely on public consultation events undertaken in 2015 to discharge that responsibility) and thus they have had plenty of time to undertake the appropriate surveys during the relevant survey period in advance of making an application.

(for example in May 2018) They have not done so, and I am not aware of any reason why an exceptional circumstance in this case should be granted. I do not believe any exists and so the Council should not be deviating from standard practice, as we set out in our letters of objection.

We look forward to hearing from you about the validity of the application.

Kind regards,

[Redacted signature block]

From [Redacted]  
Sent: 06 March 2019 17:25  
To: [Redacted]  
Subject: RE: Application Ref 18/02302/BC4M - Objections [Redacted]

[Redacted line]  
Dear [Redacted]

I refer to your email below.

I confirm that your comments will be taken into account in terms of the Council assessing and progressing the application.

Regards,

[Redacted signature block]

*Creating a Better Southend*

[Redacted signature block]

Department for Place | Southend-on-Sea Borough Council | Civic Centre, Victoria Avenue, Southend, SS2 6ER



**Please note.** Any opinion given in this correspondence is that of an officer of the Council. It does not necessarily reflect the view that might be taken by the Council itself. Consequently any opinion expressed will not bind the Council.

From the 1<sup>st</sup> March 2018 Southend-on-Sea Council will be using a revised local list of planning validation requirements. A copy of the revised list can be accessed at [https://www.southend.gov.uk/downloads/download/258/revision\\_of\\_the\\_local\\_validation\\_list](https://www.southend.gov.uk/downloads/download/258/revision_of_the_local_validation_list). Please ensure that you use the revised local list when submitting applications on or after the 1<sup>st</sup> March 2018. From the 1<sup>st</sup> March 2018 submitted applications which do not contain the documents identified on the revised list will not be registered as complete. This will delay the assessment and determination of the proposal.

Southend Council is a CIL charging authority. Further details including the CIL Charging Schedule can be found at [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)

**From:** [REDACTED]  
**Sent:** 28 February 2019 10:56  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Application Ref 18/02302/BC4M - Objections [REDACTED]  
**Importance:** High

Dear [REDACTED]

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table 'When to carry out a survey' and look for 'Bats (Summer Roosts) May to mid-September'.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: *"Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid."*

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be*

- *reasonable having regard, in particular, to the nature and scale of the proposed development, and*
- *about a matter which it is reasonable to think will be a material consideration in the determination of the application*

*These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015  
Paragraph 040 Reference ID: 14-040-20140306"*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard). Indeed, if you follow the Government's Protected Species Checklist for planning applications (see attached), you'll see that you have to answer 'No' to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can't do, obviously), or refuse the application. I take this opportunity to remind you that the damage or destruction of breeding or resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine.

(<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the consultation period that has just recently closed as the Council willingly engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my own experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council's own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019. It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove. We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to be within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place. Indeed, the officer's report for that application makes no reference to Biodiversity. As removal took place between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clearly notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regulations 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council can confirm it has not taken actions to facilitate that development without due care to protected species. We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and Habitats Regulations.

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,





[Redacted]

From [Redacted]  
Sent: 07 February 2019 23:58  
To: [Redacted]  
Cc: [Redacted]

Subject: Application Ref 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear [Redacted]

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt.

Regards,

[Redacted]

[Redacted]

[Redacted]

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



[REDACTED]

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**From:** [REDACTED]  
**Sent:** 08 November 2019 11:32  
**To:** [REDACTED]  
**Cc:** Planning Registration Team  
**Subject:** FW Ref 18/02302/BCM Seaway Development - Trees and access issue  
**Attachments:** 9809 L 191105 NGNL Seaway Objections\_final pdf, JNY9057 Seaway All Key Transport Points pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

[REDACTED]

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 [Southendbc](#)

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**From:** [REDACTED]  
**Sent:** 08 November 2019 10:33  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
Planning Registration Team, [REDACTED]  
**Subject:** RE Ref. 18/02302/BCM Seaway Development - Trees and access issue

Dear [REDACTED]

I did not receive confirmation that you have successfully received my previous email, but equally I have not received a bounce back/undelivered receipt that would suggest you did not receive it. I do require confirmation that every email is received because of issues regarding Southend Borough Council's email system which the case officer and others are aware of (and is likely prejudicing the public consultation process).

You will see below our objections regarding the tree issue, and evidence that the proposed access to the Turnstone development can be designed in a way that would avoid removing the trees that are subject to the TPO. I am sure you'll agree with our position once you have reviewed this evidence. I would be happy to discuss the points that we raise with you at your earliest convenience.

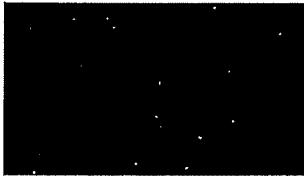
With regards to transport and parking issues, I re-attach our objection letter and also attached the specific transport enclosures, setting out the key notes and concerns regarding why the Turnstone proposals fail to comply with SCAAP Policy DS5 and other adopted policies. Specifically, the Transport Assessment and its Addendum both demonstrate that the development will generate a parking requirement far above that which will be provided on site with

the development, when considering what exists at present on site, and so the proposals must be refused until the level of car parking is provided. Otherwise there will be a severe impact. To re-iterate, our client has always stated that they do not object to the principle of the development so long as sufficient car parking is provided on site that both maintains the existing level of car parking and meets those generated by the proposed development

I would welcome the opportunity to discuss our concerns with you

Please confirm receipt of this email and the previous email.

Kind regards,



From: [Redacted]  
Sent: 07 November 2019 06:47  
To: [Redacted]

Subject: Ref: 18/02302/BCM Seaway Development - Trees and access issue  
Importance: High



You may be aware of our recent objections to the above scheme. I attach these herewith. We have significant concerns regarding the proposal's compliance with respect to transport and parking related policies as you will read. We would be grateful for the opportunity to discuss these with you.

However, the purpose of my email is to draw your attention to the section under the sub-heading 'Trees'. Our objections set out clearly there are adopted Development Plan policies and material guidance that indicate the trees should be preserved. As well, you may be aware that the Council has adopted an interim tree policy, which indicates that the Council will not authorise the loss of Council-owned trees for private development where alternatives exist (referred to within both Section 2 and Section 3 of the Interim Policy). Indeed, the relevant Cabinet member announced on 29<sup>th</sup> July 2019 that all non-emergency tree removals will be stopped. The removal of trees at the Seaway Car Park is clearly a non-emergency activity. The land and trees will remain Council-owned with the proposed development and so the policy applies.

The Applicant has argued that there is no way to facilitate access to the site without the removal of two trees subject to recent Tree Preservation Orders (TPOs). We strongly dispute the applicant's claim. You will see under the trees section of our attached report that we indicate that there are alternatives. I attach two drawings which show how the access can be re-routed around the preserved trees, and this includes appropriate buffers for future growth. I also attach some notes to assist you. Of course the building shape and design is not fixed, and could be easily re-designed to save the TPO trees. Therefore, in accordance with Council's most recently adopted Interim Tree Policy as well as adopted Local Plan policies (as referred to in our letter), the alternatives must be explored or the application must be refused on this reason alone.

•

I am also making you aware of this because I am sure you'll agree that there would be a serious public perception and relations issue if the Council goes ahead and authorises the removal of its owned – legally preserved – trees so recently after the Cabinet and the Portfolio Member issued an important policy regarding their preservation especially when easy alternatives exist. We are all acutely aware of how Sheffield Council mis-handled the removal of Council owned trees, as set out in the Interim Tree Policy's background report.

We would be grateful for your review of this information, which I am sure you'll agree demonstrates that there is no justification for the loss of TPO trees and the developer's claims that no alternatives exist are wholly incorrect because they simply have not explored in any detail the available alternatives. I have copied in Rick Milsom (tree officer), Cllr Mulrone, the Cabinet Member for Planning and Environment (who made the policy announcement) and others to facilitate discussions.

I would be happy to discuss anything in our objections (either tree related or transport/parking related) at your earliest convenience. I am also happy to discuss this with the Cabinet Member or Tree Officer as appropriate.

I would also be grateful if you would kindly confirm receipt of this email as some emails are not going through to the Council.

Kind regards,



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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 08 November 2019 16:27  
**To:** [REDACTED]  
**Subject:** FW: Seaway Car Park - Planning Application (Ref No 18/02302/BC4M) - Noise Objection  
**Attachments:** 9809 L 191105 NGNL Seaway Objections\_final pdf, 9809 Seaway\_November Objection Letter Enclosures pdf  
**Importance:** High  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**From:** [REDACTED]  
**Sent:** 08 November 2019 16:25  
**To:** [REDACTED]  
**Subject:** Seaway Car Park - Planning Application (Ref No 18/02302/BC4M) - Noise Objection  
**Importance:** High

Dear [REDACTED]

I write to you regarding the above.

You may have already seen our recent objections regarding the above application (as attached), which complement our original objections of 7<sup>th</sup> February 2019 and other comments since that time. We understand that you have raised significant noise and amenity concerns regarding the proposed Turnstone development at Seaway Car Park, and won concessions regarding the removal of Class A4 drinking establishment from the proposed development, along with early closure of the outdoor seating area (at 11pm). We agree wholly with what you have achieved thus far, in the name of preserving the residential amenity of those living or staying along Herbert Grove (according to various policies, including CS1 2). However, our concerns remain, as outlined under the sub-section 'Noise, Disturbance and Residential Amenity' of the attached. The scheme remains unacceptable.

The key points that we raise can be summarised as follows:

- The restaurants and bars will face directly on Herbert Grove residents. The 11pm closure does not mean that clean up won't take place afterwards outside (dishes clanging, for example).
- As the restaurants close at 12am (midnight), there will be patrons and staff leaving the facility in the very early hours of the following morning. This will still cause a noise nuisance and disturbance to the residents of Herbert Grove well after the 11pm outdoor seating closure, to their detriment.
- In addition, the cinema facility is unlikely to close at 12am (midnight), so there will be more noise nuisance than currently acknowledged by the applicant.
- Whilst taxis will be prohibited from collecting passengers along Herbert Grove, friends and family of patrons and staff will not be prevented from picking up or dropping off passengers along Herbert Grove without a change to Traffic Regulations applicable to the Grove to prevent pick-up/drop-off, which cannot be relied on by the applicant to be delivered with the planning application (as far as I am aware, no Order is proposed to address this). Furthermore, there is a question mark regarding enforcement (unless the applicant pays for 24-hour staff-based enforcement), given the time of night this would occur at. The pick-up and drop-off will likely continue to take place well after the restaurants close (because staff will probably stay some time later to clean up and cash out, etc). Unfortunately, the car park is not conveniently designed for pick-up and drop-

off (and may require payment even for those purposes), and there is no through route on the hotel side of the building towards Lucy Rd. Hence Herbert Grove, with its through access to Marine Parade and destinations beyond, will provide the most convenience pick-up/drop-off location. There will be noise from vehicles, car doors opening and closing, etc I know if I was in Southend and my kids needed picking up, I would see Herbert Grove as being the most logical spot to pick them up after they go the cinema or restaurants, because I can easily take off thereafter without having to negotiate (and pay) the multi-storey car park or the surface car park on site. The existing double lines on the road wouldn't prevent that scenario from taking place, neither would any non-personnel based enforcement (i.e. only staff on site at all times waving potential stoppers on would prevent this)

- The impact to Herbert Grove, which is not within the identified Town Centre (so the residents should have a reasonably good level of amenity, which they do at present), would be tremendously harmful on a regular basis. Little can be done to mitigate against this
- Whilst there is currently some movement along Chancellors Road pavement (to and from the car park), the proposed development turns the Seaway Car Park site into a destination for visitors from the town centre, who would return to the town centre after visiting the site. This is clearly an increase in the number of movements and resulting noise and disturbance to Chancellors Road residents, late at night in most cases given the nature of the uses at the site
- Indeed, the Transport Assessment indicated there would be somewhere around 490 pedestrians will be leaving the site between 22:00-24:00 on a Friday night, the majority moving towards other car parks, the town centre or the bus station. Whilst the model split has changed with the Addendum (at Davinia Farthing's request), which means more people are assumed to arrive by car, the numbers travelling past Herbert Grove and Chancellors Road still remain significant at late night times (estimated at over 300+ pedestrians leaving the site). This excludes stragglers or in situations where films end later than 12am midnight.
- There is a bus stop along Chancellors Road which will be subjected to more users, also to the detriment of those living there whilst those wait for the bus
- The current issues will now be exacerbated because now there are no A4 drinking establishments (and rightly so), but people attending the restaurants and cinema, etc who want to carry on at nightclubs, etc will travel to the town centre to do so, after 11pm or 12am. But their cars are still parked at the Seaway Car Park, so they'll return in the wee hours of the morning, some of whom may be loud due to drinking effects or being in a group, etc. This doesn't happen to the same extent now, as if you wanted to go the cinema, you'd park at a different car park closer to the Odeon in the town centre, so all your journeys are focused away from the Seaway Car Park and does not lead you past Chancellors Road
- I would add that the toilet facilities is now moved closer to the town centre side of the site, making it attractive to those who require it after a night out

The effect of the proposed development is to basically draw the residents of Herbert Grove and Chancellors Road into the town centre although they are not at present, to the detriment of existing residents

I trust you'll agree with the above and continue to object to the proposed development on noise, disturbance and residential amenity grounds. I note that if the applicant had proposed a different design, which made pick-up on the hotel side of the site more attractive, that would solve part of the issue. The other part, regarding pedestrians, I note there is a policy requirement to offer improved pedestrian links to the town centre (see Policy CS1.2). These have not been offers, but they could have sought to improve the Chancellors Road/Church Road junction to make the southside of Chancellors Road the most attractive route, and deter pedestrian from using the northside of Chancellors Road as their primary route (accessed via an uncontrolled crossing, which has potential safety and noise issues), reducing the impacts on the residents of Chancellors Road. No obvious effort has been made to comply with the policy in this regard. As well, if the Spanish Steps were delivered with the scheme (also according to Policy CS1.2), this would also alter the travel patterns of the site, and direct more pedestrians away from sensitive receptors. Along with many other concerns that we raise in our objections, this points to a scheme that is not acceptable in policy terms and alternatives exist to make the scheme better. I have copied in Abbie Greenwood as the Council's Conservation and Design Officer, with whom you can discuss the merits of a different design.

I have also copied in the local ward members, who will be the recipient of any complaints from the residents because of an ill thought scheme, if it gets approved in its current form. They will then struggle to address the

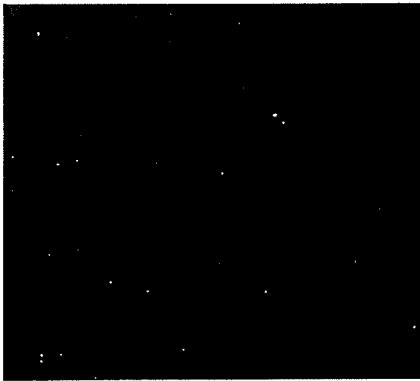
matters because the scheme will have been built, resulting in the Council expending energy and resources to resolve something that the applicant should have dealt with from the outset to gain approval

I also note that the Applicant has acknowledged there would be medium impact on the daylight and sunlight of residents along the southern-half of Herbert Grove. Obviously, if the main building was shorter, and the development had been better spread across the whole of the site, this would eliminate any harm and detriment to the residents of Herbert Grove from this perspective. A revised design would also be more respectful to the existing urban grain and character of the area, the neighbouring historical assets, and most certainly mean that the TPO trees can be preserved on site. So it will address many of the key issues with the development. The concerns clearly point to the fact that the current designs causing more harm than is absolutely necessary, including regarding noise and daylight/sunlight. I trust that you'll maintain an objection on this point given the Applicant already acknowledges the issue.

I am happy to discuss any of the points above or any other matters with you. Please feel free to call [REDACTED]

As there is an email issue at the Council, I would be grateful if you would kindly confirm receipt of this email.

Kind regards,




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Our Ref: ECO00602 Seaway, Southend-On-Sea



Dear Sir/Madam

**OBJECTION TO PLANNING APPLICATION REF: 18/02302/BC4M  
'COMPREHENSIVE REDEVELOPMENT OF SITE' LOCATED AT SEAWAY,  
SOUTHEND-ON-SEA**

The planning application (18/02302/BC4M) is for the comprehensive redevelopment of the site, including the demolition of three residential buildings and existing toilet block, to be replaced by new buildings for leisure and recreational use, a hotel, car park and access routes

**BACKGROUND TO REPORT**

The Preliminary Ecological Appraisal (PEA) (Applied Ecology Ltd 2018) characterised the area as predominantly hardstanding with small areas of amenity and semi-improved grassland, introduced shrubs and planted trees. A total of seven buildings of mixed residential and commercial use were included within the PEA and were therefore also subject to a preliminary bat roost assessment.

The PEA concluded that the site would be unlikely to have any direct or indirect adverse impact on the integrity of the designated sites as a result of the proposed construction and operation of the site. In addition, the majority of the habitats present on site were of negligible habitat and biodiversity value and therefore would only represent a minor adverse ecological impact.

The report also concluded that the site was of limited value to protected species with interest restricted to the buildings 1, 3 and 7, which were assessed as being of low potential to roosting bats, and the surrounding scrub and tree habitats which are likely to support low numbers of common and widespread bird species.

The report stated that the following surveys are considered necessary prior to development:

- 'Up to two separate bat activity surveys should be completed of Buildings 1, 3 and 7 within the recognised May – August window to verify bat roosting presence/absence.'



**OBJECTION 1**

The preliminary bat roost assessment detailed within the report comprised only an external inspection of the structures. Of particular interest, were the features observed on Buildings 1 and 3 which included

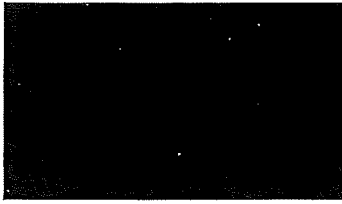
- Small gaps at the base of plastic boarding cladding on the eastern aspect, and
- Gaps present under roof tiles.

Following the recommended bat survey guidelines set out in the Bat Conservation Trust 'Good Practice Bat Survey Guidelines, Third Edition' 2016, internal inspections of buildings should be undertaken (where practicable) to compile information on potential and actual bat entry/egress points and any evidence of bats. As stated in the guidelines, it is not always possible to identify evidence of bats on the exterior of a building, and where it is, wet weather can often wash any evidence away.


Following an internal inspection of the buildings 1 and 3, a more accurate assessment of the buildings' potential as a bat roost could be made, followed by requirements of further survey work and potential mitigation.








Furthermore, it should also be noted that where a comprehensive assessment of the buildings' interior is not possible, the BCT guidelines (2016) recommend that emergence/re-entry (presence/absence) surveys are undertaken. Currently, the PEA states that up to two 'bat activity surveys' are required in the appropriate season however it does not specify whether these comprise emergence/re-entry surveys or whether it is indeed referring to bat activity or transect surveys, which are not considered appropriate for the size and type of development proposed.

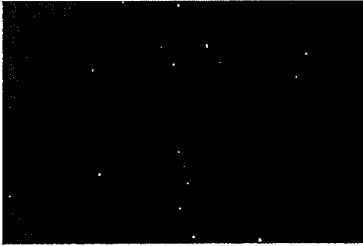
 objects to the proposals as insufficient survey work has been undertaken to assess the potential for bat roosts to be present within the buildings due to be affected.

**OBJECTION 2**

A factory building which falls within the site boundary of the project was not included in the PEA and has now been demolished. There is no reference to building or any indication if it was inspected or surveyed for the presence of a bat roost.

 objects to the proposals as insufficient survey work has been undertaken to assess the potential for bat roosts to be present within the building already demolished.

Yours sincerely,



[REDACTED]

---

**From:** [REDACTED]

**Sent:** 09 October 2019 09:46

**To:** Charlotte White

**Cc:** [REDACTED]

**Subject:** [REDACTED]

**Attachments:** [REDACTED]

**Importance:** High

Dear Charlotte,

Thank you for updating the application websites with this document and providing it to us. We will obviously need time to consider its findings in order to provide meaningful comment. So I assume that you are agreeing to delay the processing of any Screening Opinion and Planning Application until consultees have had adequate time to comment.

Do you know why the Air Quality Assessment itself is still referred to as 'draft' and 'confidential'? Will a final version be issued?

Do you know if your Environmental Health Team had a copy of this Memorandum?

[REDACTED]

---

**From:** Charlotte White [REDACTED]

**Sent:** 09 October 2019 09:36

[REDACTED]  
**Subject:** FW: Seaway Application Ref: 18/02302/BC4M - Air Quality Memorandum

**CAUTION:** This email originated from outside [REDACTED]

Dear [REDACTED]


I refer to your email below. I can confirm that the air quality technical memorandum is available on public access for both applications. For ease, I have also attached a copy for your information.


Regards,  
Charlotte


**Charlotte White** – Development Control Team Leader | Planning and Building Control Group

[REDACTED]


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**Please note:** Any opinion given in this correspondence is that of an officer of the Council. It does not necessarily reflect the view that might be taken by the Council itself. Consequently any opinion expressed will not bind the Council.



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**Sent:** 08 October 2019 15:56

**To:** Charlotte White



**Subject:** Seaway Application Ref: 18/02302/BC4M - Air Quality Memorandum

**Importance:** High

Dear Charlotte,

Both the Carter Jonas EIA Screening Opinion Statement (Appendix G) and the Carter Jonas Cover Letter attached to the revised planning application (starting at Page 17) refer to a subsequent 'Air Quality Technical Memorandum' regarding air quality matters, which is an update on the December 2018 report. Appendix G of the Opinion Statement only encloses the December 2018 report, which was published in 'draft' and marked 'confidential' on its front cover. The Memorandum is relied on by the Applicant regarding both matters. As such, we urgently request that you arrange for this to be provided online ASAP, and that the consultation period for both applications is extended by 21 days to ensure all parties are able to make comment on the claimed assertions of the Applicant and their team regarding air quality matters. I note that we have raised concerns on this matter in our previous commentary on EIA matters (see my email to you of 27th August 2019). Any decision before this becomes available is likely to be subject to a challenge.

Thank you for your urgent assistance.

Kind regards,



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 06 November 2019 00:00  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Dear Charlotte,

Please find attached our objections to the above scheme.

Kind regards,

[REDACTED]

**From:** [REDACTED]  
**Sent:** 11 October 2019 23:59  
**To:** Charlotte White [REDACTED]

[REDACTED]

Dear Charlotte,

Please find attached our first set out objections to the planning application by Turnstone Southend Ltd for a revised leisure-led scheme at the Seaway Car Park. As noted below and in previous emails, substantial key information has been missing from the application website, and therefore we reserve the right to provide further responses, particularly related to technical matters, upon receipt of all relevant information.

In the meantime, you'll see that the proposals fail to comply with Policy CS1.2 of the Southend Central Area Action Plan and KP2 of the Core Strategy. There are limited material considerations that weigh in favour of the conflicts with the policy, which are numerous.

If the Council seeks to approve the development, it must consider it a Departure from the Development Plan and process it as such. Otherwise, the Council is at risk of having any decision challenged in the courts on procedural grounds, given the conflicts.

Of course, the proposed development will be found to be EIA Development, and in any event, there needs to be further ecology surveys that must be prepared in May at the earliest. So there is plenty of time to make further comment, and so I'll be in touch again soon.

I would be happy to discuss as required.

Kind regards,

[REDACTED]

[REDACTED]

**From:** [REDACTED]  
**Sent:** 11 October 2019 21:26  
**To:** Charlotte White [REDACTED]

**Importance:** High

Dear Charlotte,

Regarding the above, the Planning Statement Addendum sets out in Paragraph 1.4 a list of the uses in units in Table 1, but also refers to a 'precise schedule of areas' for the scheme in Appendix 2 at the start of the paragraph. Turning to Appendix 2 of the Planning Statement Addendum, the schedule is not found but in fact Appendix 2 is represented by a Surrounding Land Uses plan (as per the title of that Appendix). I can find no Appendix (or elsewhere within the report) that sets out the 'precise schedule of areas' within the Planning Statement Addendum. As this schedule is fundamental to the proposals (the potential floorspace of the uses of the scheme), it is quite difficult to make meaningful comment on the application, as the schedule has implications on parking, transport, jobs, design (active frontages), environmental health (noise) and many other key aspects of the scheme, and which the Applicant relies on to explain why permission should be given. The public consultation must be extended and only restarted when this becomes available.

I also note that the Planning Issue Sheet and the Extract Ventilation Statement Addendum were only uploaded to the application website today, and which by chance I only just noticed (no notification was given of another key document becoming available). So it seems to be a re-occurring pattern. I would strongly suggest that you halt the consultation process, submit a request to the Applicant's team to verify that all documents, Appendices, drawings, diagrams, schedules, etc are actually available to the public, and then only restart the process once you have firm from the Applicant that it is all available.

I have copied in [REDACTED] as they may have the power to extend consultation periods to avoid prejudicing the public process.

Kind regards,

[REDACTED]

[REDACTED]

---

**From:** [REDACTED]

**Sent:**

06 November 2019 00:08

**To:**

Charlotte White

**Cc:**

**Subject:**

**Attachments:**

[REDACTED]  
Objection Letter Enclosures.pdf

Dear Charlotte,

Further to the email below, I have been advised that the PDF as attached appears to have been corrupted. As such, I attach a revised version with the letter and enclosures separately attached. I would be grateful if you would kindly confirm that you have received this PDF in good working order.

Regardless, you will see from our letter and enclosures that the proposed development is non-compliant with many policies of the development plan and there are little material considerations that would outweigh such conflicts, noting alternative designs exist which would reduce the conflicts and achieve a much better development.

I will write to you again shortly regarding the 'missing emails' issue.

I would be happy to discuss the contents of the letter and enclosures at your convenience.

Kind regards,

[REDACTED]

**From** [REDACTED]

**Sent:** 06 November 2019 00:00

**To:** Charlotte White [REDACTED]

[REDACTED]

Dear Charlotte,

Please find attached our objections to the above scheme.

Kind regards,

[REDACTED]  
Sent: 11 October 2019 23:59

To: Charlotte White [REDACTED]  
[REDACTED]

Dear Charlotte,

Please find attached our first set out objections to the planning application by Turnstone Southend Ltd for a revised leisure-led scheme at the Seaway Car Park. As noted below and in previous emails, substantial key information has been missing from the application website, and therefore we reserve the right to provide further responses, particularly related to technical matters, upon receipt of all relevant information.

In the meantime, you'll see that the proposals fail to comply with Policy CS1.2 of the Southend Central Area Action Plan and KP2 of the Core Strategy. There are limited material considerations that weigh in favour of the conflicts with the policy, which are numerous.

If the Council seeks to approve the development, it must consider it a Departure from the Development Plan and process it as such. Otherwise, the Council is at risk of having any decision challenged in the courts on procedural grounds, given the conflicts.

Of course, the proposed development will be found to be EIA Development, and in any event, there needs to be further ecology surveys that must be prepared in May at the earliest. So there is plenty of time to make further comment, and so I'll be in touch again soon.

I would be happy to discuss as required.

Kind regards,  
[REDACTED]

From [REDACTED]

Sent: 11 October 2019 21:26

To: Charlotte White [REDACTED]  
[REDACTED]

Importance: High

Dear Charlotte,

Regarding the above, the Planning Statement Addendum sets out in Paragraph 1.4 a list of the uses in units in Table 1, but also refers to a 'precise schedule of areas' for the scheme in Appendix 2 at the start of the paragraph. Turning to Appendix 2 of the Planning Statement Addendum, the schedule is not found but in fact Appendix 2 is represented by a Surrounding Land Uses plan (as per the title of that Appendix). I can find no Appendix (or elsewhere within the report) that sets out the 'precise schedule of areas' within the Planning Statement Addendum. As this schedule is fundamental to the proposals (the potential floorspace of the uses of the scheme), it is quite difficult to make meaningful comment on the application, as the schedule has implications on parking, transport, jobs, design (active frontages), environmental health (noise) and many other key aspects of the scheme, and which the Applicant relies

[REDACTED]

on to explain why permission should be given. The public consultation must be extended and only restarted when this becomes available.

I also note that the Planning Issue Sheet and the Extract Ventilation Statement Addendum were only uploaded to the application website today, and which by chance I only just noticed (no notification was given of another key document becoming available). So it seems to be a re-occurring pattern. I would strongly suggest that you halt the consultation process, submit a request to the Applicant's team to verify that all documents, Appendices, drawings, diagrams, schedules, etc are actually available to the public, and then only restart the process once you have firm from the Applicant that it is all available.

I have copied in [REDACTED] as they may have the power to extend consultation periods to avoid prejudicing the public process.

Kind regards,

[REDACTED]

[REDACTED]



[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 08 November 2019 10:55  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Part 3 of 3.

You should have the full outline LVIA and Heritage Statement as previously submitted. These should be read with our other comments, including the Heritage and LVIA notes submitted in response to both the EIA Screening and planning application, and our objections to the scheme.

Please confirm receipt.

Kind regards,

[REDACTED]

**From:** [REDACTED]  
**Sent:** 08 November 2019 10:54  
**To:** 'Charlotte White' [REDACTED]

[REDACTED]

**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

Part 2

[REDACTED]

**From:** [REDACTED]  
**Sent:** 08 November 2019 10:53  
**To:** 'Charlotte White' [REDACTED]

[REDACTED]  
**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

Charlotte,

Please find attached Part 1 of the LVIA that was submitted on 20<sup>th</sup> September 2019.

Please confirm receipt of all documents once received.

Kind regards,

[REDACTED]  
**From** [REDACTED]  
**Sent:** 08 November 2019 09:31

**To:** Charlotte White [REDACTED]  
[REDACTED]

**Importance:** High

Dear Charlotte,

I attach the Heritage Statement. The LVIA will be submitted in two parts in subsequent emails.

As I mentioned, I am very surprised that you did not received my emails, as there was no indication that these were not successfully sent (e.g. by way of an undeliverable bounce back email). I note that [REDACTED] were copied in as an external party, and their email address also did not generate a bounce back that would suggest the email was not successfully sent. So from my perspective, both emails were sent.

The fact that you did not get either email nor I received a bounce back also raises questions of confidence in the Council's consultation procedures. How can anyone be certain that by submitting their objections, these will be duly received and considered. And of course, you would have no way of knowing someone has submitted such comments because you don't get them? So I have copied in [REDACTED] and I urge the Council to review its consultation procedures. I strongly believe that your policy of not publishing statutory and public comments regarding applications on the application website have been demonstrated to be prejudicial to the process. Since you are only one of a handful of Councils who do not do this, this also suggests there is no legal basis for SBC's current approach. Of course, if you did publish comments received online shortly after they were received (as is the practice with most other Councils across the UK), I would have had the opportunity to verify that you had received the documents that I submitted to you on our client's behalf on 20<sup>th</sup> September 2019. You would also be able to save costs regarding FOI requests, as interested parties could then access the information in an instant on your website.

With regards to my FOI request which prompted the discovery of these missing emails, for your benefit, I have now submitted a [REDACTED] investigate whether the practice of withholding public comments and statutory consultee comments from the application website, as well as undertaking meeting with applicants without agenda and meeting notes, are lawful practices. I will come back to you regarding this as soon as I hear anything. Of course, your practice raises questions regarding whether any decision you make on the Seaway application could be subject to a successful judicial review based on procedural errors, and we are taking advice on this.

Turning to the EIA Screening Opinion you have made, it appears you have made this decision whilst overlooking our duly made representations made on 20<sup>th</sup> September, and which we referred to in both the body of the email and within our EIA Review document sent to you on 11<sup>th</sup> October 2019 @ 09:58 (see Paragraph 2.7), and also referred to in my email sent on 12<sup>th</sup> October 2019 @ 00:23. Of course, I actually have no confidence that you received these emails, as according to my email system, they were appropriately sent, but as we have clear evidence your email system appears faulty. We would therefore urge the Council to review their EIA Screening Opinion as a matter of urgency to reflect our comments. In this regard, we are investigating whether the Opinion can be challenged.

I will send you the LVIA in follow-up emails.

Please would you confirm receipt of this email.

Kind regards,



---

**From:** Charlotte White [REDACTED]  
**Sent:** 05 November 2019 16:15  
**To:** [REDACTED]  
**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

**CAUTION:** This email originated from outside of [REDACTED]

Dear [REDACTED]

I refer to your email below. Unfortunately I did not receive either of your emails dated 11<sup>th</sup> October 2019 or 20<sup>th</sup> September 2019.

Please can you resend the objection email with the attachments which aren't attached to your latest email (noting that we cannot receive emails with attachments over 10MB). Please also note that the Council is unable to access documents via file transfers.

Regards,  
Charlotte

**Charlotte White** – Development Control Team Leader | Planning and Building Control Group



- [Twitter@southendbc](mailto:Twitter@southendbc)
- [Facebook.com/SouthendBCOfficial](https://www.facebook.com/SouthendBCOfficial)
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**Please note:** Any opinion given in this correspondence is that of an officer of the Council. It does not necessarily reflect the view that might be taken by the Council itself. Consequently any opinion expressed will not bind the Council.



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**From:** [REDACTED]  
**Sent:** 05 November 2019 14:35  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** RE: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections

Charlotte,

Do you know where this FOI request is? It is well overdue.

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 11 October 2019 19:27  
**To:** Charlotte White <CharlotteWhite@southend.gov.uk>  
**Cc:** [REDACTED]  
**Subject:** FW: Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections  
**Importance:** High

Dear Charlotte,

From this email below, you will note that I raised a FOI request, as follows: *"In the meantime, may I ask that you kindly initiate a new FOI request for copies of all correspondence between any planning officer (including the Group Planning Manager and yourself), any Conservation and Design officer [REDACTED], any Transport/Highways Officers [REDACTED], any Environmental Health officer, or any other third party acting on the Council's behalf [REDACTED] and the applicant and/or their agents or consultants regarding this application or any technical matter related to this application (since we cannot see this online). I look forward to receiving an update on where the application is at present. Thank you."*

Can you confirm that this was been initiated immediately upon receipt and that I will receive the relevant responses within 30 days (i.e. by 20 October)? Please would you kindly let me know.

Kind regards,

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 20 September 2019 15:47  
**To:** Charlotte White [REDACTED]  
**Subject:** Seaway Application Ref: 18/02302/BC4M - Landscaping & Heritage Objections  
**Importance:** High

Dear Charlotte,

Further to my email below, I am pleased to send the attached Outline Landscape and Visual Impact Assessment critique, and a further Heritage Statement objection, which complement the objections we set out in February 2019 as well as other objections we have submitted. The versions attached to this email are reduced file size versions of the documents (for email purposes), but a high quality version can be downloaded via this link:

[REDACTED]

You will note that both documents explain why more detail is required as the information submitted thus far is substantially deficient to the extent that it would be difficult for the Council to rely on this to make any determination of the application on these key technical considerations. In particular, it is completely unclear how the Council could rely on the Applicant's Heritage Statement to discharge your responsibilities under the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). Reliance on these documents would likely render any application at risk of a legal challenge, noting that until recently, the Council had no expert support on landscape matters to make any qualified judgments (as noted with our email on EIA matters set out below). I have copied in [REDACTED] into this email, and I will forward our previous EIA screening email to them (see below) given these relate to landscape matters.

You will see that we maintain our objections that the proposed development fails to comply with the relevant landscape/townscape/design and heritage policies and the NPPF, and without obvious material considerations that clearly outweigh these policy conflicts, the Application should be refused on these grounds alone (one could argue that the negotiation of the application should have already stopped until all relevant information is supplied to avoid waste of resources, or simply refuse the application on a lack of information, among other reasons).

In more detail, the applicant's submitted Heritage Statement indicates that there would be 'no harm' caused by the proposed development. As you will see from our own assessment set out in Table 5 of the attached, it is clear that there would be at least 'less than substantial' harm, if not 'substantial harm' caused by the proposed development to designated and non-designated heritage assets. Historic England has raised similar concerns, and so it can be certain that our objections have significant bearing as being on the same side as the statutory consultee. The fact remains that the relevant policy tests have not been complied with, but regardless, the information submitted by the Applicant certainly fails to comply with NPPF Paragraph 189, particularly that not all sensitive receptors have been assessed (e.g. Cliftown Conservation Area), and without such information, you cannot make informed heritage related decisions.

With regards the Landscape and Visual Appraisal (LVA) document submitted by the applicant, both it and the DAS fail to report in clear terms the heights of the various parts of the buildings proposed, which makes it difficult to assess the impact of the buildings on its surrounds, and in particular, impossible to verify if any visualisations prepared are indeed accurate. The LVA's study area of only 1km is well below the expected study area of 5km according to normal practice. Furthermore, it omits assessments on direct and indirect effects, there are no winter assessments at Year 1, nor are there night time assessments of landscape character or visual amenity. There are no photomontages of the locations of the most sensitive receptors to provide details of what is being assessed. The LVA assessed simply does not comply with industry guidance and thus cannot be relied on as part of the considerations of a proposal of this scale, and which the Council can then draw a conclusion as to whether the proposals comply with policy, etc. Indeed, [REDACTED] own assessment indicates that the proposals are contrary to relevant policy and without appropriate justification, the application should be refused. We welcome the appointment of [REDACTED] who will confirm that the submitted LVA is far short of what is required to comply with industry guidance on the landscape/townscape impact matter.

As I set out above, we note that Historic England have picked up on our objections and concerns, particularly the impact of the proposed development on the interrelationship between key historic landmarks within the town. In this regard, we will be forwarding these reports to Essex County Council Landscape team, Historic England, and other parties, for their interest and comment, since the Council continues to refuse to publish comments made on the application and enable there to be a clear and transparent audit trail regarding its decision making on this project (noting the Council's own potential for conflicts because it is also the land owner and has arranged contracts with the applicant and its associated parties).

We would be happy to discuss any of the details found within this reports, although I believe it is clear that along with matters of principle, transport and parking, trees, landscape/townscape, heritage, environmental health, and Environmental Impact Assessment, the application fails policy and statutory requirements related to landscape and heritage considerations and therefore the application should be refused. As set out in my email below, we thoroughly expect the Council to request an Environmental Statement from the Applicant before continuing to process the application, as the EIA Screening process previously undertaken was flawed, and this would likely revisit the landscape and heritage matters within that context.

In the meantime, may I ask that you kindly initiate a new FOI request for copies of all correspondence between any planning officer (including the Group Planning Manager and yourself), any Conservation and Design officer (including [REDACTED], any Transport/Highways Officers (including [REDACTED], any Environmental Health officer, or any other third party acting on the Council's behalf [REDACTED] Town Legal (the latter of which we understand from recent FOI responses is acting for the Council but their bills may [REDACTED] and the applicant and/or their agents or consultants regarding this application or any technical matter related to this application (since we cannot see this online). I look forward to receiving an update on where the application is at present. Thank you.

I will write to you separately regarding the TPO trees shortly.

I look forward to hearing from you.

Kind regards,

[REDACTED]  
[REDACTED]  
From: [REDACTED]  
Sent: 27 August 2019 15:07  
To: Charlotte White [REDACTED]

[REDACTED]  
Subject: Application Ref: 18/02302/BC4M - EIA Screening Opinion Assessment  
Importance: High

Dear Charlotte,

In our original objection letter dated 7<sup>th</sup> February 2019, we promised to write to you regarding Environmental Impact Assessment (EIA) matters. In light of the planning application documentation and recent consultee responses, we have re-assessed the proposed development associated with the above application against the Town And Country Planning (Environmental Impact Assessment) 2017 Regulations, as amended. We are pleased to provide you with our report, which concludes that the Council should revisit its Opinion due to a number of shortcomings with its approach and with the information that it previously relied on to make its determination that the proposed Seaway development was not EIA development. I set out some key points regarding it below.

- In relation to landscape/townscape, the information accompanying the Opinion clearly stated that up to substantial effects on local views are possible. These could be considered 'significant' in EIA terms. However, with the application, the assessed effects were lowered, because there was a downgrading of the sensitivity of residential receptors. It is not clear how this downgrading was determined, noting good practice and the author's methodology, but it does raise questions regarding whether the developer has sought to underplay the potential effects without justification. In addition, some of the trees on site are now confirmed to be valuable. We have not seen any drawings which suggest they will be retained with the proposed development, and their loss with the proposed development has to be considered in the EIA context. This alone warrants a revisit of the Opinion.



More importantly, we are also unclear how the Council was able to assess the 'substantial' effects identified by the developer's own team and conclude these were not significant when no professional landscape/townscape person was in the employ of the Council at that time to take a professional view on the matter. This alone suggests that there have been procedural errors with the Opinion issued by the Council and alone this warrants its revisiting. In this regard [REDACTED] is preparing a LVIA which looks at these issues, and this will be issued shortly, but we also understand that the Council has now employed such professionals (we welcome such a move). You are now in a position to revisit what was reported during the Screening process versus what is being reported at applicant stage, to determine if there has been errors in the developer teams approach.

Separately, we would appreciate if you are able to let us know which firm has been appointed and the lead contact there, noting it is a public contract (please treat this as a FOI request, if necessary).

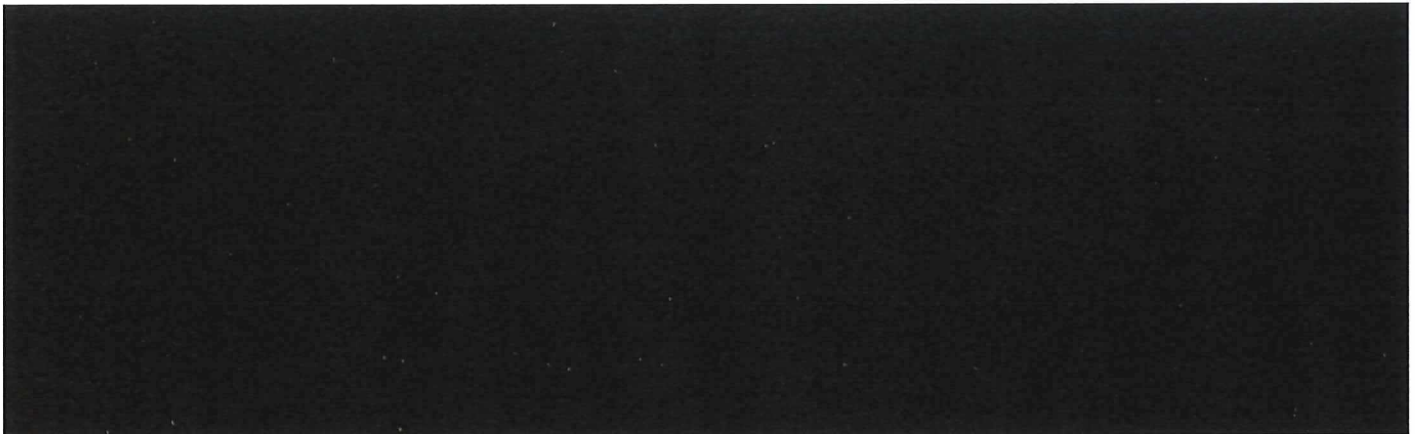
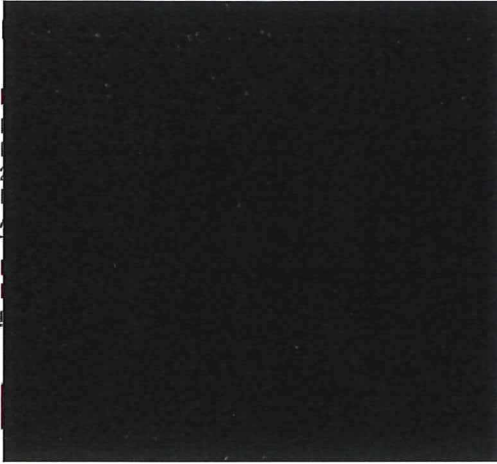
- In terms of Heritage matters, it is clear that Historic England has indicated there would be effects on heritage assets (including non-designated ones). These may be significant given the concerns raised by Historic England, and warrants a revisit of the information from a EIA context. In this regard [REDACTED] is preparing a Heritage Assessment which in our view, better complies with NPPF Paragraph 189 (the submitted assessment is, in our view, inadequate and does not discharge the requirements of NPPF Paragraph 189). We will be issuing this shortly, and which we'll share this with Historic England and other bodies to ensure others can comment as well. With this information, the Council should revisit whether there would be significant effects on both designated and non-designated heritage assets.
- It is clear from the evidence that there would be significant effects arising from the development with regards to economic matters. We also note that in our comments on the economic assessment submitted with the application (prepared by Aventia Consulting and submitted with our main objection letter dated 7<sup>th</sup> February 2019) that there was a lack of information on some of the other potential effects, so there is certainly a need to revisit this from a EIA perspective once a comprehensive assessment has been carried out.
- In terms of transport effects, the information relied upon at Screening Opinion stage appears to underplay the level of traffic generation (the model split) and the temporary effects on parking has not been addressed. We understand your transport team are in discussions with the applicant regarding the provision of such additional information. The proposed development should be re-screened once appropriate transport information has been provided to ensure there would be no significant effects arising from traffic, parking and transport matters.
- It is also noted that no information was provided which lends to the Council's conclusion that significant operational noise effects are not likely, so it is unclear how this conclusion was reached. Indeed, your Environment health team's comments on the application clearly reflect our view that there is a lack of information to assess effects. This alone warrants a revisit of the Opinion once such information is provided.
- There is also no information regarding cumulative effects.

You will see from the above and attached that there are serious issues regarding the way in which the Opinion was reached, and which a proper assessment may have concluded that the development is EIA development. If the Council relies on the current Opinion as it stands, it is quite possible that any decision is challengeable from an EIA perspective, as we have demonstrated. We therefore urge the Council to revisit the EIA Screening Opinion once the relevant information is available, and halt the processing of the application until such information is available (or ask that the application is withdrawn until such information is available).

We note that once you have revisited the Opinion, if you conclude the development is EIA development, EIA Regulations 11 and 20 set out how you can then consider a validly made application that is subsequently found to be EIA development. We trust that these regulations will be followed as appropriate, and we look forward to participating in the process.

We would be more than happy to provide any clarifications with regards to our report and conclusions, should it be necessary. I'll be in touch shortly with the LVIA and Heritage Assessment.

Kind regards,



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The information in this e-mail and any attachments is confidential and may be subject to legal professional privilege. It is intended solely for the attention and use of the named addressee(s). If you are not the intended recipient, please notify the sender immediately. Unless you are the intended recipient or his/her representative you are not authorised to, and must not, read, copy, distribute, use or retain this message or any part of it. Communications sent to or from this organisations may be subject to recording and/or monitoring in accordance with relevant legislation.

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**Consider the environment. Please don't print this e-mail unless you really need to.**

This e-mail message and any attached file is the property of the sender and is sent in confidence to the addressee only.





[REDACTED]

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**From:** [REDACTED]

**Sent:** 24 November 2019 08:00

**To:** Charlotte White

**Cc:** [REDACTED]

**Subject:** [REDACTED]

**Attachments:** [REDACTED]

[REDACTED]

Dear Charlotte,

I write to regarding the ecology matter (further to my email below and our representations of 7<sup>th</sup> November 2019).

First, I do not apologise for the length of the email. I want to be clear to you: this email will be forwarded to [REDACTED]

[REDACTED] All parties can then see the evidence, and draw their own conclusion regarding what SBC DCC should be doing on 27<sup>th</sup> November 2019 when it considers the application. Indeed, I have done this because we want transparency in decision making: the reason to refuse permission regarding protected species is fully justified and any other decision will raise questions regarding the Council's abilities to discharge its statutory responsibilities on this matter. The details in this email are also designed to dispel at the outset any myths that might be perpetuated by the applicant's lobby team after my email is circulated. I have sent the email as a blind copy to external parties so their data can be protected if the email is published, but the circulation is listed above, so you can contact these partners directly and verify what I state is correct.

You have clearly set out in Development Control Committee's (DCC) Committee Report Paragraph 6.224 that clarification was obtained from the applicant regarding the ecologist surveys, and which you appear to accept at face value. Unfortunately, this appears to be a fatal mistake on the Council's part as the evidence supplied by the Applicant in October 2019 is contrary to guidance and remains unjustified. To the point, the Council should not have relied on the applicant's evidence before it drew the conclusion that Building 7 is of negligible bat roost potential. This is because the downgrade is not justified (indeed, there is no evidence submitted by the applicant which would warrant the change), and in fact the applicant's conclusions are incorrect given the building's features etc, as I'll set out below. Ultimately, the implications are that as no bat emergence surveys are forthcoming before the DCC meeting this Wednesday, so you must therefore change your recommendation to one of **refusal on a lack of information on the impact of the development on protected species (there are other issues which warrant refusal, but that is not relevant to this email but could form further justified reasons)**. I provide all the evidence of the reason for this below, so you (and DCC) will be fully confident that such a refusal will be upheld by an Inspector with any Planning Appeal.



**There is no doubt that DCC must refuse the application on the lack of bat emergence surveys alone.** For example, the Government's Protected Species Checklist (as attached) is clear that without the emergence surveys, the decision falls under Category F: *"Inadequate survey. Request this is done properly as in question 3 or refuse application."* It is supported by the Government's Planning Practice Guidance (PPG), which states: *"You can refuse planning permission, or ask for a survey to be redone..."* (PPG Chapter: 'Protected Species: How to Review Planning Applications – As a Planning Authority use Natural England's standing advice to review planning applications that might affect protected species'). It goes on to state: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision."* Under the checklist for 'Making a Decision' within the same PPG section, it is clear that the proposal fails all criteria (no additional surveys carried out, no confidence a licence can be granted, no mitigation or compensation plans put forward, etc). You can be wholly confident that the scheme's refusal is justified by the PPG and other guidance, and will be upheld by a Planning Inspector at Appeal (who will take their responsibilities towards protected species very seriously given EU and UK law on the matter). Indeed, without changing the current recommendation, the report could be conceived as being misleading noting the evidence that we have already submitted, and additional information that we submit to you with this email. So the conclusion that can be drawn is that DCC would be falsely informed when making their decision if our information below is not supplied to them. There could be substantial negative consequences arising.

We can draw this conclusion because [REDACTED] own ecologist, who holds Natural England Levels 3 and 4 bat licences, has conducted an independent survey of the building (see attached report). You will see that that the report clearly concludes that the building should be subject to further emergence surveys because it remains classified as a building which hosts 'low' potential for a bat roost (and the evidence to support that conclusion is supplied). You will see by their report that they state on Page 3: ***"There was potential for bats to roost within the roof void and/or behind the wooden fascia of Building 7, and the building was considered to have low roost potential. Demolition of this buildings is planned as part of the proposed development and therefore further surveys on this building are required in advance of planning."***

Furthermore, there are other reasons as to why you should withdraw Paragraph 6.224 of your report and alter your recommendation to one of **refusal**, which can be summarised as follows:

- The PEA November 2018 incorporated survey results from a high bat licenced ecologist. It clearly drew the conclusion that the building's bat roost potential was 'low' and further emergence surveys would be required before any planning permission could be granted.
- The PEA October 2019 includes references to a May 2019 building survey, but which contains no documentary evidence that justifies that a downgraded potential exists, in direct conflict with Bat Conservation Trust (BCT) guidance (details below).
- Building 7's features that the applicant's team identified that exist and warrant further investigation have not changed.
- The absence of external evidence is not sufficient justification to warrant the downgrading of the potential, according to the BCT guidance.
- No internal survey of the building has been recorded. As the building has been abandoned, there can be no certainty that bats are not roosting within the building.
- Sufficient connectivity exists between the building and wider foraging routes for common bat species, noting the presence of vegetation in the rear gardens of Hartington Road that links the northern and southern parts of the site and wider foraging areas.
- It is not possible to conclude that there is no bat activity on another part of the site from the data collected during the May 2019 surveys, as the ecologists were located in immediate proximity to Buildings 1 and 3, and at some distance from Building 7. Bats will be using the extremities of the site due to the unattractive surface level car park in the middle, as acknowledged by the Applicant's team, and no evidence is supplied that would demonstrate the ecologists were surveying the eastern side of the site at the relevant times. In any event, the May 2019 survey results demonstrates that **bats are present** in the vicinity (I come to this again below with a PPG reference on how to deal with this).
- So, to draw that conclusion that bats are not active on the whole of the site, formal bat activity surveys of the entire site would be required and forms the outcomes of multiple surveys between April/May and September/October. No evidence of such surveys has been presented, and we suspect that these have not been carried out.



- In any event, you already have the evidence that two ecologists (from the same firm) who have formed differing opinions regarding the potential surveys that should be prepared, with the more qualified person stating that the building hosts 'low' potential and further surveys are required. You therefore must err on the side of caution and require such surveys before any application is determined, according to the PPG.
- In fact, with [REDACTED]'s report, you now have confirmation the two more qualified ecologists who have visited the building have confirmed in their view the building's potential is 'low' and which bat emergence surveys are required before the Council can conclude that there is no likelihood of impact on protected species by the proposed development, in accordance with the NPPG and Circular 05/2006. This cannot be ignored or brushed aside.

Without such bat emergence surveys, the only conclusion you can draw is that the application should be **REFUSED** according to relevant guidance, which the applicant's team appears to be asking you to deviate from without providing any good reason to do so.

I set this out in more detail, for your benefit. Following our objections in October 2019, the Council had received a revised PEA from the applicant's team, and published this on the application website on 23<sup>rd</sup> October 2019. It is referred to as the PEAOct19. This contains a number of changes, primarily focused around 'Building 7', a former toilet block building located in the south-eastern corner of the site, and to which our comments below primarily related. These can be summarised as follows:

- Added reference to a new surveyor [REDACTED], a Natural England Level 1 bat worker) in Para 2.6, who has supposed carried out a further survey of the toilet block on 29<sup>th</sup> May (no evidence or details of the survey are supplied within the report).
- A new paragraph was inserted for the description for Building 7 and its potential on Page 11, which indicates that upon the further May visit, the toilet block is no longer considered to host 'low' potential for a bat roost. Hence no surveys were required in May.

[REDACTED] holds strong reservations as to why this information was not provided at the outset with the July revision of the PEA following the May 2019 surveys carried out by the applicant's team (referred to as PEAJul19), on which our objections below have been submitted. The evidence would have clearly been available in July when the applicant prepared an update to the PEA, and indeed, the Figure was altered at that time, but without any accompanying text within the report to explain why it had changed. It appears to be a substantial omission. More to the point [REDACTED] also notes that there is no evidence (e.g. survey notes or photographs) attached to the PEAOct19 that complements the primary changes to it. We come to this again below, but it does raise questions on why the Case Officer can be confident that what is reported is accurate and justified.

Before discussing the reasons that justify our position, I take the opportunity to set out the relevant guidance, as you may not be familiar with it. The Bat Conservation Trust's 'Bat Surveys for Professional Ecologists Good Practice Guidelines (3<sup>rd</sup> Edition)' (referred to as the 'BCT Guidance') is most pertinent (I note that the applicant's team has sponsored the document, so you would expect them to adhere to it). The key paragraph is Paragraph 5.2.9, which states:

*"Where the possibility that bats are present cannot be eliminated or evidence of bats is found during a preliminary roost assessment, then further surveys (such as winter hibernation (Section 5.3), presence/absence (Section 7.1) and/or roost characterisation (Section 7.2) surveys) are likely to be necessary of the impacts on the roosting habitat (or the bats using it) are predicted. The ecologist should consider the further surveys needed (if any), their logistics (resources, emergence survey locations, timings), and any potential health and safety hazards reported.*

*"If the structure has been classified as having low suitability for bats (see Table 4.1), and ecologist should make a professional judgement on how to proceed based on all of the evidence available.*

*"if sufficient areas (including voids cracks and crevices) of a structure have been inspected and no evidence found (and is unlikely to have been removed by weather or cleaning or be hidden) then further surveys may not be appropriate. Information (photographs and detailed descriptions) should be presented in the survey report to justify this conclusion and the likelihood of bats being present at other times of the year estimated. If there is a reasonable likelihood that bat roosts could be present, and particularly if there are*

**areas that are inaccessible for survey, then further surveys may be needed and these should be proportionate to the circumstances (see Section 2.2.5).**

***"If not suitable habitat for bats is found, then further surveys are not necessary. In this scenario, it is necessary to document how this decision has been reached; photographs and details descriptions should be made available as evidence of a robust survey and assessment."***

Our main concern is that the PEA Oct 19 alterations that indicate that Building 7 has 'negligible' potential for a roost is **NOT** supported by any documentary evidence within the report and which would normally be required with such a conclusion. The approach that has been adopted by the applicant's team is without doubt contrary to the BCT Guidance regarding such a situation, as referred to above. This is especially pertinent when the original surveying ecologist is a Natural England Level 2 licenced bat worker (i.e. has more experience) and is licenced to use endoscopes as part of the preliminary roost survey, whilst the May 2019 survey was carried out by members who does not hold such advanced licences. It is also pertinent that the building's relevant features have not been changed in any of the three versions of the PEA that would suggest a downgrade to the potential is warranted, and there is no evidence that the building was internally inspected to confirm the absence of bats, noting the building is abandoned so without regular disturbance, it could become an attractive place for bats to roost. Indeed, as you'll see from our report, there are certainly reasons as to why the building was initially identified as hosting 'low' potential for a bat roost.

Some other points of relevance:

- There is a claim that the building is isolated with hardstanding located between it and any suitable bat foraging habitat. This clearly ignores the presence of suitable trees and other vegetation located at the rear of the properties that face onto Hartington Road, and which provides a reasonable link to wider foraging routes including northward along Queensway to the railway line, or along the Seaway Car Park trees to the church yard, where bats were recorded as foraging during the May 2019 site visit. The bats could have easily travelled along the rear of the gardens of Hartington Road and along the line of trees that fact the Queensway and Chancellors Road to get to the church yard, and would explain why they were recorded to have arrived at the church yard sometime after sunset (as we set out in our objection below).
- A lack of bat activity has been cited. It is unclear how the ecologists could have concluded this, as during the May visit, they were located adjacent to Buildings 1 and 3, so at some distance from Building 7, and with their devices facing the two buildings that they were surveying. It is likely that with vehicle movements and other noises may have intervened, and so there can be no conclusive evidence that bats are not active in the vicinity of Building 7 during the May 2019. Indeed, the evidence of the ecologists clearly demonstrates bats were active in the vicinity, so the opposite is true from the evidence provided to you by the applicant. Furthermore, no bat activity surveys of the whole of the site have been carried out.
- Also cited is the fact that no external evidence was found on the building. We are surprised that they are relying on this position because the BCT Guidance is clear on this point in Paragraph 5.2.4.1 (External Surveys), where it emphasises the point that: ***"Sometimes bats leave no visible sign of their presence on the outside of a building (and even when they do, wet weather can wash evidence away)."*** Indeed, the same guidance is repeated with the equally high emphasis in Paragraph 5.2.4.2 (Internal Surveys). No justification has been provided that would enable the ecologist to rely on this against BCT Guidance.
- [REDACTED] notes there is no evidence that the applicant's team has undertaken an internal survey of the building. BCT Guidance in Paragraph 5.2.1 states: ***"A Preliminary Roost Assessment is a detailed inspection of the exterior and interior of a structure to look for features that bats could use for entry/exit and roosting and to search for signs of bats. The aim of this survey is to determine the actual or potential presence of bats and the need for further survey and/or mitigation. In many situations it is not possible to inspect all locations where bats may be present and therefore an absence of bat evidence does not equate to evidence of bat absence."*** It is clear from the BCT Guidance that if no internal inspections have been carried out, a precautionary approach is necessary and emergence surveys must be carried out. As noted above, bats are present in the area. It would be incorrect to conclude there are no bats at the building simply because no external evidence was found.

The Council is effectively being asked to deviate from standard guidance regarding bat emergence surveys by the Applicant's team without the latter supplying the Council with any evidence to do so. We are completely unclear why you would take their information has face value given the substantial omissions, unless you are looking at the



commercial realities of a lease arrangement which falls outside of planning matters. The PPG section on Protected Species states: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision.*

***Use an expert, such as your local authority ecologist, to help you apply the standing advice to planning decisions if you're not a wildlife specialist.*** Unless you are qualified expert, the PPG is clear that you will need to rely on one to determine whether the PEA submitted by the Applicant is valid and justified. I am not aware that SBC has obtained evidence from an independent qualified ecologist to verify the applicant's PEA, even though [REDACTED] has raised substantial concerns regarding the evidence presented through the application process (perhaps you could have asked Essex County Council's team, who are copied into this email, or Natural England for more advice). This puts DCC's decision at risk if it is anything but **REFUSAL**.

Regardless, the BCT Guidance is equally clear on this point at Paragraph 4.3.8, which states: ***"Where further surveys and mitigation are required, the preliminary ecological appraisal report in isolation will not be adequate for submission to the LPA in support of a planning application. The report will only be adequate for this purpose if there is need for further surveys and mitigation."*** It is clear that a further Phase 2 bat survey report is necessary before the Council can consider sufficient evidence has been supplied to enable the Council to deviate from BCT Guidance. This is repeated in the PPG, which states: *"You only need to ask an applicant to carry out a survey if it's likely that protected species are:*

- *present on or near the proposed site, such as protected bats at a proposed barn conversion*
- *affected by the development, such as the effect of a wind turbine proposal on protected birds"*

We already know that bats were found in the churchyard within the vicinity of the site, as I mentioned above. They are near to the site, and therefore the Council's position to not request additional surveys would be clearly against such guidance and which justification must then be supplied. Without such evidence, the Council must follow the PPG and BCT Guidance as otherwise it could render any decision invalid because DCC would not have considered all material considerations appropriately. This is particularly true when the Council employs no ecologists inhouse to carry out an independent verification of the evidence, and which the reliability of the applicant's evidence has been heavily questioned by others.

**The Council cannot impose a Condition to require the provision of Surveys after permission is granted.**

You may be tempted to suggest to DCC that a condition could address the matters. I want to make it clear that this would be against guidance. I also want to ensure the applicant's lobby team does not mis-represent the correct approach.

Our ecologist's letter is clear that it states that further surveys would be required as they would inform mitigation measures necessary. The Council cannot impose a condition to any permission that requires the submission of the surveys and the eventual submission of mitigation (which could require planning permission to implement), because 'exceptional circumstances' according to Circular 05/2006 Paragraph 99 do not exist (the applicant's team has not presented any evidence of such circumstances, and missing a survey season is not an 'exceptional circumstance'). Any condition imposed would fail the tests of the NPPF, as it would not be 'precise'. The Council also has a requirement that they be fully confident that Natural England would issue a licence in the future of a bat roost is found, noting any licence must comply with the 3 legal tests set out in the PPG. You have made no assessment of the 3 legal tests in your report, so DCC would be blindly making the decision without reference to the correct approach. In fact, the PPG clearly states: *"You'll need to agree any mitigation or compensatory measures as part of the proposal. To make sure that mitigation measures are effective when granting planning permission you may have to consider"* imposing a planning condition or planning obligation. However, you cannot ensure any mitigation could be effective if you are not able to ascertain whether bats are in fact on site or not, hence it would be inappropriate to secure such surveys by way of condition.

It states under 'Making a Decision' that you can grant planning permission if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice – **Further survey not completed.**



- a wildlife licence is likely to be granted by Natural England – **unknown, as an assessment against the 3 legal tests cannot be carried out without further surveys.**
- Mitigation plans are acceptable – **none submitted as species surveys not carried out across whole of site.**
- Compensation plans are acceptable when mitigation isn't possible – **same, no mitigation plans presented because species surveys were not carried out.**
- review and monitoring plans are in place, where appropriate – **no plans to review.**
- all wider planning considerations are met – **approach completely contrary to PPG and BCT Guidance and the recommendations that further survey of the building is necessary according to the applicant's original submission and [redacted] recent report.**

We look forward to receiving confirmation that you have submitted a change to the recommendation in the report and you now recommend that the application is **REFUSED**.

I would be grateful if you would kindly confirm receipt of this email, noting the 'missing emails' point. Of course, I would be happy to discuss with you the evidence presented in the above email on in the attached as required.

Kind regards,



**From:** [redacted]  
**Sent:** 10 October 2019 00:33  
**To:** Charlotte White [redacted]



Dear Charlotte,

Straight to the point, it is come to light that the Applicant has failed to complete all relevant bat emergence surveys, and therefore the application cannot be determined before this information is submitted. The information can only be collected between May and August, and therefore it can only be provided next summer. Any decision before this is provided is likely to result in a successful legal challenge because the Council cannot be certain to have discharged its statutory duties. I set out the reasons for this below.

As set out in the email below, you may recall that we objected to the Applicant's proposals on the basis that there was a lack of ecology information (bat emergence surveys), and which are required in order for the Council to discharge its responsibilities regarding protected species (I come to this again below). We were clear that the Council should have invalidated the application due to a lack of ecology information, given it would take many months before the information could be provided. We were disappointed that you did not do this, even though it was clearly contrary to your own Local Validation List. That said, we are where we are now, which brings me to the current point.

The original Preliminary Ecological Appraisal (PEA) Report (November 2019) indicated that they surveyed the site on 19 October 2018 by [redacted]. At Paragraphs 3.22 and Paragraph 4.10, it was identified that Buildings 1 (29 Herbert Grove), 3 (1&3 Herbert Grove), and 7 (public toilet block) had LOW value for roosting bats, and thus should be surveyed (see attached extracts). We indicated in our objection letter (see Page 8 of our Cover Letter dated 7<sup>th</sup>

February 2019) that further bat emergence surveys will be required. Figure 3.1 indicates the Building 7 was of 'low' potential, along with Buildings 1 and 3 and therefore a survey should be carried out within the recognised period of 'May-August' according to the relevant guidance.

The Applicant has now submitted a revised PEA, dated 26<sup>th</sup> July 2019. A number of key points:

- Paragraph 2.12 confirms that a bat roost emergence survey was carried out on the evening of 29<sup>th</sup> May 2019 on Buildings 1 and 3 (1-3 and 29 Herbert Grove). No record was noted of any survey or examination of Building 7.
- Paragraph 3.22 confirms that the same Buildings 1, 3 and 7 are still assigned LOW value to roosting bats.
- Paragraph 5.8 indicates that *"The site was of limited overall value to protected species, with interest relating predominantly to the potential value of Buildings 1 and 3 (see Figure 3.3) to building – roosting bats, all of which were assessed as being of Low potentially according to current best practice guidelines for assessing building for their bat roost potential. Follow-up bat activity survey has been completed that confirms bat roost absence from both buildings."*

Again, there is no mention of a survey for Building No 7, the toilet block. The absence of emergence survey information is a substantial omission and which means the Council cannot be confident of discharging its responsibilities related to protected species until this survey is completed. I come to this again below.

- Indeed, the update PEA's Figure 3.3 sets out which building locations have value to roosting bats, and which require further surveys. The record on this drawing has been changed to refer to 'negligible' although the description in revised PEA Paragraph 3.22 remains the same as it was recorded in the original PEA (see attached extracts). It is wholly misleading change therefore, and its LOW value requires the requisite emergence surveys.
- We note that [REDACTED] was the same ecologist who undertook both the 19<sup>th</sup> October 2018 survey and the 29<sup>th</sup> May 2019 surveys, and is a Natural England Level 2 licenced bat worker, so capable of identifying relevant roosts.
- Importantly, the PEA was substantially updated in July 2019 without any change to Building 7's description and features, so this would strongly indicate that the potential for bat roosts remains.
- **A survey of the building is therefore required to be conducted between May and August (optimal) or April/September (sub-optimal) 2020 before the Council can determine the application.**
- [REDACTED] notes that in Paragraph 2.16 that the surveys recorded 2 bats foraging in the church yard and back gardens of Herbert Grove, and 30 minutes after sunset (which suggests they may have come from elsewhere). Indeed, as these did not emerge from Buildings 1 & 3 which were being surveyed at the time, their roosts are likely elsewhere. Noting the identified potential of Building 7, it is not unreasonable to conclude that these bats possibly came from the toilet block (which if the ecologist had surveyed it, they would have known for certain, but in the absence, it cannot be excluded given it has features that would support bat roosts). Approving its demolition of these buildings as part of this application without relevant emergence surveys would be an unreasonable risk to take.

Indeed, on the above basis, a precautionary approach regarding the presence of a bat roost in the toilet block is required. Indeed, this is set out clearly in 'Circular 06/05: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM'. It states at Paragraph 99:

**"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the**

**species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below "**

There are no exceptional circumstances in this scenario. There was clear evidence that a survey was required for Building 7, as identified in the original PEA (Paragraph 4.10). The building's description was not changed between the original PEA and revised PEA, despite there being numerous other changes between the two reports. The same ecologist, who is bat licenced, identified the potential. The omission of the survey by the Applicant's team is not an exceptional circumstance. The Council must therefore conclude that there remains a need for this survey, and the change to Figure 3.3 in the revised PEA must be treated as a substantial error. On the above basis, the Council cannot categorically state that they would be able to discharge its statutory obligations with respect to protected species and enable them to grant planning permission for the development **until they have evidence of the bat emergence survey for Building 7. The survey cannot be undertaken until next May at the earliest.**

The error arising from Figure 3.3 raises substantial questions regarding the PEA's accuracy and evidence as the change is not substantiated by the written evidence (so the reason for the change is unclear).

In this circumstance, the Council has no professional ecologists that can verify either PEA's data and has not sought consultation from Essex County Council's ecologists. It would be wholly prudent and appropriate of the Council to independently engage a certified ecologist to verify the whole of the evidence within the PEA given this substantial oversight between the two versions of the PEA (in the same way as the Council has now engaged a landscape architect following [redacted] concerns). Any other action (i.e. granting of planning permission without the additional survey) would likely result in a legal challenge given the Council would have failed to comply with Circular 06/05, and which the Council would not be able to professionally defend.

Indeed, I have copied in both [redacted] who I am sure would agree with [redacted] that there is a precautionary need to delay any decision until the Applicant has completed the relevant emergence in the correct period and verified its PEA data on the whole. Since Southend has no in-house ecologists, Essex County Council is the closest relevant statutory consultee.

Returning to my point that the application has insufficient information to determine it on ecology grounds, the Council must either refuse the application **now** due to a lack of information on ecology, or deem that the application is invalid and take action to force the application's withdrawal. It would be wholly unreasonable to hold an application in abeyance (although we'd argue there are many other reasons to refuse permission until this survey can be completed) given the blight that will occur to residents and land owners of the surrounding properties whilst the application remains on hold for what is another 7-8 months until the next survey season.

There are also question marks regarding ecology matters in EIA terms noting the outstanding risk to habitats.

I formally request that you provide me with a response as to what action the Council will take with regards to this substantial error, prior to making any decision on the application.

I will write you again shortly with our other objections to the EIA Screening Opinion Request and planning applications. However, as you'll see from those errors, and others we have already identified, it is becoming increasingly clear that the Council may want to fully re-think its relationship with Turnstone Southend Ltd at the earliest opportunity, since such basic errors are being committed.

I would be willing to discuss this further as required.

Kind regards,

[redacted]



[REDACTED]

Sent: 28 February 2019 10:56

[REDACTED]

Importance: High

Dear Ms White,

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table: 'When to carry out a survey' and look for 'Bats (Summer Roosts): May to mid-September.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: *"Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid."*

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:*

- *reasonable having regard, in particular, to the nature and scale of the proposed development; and*
- *about a matter which it is reasonable to think will be a material consideration in the determination of the application.*

*These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.  
Paragraph: 040 Reference ID: 14-040-20140306"*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard). Indeed, if you follow the Government's Protected Species Checklist for planning applications (see attached), you'll see that you have to answer 'No' to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can't do, obviously), or refuse the application. I take this opportunity to remind you that the damage or destruction of breeding or



resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine (<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined.

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the consultation period that has just recently closed as the Council willingly engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my own experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council's own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019. It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove. We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to site within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref: 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place. Indeed, the officer's report for that application makes no reference to Biodiversity. As removal took place between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clear notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regs 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council can confirm it has not taken actions to facilitate that development without due care to protected species. We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and Habitats Regulations.

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,



[REDACTED]

**From:** [REDACTED]  
**Sent:** 07 February 2019 23:58

[REDACTED]

Dear Ms White,

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt.

Regards,

[REDACTED]

This e-mail message and any attached file is the property of the sender and is sent in confidence to the addressee only

[REDACTED]



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[REDACTED]

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**From:** [REDACTED]  
**Sent:** 25 November 2019 17:10  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

Dear Charlotte,

You may be aware that we received a cache of correspondence between SBC and its advising partners and the applicant earlier today following a FOI request. I attach an email from the applicant's team dated 17<sup>th</sup> October 2019 which provides a response to our email of 10<sup>th</sup> October in relation to missing bat emergence surveys (see below). It appears that their email may have formed the basis of Paragraph 6.224 of the Committee report, along with the PEAOct19.

The email contains a serious error which leads to the wrong conclusion, and SBC's reliance on it would therefore be incorrect. The email states that no bat activity was recorded during the after dark survey of the buildings to the west and so the value of the block (Building 7) was downgraded from low to negligible. This is an incorrect statement. I refer you to Paragraph 2.16 of the PEA July 2019 version, which states: *"Two foraging common pipistrelle bats were heard by surveyors and record foraging in the church yard and back gardens off Herbert Grove from 21.36 (30 minutes after sunset) "* A similar statement exists at Paragraph 3.24 of the PEAOct19 (extract attached).

As you will know, there are a number of buildings along Herbert Grove that fall within the Site (including the ones that were being surveyed on the night the bats were recorded). It is misleading to categorically state that the Site was devoid of bat activity when actual reporting states otherwise. It undermines the evidence (or lack thereof), on which the Council may have relied to draw its conclusion on this matter. In any event, we note that that the applicant is drawing conclusions about bat activity over the entire the Seaway site, despite only surveying one area of it (the far west).

As for the experience, I note that the October 2018 surveyor held a higher level licence, and their results are confirmed by [REDACTED] ecologist, as you will have seen.

[REDACTED] also raises concerns that SBC did not undertake a preliminary bat roost survey of the former Rossi Ice Cream factory before it was demolished, according to FOI records. However, It is noted that the applicant's team have identified the presence of bats in and around the Seaway car park, so it appears to be an error that the Council did not undertake roost surveys before the Rossi building was demolished. As set out in the BCT Guidance, damage or destruction of a roost is an offence as identified in the Habitats Regulations, and could be committed accidentally. Whilst the Rossi building is now long lost, to avoid future mistakes regarding accidental or otherwise damage to roosts, it is imperative that SBC refuse the current application as there are no bat emergence surveys for Building 7, the building has been classified as 'low' and the justification provided by the applicant to deviate from the guidance is absent or inaccurate.

In addition to the guidance that I have referred to below, Clause 7.3 of the BS42020:2013 indicates that Preliminary ecological appraisal reports are inadequate to inform the planning process unless no further surveys or mitigation area required, to add to your arsenal that any decision to refuse the application on lack of survey information will be upheld by an Inspector.

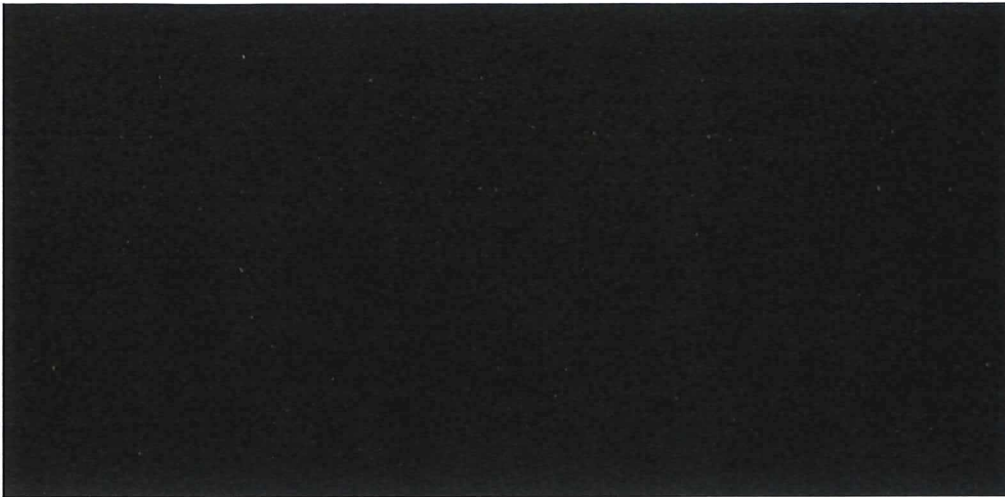
I look forward to confirmation that you have now withdrawn Paragraph 6.224 and put forward a recommendation for refusal.

Please confirm receipt of this email.

[REDACTED]



Kind regards,



Dear Charlotte,

I write to regarding the ecology matter (further to my email below and our representations of 7<sup>th</sup> November 2019). First, I do not apologise for the length of the email. I want to be clear to you: this email will be forwarded to

. All parties can see the evidence, and draw their own conclusion regarding what SBC should be doing on 27<sup>th</sup> November 2019 when DCC considers the application. Indeed, I have done this because we want transparency in decision making: the reasons to refuse permission are fully justified and any other decision does not enable the Council to discharge its statutory responsibilities as set out in the Government's PPG and BCT Guidance. The details in this email are also designed to dispel at the outset any myths that might be perpetuated by the applicant's lobby team after my email is circulated. I have sent the email as a blind copy to external parties so their data can be protected if the email is published.

You have clearly set out in Development Control Committee's (DCC) Committee Report Paragraph 6.224 that clarification was obtained from the applicant regarding the ecologist surveys, and which you appear to accept at face value. Unfortunately, this appears to be a fatal mistake on the Council's part as the evidence supplied by the Applicant in October 2019 is contrary to guidance and remains unjustified. To the point, the Council should not have relied on the applicant's evidence before it drew the conclusion that Building 7 is of negligible bat roost potential. This is because the downgrade is not justified (indeed, there is no evidence submitted by the applicant which would warrant the change), and in fact the applicant's conclusions are incorrect given the building's features etc, as I'll set out below. Ultimately, the implications are that as no bat emergence surveys are forthcoming before the DCC meeting this Wednesday, so you must therefore change your recommendation to one of **refusal on a lack of information on the impact of the development on protected species (there are other issues which warrant refusal, but that is not relevant to this email but could form further justified reasons)**. I provide all the evidence of the reason for this below, so you (and DCC) will be fully confident that such a refusal will be upheld by an Inspector with any Planning Appeal.

**There is no doubt that DCC must refuse the application on the lack of bat emergence surveys alone.** For example, the Government's Protected Species Checklist (as attached) is clear that without the emergence surveys, the decision falls under Category F: *"Inadequate survey. Request this is done properly as in question 3 or refuse application."* It is supported by the Government's Planning Practice Guidance (PPG), which states: *"You can refuse planning permission, or ask for a survey to be redone..."* (PPG Chapter: 'Protected Species: How to Review Planning Applications – As a Planning Authority use Natural England's standing advice to review planning applications that might affect protected species'). It goes on to state: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision."* Under the checklist for 'Making a Decision' within the same PPG section, it is clear that the proposal fails all criteria (no additional surveys carried out,



no confidence a licence can be granted, no mitigation or compensation plans put forward, etc). You can be wholly confident that the scheme's refusal is justified by the PPG and other guidance, and will be upheld by a Planning Inspector at Appeal (who will take their responsibilities towards protected species very seriously given EU and UK law on the matter). Indeed, without changing the current recommendation, the report could be conceived as being misleading noting the evidence that we have already submitted, and additional information that we submit to you with this email. So the conclusion that can be drawn is that DCC would be falsely informed when making their decision if our information below is not supplied to them. There could be substantial negative consequences arising.

We can draw this conclusion because [REDACTED] own ecologist, who holds Natural England Levels 3 and 4 bat licences, has conducted an independent survey of the building (see attached report). You will see that that the report clearly concludes that the building should be subject to further emergence surveys because it remains classified as a building which hosts 'low' potential for a bat roost (and the evidence to support that conclusion is supplied). You will see by their report that they state on Page 3: ***"There was potential for bats to roost within the roof void and/or behind the wooden fascia of Building 7, and the building was considered to have low roost potential. Demolition of this buildings is planned as part of the proposed development and therefore further surveys on this building are required in advance of planning."***

Furthermore, there are other reasons as to why you should withdraw Paragraph 6.224 of your report and alter your recommendation to one of **refusal**, which can be summarised as follows:

- The PEA November 2018 incorporated survey results from a high bat licenced ecologist. It clearly drew the conclusion that the building's bat roost potential was 'low' and further emergence surveys would be required before any planning permission could be granted.
- The PEA October 2019 includes references to a May 2019 building survey, but which contains no documentary evidence that justifies that a downgraded potential exists, in direct conflict with Bat Conservation Trust (BCT) guidance (details below).
- Building 7's features that the applicant's team identified that exist and warrant further investigation have not changed.
- The absence of external evidence is not sufficient justification to warrant the downgrading of the potential, according to the BCT guidance.
- No internal survey of the building has been recorded. As the building has been abandoned, there can be no certainty that bats are not roosting within the building.
- Sufficient connectivity exists between the building and wider foraging routes for common bat species, noting the presence of vegetation in the rear gardens of Hartington Road that links the northern and southern parts of the site and wider foraging areas.
- It is not possible to conclude that there is no bat activity on another part of the site from the data collected during the May 2019 surveys, as the ecologists were located in immediate proximity to Buildings 1 and 3, and at some distance from Building 7. Bats will be using the extremities of the site due to the unattractive surface level car park in the middle, as acknowledged by the Applicant's team, and no evidence is supplied that would demonstrate the ecologists were surveying the eastern side of the site at the relevant times. In any event, the May 2019 survey results demonstrates that **bats are present** in the vicinity (I come to this again below with a PPG reference on how to deal with this).
- So, to draw that conclusion that bats are not active on the whole of the site, formal bat activity surveys of the entire site would be required and forms the outcomes of multiple surveys between April/May and September/October. No evidence of such surveys has been presented, and we suspect that these have not been carried out.
- In any event, you already have the evidence that two ecologists (from the same firm) who have formed differing opinions regarding the potential surveys that should be prepared, with the more qualified person stating that the building hosts 'low' potential and further surveys are required. You therefore must err on the side of caution and require such surveys before any application is determined, according to the PPG.
- In fact, with [REDACTED]'s report, you now have confirmation the two more qualified ecologists who have visited the building have confirmed in their view the building's potential is 'low' and which bat emergence surveys are required before the Council can conclude that there is no likelihood of impact on protected species by the proposed development, in accordance with the NPPG and Circular 05/2006. This cannot be ignored or brushed aside.



Without such bat emergence surveys, the only conclusion you can draw is that the application should be **REFUSED** according to relevant guidance, which the applicant's team appears to be asking you to deviate from without providing any good reason to do so.

I set this out in more detail, for your benefit. Following our objections in October 2019, the Council had received a revised PEA from the applicant's team, and published this on the application website on 23<sup>rd</sup> October 2019. It is referred to as the PEAOct19. This contains a number of changes, primarily focused around 'Building 7', a former toilet block building located in the south-eastern corner of the site, and to which our comments below primarily related. These can be summarised as follows:

- Added reference to a new surveyor [REDACTED], a Natural England Level 1 bat worker) in Para 2.6, who has supposed carried out a further survey of the toilet block on 29<sup>th</sup> May (no evidence or details of the survey are supplied within the report).
- A new paragraph was inserted for the description for Building 7 and its potential on Page 11, which indicates that upon the further May visit, the toilet block is no longer considered to host 'low' potential for a bat roost. Hence no surveys were required in May.

[REDACTED] holds strong reservations as to why this information was not provided at the outset with the July revision of the PEA following the May 2019 surveys carried out by the applicant's team (referred to as PEAJul19), on which our objections below have been submitted. The evidence would have clearly been available in July when the applicant prepared an update to the PEA, and indeed, the Figure was altered at that time, but without any accompanying text within the report to explain why it had changed. It appears to be a substantial omission. More to the point, [REDACTED] also notes that there is no evidence (e.g. survey notes or photographs) attached to the PEAOct19 that complements the primary changes to it. We come to this again below, but it does raise questions on why the Case Officer can be confident that what is reported is accurate and justified.

Before discussing the reasons that justify our position, I take the opportunity to set out the relevant guidance, as you may not be familiar with it. The Bat Conservation Trust's 'Bat Surveys for Professional Ecologists Good Practice Guidelines (3<sup>rd</sup> Edition)' (referred to as the 'BCT Guidance') is most pertinent (I note that the applicant's team has sponsored the document, so you would expect them to adhere to it). The key paragraph is Paragraph 5.2.9, which states:

*"Where the possibility that bats are present cannot be eliminated or evidence of bats is found during a preliminary roost assessment, then further surveys (such as winter hibernation (Section 5.3), presence/absence (Section 7.1) and/or roost characterisation (Section 7.2) surveys) are likely to be necessary if the impacts on the roosting habitat (or the bats using it) are predicted. The ecologist should consider the further surveys needed (if any), their logistics (resources, emergence survey locations, timings), and any potential health and safety hazards reported.*

*"If the structure has been classified as having low suitability for bats (see Table 4.1), and ecologist should make a professional judgement on how to proceed based on all of the evidence available.*

*"if sufficient areas (including voids cracks and crevices) of a structure have been inspected and no evidence found (and is unlikely to have been removed by weather or cleaning or be hidden) then further surveys may not be appropriate. Information (photographs and detailed descriptions) should be presented in the survey report to justify this conclusion and the likelihood of bats being present at other times of the year estimated. If there is a reasonable likelihood that bat roosts could be present, and particularly if there are areas that are inaccessible for survey, then further surveys may be needed and these should be proportionate to the circumstances (see Section 2.2.5).*

*"If not suitable habitat for bats is found, then further surveys are not necessary. In this scenario, it is necessary to document how this decision has been reached; photographs and details descriptions should be made available as evidence of a robust survey and assessment."*

Our main concern is that the PEAOct19 alterations that indicate that Building 7 has 'negligible' potential for a roost is **NOT** supported by any documentary evidence within the report and which would normally be required with such a conclusion. The approach that has been adopted by the applicant's team is without doubt contrary to the BCT



Guidance regarding such a situation, as referred to above. This is especially pertinent when the original surveying ecologist is a Natural England Level 2 licenced bat worker (i.e. has more experience) and is licenced to use endoscopes as part of the preliminary roost survey, whilst the May 2019 survey was carried out by members who does not hold such advanced licences. It is also pertinent that the building's relevant features have not been changed in any of the three versions of the PEA that would suggest a downgrade to the potential is warranted, and there is no evidence that the building was internally inspected to confirm the absence of bats, noting the building is abandoned so without regular disturbance, it could become an attractive place for bats to roost. Indeed, as you'll see from our report, there are certainly reasons as to why the building was initially identified as hosting 'low' potential for a bat roost.

Some other points of relevance:

- There is a claim that the building is isolated with hardstanding located between it and any suitable bat foraging habitat. This clearly ignores the presence of suitable trees and other vegetation located at the rear of the properties that face onto Hartington Road, and which provides a reasonable link to wider foraging routes including northward along Queensway to the railway line, or along the Seaway Car Park trees to the church yard, where bats were recorded as foraging during the May 2019 site visit. The bats could have easily travelled along the rear of the gardens of Hartington Road and along the line of trees that face the Queensway and Chancellors Road to get to the church yard, and would explain why they were recorded to have arrived at the church yard sometime after sunset (as we set out in our objection below).
- A lack of bat activity has been cited. It is unclear how the ecologists could have concluded this, as during the May visit, they were located adjacent to Buildings 1 and 3, so at some distance from Building 7, and with their devices facing the two buildings that they were surveying. It is likely that with vehicle movements and other noises may have intervened, and so there can be no conclusive evidence that bats are not active in the vicinity of Building 7 during the May 2019. Indeed, the evidence of the ecologists clearly demonstrates bats were active in the vicinity, so the opposite is true from the evidence provided to you by the applicant. Furthermore, no bat activity surveys of the whole of the site have been carried out.
- Also cited is the fact that no external evidence was found on the building. We are surprised that they are relying on this position because the BCT Guidance is clear on this point in Paragraph 5.2.4.1 (External Surveys), where it emphasises the point that: ***"Sometimes bats leave no visible sign of their presence on the outside of a building (and even when they do, wet weather can wash evidence away)."*** Indeed, the same guidance is repeated with the equally high emphasis in Paragraph 5.2.4.2 (Internal Surveys). No justification has been provided that would enable the ecologist to rely on this against BCT Guidance.
- [REDACTED] notes there is no evidence that the applicant's team has undertaken an internal survey of the building. BCT Guidance in Paragraph 5.2.1 states: ***"A Preliminary Roost Assessment is a detailed inspection of the exterior and interior of a structure to look for features that bats could use for entry/exit and roosting and to search for signs of bats. The aim of this survey is to determine the actual or potential presence of bats and the need for further survey and/or mitigation. In many situations it is not possible to inspect all locations where bats may be present and therefore an absence of bat evidence does not equate to evidence of bat absence."*** It is clear from the BCT Guidance that if no internal inspections have been carried out, a precautionary approach is necessary and emergence surveys must be carried out. As noted above, bats are present in the area. It would be incorrect to conclude there are no bats at the building simply because no external evidence was found.

The Council is effectively being asked to deviate from standard guidance regarding bat emergence surveys by the Applicant's team without the latter supplying the Council with any evidence to do so. We are completely unclear why you would take their information as face value given the substantial omissions, unless you are looking at the commercial realities of a lease arrangement which falls outside of planning matters. The PPG section on Protected Species states: ***"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision"***

***Use an expert, such as your local authority ecologist, to help you apply the standing advice to planning decisions if you're not a wildlife specialist."*** Unless you are a qualified expert, the PPG is clear that you will need to rely on one to determine whether the PEA submitted by the Applicant is valid and justified. I am not aware that SBC has obtained evidence from an independent qualified ecologist to verify the applicant's PEA, even though [REDACTED] has raised substantial concerns regarding the evidence presented through the application process (perhaps you could have



asked Essex County Council's team, who are copied into this email, or Natural England for more advice). This puts DCC's decision at risk if it is anything but **REFUSAL**.

Regardless, the BCT Guidance is equally clear on this point at Paragraph 4.3.8, which states: "**Where further surveys and mitigation are required, the preliminary ecological appraisal report in isolation will not be adequate for submission to the LPA in support of a planning application. The report will only be adequate for this purpose if there is need for further surveys and mitigation.**" It is clear that a further Phase 2 bat survey report is necessary before the Council can consider sufficient evidence has been supplied to enable the Council to deviate from BCT Guidance. This is repeated in the PPG, which states: "**You only need to ask an applicant to carry out a survey if it's likely that protected species are:**

- **present on or near the proposed site, such as protected bats at a proposed barn conversion**
- **affected by the development, such as the effect of a wind turbine proposal on protected birds"**

We already know that bats were found in the churchyard within the vicinity of the site, as I mentioned above. They are near to the site, and therefore the Council's position to not request additional surveys would be clearly against such guidance and which justification must then be supplied. Without such evidence, the Council must follow the PPG and BCT Guidance as otherwise it could render any decision invalid because DCC would not have considered all material considerations appropriately. This is particularly true when the Council employs no ecologists inhouse to carry out an independent verification of the evidence, and which the reliability of the applicant's evidence has been heavily questioned by others.

**The Council cannot impose a Condition to require the provision of Surveys after permission is granted.**

You may be tempted to suggest to DCC that a condition could address the matters. I want to make it clear that this would be against guidance. I also want to ensure the applicant's lobby team does not mis-represent the correct approach.

Our ecologist's letter is clear that it states that further surveys would be required as they would inform mitigation measures necessary. The Council cannot impose a condition to any permission that requires the submission of the surveys and the eventual submission of mitigation (which could require planning permission to implement), because 'exceptional circumstances' according to Circular 05/2006 Paragraph 99 do not exist (the applicant's team has not presented any evidence of such circumstances, and missing a survey season is not an 'exceptional circumstance'). Any condition imposed would fail the tests of the NPPF, as it would not be 'precise'. The Council also has a requirement that they be fully confident that Natural England would issue a licence in the future of a bat roost is found, noting any licence must comply with the 3 legal tests set out in the PPG. You have made no assessment of the 3 legal tests in your report, so DCC would be blindly making the decision without reference to the correct approach. In fact, the PPG clearly states: "**You'll need to agree any mitigation or compensatory measures as part of the proposal. To make sure that mitigation measures are effective when granting planning permission you may have to consider**" imposing a planning condition or planning obligation. However, you cannot ensure any mitigation could be effective if you are not able to ascertain whether bats are in fact on site or not, hence it would be inappropriate to secure such surveys by way of condition.

It states under 'Making a Decision' that you can grant planning permission if:

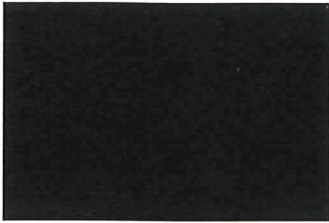
- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice – **Further survey not completed.**
- a wildlife licence is likely to be granted by Natural England – **unknown, as an assessment against the 3 legal tests cannot be carried out without further surveys.**
- Mitigation plans are acceptable – **none submitted as species surveys not carried out across whole of site.**
- Compensation plans are acceptable when mitigation isn't possible – **same, no mitigation plans presented because species surveys were not carried out.**
- review and monitoring plans are in place, where appropriate – **no plans to review.**
- all wider planning considerations are met – **approach completely contrary to PPG and BCT Guidance and the recommendations that further survey of the building is necessary according to the applicant's original submission and [REDACTED] recent report.**



We look forward to receiving confirmation that you have submitted a change to the recommendation in the report and you now recommend that the application is **REFUSED**.

I would be grateful if you would kindly confirm receipt of this email, noting the 'missing emails' point. Of course, I would be happy to discuss with you the evidence presented in the above email on in the attached as required.

Kind regards,



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**From:** [Redacted]  
**Sent:** 10 October 2019 00:33  
**To:** Charlotte White [Redacted]



Dear Charlotte,

Straight to the point, it is come to light that the Applicant has failed to complete all relevant bat emergence surveys, and therefore the application cannot be determined before this information is submitted. The information can only be collected between May and August, and therefore it can only be provided next summer. Any decision before this is provided is likely to result in a successful legal challenge because the Council cannot be certain to have discharged its statutory duties. I set out the reasons for this below.

As set out in the email below, you may recall that we objected to the Applicant's proposals on the basis that there was a lack of ecology information (bat emergence surveys), and which are required in order for the Council to discharge its responsibilities regarding protected species (I come to this again below). We were clear that the Council should have invalidated the application due to a lack of ecology information, given it would take many months before the information could be provided. We were disappointed that you did not do this, even though it was clearly contrary to your own Local Validation List. That said, we are where we are now, which brings me to the current point.

The original Preliminary Ecological Appraisal (PEA) Report (November 2019) indicated that they surveyed the site on 19 October 2018 by [Redacted]. At Paragraphs 3.22 and Paragraph 4.10, it was identified that Buildings 1 (29 Herbert Grove), 3 (1&3 Herbert Grove), and 7 (public toilet block) had LOW value for roosting bats, and thus should be surveyed (see attached extracts). We indicated in our objection letter (see Page 8 of our Cover Letter dated 7<sup>th</sup> February 2019) that further bat emergence surveys will be required. Figure 3.1 indicates the Building 7 was of 'low' potential, along with Buildings 1 and 3 and therefore a survey should be carried out within the recognised period of 'May-August' according to the relevant guidance.

The Applicant has now submitted a revised PEA, dated 26<sup>th</sup> July 2019. A number of key points:

- Paragraph 2.12 confirms that a bat roost emergence survey was carried out on the evening of 29<sup>th</sup> May 2019 on Buildings 1 and 3 (1-3 and 29 Herbert Grove). No record was noted of any survey or examination of Building 7.
- Paragraph 3.22 confirms that the same Buildings 1, 3 and 7 are still assigned LOW value to roosting bats.

- Paragraph 5.8 indicates that *“The site was of limited overall value to protected species, with interest relating predominantly to the potential value of Buildings 1 and 3 (see Figure 3.3) to building – roosting bats, all of which were assessed as being of Low potentially according to current best practice guidelines for assessing building for their bat roost potential. Follow-up bat activity survey has been completed that confirms bat roost absence from both buildings.”*

Again, there is no mention of a survey for Building No 7, the toilet block. The absence of emergence survey information is a substantial omission and which means the Council cannot be confident of discharging its responsibilities related to protected species until this survey is completed. I come to this again below.

- Indeed, the update PEA’s Figure 3.3 sets out which building locations have value to roosting bats, and which require further surveys. The record on this drawing has been changed to refer to ‘negligible’ although the description in revised PEA Paragraph 3.22 remains the same as it was recorded in the original PEA (see attached extracts). It is wholly misleading change therefore, and its LOW value requires the requisite emergence surveys.
- We note that [REDACTED] was the same ecologist who undertook both the 19<sup>th</sup> October 2018 survey and the 29<sup>th</sup> May 2019 surveys, and is a Natural England Level 2 licenced bat worker, so capable of identifying relevant roosts.
- Importantly, the PEA was substantially updated in July 2019 without any change to Building 7’s description and features, so this would strongly indicate that the potential for bat roosts remains.
- **A survey of the building is therefore required to be conducted between May and August (optimal) or April/September (sub-optimal) 2020 before the Council can determine the application.**
- [REDACTED] notes that in Paragraph 2.16 that the surveys recorded 2 bats foraging in the church yard and back gardens of Herbert Grove, and 30 minutes after sunset (which suggests they may have come from elsewhere). Indeed, as these did not emerge from Buildings 1 & 3 which were being surveyed at the time, their roosts are likely elsewhere. Noting the identified potential of Building 7, it is not unreasonable to conclude that these bats possibly came from the toilet block (which if the ecologist had surveyed it, they would have known for certain, but in the absence, it cannot be excluded given it has features that would support bat roosts). Approving its demolition of these buildings as part of this application without relevant emergence surveys would be an unreasonable risk to take.

Indeed, on the above basis, a precautionary approach regarding the presence of a bat roost in the toilet block is required. Indeed, this is set out clearly in ‘Circular 06/05: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM’. It states at Paragraph 99:

**“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.** *The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.”*

There are no exceptional circumstances in this scenario. There was clear evidence that a survey was required for Building 7, as identified in the original PEA (Paragraph 4.10). The building’s description was not changed between the original PEA and revised PEA, despite there being numerous other changes between the two reports. The same ecologist, who is bat licenced, identified the potential. The omission of the survey by the Applicant’s team is not an exceptional circumstance. The Council must therefore conclude that there remains a need for this survey, and the





Dear Ms White,

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table: 'When to carry out a survey' and look for 'Bats (Summer Roosts): May to mid-September.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: *"Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid."*

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:*

- *reasonable having regard, in particular, to the nature and scale of the proposed development; and*
- *about a matter which it is reasonable to think will be a **material consideration** in the determination of the application.*

*These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.  
Paragraph: 040 Reference ID: 14-040-20140306"*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard). Indeed, if you follow the Government's Protected Species Checklist for planning applications (see attached), you'll see that you have to answer 'No' to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can't do, obviously), or refuse the application. I take this opportunity to remind you that the damage or destruction of breeding or resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine (<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined.

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the

consultation period that has just recently closed as the Council willing engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my our experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council's own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019. It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove. We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to site within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref: 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place. Indeed, the officer's report for that application makes no reference to Biodiversity. As removal took place between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clear notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regs 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council can confirm it has not taken actions to facilitate that development without due care to protected species. We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and Habitats Regulations.

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,



From   
Sent: 07 February 2019 23:58





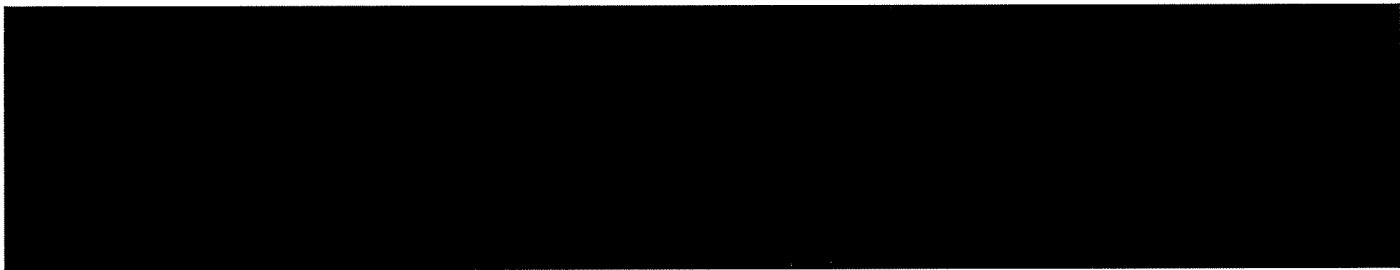
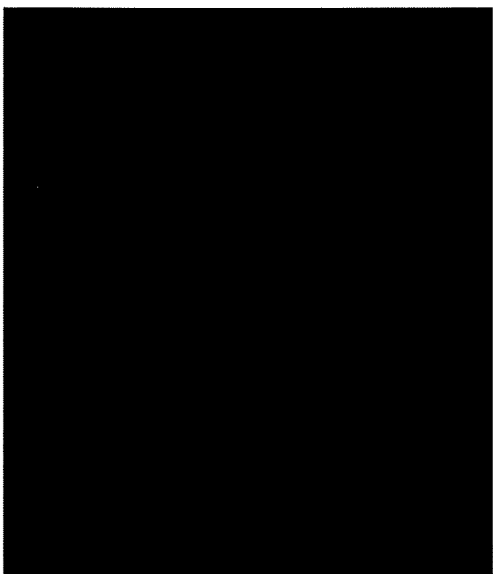


Dear Ms White,

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt.

Regards,



[REDACTED]

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**From:** [REDACTED]  
**Sent:** 26 November 2019 11:49  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** RE: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development  
**Attachments:** FW Automated Reply  
**Importance:** High

Dear Charlotte,

Further to my email below I attach a copy of the automated confirmation email received from Planning Casework Unit (PCU) following submission of our request yesterday.

We have also been notified that our request has been allocated to PCU Team A with [REDACTED] (Senior Planning Casework Manager) being our current case officer.

We will provide any relevant updates as soon as we hear from the Government on this matter.

Kind regards,

[REDACTED]

**From:** [REDACTED]  
**Sent:** 26 November 2019 09:07  
**To:** Charlotte White [REDACTED]  
[REDACTED]  
**Subject:** Re: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

Dear Charlotte,

I can confirm that [REDACTED] submitted the request yesterday to the relevant Government casework team. I will forward the receipt as soon as I can speak to our EIA Technical Director, probably later today.

In the meantime, I attach a copy of the letter setting out the request for your records. I can send the Appendices on a CD by post if that is relevant to you.

We assume that you will also provide DCC members with an update and the risks according to Roskilly, etc.

I note that this email will be shared with relevant parties to ensure equal and fair dissemination of information.

Kind regards,

[REDACTED]

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**From:** Charlotte White [REDACTED]

**Sent:** Tuesday, November 26, 2019 8:35:58 AM

**To:** [REDACTED]

**Subject:** RE: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

**CAUTION:** This email originated from outside of [REDACTED]

Dear [REDACTED]

I confirm receipt of your email. The wording of your email is slightly unclear. For the avoidance of any doubt please can you confirm whether a screening direction has been sent to and received by the Secretary of State. Please can you confirm whether you have received an acknowledgement and/or confirmation of receipt from the Secretary of State and if so please can you forward me a copy of this as soon as possible.

Thank you.

Regards,  
Charlotte

**Charlotte White** – Development Control Team Leader | Planning and Building Control Group

[REDACTED]

 [Twitter@southendbc](https://twitter.com/southendbc)

 [Facebook.com/SouthendBCOfficial](https://www.facebook.com/SouthendBCOfficial)

 [Flickr.com/southendbc](https://www.flickr.com/photos/southendbc/)

 [Instagram.com/southendbc](https://www.instagram.com/southendbc)

**Please note:** Any opinion given in this correspondence is that of an officer of the Council. It does not necessarily reflect the view that might be taken by the Council itself. Consequently any opinion expressed will not bind the Council.

[REDACTED]

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**Sent:** 25 November 2019 18:38

**To:** Charlotte White

[REDACTED]

**Subject:** RE: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

**Importance:** High

Dear Charlotte,

I have become aware of the attached advice from Town Legal through a recent FOI request. We are pleased that Town Legal's advice has agreed with our position, given the Applicant acknowledges in their own EIA Cover Letter that there will be significant landscape effects with the proposed development, particularly on residents of Herbert

Grove. So the purpose of this email is to let you know that today an EIA Screening Direction has been requested by the Secretary of State (SoS), as forewarned by Town Legal.

For the benefit of those copied into this email, the advice of Town Legal states on 9<sup>th</sup> October that: *“Concluding that only a local area, or an area of local importance, will be affected **does not mean that the effect is not significant within the context of the Regulations. If effects are significant, they cannot be considered to be insignificant (in the meaning of the Regulations) just because they are experienced only locally.**”* The email chain is attached.

The Applicant’s team have already stated that there would be substantial effects on local receptors (see the penultimate paragraph of the attached extract of Carter Jonas’s report), which states: *“Whilst the LVIA identified substantial level of visual effect to a limited number of private receptors, on the whole...”* It tries to downplay the effects identified as insignificant on the whole, but that position is against your legal advice referred to above. It was also previously reported in 2017 when the applicant previously sought an EIA Screening Opinion.

More importantly, the Council’s EIA Screening Opinion states in Paragraph 6.121 (see attached extract) that there would be *“The LVIA submitted indicates that visually the impacts of the development in this regard would be limited with only substantial impacts identified to a small number of very local receptors...”* In Paragraph 6.123 it states: *“The visual amenity impacts would be substantial but only to a very small residential population. Residential amenity impacts are different to the question of the likelihood of significant effects on the environment and are therefore not likely to be considered to be significant in the sense intended by the Regulations.”* Your own Committee Report states in Paragraph 6.81 that: *“However, this acknowledges that neighbours to the site are likely to have a substantial impact on current visual amenity due to the new buildings replacing current views.”* I also note that your own landscape consultant, Nicholas Pearson Associates, has stated that there would be ‘moderate to substantial adverse’ effects on residents of Chancellors Road according to the Committee Report, so it can be drawn that for the residents of Herbert Grove that this would be at least similar if not more (see Paragraph 6.131). Indeed, NPA’s conclusions at Paragraph 6.133 state: *“We also have identified that **there would be limited landscape or visual effects above ‘moderate adverse’ level...**”* So regardless of the level, there will be substantial effects and which would result in the development being EIA Development. There are other reasons why it should be considered as EIA Development (noise, daylight/sunlight, heritage impacts, etc).

I cannot understand why the Council would have issued the October 2019 EIA Screening Opinion against the external legal advice, which was clear and stated that regardless of whether its local or not, significant effects cannot be ‘insignificant’ under the Regulations. It is also against the advice of the independent landscape consultants, who have confirmed the effects of the development will be substantial. Having identified significant effects, the Council should have then concluded that the development **is EIA development** in October 2019, or at least revisited the EIA Screening Opinion and issued a revised version following NPA’s comments that indicate it is EIA Development now.

Noting the Council’s report, the applicant’s admission and the Council’s legal advice, today our request for a Screening Direction has been submitted as the application should have been accompanied by an Environmental Statement. It will include a copy of Town Legal’s advice to the Council, so the SoS can see that there are clear question marks about the Council’s Screening Opinion that warrants further investigation. Should the SoS agree that the development will cause significant effects (which we think is likely given what I refer to above), then the proposals will fall within the scope of EIA Development and according to the Regulations, this will require the submission of an Environmental Statement that will take some time to prepare (and prohibit the Council from granting permission without it according to the EIA Regulations 2017). This process is likely to include full re-consultation of the application, if not its total re-submission, lasting some 6 months or more (there is EIA Screening to go through). The SoS will take about 21 days to issue a binding EIA Screening Direction, although it is known for the SoS to take more time to review such matters before reaching a condition. The SoS may also be affected by purdah rules associated with the UK-wide General Election, which could further delay the issuance of any Direction. All told, it will be well after this Wednesday’s DCC meeting.

As such, any Committee before the Direction is made is wholly meaningless, unless the Council refuses to grant permission (which it is entitled to do), in which case, a lack of an Environment Statement should form a reason for refusal. Indeed, I want to draw your attention to recent case law that no permission can be issued before the Screening Direction has been issued when a request has been made. The Council would be at risk of being branded

as an 'unreasonable planning authority' if DCC proceeds to grant permission. The High Court judgment at 'The Queen on the Application of Silke Roskilly v Cornwall Council and Others' 2015 states at Paragraph 39:

*"If the Secretary of State concludes in considering an application for a screening direction that the development is environmental impact assessment development then that is a conclusive determination that environmental impact assessment is required, and pursuant to Regulation 3(4) permission cannot be granted until the environmental information contained in an Environmental impact assessment has been taken into account by the planning authority. If the planning authority chooses to grant consent and prior to the resolution of a direction requested of the Secretary of State then they run the risk that if that direction is positive they will have granted a planning consent which is infected with illegality. It follows from this analysis that, were it necessary to do so, I would also have been minded to conclude that no reasonable planning authority, knowing at the time when they formed a resolution to grant planning permission that there was an outstanding request of the Secretary of State to make a determination on a screening direction, would proceed to grant planning permission without knowing the outcome of that screening direction process."*

Taking the above, it is clear that there will be significant effects: it has been agreed by your legal advisor, your landscape consultant, the applicant and [REDACTED]. More to the point, your landscape consultant suggests that many of the impacts cannot be mitigated against and moderate or substantial effects will be caused by the proposed development going forward. If the DCC meeting takes place, the only conclusion that would avoid SBC being branded 'an unreasonable planning authority' is to refuse the application, and townscape impacts are one of many reasons to do this (as you will have seen from our objection letter).

With the above, I trust you will agree and revise your recommendation to **Refusal**.

I would be grateful if you would kindly confirm receipt of this email.

Kind regards,

[REDACTED]

From [REDACTED]  
Sent: 11 October 2019 09:58  
To: Charlotte White [REDACTED]

[REDACTED]

**Subject:** RE: Seaway Development EIA Screening Request (Ref: 19/1706/RSE) - Seaway Development is EIA Development

Dear All – please disregard the previous email. One email address was incorrect [REDACTED] and there was an error in the air quality section of the previous email.

[REDACTED]

[REDACTED]

Dear Charlotte,

To the point, the development is likely to be considered EIA Development and requires the submission of an Environmental Statement. You should conclude such as you have no evidence not to. We set out reasons for this below, but if the Council is unwilling to draw this conclusion for any reason, then our client will request a Screening Direction from the Secretary of State, who may take the same view as [REDACTED]. This will result in a further substantial delay to the planning application for the same development (Ref: 18/02302/BC4M). In fact [REDACTED] would argue the current application should be withdrawn because the submission of an Environmental Statement is too substantial and this would amount to a material change to the application so it should not be considered under the 2018 application.

Please find attached a report setting out the EIA considerations in relation to the Applicant's request for a new EIA Screening Opinion. It is an updated version of the report which you received on 27<sup>th</sup> August 2019 based on information submitted by the Applicant. Its conclusions are no different, however, and the development will likely give rise to significant effects and therefore should be considered EIA Development. I also attach specific commentary on landscape and heritage matters (prepared before Appendix 3 was provided, but which is unlikely to change the conclusions) that are relevant to the EIA matters, and complement the reports submitted to you on 20<sup>th</sup> September 2019.

In summary [REDACTED] view is that the proposed development should be found to be EIA development as it will give rise to significant effects, as follows:

- Landscape/townscape/visual impact – there are numerous errors with the LVIA report, including assessments of sensitivity or attempts to downplay effects, and so the approach fails to comply with relevant GLVIA guidance. The cumulative effects fails to assess filling and incremental change. The Applicant has already acknowledged that the development will give rise to substantial effects as you are already aware. The Opinion Statement argues these are local and not significant in the round, but there is simply no test for that approach. The question is whether it would give rise to significant environmental effects (anywhere or altogether), and that question on these grounds must be answered as 'yes'. An Environment Statement assessing those effects must be prepared. See Paragraph 69 of our [REDACTED] Notes on LVIA and Screening Statement attached to this email for more details, as well as our previous submission sent to you on 27<sup>th</sup> August and 20<sup>th</sup> September 2019.
- Heritage - the proposed development has the potential to adversely affect a number of heritage assets in the area, both designated and non-designated ones. Indeed, the Heritage Assessment acknowledges on Page 4.35 that there will be 'considerable change' to the Conservation Area, which might well be classified as a significant effect (Paragraph 20 of the RPS Notes on the Heritage Statement). Furthermore, it acknowledges in Heritage Assessment Paragraph 4.32 that the 'biggest change' - which must be more than 'considerable', will arise from the Pier looking back at the development. The Heritage Assessment is not clear as to whether the building would be seen from the Conservation Area, but this is a 'is or is it not' (Paragraph 17 of the [REDACTED] Notes on Heritage Statement). It appears to fail to assess the cumulative impact of the development on heritage assets (see Paragraph 19 of [REDACTED] Notes in Heritage Statement regarding the historic townscape character). An EIA is required on heritage impact grounds alone, given the likely effect on listed buildings (the Pier, the Kursaal), the Conservation Area and locally listed buildings, and the cumulative effect on all of these assets arising from the proposed development.
- The assessment of the impact on the views from the Pier both in terms of landscape/townscape/visual impact and heritage considerations is misleading/erroneous in both the LVIA and Heritage Assessment, noting both [REDACTED] and Historic England have raised substantial concerns regarding this. There are other conflicts between the two submitted documents, such as in relation to the long views of the Palace Hotel (see Paragraph 16 of the Notes on Heritage Statement).
- There will be significant socio-economic effects with the proposed development. This is acknowledged in the planning application documentation, but which was not submitted to you as part of the EIA Screening Request application. See Page 8 of the Carter Jonas Cover Letter related to the planning application, along with the Economic Benefits Assessment and Addendums (Lambert Smith Hampton) submitted by the Applicant, which include references to the significant effects.

- There could be a significant effect on the habitat of protected species, given the absence of emergence surveys regarding roosts at the toilet block (Building 7 in the Preliminary Ecological Appraisal). I refer to my email from yesterday on this point.
- There may be a significant effect arising from air quality, taking into account the cumulative effects arising from traffic generation from all allocated sites. [REDACTED] has only received a copy of the Air Quality Technical Note because it was not published on the website until Wednesday 9<sup>th</sup> October, 2019, so we will update this section shortly.
- The Habitat Regulations Assessment (HRA) fails to properly assess the impact of dog walking activities from hotel visitors, particularly in the winter time, which could add pressure to the European designated sites. The report inadequately demonstrates how it concluded that there would not be significant effects. Specifically [REDACTED] notes there are far fewer visitors to Southend in winter periods, the key period for the habitat and species, and so the extent of change arising from the hotel and increased visitors to close proximity of the European Site could substantially increase pressure and potentially have a significant effect. Without providing any details of a winter time visitor impact assessment, the conclusions of the HRA are questionable and a precautionary approach should be applied by the Council.

There may be other effects which are significant (e.g. noise). The appropriate Environmental Statement topics will obviously be determined at scoping stage, and will enable a full consideration of alternatives (e.g. to protect the TPO trees).

Based on the Applicant's own assessments as well as [REDACTED] own view, if the Council reaches any other conclusion than the proposed development is EIA Development which requires an Environmental Statement to be prepared to adequately assess relevant effects, our client will test the Council's view and seek a Screening Direction from the Secretary of State using much of the information provided by the Applicant as well as our own research (some of which is provided herewith). This will result in substantial delay to the processing of the planning application. It may also shed clear light on the Council's incorrect determination of the EIA Screening Request in November 2017, when they drew conclusions contrary to professional opinion without any basis (the substantial effects identified by the Applicant's landscape consultant at that time).

Indeed the whole purpose of undertaking a Screening exercise for Schedule 2 developments is because of the scale of development, there is a good chance it can give rise to significant effects. In the case of Turnstone's proposed development at Seaway Car Park, both the Applicant and [REDACTED] already agree that **there will be significant effects, so the logical conclusion is that these require further assessment under the EIA Regulations. The Council must conclude the same.** Whilst it is acknowledged that other similar Schedule 2 leisure developments (those located on the edge of towns) may not have such sensitive receptors so close to the development site (existing residential properties, heritage assets, European Sites, etc) and could be screened out, this is simply not the case here.

I formally request that you send me a copy of your Screening Opinion as soon as it is made public, so we can review and determine the next course of action (e.g. Direction request to the Secretary of State). I look forward to reading that you have finally confirmed that the development is EIA Development and an Environmental Statement is required. We can then all turn to the Scoping process. In the meantime, the planning application process should certainly be paused whilst this is concluded, but there is certainly an argument to state that the planning application should be entirely withdrawn until the EIA matter is wholly and adequately resolved (by the Secretary of State if necessary).

I would be more than happy to discuss anything found within this email at your earliest convenience.

Kind regards,

[REDACTED]

[REDACTED]

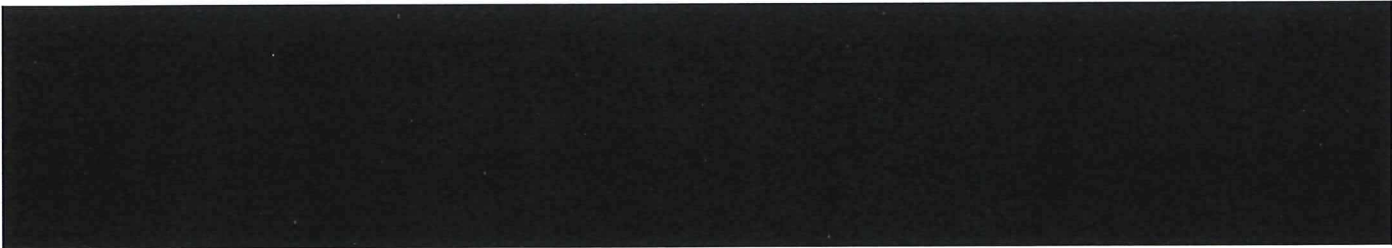




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Consider the environment. Please don't print this e-mail unless you really need to.





[REDACTED]

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**From:** [REDACTED]  
**Sent:** 11 December 2019 14:26  
**To:** Charlotte White  
**Cc:** [REDACTED]  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

**Importance:** High

Dear Charlotte,

We have become aware of the additional survey of Building 7, submitted by the Applicant's team on 25<sup>th</sup> November 2019 (attached for reference). This represents the submission of substantial information (it amounts to a new 'bat survey'), and on which you should have engaged in further consultations as the presence/absence of protected species represents a material consideration. There is precedent, as you had carried out further consultations following receipt of other substantial reports (the Air Quality Memorandum). It is unclear why you did not re-consult on this information upon receipt and requested a deferral of Committee (which occurred in any event for other reasons, as you know). You will be well aware that failure to consult on key pieces of (new) information will increase the risk of a successful legal challenge against any positive decision on procedural grounds. In this regard, when you do consult on this information, [REDACTED] (both of whom are copied to this email) should be asked for comment to ensure site-specific advice is received from local conservation trusts (as you know, Natural England's advice is generally generic and not site or proposal specific). This would also mean it would be wholly inappropriate to attempt to determine the application at the 8<sup>th</sup> January Committee meeting without undertaking a new consultation, for the avoidance of doubt, but I also note that the EIA Screening Direction request is still outstanding.

Before you engage in further consultations, I wish to draw to your attention that there are further shortcomings with the report, and therefore it would be inappropriate to rely on this information to satisfactorily confirm that there are no bats roosting in the building and discharge your statutory responsibilities towards protected species. Further information – in the form of bat emergence surveys – remains required and only after these are provided should a consultation be undertaken. Unless of course the Council refuses the application due to a lack of information, which is warranted given how long the Applicant has had to supply emergence survey data.

Our key concerns with the latest report:

- The author of the report was the reviewer of all of the applicant team's ecology reports, including the original November 2018 PEA which indicated that the building had 'low' potential for a bat roost and reiterated in the July 2019 PEA. As the signing authority within the Applicant's team, the person was satisfied that bat emergence surveys would be required for the building based on the evidence provided at the time. It is noted that the original survey of the building also used endoscopes as part of the survey when drawing the conclusion that 'low' roost potential existed. There is nothing to suggest that the other surveyors (including the [REDACTED] surveyor) were any less qualified to draw their conclusions regarding the bat roost potential of the building. As such, it is unclear why the author would deviate from the precautionary approach that was established in the PEA November 2018.
- The report indicates that the building and area are largely devoid of well-connected or extensive seminatural habitats. This is factually incorrect. The site is linked way of the rear gardens of Hartington Road to vegetation along the Queensway, and which leads to more attractive bat foraging vegetation located along the east-west railway route. This is completely ignored by the report, although this is clearly set out in [REDACTED] 14<sup>th</sup> November note and other evidence presented to you. Indeed, applying the Applicant's comments, it appears that the author of this report would have also drawn the same conclusion as regards the potential of the church graveyard for bat roosts and foraging (i.e. that it too would also not support use by bats because it too would be 'isolated' given the extent of unsupportive development around it). However, the Applicant's team is well aware that foraging occurs at the graveyard (they actively recorded 2x *Common*

*Pipistrelles* bats during their survey). As such, it can be concluded that the 'Context' section of the report is not sufficiently accurate and detailed, and omits relevant facts, to enable you to consider it to be appropriate.

- The presence of suitable habitats surrounding the building and the presence of foraging bats in the area are facts excluded from the Applicant's team arguments put forward in their email dated 17<sup>th</sup> October 2019, and which are repeated in this report (see attached, which was obtained via FOI although it is clear it should have been published to the application website as critical information). I note that the commentary in the email also fails to recognise that the Principal Ecologist who carried out the May 2019 (i.e. the in-season survey) is not licenced to use endoscopes as part of a roost survey because of licence restrictions, but the person who carried out the October 2018 survey was (and this was approved by the author of this report). The May survey reports, which was omitted from the July 2019 PEA, can be considered to be limited as compared with those undertaken in October 2018. This fact completely undermines the conclusions of that email, as we have previously noted, and the current report.
- The report indicates that the roof void was too narrow to support bats. However, the Applicant's team would be well aware that a lack of space only limits use by certain types of bats. As mentioned above, *Common Pipistrelles* were found in the area and these bats will roost in small crevices and cavities, and will crawl into entrances. Again, it is simply not accurate to draw a blanket conclusion when factual data collected by the Applicant's team clearly indicates the types of bats that are known to use such narrow spaces forage in the area. We come to this again below.
- In the final sentence of the third paragraph of Page 2, it states that the view across the void was limited ("the view that could be achieved"). The limited nature of the view is clearly shown in Photo 2 of the report. The Applicant's team cannot state with certainty that the whole of the void is not suitable as they clearly could not inspect the space in its entirety, noting the type of species that are found within the area. In this regard, I draw reference back to the Bat Conservation Trust's (BCT) guidance, which is clear at Paragraph 5.2.9 that information as presented "*must estimate the likelihood of bats being present at other times of the year. It there is a reasonable likelihood that bat roosts could be present, and particularly if there are areas that are inaccessible for survey, then further surveys may be needed.*" Part of the void has not been surveyed, and the Applicant's team, of which the author was a part, had already stated that bat emergence surveys must be undertaken. They have not surveyed the whole of the relevant space during the optimum period to confirm bats are or could not be present.
- The author indicates that the roof void was dry and cobwebby in places, with no signs of water ingress. The author effectively confirms that the space provides suitable conditions internally for roosting bats, such as *Common Pipistrelles*. The cobwebs are meaningless, as these can be established within hours, and there are many examples where roosting takes place in and around spiderwebs.
- The PPG regarding Protected Species is clear that: "*You only need to ask an application to carry out a survey if it's likely that protected species are: present on or near the proposed site, such as protected bats.*" I refer to the fact that *Common Pipistrelles* are found near to the site. The timing of this detailed inspection (which was limited due to there being inaccessible areas) raises questions regarding whether the information can be relied on. Indeed, the original PEA 2018 included a survey in October 2018, which is much closer to the optimum period than the current report.

█ survey on 14<sup>th</sup> November 2019 was not undertaken at a time when bats would be expected to be seen; we acknowledge this point and to suggest otherwise is wholly misleading by the Applicant's team. It is simply not █ responsibility to conduct a full and appropriate survey the building. That responsibility remains with the Applicant's team. The reality is that the Applicant has failed to follow recognised guidance and have conducted ecology surveys in a very haphazard way, with three revisions of the PEA, one key email and a further bat report having been submitted. You will have seen in my previous emails that demonstrate how far the Applicant's team has deviated from guidance, and many of these deviations remain with the latest report. For example, the Applicant's team will be well aware of the BCT's guidance in Paragraph 5.2.1, which states: "*In many situations it is not possible to inspect all locations where bats may be present and therefore an absence of bat evidence does not equate to evidence of bat absence.*" Their conclusions are clearly contrary to that unambiguous position in the BCT Guidance. To go back to our original position, we are simply requesting that the Council following standard practice regarding the surveys (because you do not have reliable information or ability to check the information that enables you to deviate). More appropriately, you should simply **refuse the application if the Applicant does not want to provide them** based on a lack of information (there are other reasons to refuse the application, as you know).

The fact is that the report does not change the risk to the Council that a legal challenge will likely be successful without the provision of emergence surveys data. Our conclusion is further supported by the fact that you have no suitably qualified (independent) wildlife advisor at the Council who can verify the Applicant's information and approach are sufficiently accurate and according to guidance, and you have not consulted on the latest report or the 17<sup>th</sup> October 2019 email to confirm the accuracy of the approach (which we note above, raises significant concerns). It remains unclear how the Council can be certain that the submitted information will enable you to satisfactorily discharge your duties with respect to the 3 legal tests regarding licensing.

We still object to the scheme on ecology grounds, notwithstanding this report. Our client will ensure that the Council complies with all statutory responsibilities towards protected species before making any determination of the application. Indeed, as you know, there were previous lapses with regards to the removal of the Rossi Ice Factory, so it becomes more imperative that guidance is adhered to with this proposal because bats are present in and around the Seaway site and the building's potential remains classified as 'low'.

I would be grateful if you kindly confirm receipt of this email.

Kind regards,



Sent: 25 November 2019 17:10

To: 'Charlotte White'



Dear Charlotte,

You may be aware that we received a cache of correspondence between SBC and its advising partners and the applicant earlier today following a FOI request. I attach an email from the applicant's team dated 17<sup>th</sup> October 2019 which provides a response to our email of 10<sup>th</sup> October in relation to missing bat emergence surveys (see below). It appears that their email may have formed the basis of Paragraph 6.224 of the Committee report, along with the PEAOct19.

The email contains a serious error which leads to the wrong conclusion, and SBC's reliance on it would therefore be incorrect. The email states that no bat activity was recorded during the after dark survey of the buildings to the west and so the value of the block (Building 7) was downgraded from low to negligible. This is an incorrect statement. I refer you to Paragraph 2.16 of the PEA July 2019 version, which states: *"Two foraging common pipistrelle bats were heard by surveyors and record foraging in the church yard and back gardens off Herbert Grove from 21.36 (30 minutes after sunset)."* A similar statement exists at Paragraph 3.24 of the PEAOct19 (extract attached).

As you will know, there are a number of buildings along Herbert Grove that fall within the Site (including the ones that were being surveyed on the night the bats were recorded). It is misleading to categorically state that the Site was devoid of bat activity when actual reporting states otherwise. It undermines the evidence (or lack thereof), on which the Council may have relied to draw its conclusion on this matter. In any event, we note that that the applicant is drawing conclusions about bat activity over the entire the Seaway site, despite only surveying one area of it (the far west).

As for the experience, I note that the October 2018 surveyor held a higher level licence, and their results are confirmed by [REDACTED] ecologist, as you will have seen.

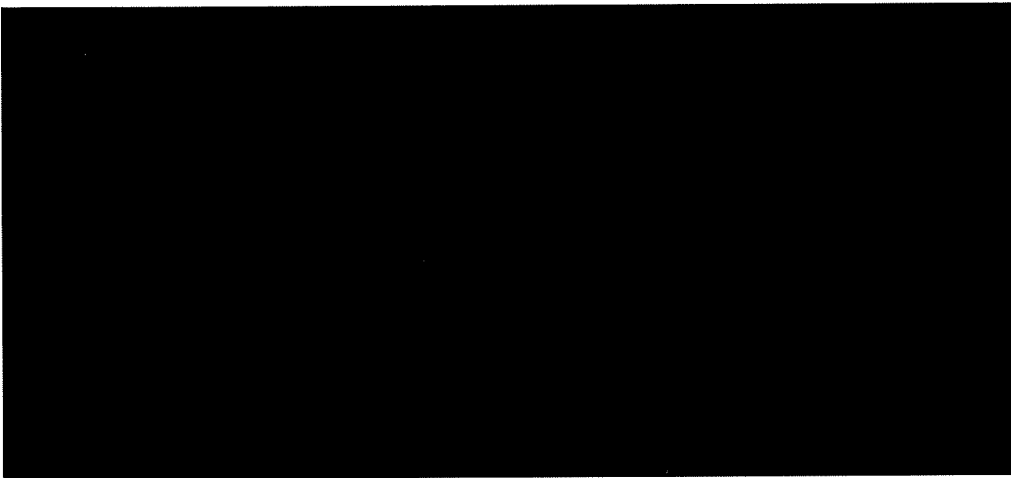
[REDACTED] also raises concerns that SBC did not undertake a preliminary bat roost survey of the former Rossi Ice Cream factory before it was demolished, according to FOI records. However, it is noted that the applicant's team have identified the presence of bats in and around the Seaway car park, so it appears to be an error that the Council did not undertake roost surveys before the Rossi building was demolished. As set out in the BCT Guidance, damage or destruction of a roost is an offence as identified in the Habitats Regulations, and could be committed accidentally. Whilst the Rossi building is now long lost, to avoid future mistakes regarding accidental or otherwise damage to roosts, it is imperative that SBC refuse the current application as there are no bat emergence surveys for Building 7, the building has been classified as 'low' and the justification provided by the applicant to deviate from the guidance is absent or inaccurate.

In addition to the guidance that I have referred to below, Clause 7.3 of the BS42020:2013 indicates that Preliminary ecological appraisal reports are inadequate to inform the planning process unless no further surveys or mitigation area required, to add to your arsenal that any decision to refuse the application on lack of survey information will be upheld by an Inspector.

I look forward to confirmation that you have now withdrawn Paragraph 6.224 and put forward a recommendation for refusal.

Please confirm receipt of this email.

Kind regards,



Dear Charlotte,

I write to regarding the ecology matter (further to my email below and our representations of 7<sup>th</sup> November 2019). First, I do not apologise for the length of the email. I want to be clear to you: this email will be forwarded to [REDACTED]

[REDACTED] All parties can see the evidence, and draw their own conclusion regarding what SBC should be doing on 27<sup>th</sup> November 2019 when DCC considers the application. Indeed, I have done this because we want transparency in decision making: the reasons to refuse permission are fully justified and any other decision does not enable the Council to discharge its statutory responsibilities as set out in the Government's PPG and BCT Guidance. The details in this email are also designed to dispel at the outset any myths that might be perpetuated by the applicant's lobby team after my email is circulated. I have sent the email as a blind copy to external parties so their data can be protected if the email is published.

You have clearly set out in Development Control Committee's (DCC) Committee Report Paragraph 6.224 that clarification was obtained from the applicant regarding the ecologist surveys, and which you appear to accept at



face value. Unfortunately, this appears to be a fatal mistake on the Council's part as the evidence supplied by the Applicant in October 2019 is contrary to guidance and remains unjustified. To the point, the Council should not have relied on the applicant's evidence before it drew the conclusion that Building 7 is of negligible bat roost potential. This is because the downgrade is not justified (indeed, there is no evidence submitted by the applicant which would warrant the change), and in fact the applicant's conclusions are incorrect given the building's features etc, as I'll set out below. Ultimately, the implications are that as no bat emergence surveys are forthcoming before the DCC meeting this Wednesday, so you must therefore change your recommendation to one of **refusal on a lack of information on the impact of the development on protected species (there are other issues which warrant refusal, but that is not relevant to this email but could form further justified reasons)**. I provide all the evidence of the reason for this below, so you (and DCC) will be fully confident that such a refusal will be upheld by an Inspector with any Planning Appeal.

**There is no doubt that DCC must refuse the application on the lack of bat emergence surveys alone.** For example, the Government's Protected Species Checklist (as attached) is clear that without the emergence surveys, the decision falls under Category F: *"Inadequate survey. Request this is done properly as in question 3 or refuse application."* It is supported by the Government's Planning Practice Guidance (PPG), which states: *"You can refuse planning permission, or ask for a survey to be redone..."* (PPG Chapter: 'Protected Species: How to Review Planning Applications – As a Planning Authority use Natural England's standing advice to review planning applications that might affect protected species'). It goes on to state: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision."* Under the checklist for 'Making a Decision' within the same PPG section, it is clear that the proposal fails all criteria (no additional surveys carried out, no confidence a licence can be granted, no mitigation or compensation plans put forward, etc). You can be wholly confident that the scheme's refusal is justified by the PPG and other guidance, and will be upheld by a Planning Inspector at Appeal (who will take their responsibilities towards protected species very seriously given EU and UK law on the matter). Indeed, without changing the current recommendation, the report could be conceived as being misleading noting the evidence that we have already submitted, and additional information that we submit to you with this email. So the conclusion that can be drawn is that DCC would be falsely informed when making their decision if our information below is not supplied to them. There could be substantial negative consequences arising.

We can draw this conclusion because [REDACTED] own ecologist, who holds Natural England Levels 3 and 4 bat licences, has conducted an independent survey of the building (see attached report). You will see that that the report clearly concludes that the building should be subject to further emergence surveys because it remains classified as a building which hosts 'low' potential for a bat roost (and the evidence to support that conclusion is supplied). You will see by their report that they state on Page 3: ***"There was potential for bats to roost within the roof void and/or behind the wooden fascia of Building 7, and the building was considered to have low roost potential. Demolition of this buildings is planned as part of the proposed development and therefore further surveys on this building are required in advance of planning."***

Furthermore, there are other reasons as to why you should withdraw Paragraph 6.224 of your report and alter your recommendation to one of **refusal**, which can be summarised as follows:

- The PEA November 2018 incorporated survey results from a high bat licenced ecologist. It clearly drew the conclusion that the building's bat roost potential was 'low' and further emergence surveys would be required before any planning permission could be granted.
- The PEA October 2019 includes references to a May 2019 building survey, but which contains no documentary evidence that justifies that a downgraded potential exists, in direct conflict with Bat Conservation Trust (BCT) guidance (details below).
- Building 7's features that the applicant's team identified that exist and warrant further investigation have not changed.
- The absence of external evidence is not sufficient justification to warrant the downgrading of the potential, according to the BCT guidance.
- No internal survey of the building has been recorded. As the building has been abandoned, there can be no certainty that bats are not roosting within the building.
- Sufficient connectivity exists between the building and wider foraging routes for common bat species, noting the presence of vegetation in the rear gardens of Hartington Road that links the northern and southern parts of the site and wider foraging areas.



- It is not possible to conclude that there is no bat activity on another part of the site from the data collected during the May 2019 surveys, as the ecologists were located in immediate proximity to Buildings 1 and 3, and at some distance from Building 7. Bats will be using the extremities of the site due to the unattractive surface level car park in the middle, as acknowledged by the Applicant's team, and no evidence is supplied that would demonstrate the ecologists were surveying the eastern side of the site at the relevant times. In any event, the May 2019 survey results demonstrates that **bats are present** in the vicinity (I come to this again below with a PPG reference on how to deal with this).
- So, to draw that conclusion that bats are not active on the whole of the site, formal bat activity surveys of the entire site would be required and forms the outcomes of multiple surveys between April/May and September/October. No evidence of such surveys has been presented, and we suspect that these have not been carried out.
- In any event, you already have the evidence that two ecologists (from the same firm) who have formed differing opinions regarding the potential surveys that should be prepared, with the more qualified person stating that the building hosts 'low' potential and further surveys are required. You therefore must err on the side of caution and require such surveys before any application is determined, according to the PPG.
- In fact, with [REDACTED] report, you now have confirmation the two more qualified ecologists who have visited the building have confirmed in their view the building's potential is 'low' and which bat emergence surveys are required before the Council can conclude that there is no likelihood of impact on protected species by the proposed development, in accordance with the NPPG and Circular 05/2006. This cannot be ignored or brushed aside.

Without such bat emergence surveys, the only conclusion you can draw is that the application should be **REFUSED** according to relevant guidance, which the applicant's team appears to be asking you to deviate from without providing any good reason to do so.

I set this out in more detail, for your benefit. Following our objections in October 2019, the Council had received a revised PEA from the applicant's team, and published this on the application website on 23<sup>rd</sup> October 2019. It is referred to as the PEAOct19. This contains a number of changes, primarily focused around 'Building 7', a former toilet block building located in the south-eastern corner of the site, and to which our comments below primarily related. These can be summarised as follows:

- Added reference to a new surveyor [REDACTED] (a Natural England Level 1 bat worker) in Para 2.6, who has supposed carried out a further survey of the toilet block on 29<sup>th</sup> May (no evidence or details of the survey are supplied within the report).
- A new paragraph was inserted for the description for Building 7 and its potential on Page 11, which indicates that upon the further May visit, the toilet block is no longer considered to host 'low' potential for a bat roost. Hence no surveys were required in May.

[REDACTED] holds strong reservations as to why this information was not provided at the outset with the July revision of the PEA following the May 2019 surveys carried out by the applicant's team (referred to as PEAJul19), on which our objections below have been submitted. The evidence would have clearly been available in July when the applicant prepared an update to the PEA, and indeed, the Figure was altered at that time, but without any accompanying text within the report to explain why it had changed. It appears to be a substantial omission. More to the point, [REDACTED] also notes that there is no evidence (e.g. survey notes or photographs) attached to the PEAOct19 that complements the primary changes to it. We come to this again below, but it does raise questions on why the Case Officer can be confident that what is reported is accurate and justified.

Before discussing the reasons that justify our position, I take the opportunity to set out the relevant guidance, as you may not be familiar with it. The Bat Conservation Trust's 'Bat Surveys for Professional Ecologists Good Practice Guidelines (3<sup>rd</sup> Edition)' (referred to as the 'BCT Guidance') is most pertinent (I note that the applicant's team has sponsored the document, so you would expect them to adhere to it). The key paragraph is Paragraph 5.2.9, which states:

*"Where the possibility that bats are present cannot be eliminated or evidence of bats is found during a preliminary roost assessment, then further surveys (such as winter hibernation (Section 5.3), presence/absence (Section 7.1) and/or roost characterisation (Section 7.2) surveys) are likely to be necessary of the impacts on the roosting habitat (or the bats using it) are predicted. The ecologist should consider the*

further surveys needed (if any), their logistics (resources, emergence survey locations, timings), and any potential health and safety hazards reported.

*"If the structure has been classified as having low suitability for bats (see Table 4.1), and ecologist should make a professional judgement on how to proceed based on all of the evidence available.*

*"If sufficient areas (including voids cracks and crevices) of a structure have been inspected and no evidence found (and is unlikely to have been removed by weather or cleaning or be hidden) then further surveys may not be appropriate. **Information (photographs and detailed descriptions) should be presented in the survey report to justify this conclusion and the likelihood of bats being present at other times of the year estimated.** If there is a reasonable likelihood that bat roosts could be present, and **particularly if there are areas that are inaccessible for survey, then further surveys may be needed and these should be proportionate to the circumstances (see Section 2.2.5).***

*"If not suitable habitat for bats is found, then further surveys are not necessary. In this scenario, it is necessary to document how this decision has been reached; **photographs and details descriptions should be made available as evidence of a robust survey and assessment.**"*

Our main concern is that the PEAOct19 alterations that indicate that Building 7 has 'negligible' potential for a roost is **NOT** supported by any documentary evidence within the report and which would normally be required with such a conclusion. The approach that has been adopted by the applicant's team is without doubt contrary to the BCT Guidance regarding such a situation, as referred to above. This is especially pertinent when the original surveying ecologist is a Natural England Level 2 licenced bat worker (i.e. has more experience) and is licenced to use endoscopes as part of the preliminary roost survey, whilst the May 2019 survey was carried out by members who does not hold such advanced licences. It is also pertinent that the building's relevant features have not been changed in any of the three versions of the PEA that would suggest a downgrade to the potential is warranted, and there is no evidence that the building was internally inspected to confirm the absence of bats, noting the building is abandoned so without regular disturbance, it could become an attractive place for bats to roost. Indeed, as you'll see from our report, there are certainly reasons as to why the building was initially identified as hosting 'low' potential for a bat roost.

Some other points of relevance:

- There is a claim that the building is isolated with hardstanding located between it and any suitable bat foraging habitat. This clearly ignores the presence of suitable trees and other vegetation located at the rear of the properties that face onto Hartington Road, and which provides a reasonable link to wider foraging routes including northward along Queensway to the railway line, or along the Seaway Car Park trees to the church yard, where bats were recorded as foraging during the May 2019 site visit. The bats could have easily travelled along the rear of the gardens of Hartington Road and along the line of trees that fact the Queensway and Chancellors Road to get to the church yard, and would explain why they were recorded to have arrived at the church yard sometime after sunset (as we set out in our objection below).
- A lack of bat activity has been cited. It is unclear how the ecologists could have concluded this, as during the May visit, they were located adjacent to Buildings 1 and 3, so at some distance from Building 7, and with their devices facing the two buildings that they were surveying. It is likely that with vehicle movements and other noises may have intervened, and so there can be no conclusive evidence that bats are not active in the vicinity of Building 7 during the May 2019. Indeed, the evidence of the ecologists clearly demonstrates bats were active in the vicinity, so the opposite is true from the evidence provided to you by the applicant. Furthermore, no bat activity surveys of the whole of the site have been carried out.
- Also cited is the fact that no external evidence was found on the building. We are surprised that they are relying on this position because the BCT Guidance is clear on this point in Paragraph 5.2.4.1 (External Surveys), where it emphasises the point that: **"Sometimes bats leave no visible sign of their presence on the outside of a building (and even when they do, wet weather can wash evidence away)."** Indeed, the same guidance is repeated with the equally high emphasis in Paragraph 5.2.4.2 (Internal Surveys). No justification has been provided that would enable the ecologist to rely on this against BCT Guidance.
- [REDACTED] notes there is no evidence that the applicant's team has undertaken an internal survey of the building. BCT Guidance in Paragraph 5.2.1 states: **"A Preliminary Roost Assessment is a detailed inspection of the exterior and interior of a structure to look for features that bats could use for entry/exit and roosting and to**



*search for signs of bats. The aim of this survey is to determine the actual or potential presence of bats and the need for further survey and/or mitigation. In many situations it is not possible to inspect all locations where bats may be present and therefore an absence of bat evidence does not equate to evidence of bat absence.*" It is clear from the BCT Guidance that if no internal inspections have been carried out, a precautionary approach is necessary and emergence surveys must be carried out. As noted above, bats are present in the area. It would be incorrect to conclude there are no bats at the building simply because no external evidence was found.

The Council is effectively being asked to deviate from standard guidance regarding bat emergence surveys by the Applicant's team without the latter supplying the Council with any evidence to do so. We are completely unclear why you would take their information as face value given the substantial omissions, unless you are looking at the commercial realities of a lease arrangement which falls outside of planning matters. The PPG section on Protected Species states: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision.*

*Use an expert, such as your local authority ecologist, to help you apply the standing advice to planning decisions if you're not a wildlife specialist.*" Unless you are a qualified expert, the PPG is clear that you will need to rely on one to determine whether the PEA submitted by the Applicant is valid and justified. I am not aware that SBC has obtained evidence from an independent qualified ecologist to verify the applicant's PEA, even though [REDACTED] has raised substantial concerns regarding the evidence presented through the application process (perhaps you could have asked Essex County Council's team, who are copied into this email, or Natural England for more advice). This puts DCC's decision at risk if it is anything but **REFUSAL**.

Regardless, the BCT Guidance is equally clear on this point at Paragraph 4.3.8, which states: *"Where further surveys and mitigation are required, the preliminary ecological appraisal report in isolation will not be adequate for submission to the LPA in support of a planning application. The report will only be adequate for this purpose if there is need for further surveys and mitigation."* It is clear that a further Phase 2 bat survey report is necessary before the Council can consider sufficient evidence has been supplied to enable the Council to deviate from BCT Guidance. This is repeated in the PPG, which states: *"You only need to ask an applicant to carry out a survey if it's likely that protected species are:*

- *present on or near the proposed site, such as protected bats at a proposed barn conversion*
- *affected by the development, such as the effect of a wind turbine proposal on protected birds"*

We already know that bats were found in the churchyard within the vicinity of the site, as I mentioned above. They are near to the site, and therefore the Council's position to not request additional surveys would be clearly against such guidance and which justification must then be supplied. Without such evidence, the Council must follow the PPG and BCT Guidance as otherwise it could render any decision invalid because DCC would not have considered all material considerations appropriately. This is particularly true when the Council employs no ecologists inhouse to carry out an independent verification of the evidence, and which the reliability of the applicant's evidence has been heavily questioned by others.

**The Council cannot impose a Condition to require the provision of Surveys after permission is granted.**

You may be tempted to suggest to DCC that a condition could address the matters. I want to make it clear that this would be against guidance. I also want to ensure the applicant's lobby team does not mis-represent the correct approach.

Our ecologist's letter is clear that it states that further surveys would be required as they would inform mitigation measures necessary. The Council cannot impose a condition to any permission that requires the submission of the surveys and the eventual submission of mitigation (which could require planning permission to implement), because 'exceptional circumstances' according to Circular 05/2006 Paragraph 99 do not exist (the applicant's team has not presented any evidence of such circumstances, and missing a survey season is not an 'exceptional circumstance'). Any condition imposed would fail the tests of the NPPF, as it would not be 'precise'. The Council also has a requirement that they be fully confident that Natural England would issue a licence in the future of a bat roost is found, noting any licence must comply with the 3 legal tests set out in the PPG. You have made no assessment of



the 3 legal tests in your report, so DCC would be blindly making the decision without reference to the correct approach. In fact, the PPG clearly states: *"You'll need to agree any mitigation or compensatory measures as part of the proposal. To make sure that mitigation measures are effective when granting planning permission you may have to consider"* imposing a planning condition or planning obligation. However, you cannot ensure any mitigation could be effective if you are not able to ascertain whether bats are in fact on site or not, hence it would be inappropriate to secure such surveys by way of condition.

It states under 'Making a Decision' that you can grant planning permission if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice – **Further survey not completed.**
- a wildlife licence is likely to be granted by Natural England – **unknown, as an assessment against the 3 legal tests cannot be carried out without further surveys.**
- Mitigation plans are acceptable – **none submitted as species surveys not carried out across whole of site.**
- Compensation plans are acceptable when mitigation isn't possible – **same, no mitigation plans presented because species surveys were not carried out.**
- review and monitoring plans are in place, where appropriate – **no plans to review.**
- all wider planning considerations are met – **approach completely contrary to PPG and BCT Guidance and the recommendations that further survey of the building is necessary according to the applicant's original submission and [redacted] recent report.**

We look forward to receiving confirmation that you have submitted a change to the recommendation in the report and you now recommend that the application is **REFUSED**.

I would be grateful if you would kindly confirm receipt of this email, noting the 'missing emails' point. Of course, I would be happy to discuss with you the evidence presented in the above email on in the attached as required.

Kind regards,

[redacted]

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From [redacted]  
Sent: 10 October 2019 00:33  
To: Charlotte White [redacted]

[redacted]

[redacted]

Dear Charlotte,

Straight to the point, it is come to light that the Applicant has failed to complete all relevant bat emergence surveys, and therefore the application cannot be determined before this information is submitted. The information can only be collected between May and August, and therefore it can only be provided next summer. Any decision before this is provided is likely to result in a successful legal challenge because the Council cannot be certain to have discharged its statutory duties. I set out the reasons for this below.

As set out in the email below, you may recall that we objected to the Applicant's proposals on the basis that there was a lack of ecology information (bat emergence surveys), and which are required in order for the Council to

discharge its responsibilities regarding protected species (I come to this again below). We were clear that the Council should have invalidated the application due to a lack of ecology information, given it would take many months before the information could be provided. We were disappointed that you did not do this, even though it was clearly contrary to your own Local Validation List. That said, we are where we are now, which brings me to the current point.

The original Preliminary Ecological Appraisal (PEA) Report (November 2019) indicated that they surveyed the site on 19 October 2018 by [REDACTED]. At Paragraphs 3.22 and Paragraph 4.10, it was identified that Buildings 1 (29 Herbert Grove), 3 (1&3 Herbert Grove), and 7 (public toilet block) had LOW value for roosting bats, and thus should be surveyed (see attached extracts). We indicated in our objection letter (see Page 8 of our Cover Letter dated 7<sup>th</sup> February 2019) that further bat emergence surveys will be required. Figure 3.1 indicates the Building 7 was of 'low' potential, along with Buildings 1 and 3 and therefore a survey should be carried out within the recognised period of 'May-August' according to the relevant guidance.

The Applicant has now submitted a revised PEA, dated 26<sup>th</sup> July 2019. A number of key points:

- Paragraph 2.12 confirms that a bat roost emergence survey was carried out on the evening of 29<sup>th</sup> May 2019 on Buildings 1 and 3 (1-3 and 29 Herbert Grove). No record was noted of any survey or examination of Building 7.
- Paragraph 3.22 confirms that the same Buildings 1, 3 and 7 are still assigned LOW value to roosting bats.
- Paragraph 5.8 indicates that *"The site was of limited overall value to protected species, with interest relating predominantly to the potential value of Buildings 1 and 3 (see Figure 3.3) to building – roosting bats, all of which were assessed as being of Low potentially according to current best practice guidelines for assessing building for their bat roost potential. Follow-up bat activity survey has been completed that confirms bat roost absence from both buildings."*

Again, there is no mention of a survey for Building No 7, the toilet block. The absence of emergence survey information is a substantial omission and which means the Council cannot be confident of discharging its responsibilities related to protected species until this survey is completed. I come to this again below.

- Indeed, the update PEA's Figure 3.3 sets out which building locations have value to roosting bats, and which require further surveys. The record on this drawing has been changed to refer to 'negligible' although the description in revised PEA Paragraph 3.22 remains the same as it was recorded in the original PEA (see attached extracts). It is wholly misleading change therefore, and its LOW value requires the requisite emergence surveys.
- We note that [REDACTED] was the same ecologist who undertook both the 19<sup>th</sup> October 2018 survey and the 29<sup>th</sup> May 2019 surveys, and is a Natural England Level 2 licenced bat worker, so capable of identifying relevant roosts.
- Importantly, the PEA was substantially updated in July 2019 without any change to Building 7's description and features, so this would strongly indicate that the potential for bat roosts remains.
- **A survey of the building is therefore required to be conducted between May and August (optimal) or April/September (sub-optimal) 2020 before the Council can determine the application.**
- [REDACTED] notes that in Paragraph 2.16 that the surveys recorded 2 bats foraging in the church yard and back gardens of Herbert Grove, and 30 minutes after sunset (which suggests they may have come from elsewhere). Indeed, as these did not emerge from Buildings 1 & 3 which were being surveyed at the time, their roosts are likely elsewhere. Noting the identified potential of Building 7, it is not unreasonable to conclude that these bats possibly came from the toilet block (which if the ecologist had surveyed it, they would have known for certain, but in the absence, it cannot be excluded given it has features that would support bat roosts). Approving its demolition of these buildings as part of this application without relevant emergence surveys would be an unreasonable risk to take.

Indeed, on the above basis, a precautionary approach regarding the presence of a bat roost in the toilet block is required. Indeed, this is set out clearly in 'Circular 06/05: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM'. It states at Paragraph 99:

**"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below."**

There are no exceptional circumstances in this scenario. There was clear evidence that a survey was required for Building 7, as identified in the original PEA (Paragraph 4.10). The building's description was not changed between the original PEA and revised PEA, despite there being numerous other changes between the two reports. The same ecologist, who is bat licenced, identified the potential. The omission of the survey by the Applicant's team is not an exceptional circumstance. The Council must therefore conclude that there remains a need for this survey, and the change to Figure 3.3 in the revised PEA must be treated as a substantial error. On the above basis, the Council cannot categorically state that they would be able to discharge its statutory obligations with respect to protected species and enable them to grant planning permission for the development **until they have evidence of the bat emergence survey for Building 7. The survey cannot be undertaken until next May at the earliest.**

The error arising from Figure 3.3 raises substantial questions regarding the PEA's accuracy and evidence as the change is not substantiated by the written evidence (so the reason for the change is unclear).

In this circumstance, the Council has no professional ecologists that can verify either PEA's data and has not sought consultation from Essex County Council's ecologists. It would be wholly prudent and appropriate of the Council to independently engage a certified ecologist to verify the whole of the evidence within the PEA given this substantial oversight between the two versions of the PEA (in the same way as the Council has now engaged a landscape architect following RPS's concerns). Any other action (i.e. granting of planning permission without the additional survey) would likely result in a legal challenge given the Council would have failed to comply with Circular 06/05, and which the Council would not be able to professionally defend.

Indeed, I have copied in both [REDACTED] ecologists, who I am sure would agree with [REDACTED] that there is a precautionary need to delay any decision until the Applicant has completed the relevant emergence in the correct period and verified its PEA data on the whole. Since Southend has no in-house ecologists, Essex County Council is the closest relevant statutory consultee.

Returning to my point that the application has insufficient information to determine it on ecology grounds, the Council must either refuse the application **now** due to a lack of information on ecology, or deem that the application is invalid and take action to force the application's withdrawal. It would be wholly unreasonable to hold an application in abeyance (although we'd argue there are many other reasons to refuse permission until this survey can be completed) given the blight that will occur to residents and land owners of the surrounding properties whilst the application remains on hold for what is another 7-8 months until the next survey season.

There are also question marks regarding ecology matters in EIA terms noting the outstanding risk to habitats.

I formally request that you provide me with a response as to what action the Council will take with regards to this substantial error, prior to making any decision on the application.

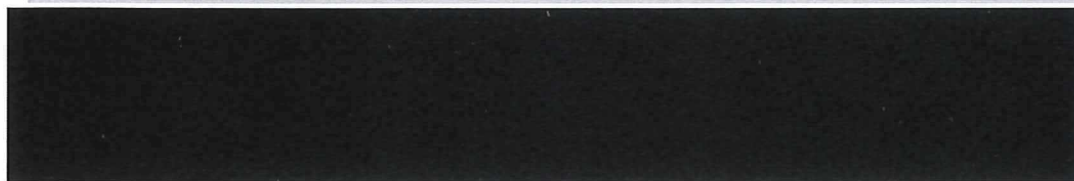
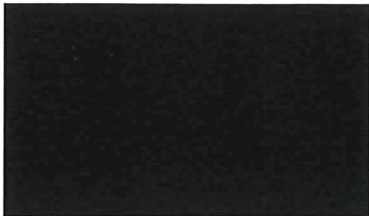
I will write you again shortly with our other objections to the EIA Screening Opinion Request and planning applications. However, as you'll see from those errors, and others we have already identified, it is becoming



increasingly clear that the Council may want to fully re-think its relationship with Turnstone Southend Ltd at the earliest opportunity, since such basic errors are being committed.

I would be willing to discuss this further as required.

Kind regards,



**Importance: High**

Dear Ms White,

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table: 'When to carry out a survey' and look for 'Bats (Summer Roosts): May to mid-September.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: "*Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must as soon as reasonably practicable notify the applicant that the application is invalid.*"

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:*

- *reasonable having regard, in particular, to the nature and scale of the proposed development; and*



- *about a matter which it is reasonable to think will be a material consideration in the determination of the application.*

*These statutory tests are set out in section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and article 11(3)(c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.*

*Paragraph: 040 Reference ID: 14-040-20140306”*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard). Indeed, if you follow the Government’s Protected Species Checklist for planning applications (see attached), you’ll see that you have to answer ‘No’ to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can’t do, obviously), or refuse the application. I take this opportunity to remind you that the damage or destruction of breeding or resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine (<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined.

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the consultation period that has just recently closed as the Council willingly engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my own experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council’s own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019. It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove. We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to site within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref: 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place. Indeed, the officer’s report for that application makes no reference to Biodiversity. As removal took place between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clear notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regs 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council

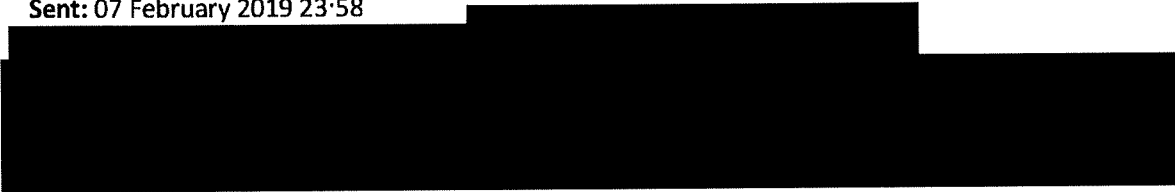
can confirm it has not taken actions to facilitate that development without due care to protected species. We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and Habitats Regulations.

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,



Sent: 07 February 2019 23:58

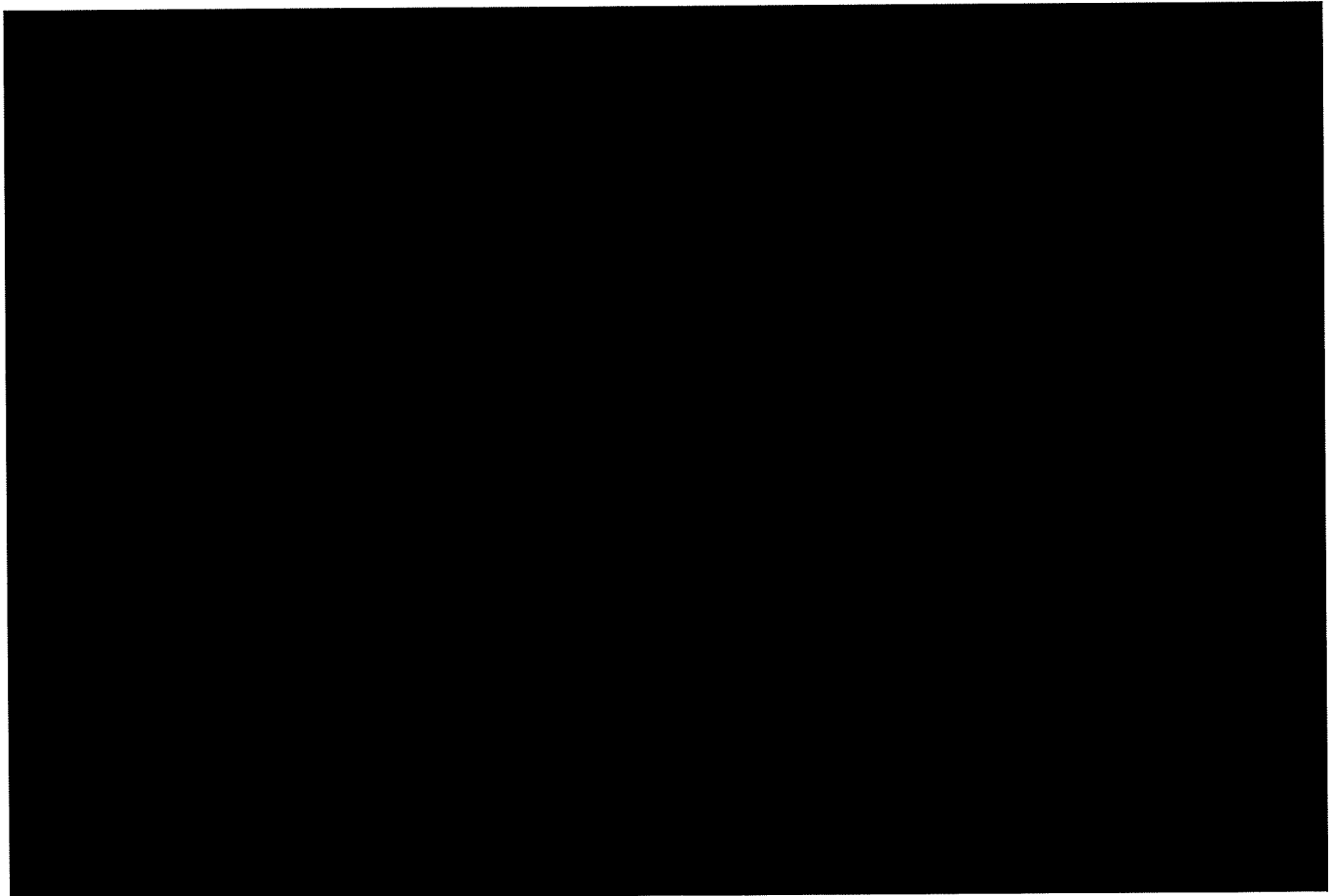


Dear Ms White,

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt

Regards,



## **Appendix 8: Heads of Terms for S106 Agreement**

## **Appendix 8: Heads of Terms for S106 Agreement**

The Section 106 contributions (as set out below), which will form part of the Section 106 Agreement that is to be completed pursuant to the relevant Grampian conditions, are considered to comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Should planning permission be granted, the following contributions are deemed necessary to make the scheme acceptable in planning terms, they are directly related to the development and are reasonably related in scale and kind to the development:

### **Highway Works**

- Prior to commencement of development, a requirement to enter into a Section 278 and Section 38 agreement in relation to the highway works shown on plan no. S019/P3056 rev. pl2 including inter alia a new access from Queensway/Chancellor Road, access restrictions on Lucy Road and Herbert Grove, extension of shared used path, road widening at Lucy Road and the provision of a segregated path through the site. The highway works must be completed prior to occupation.

### **Open Space and Landscaping**

- Prior to commencement of development, details of the open space and landscaping works shown on plan no. 739\_PL\_001\_P07\_General Arrangement Plan must be agreed with the Council.
- Requirement to provide the trees and soft landscaping within the open space areas shown on 739\_PL\_001\_P07\_General Arrangement Plan on adopted public highway land; and a requirement to maintain these areas for a period of 5 years from the completion of the soft landscaping/planting under the terms of a Section 278 agreement, during which time any planting must receive regular maintenance and watering with any trees and soft landscaping that die during this time being replaced.
- Requirement to provide the trees and soft landscaping within the open space areas shown on 739\_PL\_001\_P07\_General Arrangement Plan that are not on adopted public highway land; and a requirement to maintain these areas for a period of 5 years from the completion of the soft landscaping/planting, during which time any planting must receive regular maintenance and watering with any trees and soft landscaping that die during this time being replaced.
- Requirement to provide rain gardens within the open space on the adopted public highway land under the terms of a Section 278 agreement and maintain in perpetuity.
- Requirement for notice to be served to the Council at the end of the 5 year maintenance period and provision for the Council to confirm if the trees and soft landscaping are in good condition and have been maintained to the Council's reasonable satisfaction in accordance with the Maintenance Programme, which is to be agreed pursuant to a planning condition. If not, the maintenance period can be extended for a further five years. When the owner/developer has received written confirmation from the Council that the trees and soft landscaping have been satisfactorily maintained for the required period, the open space areas shown on 739\_PL\_001\_P07\_General Arrangement Plan on adopted public highway land shall thereafter be maintained by the Council and the open space areas shown on . 739\_PL\_001\_P07\_General Arrangement Plan that are not on adopted public highway land shall thereafter be maintained by the developer/owner.
- The above requirements will survive any adoption of public highway by the Council pursuant to an agreement made under section 38 or section 278 of the Highways Act 1980.

### **Traffic Regulation Order (TRO) Contribution**

- Prior to commencement of development, £15,000 is required to cover the cost of amending the signing (£3,000) and the lining (£6,000) and amendment to existing traffic regulation orders and/or implementation of any future traffic regulation orders (£6,000) in relation to the Development and adjacent roads.



- TROs to be in place prior to commencement of highway works approved under any Section 38 or Section 278 agreement.
- TROs must be implemented prior to occupation of the development.

#### **Travel Plan**

- Travel Plan to be approved prior to occupation of the development.
- The Travel Plan must include a communication strategy, which shall include the provision of individual travel packs to engage with future owners/occupiers of the commercial units of the development to ensure their compliance with the Travel Plan.
- A contribution of £4,000 per year for five years after the year of opening of the development for the Council's costs in respect of monitoring the Travel Plan implementation and operation. The first payment is to be made prior to occupation and then annually thereafter.

#### **Transport and Highway Works Monetary Contributions**

- The following contributions would be payable within six months of commencement of development:
  - A contribution of £35,000 for a Variable Message Sign (VMS) to be located on the internal access road that displays the availability of spaces and provides directions for the multi-storey and surface car parks. This sign must be integrated with the Council's VMS system.
  - Contribution of £150,000 for the temporary and fixed VMS signage for the construction period to be put towards upgrading the VMS signs, which must be integrated with the Council's system. This cost will cover the council's contractor installing four VMS signs and the associated electrical work and communications protocol.
  - Contribution of £25,000 for the Council to provide onsite wayfinding pedestrian and cycle signage that links to the existing town centre signage in order to direct people from the site to the main travel locations, High Street and seafront. This cost will cover the Council's contractor installing three wayfinding signs on the site.
  - Contribution of £25,000 for the Council to provide offsite pedestrian and cycle wayfinding signage that links to the existing town centre signage in order to direct people to the site from the main travel locations, High Street and seafront. This cost will cover the Council's contractor installing three wayfinding signs offsite.
  - A contribution of £46,000 for real time information screens to be provided within the site at key locations to inform of bus times and services for both Chancellor Road and the Travel Centre. This cost will cover the Council's real time contractor installing one indoor display in the hotel, one indoor display in the cinema and one double sided outdoor display located at the main entrance to the site and restaurants.
  - The Council will be granted access to the site as necessary in order to undertake the works set out above.

#### **S106 Monitoring Contribution**

- £10,000 towards the monitoring of compliance with the terms of the Section 106 Agreement payable prior to commencement.

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**Appendix 9: Applicant's Response to Heads of Terms of S106 Agreement**



**Appendix 10: Key Application Plans**





Notes:  
 1. This plan is submitted for information only.  
 2. The site is subject to a planning application for development.  
 3. All dimensions are approximate and subject to change.  
 4. All dimensions are in metres unless otherwise stated.  
 5. All dimensions are to the centre of the line.



Planning Issue

CMP Architects

**TURNSTONE**

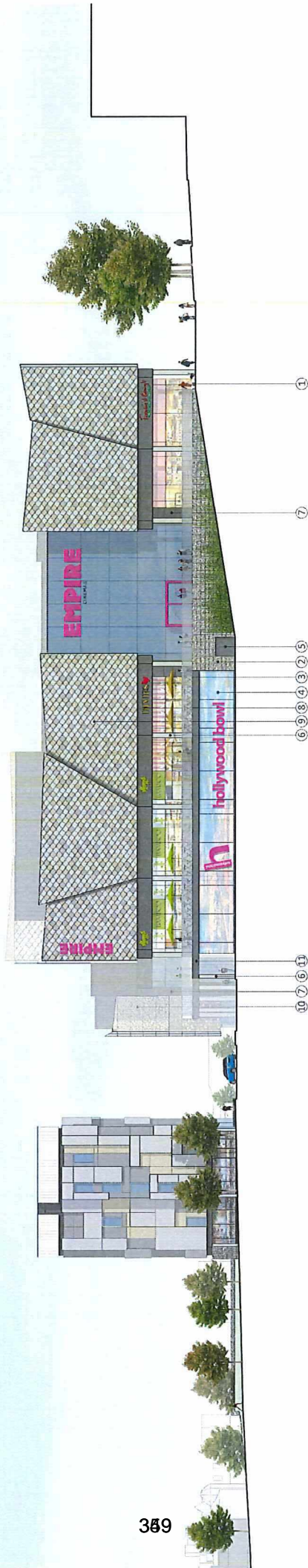
Project:  
 Sweeney Development,  
 Southside City-SEA

Proposed Site Plan

Drawn: P3006/AL/11000/03  
 Date: 07.12.2018  
 Revision: p12  
 Project: P3006  
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Red Line:  
 All elevations are to be shown in color. All elevations are to be shown in color. All elevations are to be shown in color.  
 All elevations are to be shown in color. All elevations are to be shown in color. All elevations are to be shown in color.



Drawing Date: 07/05/2019

PLANNING ISSUE

CMP Architects

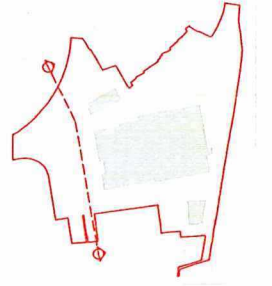
TURNSTONE

Project: Seaway Development, Southend-on-Sea

Title: Proposed North Elevations

Scale: 1:250 @ A1:1400 @ A3  
 Drawn: RN  
 Date: 07/05/2019  
 Project No: S019/P5020  
 File Name: P12

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- Material Schedule
1. Blue Engineering Brick
  2. Gabion Wall
  3. Composite Timber/Aluminium Doors
  4. SSG Glazing
  5. Composite Timber/Aluminium Doors
  6. Metal Cladding - Dark Grey
  7. Metal Cladding - Dark Grey
  8. Metal Cladding - Dark Grey
  9. Metal Shingle - Metallic Light Greys
  10. Metal Cladding - Dark Grey
  11. Metallic Cladding Facade to Walkway - Dark Grey

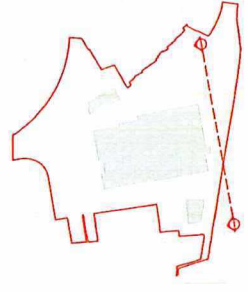
Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.



360

**Material Schedule**

1. Blue Engineering Brick
2. Glass
3. Glass Balustrading
4. SSG Glazing
5. Composite Timber/Aluminium Doors
6. Composite Clad Cladding
7. Metal Rainscreen Cladding - Dark Grey
8. Metal Cladding - Dark Grey
9. Metal Cladding - Light Grey
10. Perforated Metal Cladding
11. Metallic Cladding Fascia to Walkway - Dark Grey
12. Translucent Coloured Polycarbonate
13. Metal Gates



Revisions: See attached schedule to drawings. DP 07/05/2019  
 Rev 01: To provide adjustment to criteria and car park shading.  
 Rev 02/03/2019

Scale Bar - metres:



Drawn by: **PLANNING ISSUE**

**CMP Architects**

**TURNSTONE**

Project: **Seaway Development, Southend-on-Sea**

Title: **Proposed South Elevation**

Scale: 1:1000  
 Date: 07/05/2019  
 Rev: 01  
 Project: **plz**  
 Title: **S019/P3022**  
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 Subject to accurate site survey.

Note: Landscapes shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.





361

- Material Schedule**
1. Blue Engineering Brick
  2. Gabion Wall
  3. Glass Balustrading
  4. SGG Glazing/Timber/Aluminium Doors
  5. Grey Metal Clad Columns
  6. Grey Metal Clad Doors
  7. Metal Rainscreen Cladding - Dark Grey
  8. Metal Rainscreen Cladding - Metallic Light Greys
  9. Metal Rainscreen Cladding - Metallic Light Greys
  10. Perforated Metal Cladding

Notes: 1. To be used in conjunction with the following drawings: 02, 03, 04, 05, 06, 07, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

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Drawing Status:  
**PLANNING ISSUE**

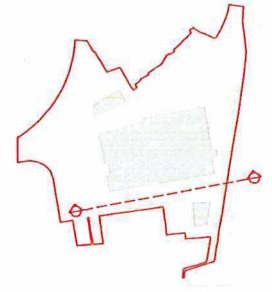
**CMP Architects**

**TURNSTONE**

Project:  
Seaway Development,  
Southend-on-Sea

Title:  
Proposed West Elevations

Drawn By: 1.10009A1/1400@A3  
Checked By: [Signature]  
Date: 07/05/2019  
Project No: S019/P3023  
Revision: p12



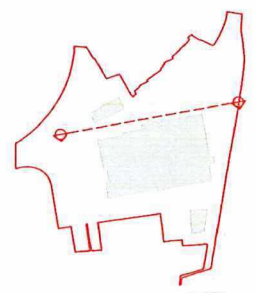
Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.



362

**Material Schedule**

1. Blue Engineering Brick
2. Glass Balustrading
3. Composite Timber/Aluminium Doors
4. SSG Glazing
5. Metal Cladding - Dark Grey
6. Metal Cladding - Dark Grey
7. Metal Rainscreen Cladding - Dark Grey
8. Metal Cladding - Dark Grey
9. Perforated Metal Cladding
10. Perforated Metal Cladding
11. Metallic Cladding Fascia to Walkway - Dark Grey
12. Translucent Coloured Polycarbonate



Notes: 1. Developmental adjustment to external details, etc. of 06.22  
 2. All dimensions are approximate to comply with car park planning  
 3. All dimensions are approximate to comply with car park planning



Drawing Status:  
**PLANNING ISSUE**

Client:  
**CMP Architects**

Project:  
 Setway Development,  
 Southend-on-Sea

Title:  
 Proposed East Elevation

Drawn By:  
 1-200@AL/1-400@A3

Checked By:  
 KJ

Date:  
 07/05/2019

Revision:  
**S019/P3021** **pl2**

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Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.









**Legend**

- D2 Use
- A3 / A5 Use in the alternative
- A3 / A5 / D2 Use in the alternative
- Service & Circulation
- Multi-Storey Car Park
- Star Core
- Hotel
- Plant
- Multi-Screen Cinema
- Public Toilets

Reference:  
 Part A12 Proposed Incorporation of Part 2, 3 & 4 of the  
 Planning (Listed Buildings and Conservation Areas) Regulations 2017  
 into the Planning (Listed Buildings and Conservation Areas) Act 1987



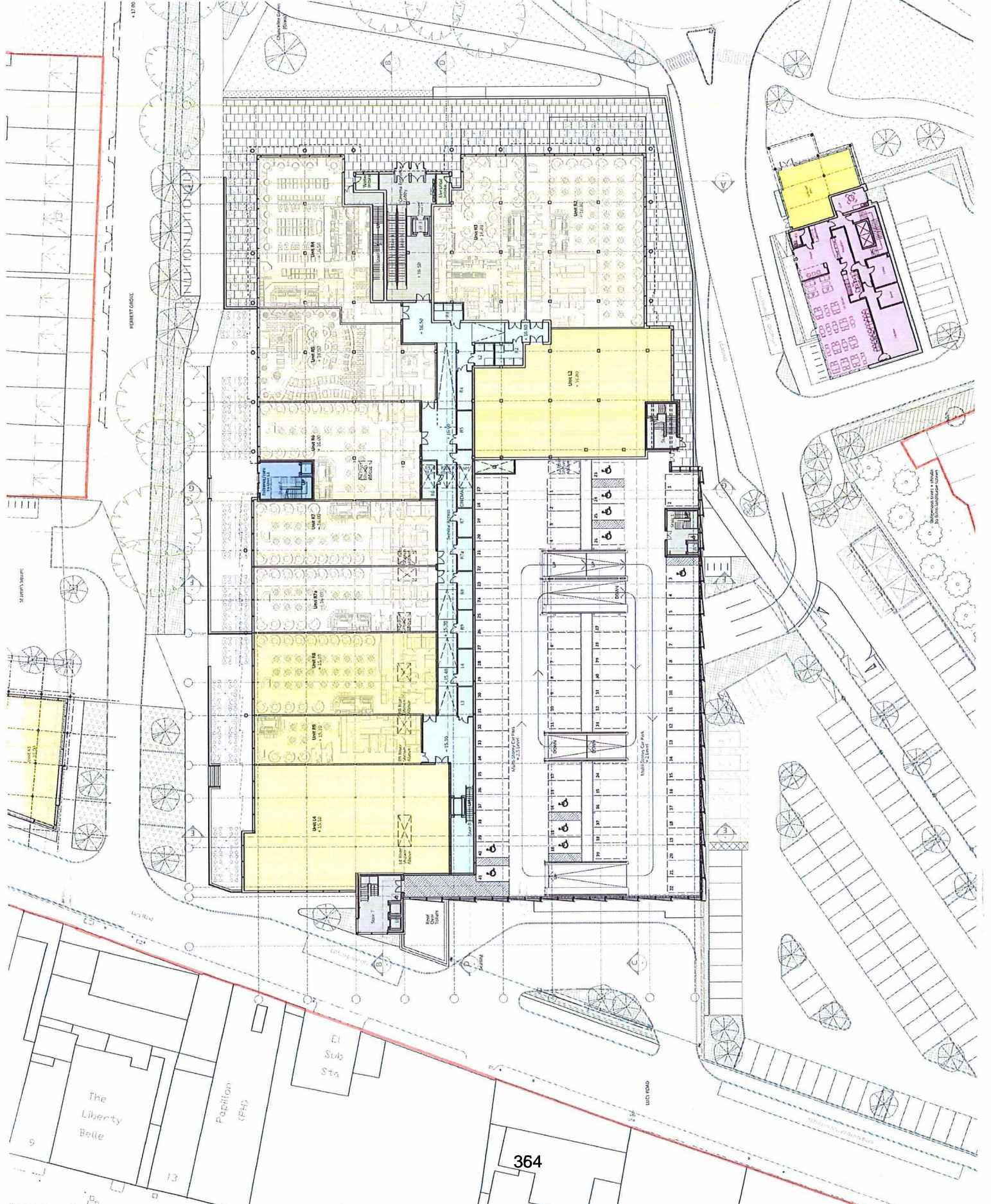
Planning Issue  
 CMP Architects

**TURNSTONE**  
 Architects

Project:  
 Sweeney Development,  
 Salford, M6 6PU

Title:  
 Proposed Ground Level Plan

Drawn By: **PL**  
 Checked By: **PL**  
 Date: **07/12/2018**  
 Project No: **S019 / P3008**  
 Drawing No: **pl2**  
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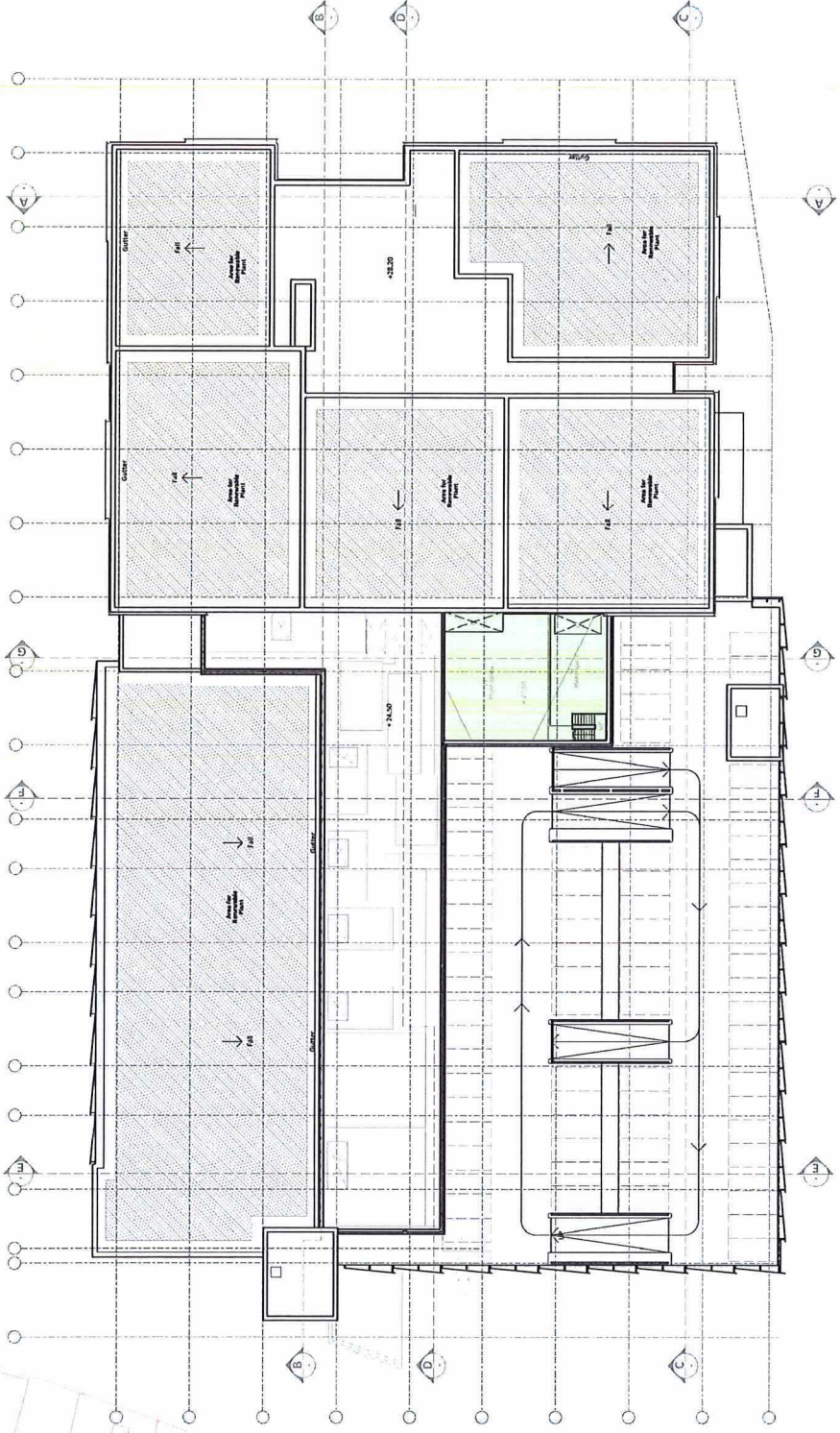






**Legend**

- DZ Use
- A3 / AS Use in the alternative
- A3 / AS / DS Use in the alternative
- Service & Circulation
- Multi-Storey Car Park
- Stair Core
- Hotel
- Plant
- Multi-Screen Cinema
- Public Toilets



Scale Bar - metres:  
0 10.0 20.0

Reviewed: **Turnstone** for the proposed management.  
Date: **07/12/2018**

Reviewed Drawing:  
**PLANNING ISSUE**

**CMP Architects**  
Consultants

**TURNSTONE**

Project:  
Sewsey Development,  
Sudbury-CP-36A

Title:  
Proposed Roof Level Plan

Drawn By:  
12350@A7/1500@A3

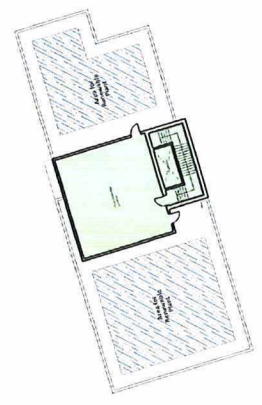
Checked By:  
KJ

Date:  
07/12/2018

Drawn No:  
S019/P3011

Drawn Title:  
PI1

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**Multi-Storey Car Park:**  
**394 spaces (incl 20 disabled >5%)**



Reference: Appendix to multi-storey car park arrangement, IR 2/07/19



Drawn at Scale: **PLANNING ISSUE**

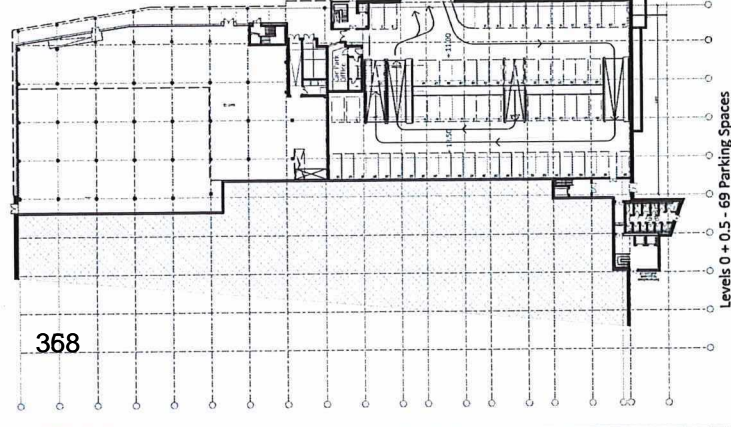
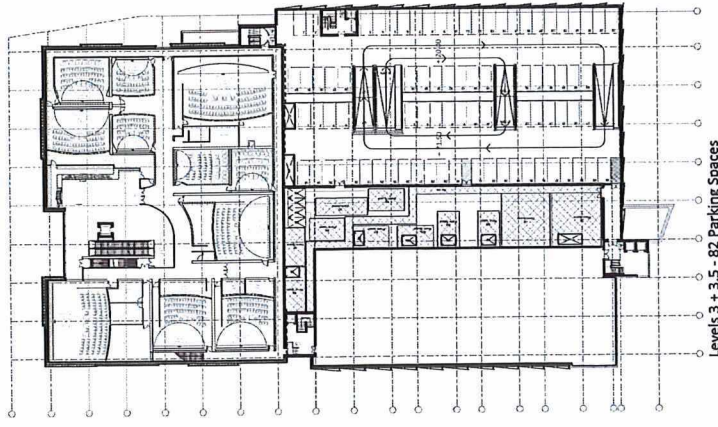
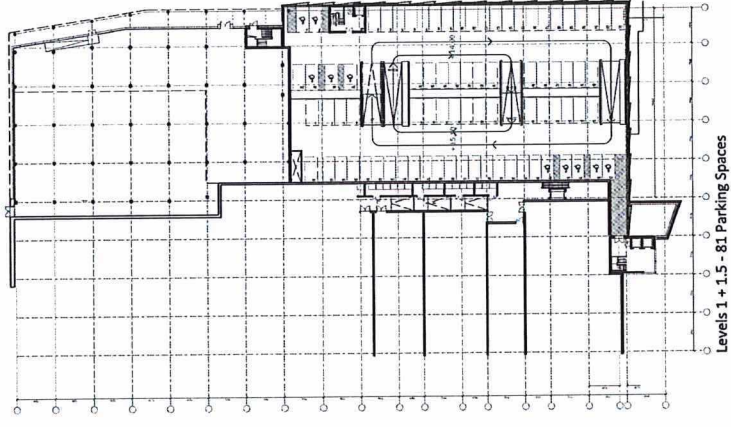
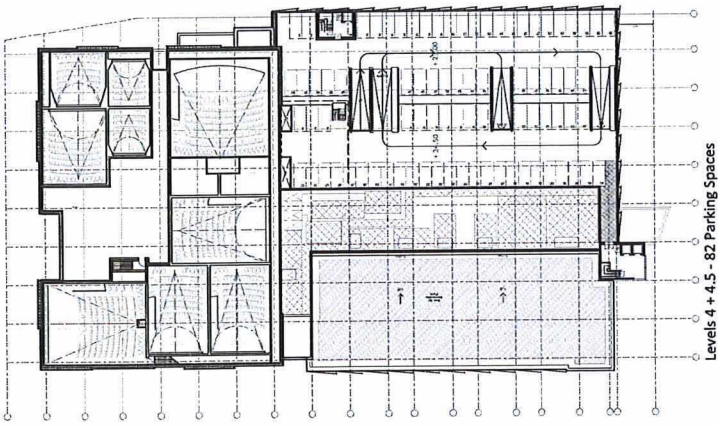
**CMP Architects**

**TURNSTONE**

Project: **Sewerway Development, Southfield-on-Sea**

Title: **Proposed Car Park Plans**

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 Date: **07.11.2018**  
 File Name: **S019/P3012**  
 Author: **pl**  
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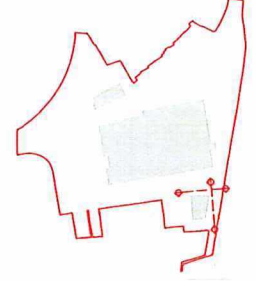
Proposed East Elevation



Proposed South Elevation

Material Schedule

1. Blue Engineering Brick
2. Gibson's Wall
3. SSS Glazing
4. SSS Glazing
5. Composite Timber/Aluminium Doors
6. Composite Timber/Aluminium Windows
7. Grey Metal Clad Columns
8. Terracotta/Clay-Derived Tiles
9. Metal Finishing panels
10. Metal Louvre panels



REVISIONS:  
 1. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 2. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 3. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 4. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 5. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 6. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 7. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 8. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 9. 10/11/2018: Updated to reflect the South West site location. 18.10.2018  
 10. 10/11/2018: Updated to reflect the South West site location. 18.10.2018

Scale Bar - metres:  
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PLANNING ISSUE

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TURNSTONE

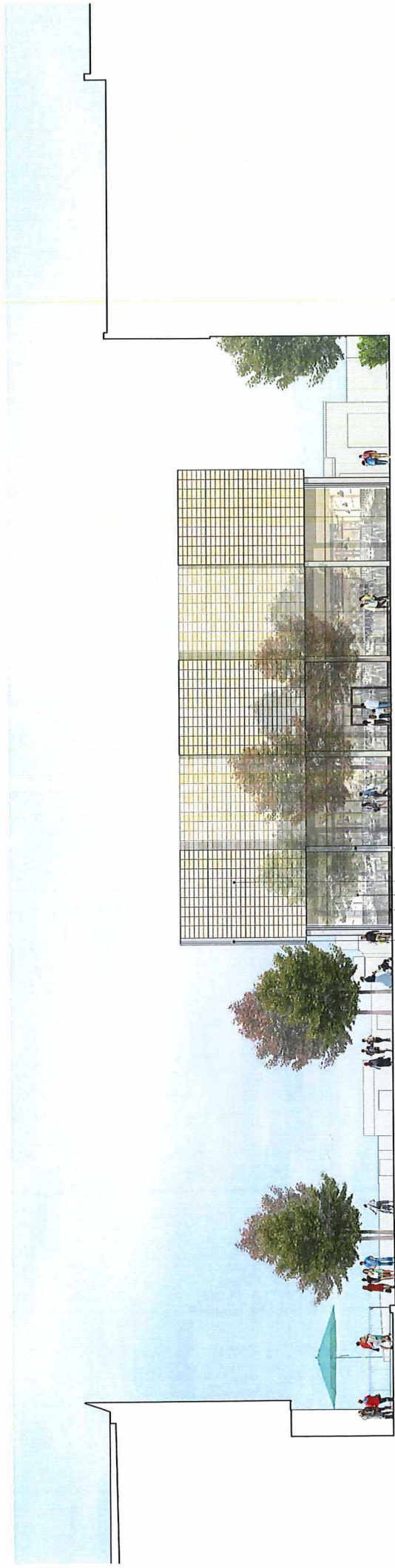
PROJECT:  
 Seaway Development,  
 Southend-on-Sea

TITLE:  
 Proposed East & South Elevations

DATE:  
 07.11.2018  
 DRAWN BY:  
 S019/P3027  
 CHECKED BY:  
 pl5  
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Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.





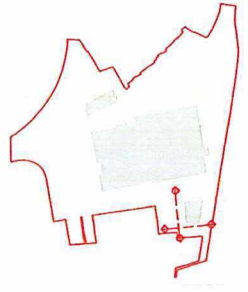
Proposed North Elevation



Proposed West Elevation

Material Schedule

1. Blue Engineering Brick
2. Glass Balustrading
3. SSG Glazing
4. Composite Timber/Aluminum Doors
5. Grey Metal Clad Columns
6. Terracotta/Clay-Derived Tiles
7. Metal Finishing



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 Date: 07/12/2018



PLANNING ISSUE

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TURNSTONE

Seaway Development, Sudbriem-on-Sea

Project No: 1100@A1/200@A3

Date: 07/12/2018

Scale: p15

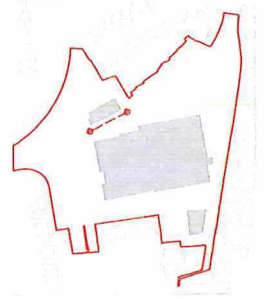
Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.



West Elevation (Front Elevation)

- Material Schedule
1. Blue Engineering Brick
  2. Gabbion Wall
  3. Glass Balustrading
  4. Composite Timber/Aluminium Doors
  5. Composite Timber/Aluminium Windows
  6. Grey Metal Clad Columns
  7. Grey Metal Clad Columns - Dark Grey
  8. Metal Cladding - Grey
  9. Metal Cladding - Grey
  10. Translucent Coloured Polycarbonate
  11. Grey Metal Cycle Shelter

Note: Landscapes shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.



Notes:  
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 The client is responsible for ensuring that all drawings are used in accordance with the relevant building regulations.



Drawing Issue:  
 PLANNING ISSUE

CMP Architects

TURNSTONE

Project:  
 Seaway Development,  
 Southend-on-Sea

Title:  
 Hotel - Proposed West Elevation

Drawn By: J. King  
 Checked By: J. King  
 Date: 23.05.2019  
 Project No: S019/P3034  
 Revision: p13  
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 Project No: S019/P3034





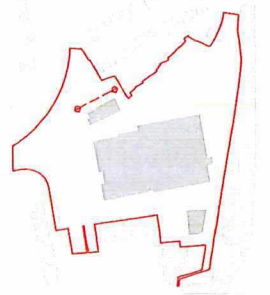


Fritted glazing up to 1.5m from finished floor level to first three window modules.

East Elevation (Rear Elevation)

- Material Schedule
1. Blue Engineering Brick
  2. Gable Wall
  3. Glass Balustrading
  4. SGG Glazing
  5. Composite Timber/Aluminium Doors
  6. Composite Timber/Aluminium Windows
  7. Grey Metal Chad Columns
  8. Metal Rainscreen Cladding - Dark Grey
  9. Translucent Coloured Polycarbonate
  10. Translucent Coloured Polycarbonate

Note: Landscape shown illustratively - refer to Place DP, Landscape Strategy and Site Plan for design and details.



See J22 for any missing details added to last 2 window modules across all floors.  
 For P11, additional breaks to offset cladding panels. RT: 29/06/2018



Drawn by: **PLANNING ISSUE**

Company: **CMP Architects**

Client: **TURNSTONE**

Project: **Sesweny Development, Suddien-Op-Sita**

Title: **Hotel - Proposed East Elevation**

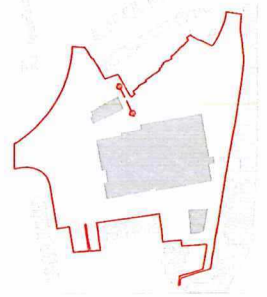
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 Date: **07/11/2018**  
 Project No: **S019/P3032**  
 Drawing No: **pl2**  
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- Material Schedule**
1. Blue Engineering Brick
  2. Blue Engineering Brick
  3. Glass Balustrading
  4. SSG Glazing
  5. Composite Timber/Aluminium Doors
  6. Composite Timber/Aluminium Windows
  7. Grey Metal Clad Columns
  8. Metal Rainscreen Cladding - Dark Grey
  9. Translucent Coloured Polycarbonate
  10. Translucent Coloured Polycarbonate
  11. Grey Metal Cycle Shelter

Note: Landscape shown illustratively - refer to Place DP Landscape Strategy and Site Plan for design and details.



South Elevation



Rev A21: Final window detail for elevation.  
 Additional panels to align cladding panels. Ref: 21.07.2019

Scale Bar - metres:  
 0 4.0 8.0

Drawing Stage:  
**PLANNING ISSUE**

**CMP Architects**  
 Client

**TURNSTONE**  
 Project  
 Seaway Development,  
 Southport-on-Sea

Title: Hotel - Proposed South Elevation

Drawn By: T.J.P.  
 Date: 07.11.2018

Rev No: 1  
 Rev Date: 07.11.2018

Drawn By: T.J.P.  
 Rev Date: 07.11.2018

Project No: **S019/P3033**  
 Revision: **plz**

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**Appendix 11: Southend Borough Council's EIA Screening Response, dated 31 October 2019.**

**Appendix 11: Southend Borough Council's EIA Screening,  
Response, dated 31 October 2019.**

Reference:	19/01706/RSE
Application Type	Request for Screening Opinion
Ward:	Milton
Proposal:	Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block, the erection of 3 no new buildings comprising a mixed-use leisure building with a cinema (3,590sq m of Use Class D2 floorspace), 3,256sq m of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sq m of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,615sq m of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park, an 2,961sq m 80 bedroom hotel (Use Class C1) with cafe, and, a 580 sq.m building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station (Request for Screening Opinion)
Address:	Seaway Car Park, Seaway, Southend-On-Sea SS1 3DS
Applicant:	Turnstone Southend Ltd
Agent:	Carter Jonas
Consultation Expiry:	N/A
Expiry Date:	8 <sup>th</sup> October 2019
Case Officer:	Charlotte White
Plan Nos:	S019/P3063, S019/P3057, S019/P3060, S019/P3061, S019/P3062, S019/P3058, S019/P3059, S019/P3006 Rev p12, S109/P3000 Rev p12
Recommendation:	<b>EIA NOT REQUIRED</b>

## 1 Site and Surroundings

- 1.1 The application site is irregular in shape and approximately 3.6 hectares in size and includes the Queensway Roundabout and its approach areas, Lucy Road and Herbert Grove. The site is located to the north of Marine Parade and to the west and north of Hartington Road. It is in use primarily as a public car park and in planning terms is brownfield or previously developed land. The site also includes areas of soft landscaping.

- 1 2 Known as *Seaways*, the majority of the site is identified as Opportunity Site (CS1 2) within the adopted Southend Central Area Action Plan (SCAAP) in which the proposed land use is summarised as for *'leisure, tourism, restaurants, cinema, hotel, public parking'* (see table 6 opportunities site) Paragraph 197 of the SCAAP states in relation to opportunity site CS1 2 *Seaways* *'Seaways, currently a surface level car park, presents a major opportunity for mixed-use development, contributing to the leisure, cultural and tourism offer of Southend Central Area through the provision of uses such as restaurants and cinema, car parking, public open and green spaces, improved access and connectivity through the creation of 'Spanish Steps' linking this opportunity site to the promenade of Marine Parade, as well as possibly a hotel or residential'*
- 1.3 Policy CS1 of the SCAAP states in relation to opportunity site CS1 2 *Seaways* *'the Council will pursue with private sector partners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include restaurants, cinema, gallery, hotel, public and private open spaces, and vehicle and cycle parking. The potential for residential development may also be explored'*
- 1 4 Part (d) of Opportunity site CS1.2 *Seaways* as included in Policy CS1 of the SCAAP states *'Design and layout solutions should allow for (d) addressing the need for replacement car parking provision in line with Policy DS5 Transport, Access and Public Realm'* Part 2 of Policy DS5 of the SCAAP states *'In order to support the vitality and viability of the SCAAP area the Council will: (a) maintain parking capacity within Southend Central Area at a level that supports vitality and viability and does not undermine the Central Area's ability to accommodate visitor trips, whilst enabling the delivery of relevant opportunity sites (b) Require any development proposals that come forward on key visitor car parking areas in the south of the Southend Central Area (as identified in Table 5 and Map 4) to ensure that there is no loss of key visitor car parking.'* The SCAAP states that there are 478 spaces at the Seaway car park. More recently the coach parking has been removed from Seaway car park and these spaces have been made into car parking spaces, therefore currently the Seaway car park has 661 car parking spaces.
- 1 5 Herbert Grove contains two storey properties which are a mix of guest house accommodation and dwelling houses. Immediately beyond Herbert Grove is the Church of St John the Baptist and the Royals Shopping Centre. At the southern end of Herbert Grove is a hoarded site that comprised a former ice cream factory building, which has now been demolished. To the south of the Royals Shopping Centre and behind this former factory is the Park Inn Hotel.
- 1 6 Marine Parade lies to the south of the site where land uses along the seafront are predominantly leisure related. East of the site is Hartington Road and Hartington Place which are predominantly residential streets containing terrace houses.
- 1 7 A small part of the site, within the south-western corner is located within the Clifftown Conservation Area. To the west of the site are locally listed buildings, Palace Hotel and St John's Church. To the south of the site there are a number of Grade II Listed Buildings including 1-3 Marine Parade, 4 Marine Parade, Hope

Hotel, Marine Parade and the Pier To the east of the site there are further locally listed buildings including The Cornucopia, 39 Marine Parade and The Falcon Public House, Marine Parade and further east is the Kursaal Conservation Area and the Grade II Listed The Kursaal, Eastern Esplanade

1 8 Land levels fall across the site broadly from north west to south east The site is extensively hard surfaced but has some areas of tree planting, mainly to the west on Herbert Grove and to the north of the car park The site area includes banked scrubland on the eastern boundary of the site next to the rear gardens of some of the Hartington Road properties.

1 9 Vehicular access and egress points for the site are at Chancellor Road to the north, Queensway to the north and Lucy Road/Hartington Road in the site's south eastern corner

1 10 The submitted reports and statements are

- Heritage Assessment
- Preliminary Ecological Appraisal
- Habitats Regulations Assessment Screening Report
- Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan
- Archaeological Evaluation Report
- Phase 1 Geotechnical and Geo-environmental Desk Study
- Transport Assessment
- Transport Assessment Addendum
- Air Quality Assessment
- Air Quality Memo
- Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy
- Landscape and Visual Impact Assessment
- Acoustic Report
- Addendum to Acoustic Report

## 2 The proposal

2 1 A screening opinion was previously issued by the Council under reference 17/01463/RSE for a similar proposal to redevelop the site with a mixed use development comprising a Class D2 cinema, other Class D2 uses, Class A3 restaurant uses and a Class C1 hotel and parking This previous screening opinion determined that the previous, similar scheme *'would not be likely to have significant effects on the environment pursuant to the Regulations Therefore an EIA is not necessary and an Environmental Statement, in line with the Regulations, is not required to be submitted with an application for the development described in the information submitted'*

2 2 In submitting this current screening request, the applicant states *'it is considered prudent to request a further screening opinion from the Council to ensure that the most up to date development proposals are screened under the Regulations and in light of the technical information that is now available since the Previous*

Environment Control Report

*Screening Opinion was undertaken*

- 2 3 The development to be considered is described as the comprehensive redevelopment of the site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block, the erection of 3 new buildings comprising a mixed-use leisure building with a cinema (3,590sq m of Use Class D2 floorspace), 3,256sq m of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sq m of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,615sq m of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park, an 2,961sq m 80 bedroom hotel (Use Class C1) with cafe, and, a 580 sq m building (Use Class A3, A5 or D2) Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity substation A total of 555 car parking spaces are proposed
- 2 4 The documents that have been submitted with the screening request include proposed plans, a site location plan, a screening opinion statement, acoustic report, flood risk assessment, surface water drainage and foul water strategy, addendum to acoustic planning report, habitats regulations assessment screening report, transport assessment, Phase 1 Geotechnical and Geo-environmental desk study, air quality assessment and air quality memo, tree survey, arboricultural impact assessment, transport assessment addendum, preliminary ecological appraisal, archaeological evaluation report, Heritage Statement and Landscape Visual Impact Assessment
- 2 5 The proposed development comprises three separate buildings, a stand-alone structure of 6 storeys for the hotel, a main leisure building of between 3 and 6 storeys housing a cinema, multi-level car park, other Class D2 uses and food and drink establishments (Class A3 and A5) uses and a smaller detached leisure/restaurant unit of 2 storeys
- 2 6 It is also proposed to provide areas of public realm including hard landscaped and soft landscaped areas of open space No's 1, 3 and 29 Herbert Grove and the existing toilet block in the south-eastern corner of the site will be demolished A total of 555 parking spaces are proposed in the form of a surface car park and a multi-level car park A substation is also proposed
- 3 Relevant Planning History**
- 3 1 18/02302/BC4M - Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and the existing toilet block, erect new buildings for mixed leisure uses comprising a cinema (3,590m<sup>2</sup> of Use Class D2 floorspace), 3,256m<sup>2</sup> of floorspace for other assembly and leisure uses (within Use Class D2) and a further 4,518m<sup>2</sup> of floorspace for uses falling within Use Classes A3 (restaurants and cafes), A5 (hot food takeaways) or D2 (assembly and leisure), an 80 bedroom hotel (Use Class C1), a new multi-storey car park, alterations to form new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure – pending determination

3 2 17/01463/RSE – Redevelopment of car park with cinema complex, hotel and retail units (request for screening opinion) – determined that EIA is not necessary and an Environmental Statement is not required

3 3 17/00902/DEM - Demolish former Rossi Ice Cream Factory (Application for Prior Approval for Demolition) – Prior Approval required and granted

#### 4 Representation Summary

##### 4 1 Public Consultation

Representations have been received from RPS on behalf of The Stockvale Group which have been considered in the formulation of this screening opinion. Copies of these representations are included within appendix 1 of this report but in summary, the main comments include

- The development is likely to be considered EIA development and requires the submission of an Environmental Statement. If this is not the conclusion of the Council then a Screening Direction from the Secretary of State will be requested.
- There are errors within the LVIA report and the approach fails to comply with the GLVIA guidance. The applicant acknowledges the development will give rise to substantial effects which are local and not significant but there is no test for that approach. The effects on receptors are significant and the development should be considered EIA development. Significant effects on views are likely. No justification for the different levels of impact identified in the 2017 screening opinion statement and the 2019 screening opinion statement. The level of overall effect has been underestimated.
- The development has the potential to adversely affect a number of heritage assets. The Heritage Assessment acknowledges that there will be considerable change to the Conservation Area which might well be classified as a significant effect. Concerns are raised regarding the adequacy of the Heritage Statement and RPS concludes an EIA is required on heritage impact grounds alone. A number of concerns are raised regarding the adequacy of the Heritage Statement submitted. Reference is made to Historic England's concerns and it is stated that the development has the potential to be visually overly dominant affecting the heritage assets.
- Overall effects on buried archaeology or built heritage are not set out.
- Concerns relating to the findings and conflicts between the LVIA and Heritage Assessment.
- There will be significant socio-economic effects. Economic Benefits Assessment and Addendums submitted with the application have not been included with the EIA screening request. There is a lack of information. The reports submitted with the application indicate that the benefits associated with the development are significant. This is not set within an EIA context but there is an argument that there are significant socio-economic effects.
- There could be a significant effect on the habitat of protected species. Absence of emergence surveys regarding bat roosts at the toilet block and fails to provide complete assessment of the potential risk to bats.
- Significant effect arising from air quality taking into account cumulative

Environment Control Report

effects. Concerns are raised regarding the adequacy of the technical air quality reports

- The Habitats Regulations Assessment fails to properly assess the impact of dog walking activities from hotel visitors, particularly in winter time, which could add pressure to the European designated sites. Report inadequately demonstrates how it concluded that there would not be significant effects. The information provided to screen out significant effects on European designated sites appear to be limited. The report does not consider air quality emissions from traffic. The conclusions are unclear. Not clear structured screening process has been followed
- Without recent information, it is unclear to what extent there is sufficient information available to consider the effects of the proposed development in terms of contamination and ground conditions
- There may be other effects which are significant.
- RPS acknowledges that other similar Schedule 2 leisure development may not have such significant receptors so close to the development and could be screened out but state that this is not the case here
- The developer has sought to underplay the potential effects without justification
- The Council has no professional landscape/townscape person employed
- Concerns raised regarding procedure and findings and outcomes of Council's previous screening opinion (17/01463/RSE)
- Historic England's concerns raised warrant a revisit of the information from an EIA context
- In terms of transport effects the information underplays the level of traffic generation, there are modal split and parking concerns and there is a lack of information/consideration. Traffic has not been considered appropriately. The proposals create an excess parking demand which cannot be accommodated on the Seaway car park
- Lack of information provided in terms of noise effects. The noise report submitted is limited and concerns are raised regarding its adequacy
- Lack of cumulative effects information
- Lack of information provided in terms contamination and ground conditions
- Lack of information in terms of watercourses and water quality
- Lack of information included in the tree survey/arbicultural impact assessment and concerns raised regarding the adequacy of the reports. Lack of information regarding TPO 6/2019. Report is contrary to Council's findings in respect of making the TPO
- Approach to health could be improved
- The demolition of the ice cream factory should be considered as part of the EIA considerations

#### 4.2 Historic England

From the information given, we consider that there appears to be a low likelihood of significant effects on the historic environment, and that EIA may not be required in relation to the historic environment. It is recommended, however, that an applicant seek confirmation from the relevant local authority Historic Environment staff for an informed local opinion of need.



#### 4.3 **Highways England**

Highways England have no comment on whether an EIA is required, but if it is (or is produced voluntarily), it should be compatible and consistent with the required Transport Assessment for the application site. The method of assessment for the EIA should be in line with Highways England's recommended method of drawing upon the information presented in the Transport Assessment that we expect to be produced for this site. Any assessment should be undertaken in accordance with the DfT Circular 02/2013 "*The Strategic Road Network and the Delivery of Sustainable Development*" outlining how Highways England will engage with developers including assessment requirements to deliver growth and safeguard the operation of the SRN. This includes a robust assessment of the vehicular impacts "with" and "without" development for the horizon year (full occupation) and the end of the Local Plan period to examine the net impact of non-consented development.

#### 4.4 **Natural England**

We can confirm that the application site is either located within, adjacent to or in close proximity to the following sites:

- Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI)
- Benfleet and Southend Marshes Special Protection Area (SPA)
- Outer Thames Estuary Special Protection Area (SPA)
- Benfleet and Southend Marshes Ramsar Site

Based on the material provided, it is our view that the proposed development is not likely to significantly affect the interest features for which they are notified.

Natural England does not hold information on the location of significant populations of protected species, so is unable to advise whether this proposal is likely to affect such populations to an extent sufficient to require an EIA.

Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result this application may raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character that may be sufficient to warrant an EIA. We therefore recommend advice is sought from your own ecological and/or landscape advisers, local record centre, recording society or wildlife body on the local landscape, geodiversity and biodiversity receptors that may be affected by this development.

#### 4.5 **Cadent**

Searches have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified. Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works. The apparatus that has been identified as being in the vicinity of your proposed works is:

- Low or medium pressure (below 2 bar) gas pipes and associated equipment (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)

Cadent have identified operational gas apparatus within the application site.  
ment Control Report

boundary This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land The application must ensure that proposed works do not infringe on Cadent's legal rights If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus

4.6 **SuDS Engineers**

The Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy (Mott MacDonald, December 2018, Document Ref. 325645/007/A) demonstrates that a suitable drainage strategy is identified in accordance with the requirements set out by the NPPF, Non-Statutory Technical Standards for SuDS and the Essex County Council SuDS Design Guide, therefore, any impacts on surface water flood risk and from the proposed development can be mitigated

4.7 **Essex Police**

There is no reference to physical security, Southend's Core Strategy, states that the Borough Council places a high priority on doing all they can to reduce crime, it further states that one of Southend's key objectives is to reduce the fear of crime As such, we would invite the developers to contact us with a view to discussing crime prevention through environmental design

5 **Relevant Legislation**

5.1 The Town & Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (which this screening opinion refers to as the 'Regulations')

5.2 EU Directive 2011/92/EU (as amended)

5.3 Paragraph 5 (5) of the Regulations states that where a relevant planning authority adopts a screening opinion under regulation 6(6), or the Secretary of State makes a screening direction under regulation 7(5), the authority or the Secretary of State, as the case may be, it must—

(a) state the main reasons for their conclusion with reference to the relevant criteria listed in Schedule 3,

(b) if it is determined that proposed development is not EIA development, state any features of the proposed development and measures envisaged to avoid, or prevent what might otherwise have been, significant adverse effects on the environment, and

ii (c) send a copy of the opinion or direction to the person who proposes to carry out, or who has carried out, the development in question

6 **The Regulations**

6.1 The Regulations apply to two separate lists of development project. 'Schedule 1 Development' for which the carrying out of an Environmental Impact Assessment (EIA) is mandatory 'Schedule 2 Development' requires the carrying out of an EIA if the particular project exceeds the thresholds and criteria in column 2 of

Schedule 2 or if any part of the development to be carried out is in a sensitive area and the development results in significant environmental effects. A sensitive area means any of the following

- (a) Land notified under Section 28(1) (Sites of special scientific interest) of the Wildlife and Countryside Act 1981
- (b) A National Park within the meaning of the National Parks and Access to the Countryside Act 1949
- (c) The Broads
- (d) A property appearing on the World Heritage List kept under article 11(2) of the 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage
- (e) A Scheduled Monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979
- (f) An area of outstanding natural beauty designated as such by an order made by Natural England under Section 82(1) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000 as confirmed by the Secretary of State.
- (g) A European site

- 6.2 The development described in the documentation submitted is not considered to be of a description identified in Schedule 1 of the Regulations
- 6.3 The site does not fall within a Site of Special Scientific Interest (SSSI), a National Park, the Broads, a European site, an Area of Outstanding Natural Beauty (AONB) and is not a World Heritage Site or Scheduled Monument and is not therefore classified as being within a sensitive area
- 6.4 The development described in the documentation submitted is considered to be of a description identified in Column 1 of Schedule 2 of the Regulations. The development described in the submission is deemed to fall within the description of 'infrastructure projects' and more specifically 'urban development projects' (paragraph 10(b) of Schedule 2) which includes "*the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas*"
- 6.5 The applicable thresholds and criteria for urban development projects as set out in column 2 of the EIA Regulations are
- (i) The development includes more than 1 hectare of urban development which is not dwellinghouse development, or
  - (ii) The development includes more than 150 dwellings, or
  - (iii) The overall area of the development exceeds 5 hectares
- 6.6 In this instance, the development proposals include more than 1 hectare of urban development which is not dwellinghouse development. The proposal is therefore Schedule 2 development and the development should therefore be screened in accordance with Schedule 3 of the Regulations to determine whether the project is likely to have significant effects on the environment and hence whether an Environmental Impact Assessment is needed. Paragraph 017 Reference ID. 4-017-20170728 of the National Planning Practice Guidance (NPPG) states 'If a proposed project is listed in the first column in Schedule 2 of the 2017 Regulations and exceeds the relevant thresholds or criteria set out in the second column (sometimes referred to as 'exclusion thresholds and criteria') the

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*proposal needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required' The NPPG goes on to states "Only a very small proportion of schedule 2 development will require an EIA"* (018 Reference ID 4-018-20170728

- 6 7 The 'Indicative Screening Thresholds' annex within the National Planning Practice Guidance outlines the following indicative criteria and thresholds, for development proposals within part 10(b) *'Environmental Impact Assessment is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature or there is a high level of contamination'* For *'sites which have not previously been intensively developed [the criteria and thresholds are], (i) area of the scheme is more than 5 hectares, or (ii) it would provide a total of more than 10,000sqm of new commercial floorspace, or (iii) the development would have significant urbanising effects in a previously non-urbanised area (e.g. a new development of more than 1,000 dwellings)'* The annex states that the key issues to consider for this type of development are the *'Physical scale of such development, potential increase in traffic, emissions and noise'*
- 6 8 Paragraph 057 (ID. 4-057-2070720) of the National Planning Practice Guidance states *"The figures in column 3 are indicative only and are intended to help determine whether significant effects are likely. However, when considering the thresholds, it is important to also consider the location of the proposed development"*
- 6 9 In terms of the above, the applicant states *'It is a matter of judgement as to whether the existing site should be assessed as having not previously been intensively developed. On the one hand the existing site comprises a formalised public car park of several hundred car parking spaces that is at times intensively used. However, it is also the case that the development proposals will introduce new uses onto the site in addition to the provision of car parking and will therefore be on a greater scale than the existing use.'* As such the indicative criteria has been applied as if the site were not previously intensively developed. In this respect, the development proposals would provide more than 10,000sqm of commercial floorspace and therefore exceeds the indicative thresholds. In this respect, it is noted that the NPPG states *'... it should not be presumed that developments above the indicative thresholds should always be subject to assessment'*
- 6 10 The Regulations and National Planning Policy Guidance advise that when screening Schedule 2 projects, a local planning authority must take account of the selection criteria in Schedule 3 of the Regulations. Not all of those criteria will be relevant in every case. Each case should be considered on its own merits in a balanced way which the Council has considered and applied as appropriate in this case. When the local planning authority issues its opinion they must state the main reasons for their conclusion with reference to the relevant criteria listed in Schedule 3. Where it is determined that the proposed development is not an Environmental Impact Assessment development, the authority must state any features of the proposed development and measures envisaged to avoid, or

prevent what might otherwise have been, significant adverse effects on the environment. Local planning authorities need to consider carefully how such measures are secured. This will usually be through planning conditions or planning obligations, enforceable by the local planning authority which has powers to take direct action to ensure compliance.

- 6.11 The selection criteria for screening Schedule 2 development identified in Schedule 3 of the Regulations are set out below. There are three sub categories: characteristics of the development, location of the development, and characteristics of the impact of the development.

#### **6.12 Schedule 3 Part 1 Characteristics of Development**

- 6.13 The characteristics of development must be considered with particular regard to -

- (a) the size and design of the whole development,
- (b) the cumulation with other existing and/or approved development,
- (c) the use of natural resources, in particular land, soil, water and biodiversity,
- (d) the production of waste;
- (e) pollution and nuisances,
- (f) the risk of major accidents and/or disasters, relevant to the development concerned including those caused by climate change in accordance with scientific knowledge;
- (g) the risks to human health (for example from water contamination or air pollution)

#### **6.14 Schedule 3 Part 2 Location of Development**

- 6.15 The environmental sensitivity of geographical areas likely to be affected by development must be considered, with particular regard, to-

- (a) the existing and approved land use,
- (b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground,
- (c) the absorption capacity of the natural environment, paying particular attention to the following areas-
  - (i) wetlands, riparian areas, river mouths,
  - (ii) coastal zones and the marine environment,
  - (iii) Mountain and forest areas;
  - (iv) Nature reserves and parks,
  - (v) European sites and other areas classified or protected under national legislation,
  - (vi) Areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered that there is such a failure,
  - (vii) densely populated areas,
  - (viii) landscapes and sites of historical, cultural or archaeological significance

#### **6.16 Schedule 3 Part 3 Types and Characteristics of Potential Impact**

- 6 17 The likely significant effects of the development on the environment must be considered in relation to criteria set out in paragraphs 1 and 2 above, with regard to the impact of the development on the factors specified in regulation 4(2), taking into account
- (a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected),
  - (b) the nature of the impact;
  - (c) the transboundary nature of the impact,
  - (d) the intensity and complexity of the impact,
  - (e) the probability of the impact,
  - (f) the expected onset, duration, frequency and reversibility of the impact,
  - (g) the cumulation of the impact with the impact of other existing and/or approved development, and
  - (i) the possibility of effectively reducing the impact
- 6 18 The proposal is considered and evaluated against these criteria, as far as they are relevant, below For the avoidance of any doubt this report does not consider the planning merits of the proposed development It deals solely with determining whether there is a need for an Environmental Statement to be submitted with an application for planning permission to carry out development of the nature set out in the information submitted An Environmental Statement will need to accompany an application where a development is likely to give rise to likely significant effects on the environment in the sense intended by the Regulations. Significant effects may be positive, neutral or adverse but they are likely effects on the *environment*
- 6.19 Assessment of the development against the criteria within Schedule 3 of the Regulations**
- 6 20 The development described in the information submitted comprises the demolition of existing buildings and the erection of three separate primary buildings a stand-alone 6 storey hotel, a main leisure building of between 3 – 6 storeys housing a multi-screen cinema, multi-level car park, other D2 uses and food and drink uses, and a smaller detached leisure/restaurant unit of 2 storeys and surface car parking Despite the suggestion from RPS that the development includes the demolition of the former Rossi ice cream factory, this has already occurred and is not regarded as part of the development for the purposes of this EIA screening but even if it were, it is not considered likely to lead to any different conclusion
- 6 21 No part of the site falls within a “sensitive area” as defined within Regulation 2(1) of the Regulations
- 6 22 Overall, the site comprises 3.6 hectares of previously developed land in an area containing a mix of uses and a predominantly urban character The existing site currently has a total of 661 surface parking spaces on site The nature and scale of the proposal is a larger-scale major development for planning purposes but in the context of the site’s overall size, its geographic position in relation to both the seafront area and Southend Town Centre, plus the disposition and scale of the indicated development within the site, including the provision of 555 parking

spaces, the overall impact of the proposal is considered to be no more than local in extent. The proposed development does not have a direct relationship or dependency on/with other major development sites in its vicinity including the Marine Plaza site to its south east.

- 6.23 RPS acknowledge similar leisure developments located on the edge of town centres may not have sensitive receptors and so EIA could be screened out. Thus, RPS appear to accept that merely the scale and size of development is insufficient to give rise to likely significant effects. It is the relative proximity of the site to what they describe as sensitive receptors that give rise, they opine, to the need for EIA.
- 6.24 This assessment for the need an EIA follows the structure presented in the applicant's request for a screening opinion statement and then considers any other outstanding issue.

#### *The Characteristics of the Development*

##### *The size and design of the whole development*

- 6.25 The site area measures some 3.6 hectares. The proposed development comprises the "Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block, the erection of 3 new buildings comprising a mixed-use leisure building with a cinema (3,590sq m of Use Class D2 floorspace), 3,256sq m of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sq m of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,615sq m of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park, an 2,961sq m 80 bedroom hotel (Use Class C1) with cafe, and, a 580 sq m building (Use Class A3, A5 or D2). Proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station."
- 6.26 A fairly detailed set of plans have been submitted with this screening opinion request. The development comprises 3 individual buildings of 2 to 6 storeys in scale comprising the main leisure building which includes a multi-level car park, a smaller stand-alone leisure/restaurant building and a purpose built hotel. The main vehicle access to and from the development would be via a new fourth arm on the Queensway roundabout. There is proposed to be a secondary vehicle exit out onto Lucy Road from the on-site car parking as well as pedestrian and cycle access into the site from the south. There is currently a shared-use path on the northern frontage of the site which is proposed to be extended to the north-west area of the site. The development has a contemporary design with a concept of a bold sculptural form.
- 6.27 The conclusions reached in the information submitted with the screening request states 'Whilst the development proposals are classified as a large-scale major development for planning purposes its physical size is reasonably limited.'

6 28 The characteristics of the development in terms of the size and design of the whole development, having considered the detailed plans and supporting documents submitted, the brownfield nature and, the Town Centre location of the site and the existing built form in the surrounding area, are such that whilst the development would be classified as a large-scale major development in planning terms, the size and design of the development is not considered likely to have any likely significant environmental effect in this regard in the sense intended by the Regulations. It is also noted that RPS acknowledge similar leisure developments located on the edge of town centres may not have sensitive receptors and so EIA could be screened out. As such RPS appear to accept that the scale and size of development itself is insufficient to give rise to likely significant effects. It is also noted that the site is allocated in the SCAAP as an opportunity site for a mixed use development to include the provision of leisure, cultural and tourism attractions, which may include restaurants, cinema, gallery, hotel, public and private spaces and vehicle and cycle parking with the potential for residential development in addition. Such an allocation would inevitably envisage a fairly large scale development on the site.

*Cumulation with other existing development and/or approved development*

6 29 The site is allocated as an opportunity site within the Southend Central Area Action Plan (SCAAP) that was adopted in 2018. Under Policy CS1 of the SCAAP, Opportunity site (CS1 2) Seaways is identified for a high quality, mixed use development including the provision of leisure, cultural and tourism attractions which may include restaurants, cinema, gallery, hotel, public and private open spaces, and vehicle and cycle parking.

6 30 Policy CS1 of the SCAAP identified a number of other opportunity sites within the central seafront policy area of the SCAAP which can be summarised as

- Opportunity site (CS1 1) Southend Pier which seeks sensitive redevelopment at both ends of the pier to provide a mix of cultural and leisure uses
- Opportunity site (CS1 3) Marine Plaza which seeks the comprehensive redevelopment of the site for high quality/iconic residential development with complimentary leisure and supporting uses
- Opportunity site (CS1 4) New Southend Museum, whereby the Council will promote the development of an exemplary, sustainable building that includes the new Southend Museum, gallery space, planetarium, conference/events spaces and associated café/restaurant

6 31 In terms of opportunity site CS1 1 above, Southend Pier is existing, and in use and therefore part of the existing baseline. The Pier is a Grade II Listed Building with an extensive planning history. As outlined above, whilst CS1.1 seeks the sensitive redevelopment at both ends of the Pier there are no extant permissions for this and no current applications in this respect.

6 32 In terms of opportunity site CS1 3, the Marine Plaza site was granted planning permission under reference 14/01462/FULM for the demolition of the existing building and erection of 282 self-contained flats in six blocks (comprising one 14 storey block, one 9 storey block, one 5/6 storey block, one 4/6 storey block, two



2/4 storey block), erection of 2,717sqm of commercial floorspace (A1, A3 and D2 uses), layout 318 underground parking spaces, landscaping, cycle/motorcycle/refuse storage and formation of vehicular access from Southchurch Avenue and Pleasant Road. The previous buildings on this site have now been demolished and a certificate of lawfulness for a proposed use or development is pending under reference 19/01685/CLE which seeks to determine whether the development permitted has been lawfully commenced within the requisite time period. The planning application under reference 14/01462/FULM was considered to constitute an Environmental Impact Assessment development under the now superseded 2011 Environmental Impact Assessment Regulations. An Environmental Statement was submitted with this application. The application was approved subject to a S106 Legal Agreement and subject to a number of planning conditions. The information submitted within the applicant's request for a screening opinion statement submitted states *'The two sites in question are discrete parcels of land and are separate from one another both spatially and physically. In particular vehicle access to the Marine Plaza site is divorced from the Seaway site and relate to materially different sections of the highway network. The delivery of one site does not rely upon the other. Similarly the residentially led nature of the Marine Plaza development will not exacerbate any of the potential environmental impacts of the development proposals at the Seaway site.'*

6 33 Opportunity site CS1 4 relates to a new Southend Museum. Planning permission was granted under reference 12/00317/BC3M to remove the existing bandstand shelters and street furniture, stabilise cliff slip area, install a retaining wall to the top of the slope and a retaining wall to foot of the slope and layout footpaths (Phase 1) and form a building within the cliff slope over seven levels, incorporating a museum, planetarium, restaurant, cafe, shop and underground parking with associated access, highways works and landscaping (Phase 2). The approved building was not constructed. There have been no subsequent applications for this site and so no cumulative issue arises.

6 34 The local planning authority consider that the proposal is materially separated both physically and spatially from the these opportunity sites and other existing and extant schemes within the wider surrounding area and which benefit from express planning permission and is of a different nature and character to the mainly C3 use of the Marine Plaza site. The Habitats Regulations Assessment Screening Report submitted with this screening request includes consideration of cumulative sites at appendix 1. It is apparent from this document that the most potentially relevant site is the Marine Plaza development located to the south-east of the site. In terms of the Marine Plaza development, the Council has considered the information and concur that the two sites are discrete parcels of land that are separated from one another both spatially and physically and the two sites have separate vehicular accesses. Both sites constitute stand-alone developments although the cumulative impact of both needs to be considered. Because Marine Plaza is a largely C3 use with wholly separate access arrangements it does not add to the significance of any effects that the proposal will have. As set out in the LVIA, it is apparent that there are some viewpoints whereby both schemes would be visible, for example from views east of Marine Esplanade and the Seafront, views east from Southend Pier and the Thames Estuary, views west from Eastern Esplanade, Southchurch Beach and points

further east and from some taller buildings to the north. As such there are some viewpoints where both developments will be visible. However, these are assessed in the LVIA submitted and given the urban character of the existing area and the nature of these views, the local planning authority consider the cumulation of the impact of the development when combined with the Marine Plaza development is unlikely to have significant environmental effects in this respect.

- 6 35 The HRA cumulative sites appendix considers a number of other opportunity sites outlined in the SCAAP in addition to the Marine Plaza site and those outlined above. It includes the Better Queensway Project (opportunity site PA4 1), but notes that this site has no consent. The local planning authority notes that no planning application has been submitted for Queensway to date. As set out in the SCAAP, The Queensway Policy Area is dominated by a swathe of 1960s residential tower blocks, this existing situation is part of the existing baseline. The HRA considers the opportunity site at Tylers Avenue (PA7 1). However, the LPA note that no planning application has been submitted for this opportunity site. It considered opportunity site CS 14 the new Southend Museum proposals. The information submitted indicates that the consent for this development has lapsed. The LPA recognise that no new application has been submitted for the redevelopment of this site to date (as outlined above).
- 6 36 The HRA also considers a number of sites which have planning permission including the Former College Building, Carnarvon Road (15/00803/BC4M). Phase 1 of this development has been completed which comprises the provision of 56 flats. Phase 2 is yet to be commenced which comprises 102 flats. This site is a significant distance from the Seaways site, located over approximately 1km to the north of the Seaways site and even if considered cumulatively with the proposed development is unlikely to result in any likely significant effects on the environment.
- 6 37 The HRA appendix considers Prittle Brook Industrial Estate (reference 14/00943/FULM) which includes 231 dwellings and a hospice facility. The housing has been substantially built. Since the determination of this application, a new application for the Hospice has been approved under reference 18/00952/FULM. This development is underway. A subsequent application has also been approved on this part of this wider site for a new supermarket under reference 18/001963/FULM. This site is located approximately 2.5km to the north of the Seaways site and even if considered cumulatively with the proposed development is unlikely to result in any likely significant effects on the environment.
- 6 38 10 Fairfax Drive (reference 17/01115/FULM) for 92 self-contained flats. A subsequent permission was granted under reference for 18/00810/FULM for an amended scheme of 92 flats. This site is located approximately 1.9km to the north of the Seaway site. This development is currently being undertaken and even if considered cumulatively with the proposed development is unlikely to result in any likely significant effects on the environment.
- 6 39 The Esplanade for 49 flats and ground floor restaurants (17/02266/FULM) which is located some 450m to the west of the site on the Seafrost and even if

considered cumulatively with the proposed development is unlikely to result in any likely significant effects on the environment

6 40 The other cumulative site considered include

- Crown Secretarial College Sutton Road (16/01503/FULM) for 44 flats and commercial floor space This site is located approximately 1.5km to the north of the Seaways site
- 1307 London Road (16/01780/FULM) for 16 flats This site is located approximately 4.5km to the north-west of the Seaways site
- Rileys, Leigh Road (16/02045/FULM) for 22 flats, located approximately 4km to the west of the Seaways site and more recently 18/00484/FULM for 21 flats at this site
- 177 London Road (16/02281/FULM) for 16 apartments and 2 commercial units located approximately 1.2km to the north-west of the Seaways site
- Evolution Gym, London Road (17/00563/OUTM) for 30 flats and 1 commercial unit located approximately 3.5km to the north-west of the Seaways site Reserved matters have since been approved for this development under reference 17/02183/RESM
- Garages, Rochford Road (17/00680/BC3M) for 12x flats and 3x dwellings located approximately 3.5km to the north of the Seaways site
- Chalkwell Lodge, Grosvenor Road (17/01017/FULM) for 16 flats located some 2km to the west of the Seaways site
- Grand Hotel (17/01464/FULM) for a mixed use with bar, health club, restaurant and 18 flats This site is located approximately 4km to the west of the Seaways site
- 69-71 High Street (17/01663/FULM) for a change of use to 10 flats and retail use This site is approximately 300m to the north-west of the Seaways site
- Shoebury House, Ness Road (18/01141/OUTM) for 10x dwellings No reserved matters application has subsequently been submitted. This site is located approximately 4km to the east of the Seaways site
- Harcourt House and Northfield House Baxter Avenue prior approval (18/01506/PA3COU) for 74 flats More recently planning permission has been granted for an additional 9 flats on this site (reference 19/00723/FUL) This site is located approximately 1.3km to the north of the Seaways site
- Car park at 27 Victoria Avenue (18/02151/FULM) for 217 flats and commercial units – planning permission has now been granted and development has started This site is located approximately 1km to the north of the Seaways site
- 25 Roots Hall Avenue (19/00552/FULM) for 12 flats This permission was granted This site is approximately 1.8km to the north of the Seaway site
- 277 Prince Avenue (19/00086/FULM) for 12 flats and 8 dwellinghouses This application was refused
- Crowstone Prep School (19/00534/FULM) for 18 flats This application was refused
- Rear of 95 Prince Avenue (19/00565/FUJLM) for 11 flats This application was refused A subsequent application of 8 flats under reference 19/01376/FUL was also refused
- Arlington Rooms 905 London Road (19/00759/OUTM) for 10 flats This

application was withdrawn

- Fossetts Farm (17/00733/FULM) for a football stadium, residential units, hotels and retail and leisure units This application is pending determination
- Roots Hall Stadium (18/01645/RSO) This is an application for an EIA scoping opinion
- 10 Clieveden Road (16/01757/FUL) for a 7 room hotel This site is located approximately 1.9km to the east of the Seaway site
- 9 Elmer Approach (18/00341/OUTM) for 108 hotel room Additional applications for this site include 19/00666/PA3COU for 17 flats and a number of prior approval applications, the most recent being for a change of use of offices to 119 flats (18/01873/PA3COU) This site is located approximately 450m to the north of the Seaways site
- The Ship hotel (19/00757/FUL) for a 14 bed hotel This permission was granted There is an application pending under reference 19/01540/FUL to extend and convert the building into a 15 bed hotel This site is located approximately 4.5km to the west of the Seaways site

6 41 The cumulative assessment submitted then considers a number of allocations and applications within Rochford District Council.

6 42 A number of these permissions above are of a relatively small scale and the majority of these permissions are significantly removed from the application site, with intervening built form Some of these applications are still pending determination Given the size, scale, locations and approximate distances of these consented schemes, as outlined and summarised above, and the location of the site with intervening built form, it is considered that the cumulation of the Seaways development with other existing and/or approved development within the immediate and wider surrounding area is unlikely to result in any significant environmental impacts.

6 43 The existing site is, in the main, used as a surface car park The site is located within the Town Centre and is located to the east of the Town Centre Primary Shopping Area as defined in the Development Management Document's Proposals Map, and is within the Southend Central Area The SCAAP's vision is for the Southend Central Area to be a prosperous and thriving regional centre and resort The Southend Central Area is a fairly large area including the Town Centre and Seafront, extending north, including Victoria Avenue and Sutton Road, west to include Western Esplanade and east to include Eastern Esplanade The Town Centre and Southend Central Area include dense areas of development and tall buildings. Generally the surrounding area is mixed with residential, commercial and leisure uses in the vicinity. Given the town centre location of the site, whereby a large number of people are already attracted to the area for amongst other uses, leisure purposes and given the relatively limited size and scale of the proposal in this context, it is considered that the development is unlikely to result in any significant environmental impacts alone or in cumulation with any other existing development in the area, in the sense intended by the Regulations

6 44 The information submitted with the screening report states '*in any event, any cumulative impacts from other development are likely to be confined to*

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*transportation (highway capacity and air quality), landscape and visual impact, and ecology/recreation effects on designated sites only. It is not considered there are any committed developments in the vicinity of the site that would lead to noise, heritage or other cumulative impacts that could be regarded as significant.'*

6 45 Given the above considerations and taking account of the findings, conclusions and recommendations contained within the suite of technical supporting information and reports submitted with this screening request and as outlined in other sections of this report, it is considered that the development is unlikely to result in significant environmental impacts in combination with other existing and approved development in the area in the sense intended by the Regulations

6 46 That said, it is considered that the application and supporting documents submitted should take into consideration the Marine Plaza scheme in landscape and visual terms.

*The use of natural resources, in particular land, soil, water and biodiversity.*

6 47 The information submitted with this screening request states '*The development as a whole will deliver a sustainable form of development that minimises the use of natural resources during its construction and operational phases. The site is previously development land and therefore is not agricultural land suitable for food production. Equally the site does not fall within a mineral safeguarding area. The development proposals will not consume any resource of biodiversity value in any significant way. Similarly, once operational the development proposals will not consume substantial or unusual amounts of water.*'

6 48 Given the characteristics of the development, including that the proposal seeks to utilise previously developed land within a town centre, urban area which is used, mainly as a surface level car park currently and does not result in the loss of agricultural land, or the best and most versatile agricultural land and soil, and will not consume substantial or unusual amounts of water or result in the loss of any significant resource of biodiversity value in itself, it is considered that the development is unlikely to have a significant impact on the environment in the sense intended by the Regulations in this respect

6 49 Given the information provided and the nature and location of the existing site and the nature and scale of the proposed development, the local planning authority considers that the development would not have a likely significant impact in terms of use of natural resources

*The production of waste*

6 50 The information submitted in this respect states '*waste will be collected in appropriate locations, and recycling will be encouraged through the provision of recycling facilities in accordance with the Council's current and standard procedures. The proposed uses will not generate unusually high volumes of hazardous types of waste and therefore this is unlikely to be regarded as significant.*'

- 6 51 Given the information provided and the type, nature and scale of the proposed development, and subject to the imposition of planning conditions requiring the submission of a waste and recycling management strategy and construction management plan, the local planning authority considers that the development is unlikely to have a significant impact in terms of the production of waste, in the sense intended by the Regulations

*Pollution and nuisances*

- 6 52 In terms of pollution from traffic, the information submitted states *'Traffic will be generated by the proposed uses. The traffic generation of the proposed development will not however cause significant levels of pollution or nuisance'* In this respect, the application has been submitted with a Transport Assessment and transport Assessment Addendum and Air Quality Assessment and Addendum
- 6 53 The information submitted states *'The proposed development, once fully operational, is predicted to result in increases in two-way Annual Average Daily link flows of 0.25% - 4% of the local highway network. Therefore the predicted increase in vehicle trip generation to/from the site does not trigger the need for a detailed environmental impact assessment according to the IEMA Guidelines. It is considered that the environmental traffic impact of the proposed development will be minor/negligible.'*
- 6 54 Whilst the development could result in an increase in traffic drawn through the Air Quality Management Area (AQMA) at the Bell Junction, it is noted that the information submitted states *'The air quality assessment found that the increases in annual mean concentrations at these receptors would be very small – between 0.1 and 0.2 micrograms per cubic meter. Such impacts are classed as 'negligible.'* As such, subject to the imposition of standard planning conditions e.g. requiring dust mitigation the local planning authority consider that the development is unlikely to have a significant impact on the AQMA in terms of pollution and nuisances and is therefore unlikely to have a significant effect on the environment
- 6 55 The information submitted with the screening request summarises that 5 residential receptor properties located within the Air Quality Management Area (AQMA) were considered. The AQMA is located at the Bell Junction, approximately 2.5km to the north west of the site. These properties were chosen because they are the nearest roads within the AQMA that would experience changes in traffic with the development. The information submitted states *'The air quality assessment found that the increases in annual mean concentrations at these receptors would be very small – between 0.1 and 0.2 micrograms per cubic metre. Such impacts are classified as 'negligible.'* It is also stated that mitigation is proposed to cover the construction (e.g. dust mitigation) and operational phases (e.g. travel plan and sustainable transport measures and incentives)
- 6 56 Given these conclusions, given the town centre location of the site with good access to public transport and given the nature and scale of the proposed development, subject to the subsequent imposition of planning conditions

requiring specified mitigation measures such as a construction management plan, to include dust mitigation measures, the local planning authority considers that the development would be unlikely to have any significant impact in terms of pollution and nuisance as a result of air quality issues

- 6.57 The information submitted also indicates that it is proposed to include improvements to the site access and parking arrangements, with mitigation including variable message signs, wayfinding signage and a travel plan. Further mitigation is proposed for the temporary impacts during the construction period which includes a displaced parking strategy and/or construction management plan. In this respect the information submitted concludes *'Through the implementation of a Displaced Car Parking Strategy it is considered that the displaced car parking can be managed during the construction period and therefore the highway impacts are unlikely to be significant for the vast majority of the time (weekdays). During peak seasonal periods the displaced demand is more substantial but again can be accommodated in a range of existing seafront and town centre car parks'*
- 6.58 RPS raise concerns relating to excessive parking demand that cannot be accommodated at Seaways, displaced vehicle movements and the subsequent environmental effects in this respect. The local planning authority recognises that the construction phase of the development will generate construction traffic and would displace existing visitor parking. It is anticipated that displaced visitor parking will be mainly accommodated within the Gas Works car park which has been granted temporary planning permission to be used for parking under reference 18/00834/BC3M. It is considered that this displacement and additional construction traffic would be for a limited, temporary time frame of some 12-18 months and could be mitigated with, amongst other matters, a construction management plan and displaced parking strategy which could be secured via planning conditions and/or S106 legal agreements as necessary. Taking into account such mitigation, whilst RPS concerns have been taken into account, it is considered that the development is unlikely to have a significant environmental effect due to pollution and nuisance as a result of transport, access and parking, in the sense intended by the Regulations.
- 6.59 The proposal seeks to alter the access into the site with a new arm to the Queensway roundabout proposed. This screening opinion request has been submitted with a Transport Assessment and a Transport Assessment Addendum. In terms of parking, the Transport Assessment's conclusions include *'the proposed car parking provision will meet the typical demand generated by the development along with the typical demand currently generated as an existing town centre/ seafront car park. During peak holiday periods, corresponding to about 40 days a year and only for up to 6 hours on these days, some of the combined parking demand for the existing car park and the proposed development would need to be met by other town centre car parks, but these have adequate capacity to accommodate this demand. The development proposes a package of measures to mitigate the impact on car parking'*. The Transport Assessment considers the sustainable location of the site and its alternative sustainable transport options available. The Transport Assessment considers trip generation and modal split using TRICS database and other information. A junction capacity assessment has been undertaken and a Travel

Plan would be utilised. The Transport modelling undertaken show that on an overall junction and network level the development is predicted to have little impact on the operation of the modelled network. The development access from Hartington Road does result in a worsening of the operation at the junction with Marine Parade, the modelling shows that a maximum of an 18 second delay for the left turn from Hartington Road is predicted for the Friday PM peak and a maximum of a 5 second delay for the Marine Parade eastbound link with Southchurch Avenue. However, the modelling concludes that there is predicted to be no significant capacity problems as a result of the proposed development for the Friday and Saturday peaks. Given these findings, the local planning authority consider that the development proposed is unlikely to have any significant environmental effects in this regard.

- 6 60 In terms of traffic impacts, the information submitted includes transport modelling which concludes that there is predicted to be no significant residual capacity as a result of the development for the Friday and Saturday peaks. The information submitted with the screening request states *'The proposed development, once fully operational, is predicted to result in increases in two-way Annual Average Daily link flows of 0.25% - 4% of the local highway network. Therefore, the predicted increase in vehicle trip generation to/from the site does not trigger the need for a detailed environmental impact assessment'*. Whilst RPS concerns are noted and have been considered, given the information provided and subject to the submission of a Transport Assessment, including VISSM modelling with any planning application and subject to planning conditions and/or S106 legal agreements, the local planning authority consider that the development proposals would not be likely to have a significant environmental effect based upon the predicted increases in traffic.
- 6 61 The local planning authority consider that the site is located in a sustainable location within walking distance of the seafront, town centre, travel centre for buses, the Chancellor Road bus stop and rail stations. Conditions can be imposed to encourage sustainable transport choices such as the provision of real time information screens and imposition of a travel plan. Subject to the imposition of planning conditions and a S106 legal agreement, the local planning authority consider that the development proposals would not have a likely significant environmental impact in the terms of pollution and nuisance as a result of transport, traffic, parking and access in the sense intended by the Regulations.
- 6 62 In terms of contamination a Phase 1 Geotechnical and geo-environmental desk study has been submitted. The information submitted within the screening opinion statement submitted states *'the risk of contamination at the site is extremely low'* and this can be managed by the imposition of standard conditions so that there is no reason to conclude any significant environmental effects are likely. Whilst RPS comments in respect of ground conditions are noted, a condition can secure an appropriate response to this potential low risk.
- 6 63 In terms of drainage, the information submitted with the screening request states *'the site lies within flood zone 1 and is not at significant risk of flooding. The surface water drainage strategy demonstrates that it will be possible to develop the site without increasing the risk of flooding elsewhere. The proposed surface*



*water drainage strategy seeks to utilise appropriate Sustainable Drainage Systems (SuDS) to provide betterment the eventual detailed surface water drainage network for the proposed development will be designed to limit the surface water discharge rate This will assist in reducing the risk of surface water flooding both on and off site By incorporating SuDS measures the development proposals should make a significant impact on improving the surface water discharge quality in addition to controlling the off-site discharge rate. This strategy which may be secured through planning condition, represents a standard form of mitigation that shall ensure there shall be no likely significant environmental impacts arising from surface water discharge'*

- 6 64 Given the location of the site in flood zone 1 and the information submitted and the conclusions of the technical reports provided, the local planning authority considers that the development would not result in a likely significant risk of major accidents or disasters, including those caused by climate change, in terms of flood risk and surface water flooding The comments received from the Council's SuDS engineers, as summarised above are also noted The imposition of planning conditions is considered sufficient to ensure no likely significant environmental effects in this respect
- 6 65 In terms of foul sewers, the information submitted confirms that the site is served by public sewers and that *'An Anglian Water predevelopment report confirmed that the receiving sewer had sufficient capacity to accommodate the anticipated flows . There is no increased risk of unacceptable foul or surface water run-off or pollutants from the site entering the Estuary '*
- 6 66 Given the findings and conclusions of the information and technical reports provided, given the comments received from the Council's SuDS engineers, given the nature and scale of the proposed development, and subject to the imposition of planning conditions, the local planning authority considers that the development is unlikely to have a significant impact in terms of pollution and nuisance as a result of flooding or drainage The imposition of planning conditions would ensure that the development would be unlikely to result in any significant environmental effects in this respect
- 6 67 In terms of light pollution and nuisance the information submitted states *' the site would not require unusually high luminance levels of lighting relative to the town centre context. A condition to agree a detailed lighting scheme including management of lighting use is anticipated '*
- 6 68 It is noted that the site is in a town centre location and the site is already lit and is likely to experience greater levels of light pollution than in other areas Given this and given the existing nature of the lighting within and surrounding the site, including significant lighting to the leisure facilities on the seafront at Marine Parade, the local planning authority considers that the development would be unlikely to have a significant impact in terms of pollution and nuisance as a result of lighting Indeed there is the opportunity to secure new, more efficient and more specific directional lighting, which can be secured by the imposition of standard planning conditions so there is no reason to conclude any significant environmental effects are likely in this respect Residential amenity can be further protected by ensuring lights are switched off/dimmed outside operational

hours again secure by condition if necessary

- 6 69 In terms of noise, the information submitted states, having consideration to the findings of the submitted noise impact assessment that *'The operational phase of the development proposals are not expected to give rise to significant acoustic impacts. During the construction phase of the development noise levels will potentially be greater but will be mitigated through control of working hours. the standard mitigation measures will be secured through planning conditions'*
- 6 70 Given the findings and conclusions of the information and technical reports provided and given the location of the site within the Town Centre, where ambient noise levels tend to be higher, given the existing late night premises, including night-clubs in the vicinity, the 24/7 operation of the existing surface car park, and the busy nature of the Queensway roundabout and a number of the surrounding roads, subject to the use of planning conditions governing the hours of operation and the levels of noise emitted from the development and delivery details and locations the local planning authority considers that the development would not be likely to have a significant effect on the environment in terms of noise pollution and nuisance
- The risk of major accidents and/or disasters relevant to the development concerned including those caused by climate change, in accordance with scientific knowledge*
- 6 71 The information submitted in this respect states *'No unusual or complex substances or technologies are to be used within this development and the risk of accidents is therefore considered to be negligible'*
- 6 72 Given that the proposal is for leisure facilities, a hotel and multi-level car park, and given the location of the development, within the town centre, the local planning authority considers that the development is unlikely to result in a significant impact in terms of risk of accidents or disasters
- The risks to human health (for example due to noise, water contamination or air pollution)*
- 6 73 The information submitted states *'Potential for significant water contamination is very low and will be addressed by the surface water drainage strategy. Trapped highway gullies will be incorporated into the surface water drainage system to help mitigate against diffuse pollution arising from the site. The requirement for petrol interceptors will be considered depending upon the feasibility of using permeable paving.'*
- 6 74 Given the information submitted and the conclusions of the technical reports provided, including the Flood Risk Assessment, Surface Water Drainage and Foul Water Drainage Strategy, and subject to the use of planning conditions, the local planning authority considers that the development would not result in likely significant risks to human health, including to users of the development (e.g. staff and visitors) and receptors (e.g. residents and other businesses) in terms of water contamination in the sense intended by the Regulations.

- 6 75 In terms of air pollution, the information submitted with the screening request states *'The potential risk in terms of air pollution is minimal and mitigation measures during both the construction and operational state of the development are proposed in order to reduce the risk further Mitigation measures include a construction dust management plans '*
- 6 76 Given the location and nature of the development and given the conclusions of the technical reports provided which have been summarised previously in this report, and subject to the use of planning conditions governing both construction and the lifetime of the development , the local planning authority considers that the development would not result in likely significant risks to human health, including to users of the development (e g staff and visitors) and receptors (e g residents and other businesses) in terms of air pollution The imposition of planning conditions are considered to be sufficient to ensure no significant environmental effects are likely in this respect
- 6 77 In terms of noise, the information submitted elsewhere within the submission states, having consideration to the findings of the submitted noise impact assessment that *'The operational phase of the development proposals are not expected to give rise to significant acoustic impacts During the construction phase of the development noise levels will potentially be greater but will be mitigated through control of working hours. .the standard mitigation measures will be secured through planning conditions '*
- 6 78 Given the findings and conclusions of the information and technical reports provided and given the location of the site within the Town Centre, its existing use and the nature of other leisure and commercial uses in the wider surrounding area and subject to the use of planning conditions governing the hours of operation and the levels of light and noise emitted from the development, the local planning authority considers that the development would not result in likely significant risks to human health, including to users of the development (e g staff and visitors) and receptors (e g residents and other businesses) in terms of noise in the sense intended by the Regulations The imposition of planning conditions are considered to be sufficient to ensure no significant environmental effects are likely in this respect
- 6.79 In terms of contamination a Phase 1 Geotechnical and geo-environmental desk study has been submitted The information submitted elsewhere within the screening opinion statement submitted states *'the risk of contamination at the site is extremely low'* and this can be managed by the imposition of standard conditions so that there is no reason to conclude any significant environmental effects are likely Whilst RPS comments in respect of ground conditions are noted, a condition can secure an appropriate response to this potential low risk.

#### *Location of Development*

##### *The existing and approved land use*

- 6 80 The majority of the site is currently used as a surface car park The site also includes roads, the Seaways roundabout, 1, 3 and 29 Herbert Grove and a toilet block Some small sections of the site, to the north of the car park are allocated

as protected green space within the Proposal's Map attached to the Development Management Document. A small part of the site within the south-western corner is located within the Clifftown Conservation Area. The site is located within the Southend Central Area Action Plan (SCAAP) boundary. Within the SCAAP the site is mainly located within the Central Seafront SCAAP Policy Area. Within Policy CS1 'Central Sea Front Policy Area Development Principles' the majority of the site is identified as an opportunity site, reference CS1.2 Seaways. For this Opportunity Site the Policy states '*the Council will pursue with private sector partners, landowners and developers a high quality, mixed use development including the provision of leisure, cultural and tourism attractions, which may include restaurants, cinema, gallery, hotel, public and private open spaces and vehicle and cycle parking. The potential for residential development may also be explored.*' The policy then goes on to outline a number of design and layout solutions that should be allowed for. In planning terms, the site is brownfield or previously developed land.

- 6 81 Herbert Grove contains two storey properties which are a mix of guest house accommodation and dwelling houses. Immediately beyond Herbert Grove is the Church of St John the Baptist and the Royals Shopping Centre. At the southern end of Herbert Grove is a hoarded site that comprised a former ice cream factory building, which has now been demolished. To the south of the Royals Shopping Centre and behind this former factory is the Park Inn Hotel. Marine Parade lies to the south of the site where land uses along the seafront are predominantly leisure related. East of the site is Hartington Road and Hartington Place which are predominantly residential streets containing terrace houses.
- 6 82 To the west of the site are locally listed buildings, Palace Hotel and St John's Church. To the south of the site there are a number of Grade II Listed Buildings including 1-3 Marine Parade, 4 Marine Parade, Hope Hotel, Marine Parade and the Pier. To the east of the site there are further locally listed buildings including The Cornucopia, 39 Marine Parade and The Falcon Public House, Marine Parade and further east is the Kursaal Conservation Area and the Grade II Listed The Kursaal, Eastern Esplanade.
- 6 83 Given the existing use of the land, and the policy allocation spread across the majority of the site, the local planning authority considers that the existing and approved land uses at the site and within the wider surrounding area, enshrined in local plan policy and the location of the development are unlikely to result in any significant environmental effects. Planning conditions can be imposed to safeguard the amenity of residents who live in close proximity to the site, the town centre and the seafront.

*The relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground*

- 6 84 In terms of minerals the information submitted with the applications states, that '*There are no significant issues regarding natural resources raised by this proposal. The site does not fall within a minerals safeguarding zone and the effect of the development on mineral resources will be negligible.*'

- 6 85 Given the location of the site, its existing use, with the site mainly used as a surface level car park, and constituting previously developed land, and given the information submitted, the local planning authority consider that the development is unlikely to result in significant environmental harm in terms of the relative abundance, availability, quality and regenerative capacity of natural resources in terms of minerals
- 6 86 In terms of biodiversity, the screening request has been submitted with supporting technical reports. The information submitted states *'The site is not designated as a Site of Special Scientific Interest (SSSI) or as a Local Nature Reserve (LNR), Site of Importance for Nature Conservation (SINC) or County Wildlife Site (CWS). There is one internationally important site reported within the 2km of the site this is the Benfleet & Southend Marshes which have been designated a Ramsar site, a Special Protection Area and a SSSI. There is also one LNR reported within 2km of the site, this is the Southend-on-Sea Foreshore LNR. The development proposals will not materially affect these designated sites either in isolation or cumulatively. The site is judged to be of negligible biodiversity value with no material value to important or protected species. The only exception to this is the minor amount of bird nesting habitat found in vegetation of the embankment to the rear gardens of Hartington Road. It has been concluded that important species or habitats do not materially constrain the redevelopment of the site. The redevelopment proposals demonstrate no net loss of biodiversity through a proposed mitigation measure to ensure nesting birds are not disturbed whilst nesting. A minor biodiversity net gain will be achieved with a number of biodiversity enhancement measures secured through planning condition. It is clear that the impact on natural resources (including ecology) is unlikely to be significant.'*
- 6 87 Natural England has confirmed that the site is located in close proximity to Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI), Benfleet and Southend Marshes Special Protect Area (SPA), Outer Thames Estuary Special Protection Area (SPA) and the Benfleet and Southend Marshes Ramsar Site. Natural England confirms *'Based on the material provided, it is our view that the proposed development is not likely to significantly affect the interest features for which they are notified.'*
- 6 88 Given the information submitted, the location of the development, existing and surrounding developments, the nature of the existing site, the findings, conclusions and recommendations of the technical reports provided, and given the comments received from Natural England (noting that whilst consulted no representations have been received from any local nature body including Essex Wildlife Trust, Essex Badger Protection Group and the RSB), and subject to the use of planning conditions, the local planning authority considers that the development would be unlikely to result in a significant environmental effects in terms of the relative abundance, availability, quality and regenerative capacity of natural resources in terms of biodiversity
- 6 89 In terms of trees, arboricultural reports and information have been submitted. The information submitted states *' a total of forty one individual trees, two groups of trees and one area of trees have been identified. Of these 8 trees are identified as being category B, 21 are categorised as category C and the*

*remaining 12 are identified as category U. There are no category A trees present on site. There are two trees on site that are afforded protection by way of Tree Preservation Order (TPO). The development proposals necessitate the removal of a number of trees from the site including the two TPO trees. However, loss of trees has been minimised. A total of 22 trees are proposed for removal of which 18 are of the lowest category or are in unsafe condition. This is not considered to be a significant loss of valued trees. Standard mitigation may be secured through condition to ensure the protection of retained trees. Replacement tree planting at a ratio of circa 4 trees for every one lost can be achieved within the development site.*

- 6 90 Two London Plane Trees within the site have been permanently protected with a TPO under reference 1/2019. Since then, a further TPO has been put in place (6/2019) (protected for an initial 6 months pending formal confirmation of the TPO) for a further 20 trees. It is apparent, that the development would result in the loss of 9 of these 22 protected trees. RPS, in their representations note that the submission fails to recognise that there is an additional TPO on the site under reference 6/2019. In this respect, the local planning authority note that unlike TPO 1/2019, the subsequent TPO under reference 6/2019 is yet to be permanently confirmed.
- 6 91 Given the information submitted, the relatively limited loss of mainly lower quality trees and the mitigation proposed in terms of landscaping improvements and circa 4:1 tree planting as a result of the development, subject to the use of planning conditions, the local planning authority considers that the development is unlikely to result in a significant impact or effect in terms of the relative abundance, availability and regenerative capacity of natural resources in terms of arboriculture, trees and landscaping. The imposition of appropriate planning conditions is sufficient to ensure no likely significant environmental effects in this respect.
- 6 92 This part of Schedule 3 highlights that the relevant abundance, availability and quality and regenerative capacity of natural resources including soil, land and water should also be considered. The submission information within this part of the screening opinion statement provided is silent on these matters within this section. However, they have been considered elsewhere within the screening opinion statement and within this report.
- 6 93 In terms of soil, as previously stated, the site constitutes previously developed land and is not agricultural land suitable for the production of food. It is not the best and most versatile agricultural land. Given the location and nature of the site, the local planning authority considers that the development would be unlikely to result in a significant impact in terms of the relative abundance, availability and regenerative capacity of natural resources in terms of soil.
- 6 94 In terms of land, the development would result in the more efficient use of the previously developed site. Given this and given the town centre location of the site, its allocation within the SCAAP and given that it is located in an urban location, the local planning authority considers that the development would not result in a likely significant environmental effects in terms of the relative abundance, availability and regenerative capacity of natural resources in terms

of land

- 6 95 Water has already been considered within the submission document and elsewhere within this report, in which it is stated that the development will not consume substantial or unusual amounts of water when operational, Sustainable Urban Drainage Systems are proposed, it is concluded that there is sufficient capacity within the existing sewers to accommodate the needs of the development and it is concluded that the risk of water contamination is very low. Taking account of the information provided overall and the findings and conclusions of the supporting documents and technical reports submitted, the local planning authority consider, subject to the imposition of conditions that the development would not result in a likely significant impact in terms of the relative abundance, availability and regenerative capacity of natural resources in terms of water.

*Absorption capacity of the natural environment, paying particular attention to sensitive locations and other locations such as landscapes and sites of historical, cultural or archaeological significance*

- 6 96 It is noted, within the screening opinion statement submitted by the applicant, the above subheading omits some of the areas that are highlighted as needing particular attention. For clarity the wording is as follows:

*c) the absorption capacity of the natural environment, paying particular attention to the*

*following areas—*

*(i) wetlands, riparian areas, river mouths,*

*(ii) coastal zones and the marine environment,*

*(iii) mountain and forest areas,*

*(iv) nature reserves and parks,*

*(v) European sites and other areas classified or protected under national legislation,*

*(vi) areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation retained EU law and relevant to the project, or in which it is considered that there is such a failure,*

*(vii) densely populated areas;*

*(viii) landscapes and sites of historical, cultural or archaeological significance*

- 6 97 The information submitted with the screening request states, in terms of ecology, 'The site is not designated either statutorily as a Site of Special Scientific Interest (SSSI) or as a Local Nature Reserve (LNR), Site of Importance for Nature Conservation (SINC) or County Wildlife Site (CWS). There is one internationally important site reported within the 2km of the site, this is the Benfleet & Southend Marshes which have been designated a RAMSAR site, a Special Protection Area and a SSSI. There is also one LNR reported within 2km of the site, this is the Southend-on-Sea Foreshore LNR. The development proposals will not materially affect these designated sites.'

- 6 98 Natural England has confirmed that the site is located within, adjacent to or in close proximity to Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI), Benfleet and Southend Marshes Special Protection Area (SPA),

Outer Thames Estuary Special Protection Area (SPA) and the Benfleet and Southend Marshes Ramsar Site. In fact the site is in close proximity to European protected sites. Importantly Natural England confirms *'Based on the material provided, it is our view that the proposed development is not likely to significantly affect the interest features for which they are notified'*

- 6 99 Within their representations received, RPS considers that there could be a significant environmental effect of the habitat of protected species given the absence of emergence surveys regarding roosts at the toilet block. In fact there have been some surveys of the toilet block. Moreover, the local planning authority consider, with the submission of appropriate protected species assessments and/or the imposition of conditions, given the limited size of the toilet block and its location surrounded by extensive areas of hardsurfacing and the surrounding areas of built form and the existing relatively high levels of lighting in the area that there is no reason to conclude that any significant environmental effects are likely in this respect.
- 6 100 Given the information submitted, the location of the development, with the site itself located outside the SSSI, SPA and Ramsar sites the nature of the existing site which is previously-developed, the findings, conclusions and recommendations of the technical reports provided, and given the comments received from Natural England, subject to the use of planning conditions, the local planning authority considers that the development would not result in any likely significant environmental effects in terms of the absorption capacity of the natural environment in these regards.
- 6 101 In terms of landscape impacts, the screening opinion request has been submitted with a Landscape and Visual Impact Assessment (LVIA). The information submitted in this respect states *'The landscape and visual assessment has concluded that the development, although providing large, new facilities near the centre of Southend, will have a relatively small zone of visual influence (ZVI) within the setting. Topographic variety and land cover are generally expected to limit the ZVI to a few hundred metres to the north, west and north-east, with the only exception being residents and workers in some scattered taller buildings to the north. To the south, the open estuarine environment including Southend Pier will allow the buildings to be partially visible from further away and to the east a view of the development is likely in good weather from as far as 4km away at Gunners Park, Shoeburyness. However, photomontage modelling has ascertained the building will generally not be seen above the existing urban skyline and it is likely to be difficult to discern in many light conditions beyond 2km (e.g. from the end of Southend Pier).'*
- 6 102 *Views from key locations within the Southend townscape, previously identified in the SCAAP (2018) have been carefully considered. The development is not expected to be visible from Pier Hill, Royal Terrace, Clifftown, Westcliff or the Western Esplanade or a number of other significant locations including the Kursaal, All Saints Church and the Porters Civic House. The development will only be partially visible from Southend Pier, Marine Esplanade and Eastern Esplanade.*
- 6 103 *At the local level, a limited number of residential neighbours on Herbert Grove,*

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*Chancellor Road, Hartington Road, Seaway and at Queensway Lodge are expected to experience a substantial level of visual effect including a blocked or greatly intruded upon outlook . Other identified visual receptors have been assessed as likely to experience moderate, slight or neutral levels of visual effect In the round therefore, it is not considered that the visual effects are substantial*

- 6 104 *Several other planned developments have been considered to ascertain whether cumulative impacts might increase the level of effect on identified receptors The very large Marine Plaza development, to be located approximately 250m east of the Seaway site, is likely to greatly influence the character of the Southend Seafront However, it is not considered to increase the assessed level of landscape or visual effects on Seaways receptors*
- 6 105 *Whilst the LVIA identified a substantial level of visual effect to a limited number of private receptors, on the whole the visual impacts of the development upon the landscape/townscape of Southend are not expected to be significant '*
- 6 106 In their representations, RPS raised a number of concerns relating to the LVIA report, commenting that it includes errors and attempts to downplay effects RPS conclude that the development would give rise to significant environmental effects in terms of landscape, townscape and visual impacts. RPS considers that the substantial effects identified in the LVIA mean that the development would give rise to likely significant effects
- 6 107 The local planning authority has given consideration to the findings and conclusions of the LVIA submitted with this screening request, the comments and detailed report submitted by RPS as well as the nature, scale and location of the site and the wider surrounding area Overall, it is considered, given the town centre urban location of the site whereby residents already have views of busy roads and other built form and given the existing development in the area, whilst a substantial visual amenity impact to a small number of residents located in close proximity to the site (including Chancellor Road, particularly No's 24-30, 5-27 Herbert Grove, Hartington Road properties, particularly 47-53 Hartington Road, 1-4 Seaways and Queensway Lodge) has been identified, given the relatively limited number of receptors affected in a compact area, the design and mitigation which can be secured by planning conditions, including soft landscaping and public realm improvements and the fact that it is their residential amenity that will be impacted, the local planning authority consider that as a matter of planning judgement this harmful impact on residential amenity of very few residents is not necessarily to be equated to a likely significant harm to the environment In this instance, given the factors already identified it would not give rise to a likely significant effect on the landscape /townscape environment
- 6 108 In terms of archaeology, the screening opinion request has been submitted with an Archaeological Report It is stated that *'The assessment concludes that overall, it is unlikely that features of archaeological interest are located within the development area '*
- 6 109 The local planning authority considers that the development would not be likely to have a significant impact in terms of use of the absorption capacity of the

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natural environment in respect of archaeology in the sense intended by the Regulations in terms of archaeology. A planning condition is judged sufficient to ensure no likely significant environmental effects in this regard.

- 6 110 In terms of heritage, the screening request has been submitted with a heritage statement. The information submitted states *'Quite clearly the development proposals will not give rise to substantial harm or loss to nearby heritage assets. The development proposals will result in a change to the setting of some of the identified heritage assets and the question therefore will be to what extent this change may be harmful. In the context of the town centre location and the prevailing scale and nature of development in this location, it is the case that the development proposals will not result in significant adverse impacts (if at all) to the setting of nearby heritage and non-designated assets or the way in which they are experienced.'*
- 6 111 In this respect, Historic England have stated *'From the information given, we consider that there appears to be a low likelihood of significant effects on the historic environment, and that EIA may not be required in relation to the historic environment.'*
- 6 112 RPS, in their representations received comment that the development has the potential to adversely affect a number of heritage assets. In this respect, RPS refer to the heritage statement submitted, picking out a number of specific sentences from the submission document. RPS raise concerns about the impact on the views from the Pier and conclude that an EIA is required on heritage grounds given the likely effect on listed buildings (the Pier and the Kursaal) and the Conservation Area and locally listed building and the cumulative effect on all these assets.
- 6 113 The Heritage Assessment submitted concludes *'The car park (proposed site) is a neutral part of the setting of the heritage assets, neither enhancing nor inhibiting the appreciation of their significance. The proposed development will not affect the significance of any of the listed building. The skyline features of the dome of the Kursaal and the Palace Hotel will remain the dominant, and most visual, structure in the area. The only view affected from within the Clifftown Conservation Area will be the one from the listed pier. The view has been greatly considered in the design of the buildings, and due to this the proposed buildings would not stop the important elements of the view being appreciated, and would also fit into the view and add another dimensions to it. No other views from within the conservation area, or important views from outside the conservation area, would be changed. Overall, the proposals would have a neutral effect on the character and appearance of Clifftown Conservation Area. There is no reason to suppose that the development will cause harm to the significance of any designated heritage assets.'*
- 6 114 A small part of the site, within the south-western corner is located within the Clifftown Conservation Area. To the west of the site are locally listed buildings, Palace Hotel and St John's Church. To the south of the site there are a number of Grade II Listed Buildings including 1-3 Marine Parade, 4 Marine Parade, Hope Hotel, Marine Parade and the Pier. To the east of the site there are further locally listed buildings including The Cornucopia, 39 Marine Parade and The Falcon.

Public House, Marine Parade and further east is the Kursaal Conservation Area and the Grade II Listed The Kursaal, Eastern Esplanade

- 6.115 Given the location of the site in relation to these designated and non-designated heritage assets, given the design, nature, size and scale of the proposal, and taking into account the consultation response received from Historic England, whilst the comments from RPS have been fully considered, the local planning authority consider that whilst the development would have an impact on the settings of the heritage assets, it is considered that the development would be unlikely to have a likely significant environmental effect on the historic environment and heritage assets
- 6 116 As noted above, this section does not consider each area that this part of Schedule 3 specifically refers to as requiring particular attention. However, the first part above that considers ecology is considered to satisfactorily address point (i) to (v) above, as they are relevant to this proposal
- 6 117 Part (vi) refers to areas in which there has already been a failure to meet the environmental quality standards, laid down in Union legislation retained in EU law and relevant to the project, or in which it is considered that there is such a failure. In this respect there is an Air Quality Management Area (AQMA) at the Bell Junction, some 2.5km north west of the site. The air quality assessment and memo submitted with this screening request states that there would be a negligible impact on the AQMA as a result of this development. As such the local planning authority consider that the development would not give rise to a likely significant environmental effect on the absorption capacity of the natural environment in this respect, subject to standard planning conditions requiring a dust mitigation strategy during construction and sustainable transport incentives such as a travel plan
- 6 118 Part (vii) requires densely populated areas to be considered specifically in terms of the absorption capacity of the natural environment. In this respect, it is noted that the site is located within an urban location, within the Town Centre and that the area generally could be considered to be densely populated. However, the screening opinion request has been submitted with a number of supporting and technical documents relating to matters including air quality, contamination, traffic and transportation and noise which have been considered elsewhere within this report and found not to have likely significant environmental effects. It is considered, as outlined previously, that the absorption capacity of the natural environment, paying particular attention to densely populated areas are such that the development would not be likely to result in a significant impact on the environment in this regard
- 6 119 Part (viii) which relates to landscapes and sites of historical, cultural or archaeological significance have been considered above

#### *Characteristics of Potential Impact*

*The magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected)*

6 120 The information submitted in this respect states *'The potential magnitude of the development proposals is small and is no greater than the local level within Southend itself at the very most'*

6 121 The local planning authority considers that the magnitude and spatial impacts of the development would be relatively limited in extent. The LVIA submitted indicates that visually the impacts of the development in this regard would be limited with only substantial impacts identified to a small number of very local receptors, including properties in Chancellor Road, particularly No's 24-30, No's 5-27 Herbert Grove, dwellings in Hartington Road, particularly No's 47-53, No's 1-4 Seaways and the flats at Queensway Lodge. Views of the development further afield would be somewhat limited due to the topography of the area and the existing development. The geographical area and size of the population likely to be affected by the magnitude and spatial extent of the impact of the development is therefore considered not likely to result in any significant environmental effects.

*The nature of the impact*

6 122 The information submitted in this respect states *'The nature of the impact is largely limited to the visual impacts of the development, potential impacts upon the highway and air quality impacts'*

6 123 The local planning authority concurs with the above consideration. The visual amenity impacts would be substantial but only to a very small residential population. Residential amenity impacts are different to the question of the likelihood of significant effects on the environment and are therefore not likely to be considered to be significant in the sense intended by the Regulations. The impacts on highways and air quality have been supported by technical supporting documents which have been considered elsewhere in this report and subject to conditions and/or S106 legal agreements in these respects it is considered that the development would be unlikely to result in a significant environmental effects in this regard.

*The transboundary nature of the impact*

6 124 The local planning authority agrees with the applicant that this is not applicable in this instance given the location of the development, and the existing, intervening built form.

*The intensity and complexity of the impact*

6 125 The information submitted states *'The nature of the potential impacts of the development are all modest and it is not the case that any large, unusual or complex impacts are associated with a development of this scale on this site'*

6 126 The local planning consider that given the location of the site, the nature of the surrounding area and given the overall design, size, nature and scale of the proposal that the development would not result in an intensity or complexity that that would result in any likely significant environmental effects in this regard.

*The probability of the impact*

- 6 127 The information submitted states *'The probability of the impacts are reasonably certain'* The local planning authority considers, given the extensive supporting documents and information that has been submitted with this screening opinion request that the probability of the impacts of the development can be reasonably certain

*The expected onset, duration, frequency and reversibility of the impact*

- 6 128 The submission states *'In practice, once the site is developed the impacts associated with the operational phase will be permanent and largely consistent on an annual basis Any impacts during the construction phase of the development will be temporary and will be managed and controlled as part of the Contractor's site wide construction strategy'*

- 6 129 The local planning authority considers that the construction phase would be limited to a relatively short duration (approximately 12-18 months) Once operational any impact of the development would be permanent However, as previously discussed within this report, subject to a host of mitigation measures which can be reasonably secured via planning conditions and S106 legal agreements, the local planning authority consider that any impacts could be suitable and adequately mitigated and that there would be no residual likely significant environmental effect

*The cumulation of the impact with the impact of other existing and/or approved development*

- 6 130 Planning permission was granted at Marine Plaza under reference 14/01462/FULM, as previously discussed above The information submitted with the screening opinion request states *'An Environmental Statement accompanied this application, ultimately once mitigation measures were accounted for the Marine Plaza development proposals were not judged to give rise to any unacceptably significant or complex environmental impacts The two sites in question are discreet parcels of land and are separate from one another both spatially and physically In particular vehicle access to the Marine Plaza site is divorced from the Seaways site and relate to materially different sections of the highway network The delivery of one does not rely upon the delivery of another Similarly the residential nature of the Marine Plaza development will not exacerbate the potential environmental impacts of the development proposals at the seaways site The site lies within the town centre of Southend where there are many existing visitor attractions The development proposals will add to the town centre offer and therefore will likely increase the pull of visitors to the town centre However in the context of the magnitude of the existing pull factor the development impacts will be negligible relatively speaking'* The submission documents have also considered a number of other allocated sites with extant planning permission, some of which are currently being undertaken, in the wider surrounding area, as discussed above The local planning authority consider, given the location of these other allocations and permissions, the nature and location of the Seaways site and the topography and intervening built form, that the cumulation of the impacts of these schemes in combination with these

allocated and extant schemes would not be likely to result in any likely significant environmental impacts

- 6 131 Given the above and taking account of the findings, conclusions and recommendations contained within the suite of technical supporting information and reports submitted with this screening request, it is considered that the characteristics of the potential impacts of the development is unlikely to result in significant environmental impacts in cumulation with other existing and approved development in the area in the sense intended by the Regulations
- 6 132 The information submitted states *'The supporting evidence clearly supports the view that cumulative impacts in transportation, air quality, ecology and recreational pressure and landscape and visual impact are unlikely to be significant'*
- 6 133 The submitted information refers to the ecological information submitted with the screening request and concludes that *'There is not identified to be any significant impact in cumulative terms'*
- 6 134 Given the information submitted, the location of the development, the nature of the existing site and the findings, conclusions and recommendations of the technical reports provided, and given the comments received from Natural England, subject to the use of planning conditions, the local planning authority considers that the characteristics of the potential impacts in terms of the cumulation of the impact with the impact of other existing and/or approved development in terms of ecology is unlikely to result in significant environmental effects
- 6 135 In terms of transportation, this screening opinion has already identified the broad level of likely increase in traffic generation anticipated as a result of the development and the new access arrangements. It is considered that subject to conditions for the necessary mitigation to secure maximum use of non-car modes of transport and the scheme design improvements, the proposed development will not result in any significant increase in traffic generation which is likely to give rise to significant environmental effects. The local planning authority considers that the cumulation of the impact of the development combined with other existing and approved development would not be likely to have a significant environmental effect as a result of highway or transportation impacts
- 6 136 In terms of air quality, this screening opinion request has been submitted with an Air Quality Assessment and Air Quality Memo. In their representations received, RPS comments that there may be significant effect arising from air quality, taking into account cumulative effects arising from traffic generation from all allocated sites. The information submitted elsewhere in the screening opinion statement submitted comments *'The air quality assessment found that the increases in annual mean concentrations at these receptors would be very small – between 0.1 and 0.3 micrograms per cubic metre. Such impacts are classified as 'negligible''* It is also stated that mitigation is proposed to cover the construction (e.g. dust mitigation) and operational phases (e.g. travel plan and sustainable transport measures and incentives)

- 6 137 Given the location of the site and its separation from other allocated or committed sites and the local planning authority's ability to impose planning conditions requiring mitigation measures such as a construction management plan, to include dust mitigation measures, the local planning authority considers that the cumulation of the impact of the development combined with other existing and approved development would not be likely to have a significant environmental effect in this respect as a result of air quality impacts
- 6 138 In terms of visual impacts, the information submitted here states *'For the purposes of understanding landscape and visual impacts, the scheme has been considered cumulatively with relevant development schemes within the zone of visibility and beyond including the Marine Plaza scheme the Southend Museum allocation, Clifftown Shore development and the Old Gasworks Car Park site. There is not identified to be any significant cumulative impacts leading to any likely significant environmental effects'*
- 6 139 The local planning authority considers Marine Plaza development as the main site with the potential for cumulative effects due to its location some 250m east of the proposed Seaways site As set out in the LVIA, it is apparent that there are some viewpoints whereby both schemes would be visible, from example from views east of Marine Esplanade and the Seafront, views east from Southend Pier and the Thames Estuary, views west from Eastern Esplanade, Southchurch Beach and points further east and from some taller buildings to the north As such there are some viewpoints where both developments will be visible However, these are assessed in the LVIA submitted and given the urban character of the existing area and the nature of these views, the local planning authority consider the cumulation of the impact of the development when combined with the Marine Plaza development is unlikely to have a significant environmental effect in terms of visual and landscape effects
- 6 140 The Southend Museum allocation is located some 600m to the west of the site The Clifftown Shore development (former Esplanade public house) is located some 460m to the west of the site As set out in the LVIA, the Seaways development is unlikely to be inter-visible with the proposed museum and/or Clifftown Shore development but all may be seen from the Pier and in wider views from the Estuary However, given the distance between these developments and the intervening built form, with these schemes being seen in the context of the urban environment, the local planning authority do not consider that that there would be any likely significant environmental effects as a result of cumulation between these developments.
- 6.141 In terms of the old gas works car park site, this site would be located approximately 570m to the east of the Seaways site The site is currently used as a surface level car park Given the nature of the gas works car park site and the distance between the sites and intervening built form, the local planning authority do not consider that that there would be any likely significant environmental effects as a result of cumulation between these developments
- 6 142 The local planning authority consider all other existing, approved or allocated developments are sufficiently remote and separate from the proposed Seaways

development, with intervening built form to prevent any likely significant environmental effects as a result of cumulation.

- 6 143 Given the above and having regard to the LVIA submitted with the screening request, whilst RPS comments are notes, it is considered given the sites location, the existing development in the area, and the nature and location of other consented schemes within the wider area that characteristics of the potential development in terms of cumulative impacts, subject to the imposition of planning conditions and/or S106 legal requirements, would not be likely to have a significant environmental effect in the sense intended in the Regulations
- 6 144 In terms of recreational pressure, the screening opinion request has been submitted with a Habitats Regulations Assessment Screening Report which concludes *'Significant adverse cumulative impacts as a result of the Development in combination with the new residential housing are assessed as unlikely to occur the development is primarily an indoor recreational facility with its main draw being a multi-screen cinema and associated restaurant facilities The operational use of the cinema and restaurants pose no direct threat to local international wildlife sites and provide a new recreational opportunity for visitors to Southend-on-Sea and its residential community away from European sites Non-physical damage to Benfleet and Southend Marshes SPA and Ramsar as a result of recreational activity by Development hotel occupants is therefore considered unlikely to be significant'*
- 6 145 RPS consider that the Habitat Regulations Assessment submitted fails to assess the impact of dog walking activities from hotel visitors, particularly in the winter time which could add pressure on the European designated sites In this respect, the local planning authority consider that any concerns in this respect could be mitigate with the imposition of planning conditions requiring details of the number of guests with dogs and/or limiting the number of dogs at the hotel The local planning authority consider that any impacts in this respect could be suitably and adequately mitigated with planning conditions in this respect and that there would be no likely significant environmental effects in this regard
- 6 146 Given the findings of this technical report and the comments received from Natural England, subject to conditions, it is considered that the development would be most unlikely to have any significant environmental impact on the European sites or the wider environment
- The possibility of effectively reducing the impact*
- 6 147 The information submitted in this respect within the screening opinion statement states *'The possibility of effectively reducing the potential impact of development is certain A number of mitigation measures are outlined in this statement and the accompanying assessment documents All forms of mitigation are not novel and represent industry standard measures that are regularly adopted on schemes of this nature The delivery of mitigation shall be secured through condition or planning obligation in the usual way'*
- 6 148 This screening exercise, based on review of the submitted technical reports and statements, as outlined above and based on site observations and based on the



submitted plans, subject to the imposition of planning conditions and a S106 Legal Agreement, has not identified any features of the proposed development which would, result in likely significant effects on the environment in the sense intended by the Regulations. The local planning authority considers that the development would not constitute EIA development requiring an Environmental Statement in any respect and the proposed mitigation can be secured with standard planning conditions and S106 legal agreements.

#### *Other Matters*

- 6 149 The screening opinion statement submitted contains only limited commentary with regard to socio-economic impacts as a result of the development. The local planning authority recognise that the development would provide additional temporary employment opportunities during the construction phase of the development and once operational will provide additional, permanent employment. In social terms the local planning authority recognise that the development would result in the regeneration of an underutilised brownfield site located within the Town Centre. The local planning authority recognise that the development could result in linked trips to the benefit of existing businesses in the town centre/seafront.
- 6 150 In their representations, RPS states that there will be significant socio-economic effects with the proposed development. RPS in their objections refer to the Economic Benefits Assessment and Economics Benefits Assessment Addendum submitted with the planning application that is pending determination for this development at this site (reference 18/02302/BC4M). These documents have not been submitted with the EIA screening request. For clarity the Economic Benefits Assessment referred to concludes *'In summary, the benefits associated with approval and delivery of the proposed development on the application site are significant and will make a valuable contribution to the local viability and vitality of Southend-On-Sea town centre. At a strategic level the proposed development will support net additional employment and growth in the Borough and more widely in the regional economy.'* The local planning authority recognises that this report refers to the benefits being "significant". However, whilst it is acknowledged that this document has not been submitted with the EIA screening opinion request, it is considered that the development could result in significant benefits for example as a result of additional jobs, but this does not mean there will be a likely significant effect on the environment in the sense intended by the EIA Regulations. The transportation, air quality and noise assessments have regard to all those visiting the site whether to work or enjoy leisure time.
- 6 151 The Economic Benefits Assessment submitted with the application under reference 18/02302/BC4M states that the development would result in a gross additional employment of over 94 full time equivalent jobs during the construction phase and between 270 and 323 net full time equivalent jobs when in operation. Given the level of socio-economic benefits of the scheme within this town centre location which would already provide a large number of employment opportunities and jobs, it is considered that in EIA terms the likely environmental effects would not be considered significant in the sense intended by the Regulations.

6 152 Representations have been received from RPS on behalf of The Stockvale Group in relation to this screening request (copies of these documents are included in appendix 1) The representations made raise a number of concerns relating to the information submitted and the conclusions reached within the submission documents that accompany this application RPS concludes that the development is likely to be considered EIA development and requires the submission of an Environmental Statement The local planning authority has fully considered the representations made in the determination of the screening request However, having fully considered the comments made, the local planning authority disagree with the conclusions reached by RPS for the reasons set out with this report, and conclude that the development would not result in any likely significant environmental effects and would not therefore constitute an EIA development and would not require an Environmental Statement

6 153 RPS refers to the previous lawful demolition of the ice cream factory and seems to suggest that this demolition is part and parcel of the proposal It is noted that this demolition has already taken place as consented seperately Whether this demolition was undertaken to aid or as part of this development or not, given that this has already taken place, the empty site forms part of the baseline against which the proposal is assessed Whether considered individually or cumulatively with this proposed development and other existing and approved developments in the surrounding area it is not considered that this demolition would result in the development resulting in likely significant environmental effects that would require an Environmental Statement This element whether taken individually or cumulatively would not result in likely significant environmental effects in the sense intended by the Regulations

Documents to accompany any application

6 154 Whilst it is not considered that the proposals will lead to likely significant environmental impacts, any application made would need to be accompanied by an appropriate suite of technical documents that clearly set out the proposal put forward and enable its full assessment against all the relevant planning policies and other material considerations This would be likely to include the following documents

- Application form and appropriate certificates
- Community Infrastructure Levy forms
- Existing and proposed application drawings
- Landscape Visual Impact Assessment to include Residential Visual Impact Assessment and Photomontages
- Planning Statement
- Design and Access Statement
- Tree Survey, Arboricultural Impact Assessment, Preliminary Arboricultural Method Statement & Tree Protection Plan
- Transport Assessment including VISSIM modelling
- Car Park Management Strategy
- Energy Assessment
- Sustainability Statement
- BREEAM pre-Assessment
- Flood Risk Assessment, Surface Water Drainage and Foul Water

Development Control Report

- Drainage Strategy
- Daylight and Sunlight Impact Assessment
- Site Waste Management Plan
- Construction Vehicle Routing Strategy
- Acoustic Assessment
- Air Quality Assessment
- Draft heads of terms for planning obligations
- Ecological assessment (including a preliminary ecological appraisal and any necessary protected species surveys)
- Contaminated Land Assessment – a Phase 1 Geotechnical and Geo-environmental Desk Study
- Statement of Community Involvement
- Waste Management Strategy
- Economic Benefits Assessment
- Landscape Strategy
- Habitats Regulations Assessment Screening Report
- Lighting Strategy
- Health Impact Assessment
- Travel Plan
- Archaeological Evaluation Report
- Heritage Statement
- Car Park Management Plan

## 7 Conclusion

- 7.1 The proposed development constitutes Schedule 2 development. The development would exceed 10,000sqm of commercial floor area and as such would exceed the indicative screening thresholds for urban development projects of this nature. However, the NPPG makes it clear that *'it should not be presumed that developments above the indicative criteria should always be subject to assessment or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits'* (Paragraph 018 reference 14-018-20170728). The indicative screening thresholds annex on the NPPG indicates that the issues most likely to need to be considered for this type of development are the *'Physical scale of such developments, potential increase in traffic, emissions and noise'*
- 7.2 The site is not located within a sensitive area. The closest and only sensitive areas are the European sites. The above analysis evaluates the proposal in terms of the characteristics of the development, the location of the development and the characteristics of the predicted likely impacts of the proposal, including the physical scale of the development, predicted likely increase in traffic, emissions and noise. For the reasons identified it is concluded that in each of these respects, taken together with LVIA, heritage and all other assessments and cumulatively with other committed development and in totality, that the proposal would not be likely to give rise to significant effects on the environment in the sense intended by the Regulations.
- 7.3 On the basis of this analysis it is concluded that the proposal is not a major
- Development Control Report

development which is of more than local importance, is not situated in (or partially within) a particularly environmentally sensitive or vulnerable location and is not a development with unusually complex or potentially hazardous environmental effects. The complexity and extent of the impacts of the development is not considered likely to be such that they would result in significant effects on the environment

- 7.4 Taking account of the criteria set out in Schedule 3 of the Regulations and all other relevant factors it is considered that the development described in the information accompanying the submission **WOULD NOT** be likely to have significant effects on the environment pursuant to the Regulations. Therefore an EIA is **NOT** necessary and an Environmental Statement, in line with the Regulations, is **NOT** required to be submitted with an application for the development described in the information submitted.

Case Officer		
Signature	<i>C. White</i>	Date <i>28/10/19</i>
Senior Officer		
Signature	<i>P. A. Kygan</i>	Date <i>28/10/19</i>
Delegated Authority		
Signature	<i>[Signature]</i>	Date <i>28/10/19</i>

## **Appendix 1 Representations Received**

Email received 11<sup>th</sup> October 2019

To the point, the development is likely to be considered EIA Development and requires the submission of an Environmental Statement. You should conclude such as you have no evidence not to. We set out reasons for this below, but if the Council is unwilling to draw this conclusion for any reason, then our client will request a Screening Direction from the Secretary of State, who may take the same view as RPS. This will result in a further substantial delay to the planning application for the same development (Ref 18/02302/BC4M). In fact, RPS would argue the current application should be withdrawn because the submission of an Environmental Statement is too substantial and this would amount to a material change to the application so it should not be considered under the 2018 application.

Please find attached a report setting out the EIA considerations in relation to the Applicant's request for a new EIA Screening Opinion. It is an updated version of the report which you received on 27<sup>th</sup> August 2019 based on information submitted by the Applicant. Its conclusions are no different, however, and the development will likely give rise to significant effects and therefore should be considered EIA Development. I also attach specific commentary on landscape and heritage matters (prepared before Appendix 3 was provided, but which is unlikely to change the conclusions) that are relevant to the EIA matters, and complement the reports submitted to you on 20<sup>th</sup> September 2019.

In summary, RPS's view is that the proposed development should be found to be EIA development as it will give rise to significant effects, as follows:

- Landscape/townscape/visual impact – there are numerous errors with the LVIA report, including assessments of sensitivity or attempts to downplay effects, and so the approach fails to comply with relevant GLVIA guidance. The cumulative effects fails to assess filling and incremental change.

The Applicant has already acknowledged that the development will give rise to substantial effects as you are already aware. The Opinion Statement argues these are local and not significant in the round, but there is simply no test for that approach. The question is whether it would give rise to significant environmental effects (anywhere or altogether), and that question on these grounds must be answered as 'yes'. An Environment Statement assessing those effects must be prepared. See Paragraph 69 of our RPS Notes on LVIA and Screening Statement attached to this email for more details, as well as our previous submission sent to you on 27<sup>th</sup> August and 20<sup>th</sup> September 2019.

- Heritage - the proposed development has the potential to adversely affect a number of heritage assets in the area, both designated and non-designated ones. Indeed, the Heritage Assessment acknowledges on Page 4 35 that there will be 'considerable change' to the Conservation Area, which might well be classified as a significant effect (Paragraph 20 of the RPS Notes on the Heritage Statement). Furthermore, it acknowledges in Heritage Assessment Paragraph 4 32 that the 'biggest change' - which must be more than 'considerable', will arise from the Pier looking back at the development. The Heritage Assessment is not clear as to whether the building would be seen from the Conservation Area, but this is a 'is or is it not' (Paragraph 17 of the RPS Notes on Heritage Statement). It appears to fail to assess the cumulative impact of the development on heritage assets (see Paragraph 19 of RPS Notes in Heritage Statement regarding the historic townscape character). An EIA is required on heritage impact grounds alone, given the likely effect on listed buildings (the Pier, the Kursaal), the Conservation Area and locally listed buildings, and the cumulative effect on all of these assets arising from the proposed development.
- The assessment of the impact on the views from the Pier both in terms of landscape/townscape/visual impact and heritage considerations is misleading/erroneous in both the LVIA and Heritage Assessment, noting both RPS and Historic England have raised substantial concerns regarding this. There are other conflicts between the two submitted documents, such as in relation to the long views of the Palace Hotel (see Paragraph 16 of the Notes on Heritage Statement).
- There will be significant socio-economic effects with the proposed development. This is acknowledged in the planning application documentation, but which was not submitted to you as part

of the EIA Screening Request application See Page 8 of the Carter Jonas Cover Letter related to the planning application, along with the Economic Benefits Assessment and Addendums (Lambert Smith Hampton) submitted by the Applicant, which include references to the significant effects

- There could be a significant effect on the habitat of protected species, given the absence of emergence surveys regarding roosts at the toilet block (Building 7 in the Preliminary Ecological Appraisal) I refer to my email from yesterday on this point
- There may be a significant effect arising from air quality, taking into account the cumulative effects arising from traffic generation from all allocated sites RPS has only received a copy of the Air Quality Technical Note because it was not published on the website until Wednesday 9<sup>th</sup> October, 2019, so we will update this section shortly
- The Habitat Regulations Assessment (HRA) fails to properly assess the impact of dog walking activities from hotel visitors, particularly in the winter time, which could add pressure to the European designated sites The report inadequately demonstrates how it concluded that there would not be significant effects Specifically, RPS notes there are far fewer visitors to Southend in winter periods, the key period for the habitat and species, and so the extent of change arising from the hotel and increased visitors to close proximity of the European Site could substantially increase pressure and potentially have a significant effect Without providing any details of a winter time visitor impact assessment, the conclusions of the HRA are questionable and a precautionary approach should be applied by the Council

There may be other effects which are significant (e.g. noise) The appropriate Environmental Statement topics will obviously be determined at scoping stage, and will enable a full consideration of alternatives (e.g. to protect the TPO trees)

Based on the Applicant's own assessments as well as RPS's own view, if the Council reaches any other conclusion than the proposed development is EIA Development which requires an Environmental Statement to be prepared to adequately assess relevant effects, our client will test the Council's view and seek a Screening Direction from the Secretary of State using much of the information provided by the Applicant as well as our own research (some of which is provided herewith) This will result in substantial delay to the processing of the planning application It may also shed clear light on the Council's incorrect determination of the EIA Screening Request in November 2017, when they drew conclusions contrary to professional opinion without any basis (the substantial effects identified by the Applicant's landscape consultant at that time)

Indeed the whole purpose of undertaking a Screening exercise for Schedule 2 developments is because of the scale of development, there is a good chance it can give rise to significant effects In the case of Turnstone's proposed development at Seaway Car Park, both the Applicant and RPS already agree that **there will be significant effects, so the logical conclusion is that these require further assessment under the EIA Regulations. The Council must conclude the same.** Whilst it is acknowledged that other similar Schedule 2 leisure developments (those located on the edge of towns) may not have such sensitive receptors so close to the development site (existing residential properties, heritage assets, European Sites, etc) and could be screened out, this is simply not the case here

I formally request that you send me a copy of your Screening Opinion as soon as it is made public, so we can review and determine the next course of action (e.g. Direction request to the Secretary of State) I look forward to reading that you have finally confirmed that the development is EIA Development and an Environmental Statement is required We can then all turn to the Scoping process In the meantime, the planning application process should certainly be paused whilst this is concluded, but there is certainly an argument to state that the planning application should be entirely withdrawn until the EIA matter is wholly and adequately resolved (by the Secretary of State if necessary)

The following documents were attached to this email are included below

- EIA review
- Notes on heritage Statement Sept 19 submission
- Notes on LVIA Statement Sept 19 submission

Email received 27<sup>th</sup> August 2019

In our original objection letter dated 7<sup>th</sup> February 2019, we promised to write to you regarding Environmental Impact Assessment (EIA) matters. In light of the planning application documentation and recent consultee responses, we have re-assessed the proposed development associated with the above application against the Town And Country Planning (Environmental Impact Assessment) 2017 Regulations, as amended. We are pleased to provide you with our report, which concludes that the Council should revisit its Opinion due to a number of shortcomings with its approach and with the information that it previously relied on to make its determination that the proposed Seaway development was not EIA development. I set out some key points regarding it below.

- In relation to landscape/townscape, the information accompanying the Opinion clearly stated that up to substantial effects on local views are possible. These could be considered 'significant' in EIA terms. However, with the application, the assessed effects were lowered, because there was a downgrading of the sensitivity of residential receptors. It is not clear how this downgrading was determined, noting good practice and the author's methodology, but it does raise questions regarding whether the developer has sought to underplay the potential effects without justification. In addition, some of the trees on site are now confirmed to be valuable. We have not seen any drawings which suggest they will be retained with the proposed development, and their loss with the proposed development has to be considered in the EIA context. This alone warrants a revisit of the Opinion.

More importantly, we are also unclear how the Council was able to assess the 'substantial' effects identified by the developer's own team and conclude these were not significant when no professional landscape/townscape person was in the employ of the Council at that time to take a professional view on the matter. This alone suggests that there have been procedural errors with the Opinion issued by the Council and alone this warrants its revisiting. In this regard, RPS is preparing a LVIA which looks at these issues, and this will be issued shortly, but we also understand that the Council has now employed such professionals (we welcome such a move). You are now in a position to revisit what was reported during the Screening process versus what is being reported at applicant stage, to determine if there has been errors in the developer teams approach.

Separately, we would appreciate if you are able to let us know which firm has been appointed and the lead contact there, noting it is a public contract (please treat this as a FOI request, if necessary).

- In terms of Heritage matters, it is clear that Historic England has indicated there would be effects on heritage assets (including non-designated ones). These may be significant given the concerns raised by Historic England, and warrants a revisit of the information from a EIA context. In this regard, RPS is preparing a Heritage Assessment which in our view, better complies with NPPF Paragraph 189 (the submitted assessment is, in our view, inadequate and does not discharge the requirements of NPPF Paragraph 189). We will be issuing this shortly, and which we'll share this with Historic England and other bodies to ensure others can comment as well. With this information, the Council should revisit whether there would be significant effects on both designated and non-designated heritage assets.
- It is clear from the evidence that there would be significant effects arising from the development with regards to economic matters. We also note that in our comments on the economic assessment submitted with the application (prepared by Aventura Consulting and submitted with our main objection letter dated 7<sup>th</sup> February 2019) that there was a lack of information on some of the other potential effects, so there is certainly a need to revisit this from a EIA perspective once a comprehensive assessment has been carried out.
- In terms of transport effects, the information relied upon at Screening Opinion stage appears to underplay the level of traffic generation (the model split) and the temporary effects on parking has not been addressed. We understand your transport team are in discussions with the applicant regarding the provision of such additional information. The proposed development should be re-screened once appropriate transport information has been provided to ensure there would be no significant effects arising from traffic, parking and transport matters.

- It is also noted that no information was provided which lends to the Council's conclusion that significant operational noise effects are not likely, so it is unclear how this conclusion was reached. Indeed, your Environment health team's comments on the application clearly reflect our view that there is a lack of information to assess effects. This alone warrants a revisit of the Opinion once such information is provided.
- There is also no information regarding cumulative effects.

You will see from the above and attached that there are serious issues regarding the way in which the Opinion was reached, and which a proper assessment may have concluded that the development is EIA development. If the Council relies on the current Opinion as it stands, it is quite possible that any decision is challengeable from an EIA perspective, as we have demonstrated. We therefore urge the Council to revisit the EIA Screening Opinion once the relevant information is available, and halt the processing of the application until such information is available (or ask that the application is withdrawn until such information is available).

We note that once you have revisited the Opinion, if you conclude the development is EIA development, EIA Regulations 11 and 20 set out how you can then consider a validly made application that is subsequently found to be EIA development. We trust that these regulations will be followed as appropriate, and we look forward to participating in the process.

We would be more than happy to provide any clarifications with regards to our report and conclusions, should it be necessary. I'll be in touch shortly with the LVIA and Heritage Assessment.

The following documents were attached to this email are included below

- EIA Technical Review



**Appendix 2 – Supplementary Agenda for Committee 15/01/2020.**

# Public Document Pack

**Southend-on-Sea Borough Council**

**Legal & Democratic Services**

**Strategic Director: John Williams**

📍 Civic Centre, Victoria Avenue, Southend-on-Sea, Essex SS2 6ER

☎ 01702 215000

🌐 [www.southend.gov.uk](http://www.southend.gov.uk)

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22 January 2020

Dear Councillor

## **DEVELOPMENT CONTROL COMMITTEE - WEDNESDAY, 15TH JANUARY, 2020**

Please find enclosed, a copy of the supplementary report considered at the meeting of the Development Control Committee held on Wednesday, 15th January, 2020, which was unavailable when the agenda was printed.

Tim Row  
Principal Democratic Services Officer

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**SUPPLEMENTARY INFORMATION**

Page 5

18/02302/BC4M

**Seaway Car Park, Seaway, Southend-on-Sea**

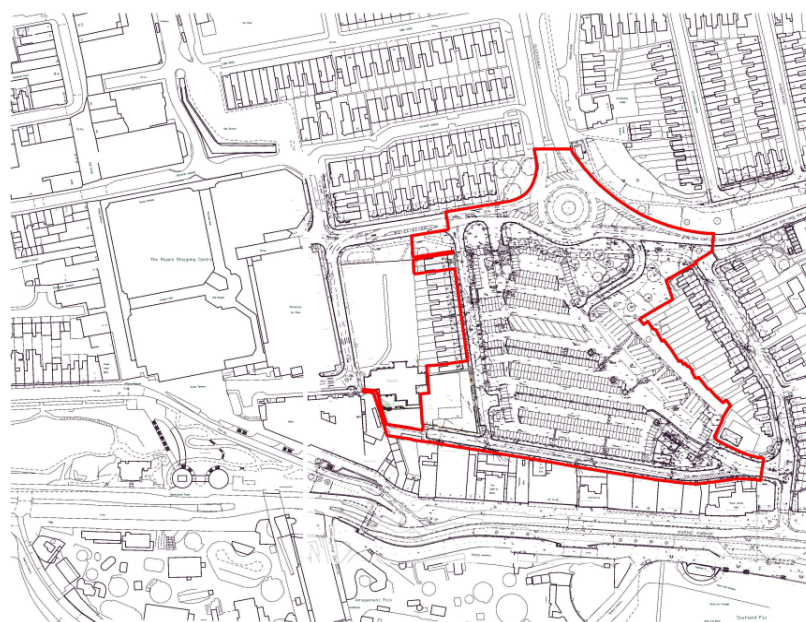
**Covering Report**

On 9<sup>th</sup> January 2020, the Secretary of State made a decision as requested by RPS for a Screening Direction under Regulation 5 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017. The Secretary of State has confirmed that the development is **not** 'EIA development'

*"In the opinion of the Secretary of State and having taken into account the selection criteria in Schedule 3 to the 2017 Regulations, the proposal is **not likely to have significant effects on the environment...**Accordingly, in exercise of the powers conferred on him by regulation 5(3) of the 2017 Regulations the Secretary of State hereby directs that the proposed development is **not 'EIA development'** within the meaning of the 2017 Regulations."*

**Page 11 – Site Plan**

There is a slight discrepancy in the site location plan included within the agenda. For clarity, the site location plan submitted with the application is included below.



## **2.0 The Proposal**

Correction: Paragraph 2.1: Please note that the habitats Regulations Screening Report was not submitted until the September update.

There is a typographical error in the fourth bullet point of paragraph 2.75 on page 30 and paragraph 2.28 on page 25. As per condition 19, it is proposed to restrict service vehicles associated with the development along Herbert Grove between the hours of 19:00 to 07:00 Monday to Friday, 13:00 to 08:00 Saturdays and at no times Sundays and Bank or Public Holidays.

## **3.0 Consultation**

Since the publication of the agenda, 76 standard letters of support to the application have been sent in by the applicant's agent. **Officer Comment:** officers consider the weight that can be placed on the letters of support is limited by their receipt directly from the applicant.

## **6.0 Planning Considerations**

### **2) Traffic and Transport**

Paragraph 6.39 has a typographical error. The third sentence in this paragraph should read *'The Council has granted a temporary planning permission and the Council is committed to retaining this facility for at least one summer season after completion of Seaway.'*

### **3) Parking**

Paragraph 6.70 includes a typographical error. As per the letter from Head of Corporate Property and Assets Management (see Appendix 6), the Gas Works site currently provides 169 parking spaces and 22 coach bays (rather than 156 parking spaces as referenced in this paragraph).

### **6) Design**

There is a typographical error at paragraph 6.160. The Historic England comments are included in more detail in paragraphs 6.195 to 6.196 rather than 6.193-6.194.

### **10) Ecology**

Following the submission of a number of objections from RPS regarding ecology, chiefly the impact of the proposal on bats, with particular concern raised regarding building 7, the Council has commissioned an independent Ecologist to review the ecology related submissions, responses from statutory consultees and third party representations relating to ecology. A full copy of the independent ecology review is included in Appendix 1 and a summary is provided below.

The Council appointed Adrian Meurer, the Director of Ecology at HDA, an ecological, landscape and environmental planning practice. Adrian Meurer has worked as a professional ecologist for over 15 years and is a full member of CIEEM (Chartered Institute of Ecology and Environmental Management). He specialises in the survey and assessment of the effects of development on protected species, habitats and designated sites, including Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Sites of Special Scientific Interest (SSSIs).

In terms of the Habitats Regulations Assessment, Adrian Meurer concludes '*I consider that the Habitats Regulations Assessment prepared on behalf of the applicant is correct in concluding that the proposed development would not be expected to result in any likely significant effect on internationally designated sites, either alone or in combination, and therefore an appropriate assessment is not required...*'

In terms of birds, it is stated '*As the presence of low numbers of common and widespread nesting birds cannot be ruled out, it is recommended that a condition of planning consent be included which requires that demolition of buildings and the removal of trees and shrubs avoids the bird breeding season (generally taken as March to August inclusive)...In the event that clearance during this period is unavoidable then a search of nesting birds should be undertaken by a suitably qualified ecologist immediately prior to clearance. In the event that breeding birds are discovered, sufficient habitat will need to be retained to ensure birds are not disturbed until nesting activity has been completed and the nest vacated...it is recommended that a condition of planning consent is attached to any planning permission granted requiring agreement of a scheme of bird box provision within the completed scheme.*'

In terms of bats, HDA note that no roosting bats have been recorded, concluding '*it is considered that the suite of Phase 1 and Phase 2 bat survey work carried out by Applied Ecology in support of the application is proportionate to the limited risk of roosting bats being present at site. I am subsequently satisfied that reasonable effort has been made at this time to demonstrate that the proposed development would not be expected to adversely affect the favourable conservation status of the local bat population.*'

With regard to building 7, it is stated '*HDA has visited the site and reviewed the condition of B7 and whilst we agree that the building is highly unlikely to support roosting bats, the building does support some features suitable for roosting bats albeit compromised by the building's setting. In view of this, although I consider that sufficient survey has been undertaken in support of the application to demonstrate the likely absence of roosting bats at this current time, and therefore the application accords with planning guidance in this regard, as a precautionary measure I recommended that the Phase 1 bat*

*inspection is updated prior to demolition and that, assuming the condition of the building has not materially changed, a single-visit Phase 2 emergence survey is also undertaken unless otherwise agreed with the planning authority. This could be subject to a condition of planning consent. Notwithstanding the current limited value of the site for roosting bats, it is recommended that a condition of planning consent is attached to any planning permission granted requiring agreement of a scheme of bat box provision within the completed scheme.'*

**Officer comment:**

Condition 42 requires details of the number, location and specifications of bat and bird boxes to be submitted to the local planning authority and condition 43 requires all clearance, conversion and demolition work in association with the approved scheme to be carried out outside the bird nesting season, but where it is necessary for works to commence in the nesting season, then a pre-commencement inspection of the vegetation and buildings for active bird nests shall be carried out by a suitably qualified ecologist.

The Local Planning Authority has already recommended a precautionary condition (condition 44) in relation to bats, however, following the advice received from HDA it is recommended that this condition is amended as follows:

Condition 44

~~Notwithstanding the details submitted and otherwise hereby approved, no demolition hereby approved shall take place in the bat breeding season unless and until all buildings to be demolished have been first checked by a suitably qualified ecologist and it has been demonstrated that there are no signs of any bat roosting activity in the buildings to be demolished.~~

Notwithstanding the details submitted and otherwise hereby approved, no demolition hereby approved shall take place unless and until all buildings to be demolished have been first checked by a suitably qualified ecologist and it has been demonstrated that there are still no signs of any bat roosting activity in the buildings to be demolished. In the event that evidence of bat roosting activity is found no further works that might otherwise affect roosting bats shall take place until a suitable scheme of mitigation for impacts on bats has been submitted to the local planning authority and approved in writing. The scheme shall only be progressed in full accordance with the scheme of mitigation as approved under this condition.

It should be noted that HDA are satisfied that this revised condition is adequate.

An additional representation has been received from RPS in response to the Council's independent ecology review. A copy of the RPS representation is included in Appendix 2. RPS comment that the review indicates that a Phase 2 survey should be undertaken and refers to Circular 06/05 and the PPG, commenting that this guidance states that ecological surveys should only be left to coverage under planning conditions in exceptional circumstances. RPS comment that there are no exceptional circumstances in this case.

**Officer Comment:** HDA have confirmed that the proposal is acceptable in respect of bats with the conditions recommended. Officers agree with this conclusion. Officers and HDA consider that there are no bat related grounds for refusal or deferral of the application.

### **13) Policy CS1.2**

The commentary at row (b) states *'The opportunity to improve the footway that passes the church has not been taken and this is unfortunate...'* However, it is noted that the proposals do include enhanced landscaping to part of this route.

## **7.0 Other Issues**

### **Community Infrastructure Levy Charging Schedule (CIL) (2015)**

Since the publication of the agenda the 2020 table of CIL rates has been published. As such, the CIL rate for this development has increased from £12.23 per square metre to £12.85 per square metre. As such it is calculated that the CIL charge for this development would now be £184,037.70 (subject to confirmation).

## **8.0 Planning Obligations and Conditions**

For clarity, pages 124-126 and Appendix 8 refers to Plan 739\_PL\_001\_P07\_General Arrangement Plan – this plan is subject to confirmation and the latest plan we have is S019/P3072/pl1.

## **Other Matters**

An extension of time to determine the application has been agreed until 15<sup>th</sup> January 2020.



## **Appendix 1 – HAD Ecology Review**

**PROJECT: Seaway Car Park, Southend-on-sea**

**CLIENT: Southend-on-Sea Borough Council**

**HDA Ref: 951.1**

**Date: 10<sup>th</sup> January 2020**

### **CONSIDERATION OF ECOLOGY RELATED SUBMISSIONS IN RELATION TO THE PROPOSED DEVELOPMENT OF LAND AT SEAWAY CAR PARK, SOUTHEND-ON-SEA, ESSEX (SBC Ref: 18/02302/BC4M)**

#### **1 INTRODUCTION**

- 1.1 My name is Adrian Meurer and I am the Director of Ecology at HDA; an ecological, landscape and environmental planning practice working across the UK. I have worked as a professional ecologist for over fifteen years and I am a full member of CIEEM. I specialise in the survey and assessment of the effects of development on protected species, habitats and designated sites, including Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and Sites of Special Scientific Interest (SSSIs).
- 1.2 I have been appointed by Southend-on-Sea Borough Council (SBC) to review ecology-related submissions in support of the application for the proposed redevelopment of the Seaway Car Park site (SBC Ref: 18/02302/BC4M), including responses from statutory consultees and third parties.

#### **2 DESIGNATED AREAS**

- 2.1 The updated Preliminary Ecological Appraisal submitted in support of the application (Applied Ecology, November 2019) identifies that no statutory or non-statutory designations pertain to the site or adjacent land.
- 2.2 The Benfleet and Southend Marshes SPA and Ramsar is located 100m to the south of the site and a further two SPAs, namely the Outer Thames Estuary SPA and the Foulness [mid-Essex Coast Phase 5] SPA, are also located within the identified 10km potential zone of influence of the proposed development.

2.3 A bespoke Habitat Regulations Assessment of the scheme has subsequently been prepared by the applicant (Applied Ecology, July 2019). This identifies that the proposed development would not be expected to result in any likely significant effect on these SPAs, either alone or in combination with other projects, in view of (1) the scale, nature and location of the proposed development, (2) the current ecological character of the proposed development area, (3) limited potential for water sports, particularly at times when birds are most susceptible to disturbance, (4) consideration of restrictions on access and/ or (5) the habitat requirements of the bird species for which the SPAs are designated.

2.4 I consider that the Habitats Regulations Assessment prepared on behalf of the applicant is correct in concluding that the proposed development would not be expected to result in any likely significant effect on internationally designated sites, either alone or in combination, and therefore an appropriate assessment is not required in support of the application. This is supported by the June 2016 Southend-on-Sea *Habitat Regulations Assessment – Screening Report (draft)* which assessed the site alongside other allocations in the Borough in addition to Natural England’s consultation responses relating to the application<sup>1</sup> which state that “*Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development*” before going on to state that “*... we advise you to record your decision that a likely significant effect can be ruled out.*”

### **3 ON-SITE HABITATS**

3.1 The updated Preliminary Ecological Appraisal submitted in support of the application (Applied Ecology, November 2019) identifies that the site is dominated by habitats of limited ecological interest being dominated by hardstanding with limited areas of amenity, semi-improved grassland and ephemeral/ short perennial vegetation. Scattered trees, scrub and shrubs are also present.

3.2 A biodiversity impact assessment calculation of the development scheme has been carried out. This identifies that the proposed scheme would deliver a +0.09 gain in biodiversity units. This reflects a 5.5% increase in the current calculated biodiversity value of the site and therefore indicates that the proposed development would result in no net loss of biodiversity. Additional

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<sup>1</sup> Natural England consultation responses dated 22<sup>nd</sup> January 2019, 26<sup>th</sup> September 2019 and 17<sup>th</sup> October 2019. Text cited is taken from the 17<sup>th</sup> October 2019 response.

measures to enhance the ecological value of the site through provision of bat and bird boxes within the completed scheme are described below.

#### **4 PROTECTED AND NOTABLE SPECIES**

- 4.1 The updated Preliminary Ecological Appraisal submitted in support of the application (Applied Ecology, November 2019) identifies that no suitable habitat for reptiles is present and that no evidence of Badger was recorded during the field survey. Potential for the presence of breeding birds to be present and buildings with potential to support roosting bats were however noted. This is discussed further below.

##### *Birds*

- 4.2 The site is considered unlikely to support an important assemblage of breeding birds and no further survey for this group is recommended. Notwithstanding this, the Preliminary Ecological Appraisal notes the likely presence of common and widespread bird species including Robin, Blue Tit and Woodpigeon.
- 4.3 As the presence of low numbers of common and widespread nesting birds cannot be ruled out, it is recommended that a condition of planning consent be included which requires that demolition of buildings and the removal of trees and shrubs avoids the bird breeding season (generally taken as March to August inclusive), as wild birds, their nests and eggs are protected under the 1981 Wildlife and Countryside Act (as amended). In the event that clearance during this period is unavoidable then a search for nesting birds should be undertaken by a suitably qualified ecologist immediately prior to clearance. In the event that breeding birds are discovered, sufficient habitat will need to be retained to ensure birds are not disturbed until nesting activity has been completed and the nest vacated.
- 4.4 Notwithstanding the current limited interest of the site for breeding birds, it is recommended that a condition of planning consent is attached to any planning permission granted requiring agreement of a scheme of bird box provision within the completed scheme.

##### *Bats*

- 4.5 Phase 1 Bat Roost Scoping Surveys and Phase 2 Bat Emergence Surveys have been carried out in support of the planning application. No roosting bats have been recorded and it is considered

that the suite of Phase 1 and Phase 2 bat survey work carried out by Applied Ecology in support of the application is proportionate to the limited risk of roosting bats being present at the site. I am subsequently satisfied that reasonable effort has been made at this time to demonstrate that the proposed development would not be expected to adversely affect the favourable conservation status of the local bat population.

- 4.6 Building 7, located in the south east of the site, has become the focus of third-party objections to the scheme which cite deviation away from the approach to survey set out in the Bat Conservation Trust's 2016 '*Bat Surveys for Professional Ecologists: Good Practice Guidelines*'. It should be noted that the BCT 2016 document provides guidelines for the approach to survey, indeed at para 1.1.3 the document states "*The guidelines do not aim to either override or replace knowledge and experience. It is accepted that departures from the guidelines (e.g. either decreasing or increasing the number of surveys carried out or using alternative methods) are often appropriate. However, in this scenario an ecologist should provide documentary evidence of (a) their expertise in making this judgement and (b) the ecological rationale behind the judgement.*'
- 4.7 Applied Ecology have surveyed Building 7 on a number of occasions including, most recently, a detailed inspection of the building by Dr Duncan Painter CEnv MCIEEM, a Director at Applied Ecology who holds 3 Natural England bat licences. The first survey carried out of this building identified it as having 'low' potential to support roosting bats but the building was subsequently downgraded to having 'negligible' potential in view of the surrounding habitats and very low number of bats recorded during Phase 2 emergence surveys of buildings elsewhere within the site. Furthermore, the subsequent detailed internal and external inspection of the building identified no evidence of the building supporting roosting bats, either at the time of survey or previously.
- 4.8 Notwithstanding the outcome of the Applied Ecology surveys, HDA has visited the site and reviewed the condition of B7 and whilst we agree that the building is highly unlikely to support roosting bats, the building does support some features suitable for roosting bats albeit compromised by the building's setting. In view of this, although I consider that sufficient survey has been undertaken in support of the application to demonstrate the likely absence of roosting bats at this current time, and therefore the application accords with planning guidance in this regard, as a precautionary measure I recommend that the Phase 1 bat inspection is updated prior to demolition and that, assuming the condition of the building has not materially changed,

a single-visit Phase 2 emergence survey is also undertaken unless otherwise agreed with the planning authority. This could be subject of a condition of planning consent<sup>2</sup>.

- 4.9 Notwithstanding the current limited value of the site for roosting bats, it is recommended that a condition of planning consent is attached to any planning permission granted requiring agreement of a scheme of bat box provision within the completed scheme.

**Adrian Meurer BSc (Hons) MCIEEM**

**Director of Ecology, HDA**

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<sup>2</sup> As is normal practice, updated bat survey work may need to be extended to other buildings within the site pending the timeframe between any planning permission being granted and construction commencing.

## **Appendix 2 – RPS representation received 14/1/2020**

Dear Charlotte,

I have seen the attached independent Ecology report that was uploaded today to the application website. I note its conclusions set out in Paragraph 4.8 that Phase 2 bat emergence surveys should be undertaken. It states: *“assuming the condition of the building has not materially changes, a single-visit Phase 2 emergence survey is also undertaken unless otherwise agreed with the planning authority.”* This is effectively the same conclusions as we have drawn, in that additional surveys **are clearly required**, as otherwise they would not have stated a Phase 2 survey should be undertaken.

As regards the use of a conditions to require the provision of Phase 2 survey results, I re-draw your attention to ‘Circular 06/05: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM’. It states at Paragraph 99:

*“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, **before the permission is granted.** In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below.”*

The PPG re-iterates this position, as I have previously provided to you below. Your independent advisor’s report effectively confirms that there are no exceptional circumstances that exist by way of their report. I do not need to remind you that any decision of the Council can be subject to judicial review, and the independent ecologist’s findings will carry weight alongside RPS’s findings.

I trust therefore that you will provide a revised recommendation for tomorrow’s meeting, indicating to Councillors that the application should be refused (or at least deferred) on lack of ecology information grounds.

I look forward to tomorrow’s meeting.

Kind regards,

Nayan

**Nayan Gandhi**

Principal Planner

RPS | Consulting UK & Ireland

T +44 1235 821 888

E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)

**From:** Nayan Gandhi  
**Sent:** 11 December 2019 14:26  
**To:** Charlotte White < >  
**Cc:** Nick Laister < >; [alisongriffin](#); [andrewlewis](#); [petergeraghty](#)  
**Subject:** RE: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group  
**Importance:** High

Dear Charlotte,

We have become aware of the additional survey of Building 7, submitted by the Applicant's team on 25<sup>th</sup> November 2019 (attached for reference). This represents the submission of substantial information (it amounts to a new 'bat survey'), and on which you should have engaged in further consultations as the presence/absence of protected species represents a material consideration. There is precedent, as you had carried out further consultations following receipt of other substantial reports (the Air Quality Memorandum). It is unclear why you did not re-consult on this information upon receipt and requested a deferral of Committee (which occurred in any event for other reasons, as you know). You will be well aware that failure to consult on key pieces of (new) information will increase the risk of a successful legal challenge against any positive decision on procedural grounds. In this regard, when you do consult on this information, the Essex Bat Group and Essex Wildlife Trust (both of whom are copied to this email) should be asked for comment to ensure site-specific advice is received from local conservation trusts (as you know, Natural England's advice is generally generic and not site or proposal specific). This would also mean it would be wholly inappropriate to attempt to determine the application at the 8<sup>th</sup> January Committee meeting without undertaking a new consultation, for the avoidance of doubt, but I also note that the EIA Screening Direction request is still outstanding.

Before you engage in further consultations, I wish to draw to your attention that there are further shortcomings with the report, and therefore it would be inappropriate to rely on this information to satisfactorily confirm that there are no bats roosting in the building and discharge your statutory responsibilities towards protected species. Further information – in the form of bat emergence surveys – remains required and only after these are provided should a consultation be undertaken. Unless of course the Council refuses the application due to a lack of information, which is warranted given how long the Applicant has had to supply emergence survey data.

Our key concerns with the latest report:

- The author of the report was the reviewer of all of the applicant team's ecology reports, including the original November 2018 PEA which indicated that the building had 'low' potential for a bat roost and re-iterated in the July 2019 PEA. As the signing authority within the Applicant's team, the person was satisfied that bat emergence surveys would be required for the building based on the evidence provided at the time. It is noted that the original survey of the building also used endoscopes as part of the survey when drawing the conclusion that 'low' roost potential existed. There is nothing to suggest that the other surveyors (including the RPS surveyor) were any less qualified to draw their conclusions regarding the bat roost potential of the building. As such, it is unclear why the author would deviate from the precautionary approach that was established in the PEA November 2018.

- The report indicates that the building and area are largely devoid of well-connected or extensive seminatural habitats. This is factually incorrect. The site is linked way of the rear gardens of Hartington Road to vegetation along the Queensway, and which leads to more attractive bat foraging vegetation located along the east-west railway route. This is completely ignored by the report, although this is clearly set out in RPS's 14<sup>th</sup> November note and other evidence presented to you. Indeed, applying the Applicant's comments, it appears that the author of this report would have also drawn the same conclusion as regards the potential of the church graveyard for bat roosts and foraging (i.e. that it too would also not support use by bats because it too would be 'isolated' given the extent of unsupportive development around it). However, the Applicant's team is well aware that foraging occurs at the graveyard (they actively recorded 2x *Common Pipistrelles* bats during their survey). As such, it can be concluded that the 'Context' section of the report is not sufficiently accurate and detailed, and omits relevant facts, to enable you to consider it to be appropriate.
- The presence of suitable habitats surrounding the building and the presence of foraging bats in the area are facts excluded from the Applicant's team arguments put forward in their email dated 17<sup>th</sup> October 2019, and which are repeated in this report (see attached, which was obtained via FOI although it is clear it should have been published to the application website as critical information). I note that the commentary in the email also fails to recognise that the Principal Ecologist who carried out the May 2019 (i.e. the in-season survey) is not licenced to use endoscopes as part of a roost survey because of licence restrictions, but the person who carried out the October 2018 survey was (and this was approved by the author of this report). The may survey reports, which was omitted from the July 2019 PEA, can be considered to be limited as compared with those in undertaken in October 2018. This fact completely undermines the conclusions of that email, as we have previously noted, and the current report.
- The report indicates that the roof void was too narrow to support bats. However, the Applicant's team would be well aware that a lack of space only limits use by certain types of bats. As mentioned above, *Common Pipistrelles* were found in the area and these bats will roost in small crevices and cavities, and will crawl into entrances. Again, it is simply not accurate to draw a blanket conclusion when factual data collected by the Applicant's team clearly indicates the types of bats that are known to use such narrow spaces forage in the area. We come to this again below.
- In the final sentence of the third paragraph of Page 2, it states that the view across the void was limited ("the view that could be achieved"). The limited nature of the view is clearly shown in Photo 2 of the report. The Applicant's team cannot state with certainty that the whole of the void is not suitable as they clearly could not inspect the space in its entirety, noting the type of species that are found within the area. In this regard, I draw reference back to the Bat Conservation Trust's (BCT) guidance, which is clear at Paragraph 5.2.9 that information as presented "*must estimate the likelihood of bats being present at other times of the year. It there is a reasonable likelihood that bat roosts could be present, and particularly if there are areas that are inaccessible for survey, then further surveys may be needed.*" Part of the void has not been surveyed, and the Applicant's team, of which the author was a part, had already stated that bat emergence surveys must be undertaken. They have not surveyed the whole of the relevant space during the optimum period to confirm bats are or could not be present.
- The author indicates that the roof void was dry and cobwebby in places, with no signs of water ingress. The author effectively confirms that the space provides suitable conditions internally for roosting bats, such as *Common Pipistrelles*. The cobwebs are meaningless, as these can be established within hours, and there are many examples where roosting takes place in and around spiderwebs.



- The PPG regarding Protected Species is clear that: *“You only need to ask an application to carry out a survey if it’s likely that protected species are: present on or near the proposed site, such as protected bats.”* I refer to the fact that *Common Pipistrelles* are found near to the site. The timing of this detailed inspection (which was limited due to there being inaccessible areas) raises questions regarding whether the information can be relied on. Indeed, the original PEA 2018 included a survey in October 2018, which is much closer to the optimum period than the current report.

RPS’s survey on 14<sup>th</sup> November 2019 was not undertaken at a time when bats would be expected to be seen; we acknowledge this point and to suggest otherwise is wholly misleading by the Applicant’s team. It is simply not RPS’s responsibility to conduct a full and appropriate survey the building. That responsibility remains with the Applicant’s team. The reality is that the Applicant has failed to follow recognised guidance and have conducted ecology surveys in a very haphazard way, with three revisions of the PEA, one key email and a further bat report having been submitted. You will have seen in my previous emails that demonstrate how far the Applicant’s team has deviated from guidance, and many of these deviations remain with the latest report. For example, the Applicant’s team will be well aware of the BCT’s guidance in Paragraph 5.2.1, which states: *“In many situations it is not possible to inspect all locations where bats may be present and therefore **an absence of bat evidence does not equate to evidence of bat absence.**”* Their conclusions are clearly contrary to that unambiguous position in the BCT Guidance. To go back to our original position, we are simply requesting that the Council following standard practice regarding the surveys (because you do not have reliable information or ability to check the information that enables you to deviate). More appropriately, you should simply **refuse the application if the Applicant does not want to provide them** based on a lack of information (there are other reasons to refuse the application, as you know).

The fact is that the report does not change the risk to the Council that a legal challenge will likely be successful without the provision of emergence surveys data. Our conclusion is further supported by the fact that you have no suitably qualified (independent) wildlife advisor at the Council who can verify the Applicant’s information and approach are sufficiently accurate and according to guidance, and you have not consulted on the latest report or the 17<sup>th</sup> October 2019 email to confirm the accuracy of the approach (which we note above, raises significant concerns). It remains unclear how the Council can be certain that the submitted information will enable you to satisfactorily discharge your duties with respect to the 3 legal tests regarding licensing.

We still object to the scheme on ecology grounds, notwithstanding this report. Our client will ensure that the Council complies with all statutory responsibilities towards protected species before making any determination of the application. Indeed, as you know, there were previous lapses with regards to the removal of the Rossi Ice Factory, so it becomes more imperative that guidance is adhered to with this proposal because bats are present in and around the Seaway site and the building’s potential remains classified as ‘low’.

I would be grateful if you kindly confirm receipt of this email.

Kind regards,

Nayan

**Nayan Gandhi**

Principal Planner

RPS | Consulting UK & Ireland

T +44 1235 821 888

E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)

**From:** Nayan Gandhi

**Sent:** 25 November 2019 17:10

**To:** 'Charlotte White' <>

**Cc:** Nick Laister <>; 'alisongriffin' <[alisongriffin](mailto:alisongriffin)>; 'andrewlewis' <[andrewlewis](mailto:andrewlewis)>; 'petergeraghty' <[petergeraghty](mailto:petergeraghty)>

**Subject:** RE: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear Charlotte,

You may be aware that we received a cache of correspondence between SBC and its advising partners and the applicant earlier today following a FOI request. I attach an email from the applicant's team dated 17<sup>th</sup> October 2019 which provides a response to our email of 10<sup>th</sup> October in relation to missing bat emergence surveys (see below). It appears that their email may have formed the basis of Paragraph 6.224 of the Committee report, along with the PEAOct19.

The email contains a serious error which leads to the wrong conclusion, and SBC's reliance on it would therefore be incorrect. The email states that no bat activity was recorded during the after dark survey of the buildings to the west and so the value of the block (Building 7) was downgraded from low to negligible. This is an incorrect statement. I refer you to Paragraph 2.16 of the PEA July 2019 version, which states: *"Two foraging common pipistrelle bats were heard by surveyors and record foraging in the church yard and back gardens off Herbert Grove from 21.36 (30 minutes after sunset)." A similar statement exists at Paragraph 3.24 of the PEAOct19 (extract attached).*

As you will know, there are a number of buildings along Herbert Grove that fall within the Site (including the ones that were being surveyed on the night the bats were recorded). It is misleading to categorically state that the Site was devoid of bat activity when actual reporting states otherwise. It undermines the evidence (or lack thereof), on which the Council may have relied to draw its conclusion on this matter. In any event, we note that that the applicant is drawing conclusions about bat activity over the entire the Seaway site, despite only surveying one area of it (the far west).

As for the experience, I note that the October 2018 surveyor held a higher level licence, and their results are confirmed by RPS's ecologist, as you will have seen.

RPS also raises concerns that SBC did not undertake a preliminary bat roost survey of the former Rossi Ice Cream factory before it was demolished, according to FOI records. However, It is noted that the applicant's team have identified the presence of bats in and around the Seaway car park, so it appears to be an error that the Council did not undertake roost surveys before the Rossi building was demolished. As set out in the BCT Guidance, damage or destruction of a roost is an offence as identified in the Habitats Regulations, and could be committed accidentally. Whilst the Rossi building is now long lost, to avoid future mistakes regarding accidental or otherwise damage to roosts, it is

imperative that SBC refuse the current application as there are no bat emergence surveys for Building 7, the building has been classified as 'low' and the justification provided by the applicant to deviate from the guidance is absent or inaccurate.

In addition to the guidance that I have referred to below, Clause 7.3 of the BS42020:2013 indicates that Preliminary ecological appraisal reports are inadequate to inform the planning process unless no further surveys or mitigation area required, to add to your arsenal that any decision to refuse the application on lack of survey information will be upheld by an Inspector.

I look forward to confirmation that you have now withdrawn Paragraph 6.224 and put forward a recommendation for refusal.

Please confirm receipt of this email.

Kind regards,

Nayan

FAO: Charlotte White

CC: Senior SBC Executives

BCC: Clare Foster, Natural England

Deputy Chief Scientist at Natural England (Trustee at Bat Conservation Trust)

Neil Harvey and Sue Hooton, Essex County Council Ecology

Essex Bat Trust

Andrew Impey, Essex Wildlife Trust

Kit Stoner, Bat Conservation Trust Chief Executive

To be forwarded to all Councillors and the Southend Echo.

Dear Charlotte,

I write to regarding the ecology matter (further to my email below and our representations of 7<sup>th</sup> November 2019). First, I do not apologise for the length of the email. I want to be clear to you: this email will be forwarded to DCC members, other Councillors, Natural England, Essex Bat Trust, Essex Wildlife Trust, Bat Conservation Trust and the Southend Echo. All parties can see the evidence, and draw their own conclusion regarding what SBC should be doing on 27<sup>th</sup> November 2019 when DCC considers the application. Indeed, I have done this because we want transparency in decision making: the reasons to refuse permission are fully justified and any other decision does not enable the Council to discharge its statutory responsibilities as set out in the Government's PPG and BCT Guidance. The details in this email are also designed to dispel at the outset any myths that might be perpetuated by the applicant's lobby team after my email is circulated. I have sent the email as a blind copy to external parties so their data can be protected if the email is published.

You have clearly set out in Development Control Committee's (DCC) Committee Report Paragraph 6.224 that clarification was obtained from the applicant regarding the ecologist surveys, and which you appear to accept at face value. Unfortunately, this appears to be a fatal mistake on the Council's part as the evidence supplied by the Applicant in October 2019 is contrary to guidance and remains unjustified. To the point, the Council should not have relied on the applicant's evidence before it drew the conclusion that Building 7 is of negligible bat roost potential. This is because the downgrade is not justified (indeed, there is no evidence submitted by the applicant which would warrant the change), and in fact the applicant's conclusions are incorrect given the building's features etc, as I'll set out below. Ultimately, the implications are that as no bat emergence surveys are forthcoming before the DCC meeting this Wednesday, so you must therefore change your recommendation to one of **refusal on a lack of information on the impact of the development on protected species (there are other issues which warrant refusal, but that is not relevant to this email but could form further justified reasons)**. I provide all the evidence of the reason for this below, so you (and DCC) will be fully confident that such a refusal will be upheld by an Inspector with any Planning Appeal.

**There is no doubt that DCC must refuse the application on the lack of bat emergence surveys alone.** For example, the Government's Protected Species Checklist (as attached) is clear that without the emergence surveys, the decision falls under Category F: *"Inadequate survey. Request this is done properly as in question 3 or refuse application."* It is supported by the Government's Planning Practice Guidance (PPG), which states: ***"You can refuse planning permission, or ask for a survey to be redone..."*** (PPG Chapter: *'Protected Species: How to Review Planning Applications – As a Planning Authority use Natural England's standing advice to review planning applications that might affect protected species'*). It goes on to state: ***"Use Natural England's guidance (known as 'standing advice') to help you decide whether to reject or approve an application if a protected species could be affected. You need to take standing advice into account when making your planning decision."*** Under the checklist for 'Making a Decision' within the same PPG section, it is clear that the proposal fails all criteria (no additional surveys carried out, no confidence a licence can be granted, no mitigation or compensation plans put forward, etc). You can be wholly confident that the scheme's refusal is justified by the PPG and other guidance, and will be upheld by a Planning Inspector at Appeal (who will take their responsibilities towards protected species very seriously given EU and UK law on the matter). Indeed, without changing the current recommendation, the report could be conceived as being misleading noting the evidence that we have already submitted, and additional information that we submit to you with this email. So the conclusion that can be drawn is that DCC would be falsely informed when making their decision if our information below is not supplied to them. There could be substantial negative consequences arising.

We can draw this conclusion because RPS's own ecologist, who holds Natural England Levels 3 and 4 bat licences, has conducted an independent survey of the building (see attached report). You will see that that the report clearly concludes that the building should be subject to further emergence surveys because it remains classified as a building which hosts 'low' potential for a bat roost (and the evidence to support that conclusion is supplied). You will see by their report that they state on Page 3: ***"There was potential for bats to roost within the roof void and/or behind the wooden fascia of Building 7, and the building was considered to have low roost potential. Demolition of this***

**buildings is planned as part of the proposed development and therefore further surveys on this building are required in advance of planning.”**

Furthermore, there are other reasons as to why you should withdraw Paragraph 6.224 of your report and alter your recommendation to one of **refusal**, which can be summarised as follows:

- The PEA November 2018 incorporated survey results from a high bat licenced ecologist. It clearly drew the conclusion that the building’s bat roost potential was ‘low’ and further emergence surveys would be required before any planning permission could be granted.
- The PEA October 2019 includes references to a May 2019 building survey, but which contains no documentary evidence that justifies that a downgraded potential exists, in direct conflict with Bat Conservation Trust (BCT) guidance (details below).
- Building 7’s features that the applicant’s team identified that exist and warrant further investigation have not changed.
- The absence of external evidence is not sufficient justification to warrant the downgrading of the potential, according to the BCT guidance.
- No internal survey of the building has been recorded. As the building has been abandoned, there can be no certainty that bats are not roosting within the building.
- Sufficient connectivity exists between the building and wider foraging routes for common bat species, noting the presence of vegetation in the rear gardens of Hartington Road that links the northern and southern parts of the site and wider foraging areas.
- It is not possible to conclude that there is no bat activity on another part of the site from the data collected during the May 2019 surveys, as the ecologists were located in immediate proximity to Buildings 1 and 3, and at some distance from Building 7. Bats will be using the extremities of the site due to the unattractive surface level car park in the middle, as acknowledged by the Applicant’s team, and no evidence is supplied that would demonstrate the ecologists were surveying the eastern side of the site at the relevant times. In any event, the May 2019 survey results demonstrates that **bats are present** in the vicinity (I come to this again below with a PPG reference on how to deal with this).
- So, to draw that conclusion that bats are not active on the whole of the site, formal bat activity surveys of the entire site would be required and forms the outcomes of multiple surveys between April/May and September/October. No evidence of such surveys has been presented, and we suspect that these have not been carried out.
- In any event, you already have the evidence that two ecologists (from the same firm) who have formed differing opinions regarding the potential surveys that should be prepared, with the more qualified person stating that the building hosts ‘low’ potential and further surveys are required. You therefore must err on the side of caution and require such surveys before any application is determined, according to the PPG.
- In fact, with RPS’s report, you now have confirmation the two more qualified ecologists who have visited the building have confirmed in their view the building’s potential is ‘low’ and which bat emergence surveys are required before the Council can conclude that there is no likelihood of impact on protected species by the proposed development, in accordance with the NPPG and Circular 05/2006. This cannot be ignored or brushed aside.

Without such bat emergence surveys, the only conclusion you can draw is that the application should be **REFUSED** according to relevant guidance, which the applicant’s team appears to be asking you to deviate from without providing any good reason to do so.

I set this out in more detail, for your benefit. Following our objections in October 2019, the Council had received a revised PEA from the applicant’s team, and published this on the application website

on 23<sup>rd</sup> October 2019. It is referred to as the PEAOct19. This contains a number of changes, primarily focused around 'Building 7', a former toilet block building located in the south-eastern corner of the site, and to which our comments below primarily related. These can be summarised as follows:

- Added reference to a new surveyor (Rob Hutchinson, a Natural England Level 1 bat worker) in Para 2.6, who has supposed carried out a further survey of the toilet block on 29<sup>th</sup> May (no evidence or details of the survey are supplied within the report).
- A new paragraph was inserted for the description for Building 7 and its potential on Page 11, which indicates that upon the further May visit, the toilet block is no longer considered to host 'low' potential for a bat roost. Hence no surveys were required in May.

RPS holds strong reservations as to why this information was not provided at the outset with the July revision of the PEA following the May 2019 surveys carried out by the applicant's team (referred to as PEAJul19), on which our objections below have been submitted. The evidence would have clearly been available in July when the applicant prepared an update to the PEA, and indeed, the Figure was altered at that time, but without any accompanying text within the report to explain why it had changed. It appears to be a substantial omission. More to the point, RPS also notes that there is no evidence (e.g. survey notes or photographs) attached to the PEAOct19 that complements the primary changes to it. We come to this again below, but it does raise questions on why the Case Officer can be confident that what is reported is accurate and justified.

Before discussing the reasons that justify our position, I take the opportunity to set out the relevant guidance, as you may not be familiar with it. The Bat Conservation Trust's 'Bat Surveys for Professional Ecologists Good Practice Guidelines (3<sup>rd</sup> Edition)' (referred to as the 'BCT Guidance') is most pertinent (I note that the applicant's team has sponsored the document, so you would expect them to adhere to it). The key paragraph is Paragraph 5.2.9, which states:

*"Where the possibility that bats are present cannot be eliminated or evidence of bats is found during a preliminary roost assessment, then further surveys (such as winter hibernation (Section 5.3), presence/absence (Section 7.1) and/or roost characterisation (Section 7.2) surveys) are likely to be necessary if the impacts on the roosting habitat (or the bats using it) are predicted. The ecologist should consider the further surveys needed (if any), their logistics (resources, emergence survey locations, timings), and any potential health and safety hazards reported.*

*"If the structure has been classified as having low suitability for bats (see Table 4.1), and ecologist should make a professional judgement on how to proceed based on all of the evidence available.*

*"if sufficient areas (including voids cracks and crevices) of a structure have been inspected and no evidence found (and is unlikely to have been removed by weather or cleaning or be hidden) then further surveys may not be appropriate. **Information (photographs and detailed descriptions) should be presented in the survey report to justify this conclusion and the likelihood of bats being present at other times of the year estimated.** If there is a reasonable likelihood that bat roosts could be present, and **particularly if there are areas***

***that are inaccessible for survey, then further surveys may be needed and these should be proportionate to the circumstances (see Section 2.2.5).***

***“If not suitable habitat for bats is found, then further surveys are not necessary. In this scenario, it is necessary to document how this decision has been reached; photographs and details descriptions should be made available as evidence of a robust survey and assessment.”***

Our main concern is that the PEA Oct 19 alterations that indicate that Building 7 has ‘negligible’ potential for a roost is **NOT** supported by any documentary evidence within the report and which would normally be required with such a conclusion. The approach that has been adopted by the applicant’s team is without doubt contrary to the BCT Guidance regarding such a situation, as referred to above. This is especially pertinent when the original surveying ecologist is a Natural England Level 2 licenced bat worker (i.e. has more experience) and is licenced to use endoscopes as part of the preliminary roost survey, whilst the May 2019 survey was carried out by members who does not hold such advanced licences. It is also pertinent that the building’s relevant features have not been changed in any of the three versions of the PEA that would suggest a downgrade to the potential is warranted, and there is no evidence that the building was internally inspected to confirm the absence of bats, noting the building is abandoned so without regular disturbance, it could become an attractive place for bats to roost. Indeed, as you’ll see from our report, there are certainly reasons as to why the building was initially identified as hosting ‘low’ potential for a bat roost.

Some other points of relevance:

- There is a claim that the building is isolated with hardstanding located between it and any suitable bat foraging habitat. This clearly ignores the presence of suitable trees and other vegetation located at the rear of the properties that face onto Hartington Road, and which provides a reasonable link to wider foraging routes including northward along Queensway to the railway line, or along the Seaway Car Park trees to the church yard, where bats were recorded as foraging during the May 2019 site visit. The bats could have easily travelled along the rear of the gardens of Hartington Road and along the line of trees that fact the Queensway and Chancellors Road to get to the church yard, and would explain why they were recorded to have arrived at the church yard sometime after sunset (as we set out in our objection below).
- A lack of bat activity has been cited. It is unclear how the ecologists could have concluded this, as during the May visit, they were located adjacent to Buildings 1 and 3, so at some distance from Building 7, and with their devices facing the two buildings that they were surveying. It is likely that with vehicle movements and other noises may have intervened, and so there can be no conclusive evidence that bats are not active in the vicinity of Building 7 during the May 2019. Indeed, the evidence of the ecologists clearly demonstrates bats were active in the vicinity, so the opposite is true from the evidence provided to you by the applicant. Furthermore, no bat activity surveys of the whole of the site have been carried out.
- Also cited is the fact that no external evidence was found on the building. We are surprised that they are relying on this position because the BCT Guidance is clear on this point in Paragraph 5.2.4.1 (External Surveys), where it emphasises the point that: ***“Sometimes bats leave no visible sign of their presence on the outside of a building (and even when they do, wet weather can wash evidence away).”*** Indeed, the same guidance is repeated with the

equally high emphasis in Paragraph 5.2.4.2 (Internal Surveys). No justification has been provided that would enable the ecologist to rely on this against BCT Guidance.

- RPS notes there is no evidence that the applicant's team has undertaken an internal survey of the building. BCT Guidance in Paragraph 5.2.1 states: *"A Preliminary Roost Assessment is a detailed inspection of the exterior and interior of a structure to look for features that bats could use for entry/exit and roosting and to search for signs of bats. The aim of this survey is to determine the actual or potential presence of bats and the need for further survey and/or mitigation. In many situations it is not possible to inspect all locations where bats may be present and **therefore an absence of bat evidence does not equate to evidence of bat absence.**"* It is clear from the BCT Guidance that if no internal inspections have been carried out, a precautionary approach is necessary and emergence surveys must be carried out. As noted above, bats are present in the area. It would be incorrect to conclude there are no bats at the building simply because no external evidence was found.

The Council is effectively being asked to deviate from standard guidance regarding bat emergence surveys by the Applicant's team without the latter supplying the Council with any evidence to do so. We are completely unclear why you would take their information as face value given the substantial omissions, unless you are looking at the commercial realities of a lease arrangement which falls outside of planning matters. The PPG section on Protected Species states: *"Use Natural England's guidance (known as 'standing advice') to help you decide whether **to reject or approve an application if a protected species could be affected.** You need to take standing advice into account when making your planning decision.*

***Use an expert, such as your local authority ecologist, to help you apply the standing advice to planning decisions if you're not a wildlife specialist.*** Unless you are a qualified expert, the PPG is clear that you will need to rely on one to determine whether the PEA submitted by the Applicant is valid and justified. I am not aware that SBC has obtained evidence from an independent qualified ecologist to verify the applicant's PEA, even though RPS has raised substantial concerns regarding the evidence presented through the application process (perhaps you could have asked Essex County Council's team, who are copied into this email, or Natural England for more advice). This puts DCC's decision at risk if it is anything but **REFUSAL**.

Regardless, the BCT Guidance is equally clear on this point at Paragraph 4.3.8, which states: ***"Where further surveys and mitigation are required, the preliminary ecological appraisal report in isolation will not be adequate for submission to the LPA in support of a planning application. The report will only be adequate for this purpose if there is need for further surveys and mitigation."*** It is clear that a further Phase 2 bat survey report is necessary before the Council can consider sufficient evidence has been supplied to enable the Council to deviate from BCT Guidance. This is repeated in the PPG, which states: *"You only need to ask an applicant to carry out a survey if it's likely that protected species are:*

- *present on or near the proposed site, such as protected bats at a proposed barn conversion*
- *affected by the development, such as the effect of a wind turbine proposal on protected birds"*



We already know that bats were found in the churchyard within the vicinity of the site, as I mentioned above. They are near to the site, and therefore the Council's position to not request additional surveys would be clearly against such guidance and which justification must then be supplied. Without such evidence, the Council must follow the PPG and BCT Guidance as otherwise it could render any decision invalid because DCC would not have considered all material considerations appropriately. This is particularly true when the Council employs no ecologists inhouse to carry out an independent verification of the evidence, and which the reliability of the applicant's evidence has been heavily questioned by others.

**The Council cannot impose a Condition to require the provision of Surveys after permission is granted.**

You may be tempted to suggest to DCC that a condition could address the matters. I want to make it clear that this would be against guidance. I also want to ensure the applicant's lobby team does not mis-represent the correct approach.

Our ecologist's letter is clear that it states that further surveys would be required as they would inform mitigation measures necessary. The Council cannot impose a condition to any permission that requires the submission of the surveys and the eventual submission of mitigation (which could require planning permission to implement), because 'exceptional circumstances' according to Circular 05/2006 Paragraph 99 do not exist (the applicant's team has not presented any evidence of such circumstances, and missing a survey season is not an 'exceptional circumstance'). Any condition imposed would fail the tests of the NPPF, as it would not be 'precise'. The Council also has a requirement that they be fully confident that Natural England would issue a licence in the future of a bat roost is found, noting any licence must comply with the 3 legal tests set out in the PPG. You have made no assessment of the 3 legal tests in your report, so DCC would be blindly making the decision without reference to the correct approach. In fact, the PPG clearly states: *"You'll need to agree any mitigation or compensatory measures as part of the proposal. To make sure that mitigation measures are effective when granting planning permission you may have to consider"* imposing a planning condition or planning obligation. However, you cannot ensure any mitigation could be effective if you are not able to ascertain whether bats are in fact on site or not, hence it would be inappropriate to secure such surveys by way of condition.

It states under 'Making a Decision' that you can grant planning permission if:

- an appropriate survey was carried out by a qualified ecologist at the time of year specified in the standing advice – **Further survey not completed.**
- a wildlife licence is likely to be granted by Natural England – **unknown, as an assessment against the 3 legal tests cannot be carried out without further surveys.**
- Mitigation plans are acceptable – **none submitted as species surveys not carried out across whole of site.**
- Compensation plans are acceptable when mitigation isn't possible – **same, no mitigation plans presented because species surveys were not carried out.**
- review and monitoring plans are in place, where appropriate – **no plans to review.**
- all wider planning considerations are met – **approach completely contrary to PPG and BCT Guidance and the recommendations that further survey of the building is necessary according to the applicant's original submission and RPS's recent report.**

We look forward to receiving confirmation that you have submitted a change to the recommendation in the report and you now recommend that the application is **REFUSED**.

I would be grateful if you would kindly confirm receipt of this email, noting the 'missing emails' point. Of course, I would be happy to discuss with you the evidence presented in the above email on in the attached as required.

Kind regards,

Nayan

**Nayan Gandhi**

Principal Planner  
RPS | Consulting UK & Ireland  
T +44 1235 821 888  
E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)

**From:** Nayan Gandhi

**Sent:** 10 October 2019 00:33

**To:** Charlotte White <>

**Cc:** Nick Laister <[nick.laister](mailto:nick.laister)>; [Sue.Hooton](mailto:Sue.Hooton); [Neil.Harvey](mailto:Neil.Harvey); [consultations@naturalengland](mailto:consultations@naturalengland); [petergeraghty](mailto:petergeraghty); andrewlewis

**Subject:** RE: Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

FAO: Charlotte White

CC: Clare Foster, Natural England

Neil Harvey and Sue Horton, Essex County Council Ecology

Dear Charlotte,

Straight to the point, it is come to light that the Applicant has failed to complete all relevant bat emergence surveys, and therefore the application cannot be determined before this information is submitted. The information can only be collected between May and August, and therefore it can only be provided next summer. Any decision before this is provided is likely to result in a successful legal challenge because the Council cannot be certain to have discharged its statutory duties. I set out the reasons for this below.

As set out in the email below, you may recall that we objected to the Applicant's proposals on the basis that there was a lack of ecology information (bat emergence surveys), and which are required in order for the Council to discharge its responsibilities regarding protected species (I come to this again below). We were clear that the Council should have invalidated the application due to a lack of ecology information, given it would take many months before the information could be provided. We were disappointed that you did not do this, even though it was clearly contrary to your own Local Validation List. That said, we are where we are now, which brings me to the current point.

The original Preliminary Ecological Appraisal (PEA) Report (November 2019) indicated that they surveyed the site on 19 October 2018 by Polly Lockyer. At Paragraphs 3.22 and Paragraph 4.10, it

was identified that Buildings 1 (29 Herbert Grove), 3 (1&3 Herbert Grove), and 7 (public toilet block) had LOW value for roosting bats, and thus should be surveyed (see attached extracts). We indicated in our objection letter (see Page 8 of our Cover Letter dated 7<sup>th</sup> February 2019) that further bat emergence surveys will be required. Figure 3.1 indicates the Building 7 was of 'low' potential, along with Buildings 1 and 3 and therefore a survey should be carried out within the recognised period of 'May-August' according to the relevant guidance.

The Applicant has now submitted a revised PEA, dated 26<sup>th</sup> July 2019. A number of key points:

- Paragraph 2.12 confirms that a bat roost emergence survey was carried out on the evening of 29<sup>th</sup> May 2019 on Buildings 1 and 3 (1-3 and 29 Herbert Grove). No record was noted of any survey or examination of Building 7.
- Paragraph 3.22 confirms that the same Buildings 1, 3 and 7 are still assigned LOW value to roosting bats.
- Paragraph 5.8 indicates that *"The site was of limited overall value to protected species, with interest relating predominantly to the potential value of Buildings 1 and 3 (see Figure 3.3) to building – roosting bats, all of which were assessed as being of **Low** potentially according to current best practice guidelines for assessing building for their bat roost potential. Follow-up bat activity survey has been completed that confirms bat roost absence from both buildings."*

Again, there is no mention of a survey for Building No 7, the toilet block. The absence of emergence survey information is a substantial omission and which means the Council cannot be confident of discharging its responsibilities related to protected species until this survey is completed. I come to this again below.

- Indeed, the update PEA's Figure 3.3 sets out which building locations have value to roosting bats, and which require further surveys. The record on this drawing has been changed to refer to 'negligible' although the description in revised PEA Paragraph 3.22 remains the same as it was recorded in the original PEA (see attached extracts). It is wholly misleading change therefore, and its LOW value requires the requisite emergence surveys.
- We note that Polly Lockyer was the same ecologist who undertook both the 19<sup>th</sup> October 2018 survey and the 29<sup>th</sup> May 2019 surveys, and is a Natural England Level 2 licenced bat worker, so capable of identifying relevant roosts.
- Importantly, the PEA was substantially updated in July 2019 without any change to Building 7's description and features, so this would strongly indicate that the potential for bat roosts remains.
- **A survey of the building is therefore required to be conducted between May and August (optimal) or April/September (sub-optimal) 2020 before the Council can determine the application.**
- RPS notes that in Paragraph 2.16 that the surveys recorded 2 bats foraging in the church yard and back gardens of Herbert Grove, and 30 minutes after sunset (which suggests they may have come from elsewhere). Indeed, as these did not emerge from Buildings 1 & 3 which were being surveyed at the time, their roosts are likely elsewhere. Noting the identified potential of Building 7, it is not unreasonable to conclude that these bats possibly came from the toilet block (which if the ecologist had surveyed it, they would have known for certain, but in the absence, it cannot be excluded given it has features that would

support bat roosts). Approving its demolition of these buildings as part of this application without relevant emergence surveys would be an unreasonable risk to take.

Indeed, on the above basis, a precautionary approach regarding the presence of a bat roost in the toilet block is required. Indeed, this is set out clearly in 'Circular 06/05: BIODIVERSITY AND GEOLOGICAL CONSERVATION – STATUTORY OBLIGATIONS AND THEIR IMPACT WITHIN THE PLANNING SYSTEM'. It states at Paragraph 99:

**"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.** *The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. **Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted.** In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure set out in section C below."*

There are no exceptional circumstances in this scenario. There was clear evidence that a survey was required for Building 7, as identified in the original PEA (Paragraph 4.10). The building's description was not changed between the original PEA and revised PEA, despite there being numerous other changes between the two reports. The same ecologist, who is bat licenced, identified the potential. The omission of the survey by the Applicant's team is not an exceptional circumstance. The Council must therefore conclude that there remains a need for this survey, and the change to Figure 3.3 in the revised PEA must be treated as a substantial error. On the above basis, the Council cannot categorically state that they would be able to discharge its statutory obligations with respect to protected species and enable them to grant planning permission for the development **until they have evidence of the bat emergence survey for Building 7. The survey cannot be undertaken until next May at the earliest.**

The error arising from Figure 3.3 raises substantial questions regarding the PEA's accuracy and evidence as the change is not substantiated by the written evidence (so the reason for the change is unclear).

In this circumstance, the Council has no professional ecologists that can verify either PEA's data and has not sought consultation from Essex County Council's ecologists. It would be wholly prudent and appropriate of the Council to independently engage a certified ecologist to verify the whole of the evidence within the PEA given this substantial oversight between the two versions of the PEA (in the same way as the Council has now engaged a landscape architect following RPS's concerns). Any other action (i.e. granting of planning permission without the additional survey) would likely result in

a legal challenge given the Council would have failed to comply with Circular 06/05, and which the Council would not be able to professionally defend.

Indeed, I have copied in both Natural England consultations and Essex County Council ecologists, who I am sure would agree with RPS that there is a precautionary need to delay any decision until the Applicant has completed the relevant emergence in the correct period and verified its PEA data on the whole. Since Southend has no in-house ecologists, Essex County Council is the closest relevant statutory consultee.

Returning to my point that the application has insufficient information to determine it on ecology grounds, the Council must either refuse the application ***now*** due to a lack of information on ecology, or deem that the application is invalid and take action to force the application's withdrawal. It would be wholly unreasonable to hold an application in abeyance (although we'd argue there are many other reasons to refuse permission until this survey can be completed) given the blight that will occur to residents and land owners of the surrounding properties whilst the application remains on hold for what is another 7-8 months until the next survey season.

There are also question marks regarding ecology matters in EIA terms noting the outstanding risk to habitats.

I formally request that you provide me with a response as to what action the Council will take with regards to this substantial error, prior to making any decision on the application.

I will write you again shortly with our other objections to the EIA Screening Opinion Request and planning applications. However, as you'll see from those errors, and others we have already identified, it is becoming increasingly clear that the Council may want to fully re-think its relationship with Turnstone Southend Ltd at the earliest opportunity, since such basic errors are being committed.

I would be willing to discuss this further as required.

Kind regards,

Nayan

**Nayan Gandhi**

Principal Planner

RPS | Consulting UK & Ireland

T +44 1235 821 888

E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)

**From:** Nayan Gandhi

**Sent:** 28 February 2019 10:56

**To:** 'CharlotteWhite@southend.gov.uk' <>

**Cc:** Nick Laister <[nick.laister](mailto:nick.laister)>

**Subject:** Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

**Importance:** High

Dear Ms White,

Simply following up on the email below and our ecology objections to the above. According to the application website, the above application is still under consideration. I am very surprised by that this noting the lack of ecology information makes it invalid.

As we wrote in our ecology objection, the application should be withdrawn, as it fails to provide necessary ecology information (bat emergence surveys, as acknowledged in the submitted Preliminary Ecological Appraisal's Paragraph 4.10) in accordance with Item L10 of your adopted Local Validation List. The applicant is unable to provide this information before the statutory determination date, which is 16<sup>th</sup> April 2019, but emergence surveys can only be taken in May 2019 (and since two surveys are required, and must be taken at least two weeks apart, the information will not be ready until late May at the earliest). This is confirmed in the Planning Practice Guidance Page: <https://www.gov.uk/guidance/protected-species-how-to-review-planning-applications>, under the Table: 'When to carry out a survey' and look for 'Bats (Summer Roosts): May to mid-September.

It is such a fundamental error in the application, so if you have not yet made this request to invalidate the application, please would you kindly explain why you have not done so. Indeed, there is even a statutory process that enables you to take such action. It is set out in the Town and Country Planning (Development Management Procedure) Order 2015 (DMPO, as amended) Section 11(5), which states: "*Where, after sending an acknowledgement as required by paragraph (2), the local planning authority consider that the application is invalid, they must **as soon as reasonably practicable notify the applicant that the application is invalid.***"

We strongly believe that any action other than a request to have the application withdrawn as invalid (e.g. allowing the applicant to extend the period to determination) renders any decision likely to be legally challengeable. This is for two reasons:

- Your local validation list is clear that such surveys are required before an application can be considered valid. It is obvious from the above dates that the applicant has no way of providing this information within the statutory determination date. The Planning Practice Guidance is clear on this:

*"The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular type, scale or location. In addition to being specified on an up-to-date local list published on the local planning authority's website, information requested with a particular planning application must be:*

- *reasonable having regard, in particular, to the nature and scale of the proposed development; and*
- *about a matter which it is reasonable to think will be **a material consideration** in the determination of the application.*

*These statutory tests are set out in [section 62 \(4A\) of the Town and Country Planning Act 1990](#) (inserted by the Growth and Infrastructure Act) and [article 11\(3\)\(c\) of the Town and Country Planning \(Development Management Procedure\) \(England\) \(Order\) 2015](#).*

*Paragraph: 040 Reference ID: 14-040-20140306"*

Impact on protected species is always a material consideration (there is a legal requirement of the authority in this regard). Indeed, if you follow the Government's Protected Species Checklist for planning applications (see attached), you'll see that you have to answer 'No' to Question 3. Your options are to ask for the surveys, which would take you beyond the determination time period (which you can't do, obviously), or refuse the application. I take this opportunity to remind you that the damage or destruction of breeding or resting places for bats is a criminal offence that is subject to either a prison sentence or unlimited fine (<https://www.gov.uk/guidance/bats-protection-surveys-and-licences>), hence we are seeking formal evidence that there are no bats within the buildings to be demolished before the application has been determined.

The application as it stands cannot be seen to fall within the spirit of the Town and Country Planning Act 1990 Section 62 or the DMPO. To continue to process the application without such evidence before you seems to disregard the purpose of adopting validation lists, unless you can kindly explain why an exception should be granted in this case to simply allow an extension. It would also make a complete mockery of the consultation period that has just recently closed as the Council willingly engages in this knowing there is key information missing. Otherwise the actions of the Council are highly questionable and possibly subject to a legal challenge.

- The Council is the landowner, has strong financial interest in the outcome of the application, and thus has a strong responsibility to ensure that there is no actual or perceived favouritism with regards to the processing of the planning application. From my own experience, it is extremely rare for Councils to continue processing such applications without requisite ecology information, particularly that which cannot be provided within the statutory determination period for the application, and this follows legal authorities on the matter. As such, if you do not take action, I think that it is extremely imperative that you explain in writing why this application warrants special treatment not in accordance with standard practices and your own validation list. We note that Council's own failings with regards to biodiversity surveys for the same site (see below).

There are already question marks regarding validation. Here, I draw your attention to the fact that the application was submitted on 7<sup>th</sup> December 2018 and only validated on 15<sup>th</sup> January 2019. It is usual that an application has been held for validation for such a long period of time, noting that there are still obvious mistakes with validation. Can you explain the delay?

As a separate, but not completely unrelated issue, the submitted Preliminary Ecological Appraisal with the Seaway Car Park application indicates that there is a potential for bats at 29 Herbert Grove. We are quite concerned that the Council has failed in its own duties to ensure that there was no harm caused to protected species with the removal of the immediate adjacent former Rossi Ice Cream Factory, which used to site within the application site and was removed to facilitate the development subject to the above application (the link between the demolition and this application has been confirmed by the Council in writing). We have reviewed the information with the application Ref: 17/00902/DEM, and following a Freedom of Information Request, we understand that no ecology information has been prepared prior to the demolition taking place. Indeed, the officer's report for that application makes no reference to Biodiversity. As removal took place

between August and November 2018, and the PEA for the Seaway Car Park development was undertaken around the same time and clear notes that there is potential for bats on the adjacent site, we are unclear how the Council could be 100% certain that they have complied with the Wildlife and Countryside Act 1981 as well as The Conservation of Habitats and Species Regs 2012 without evidence of a protected species survey taken place during the correct time. As such, we urgently request that you investigate the omission of biodiversity information with the demolition of the former Rossi Ice Cream factory, and halt any processing of the Seaway Car Park planning application (notwithstanding our point that it is invalid) until the Council can confirm it has not taken actions to facilitate that development without due care to protected species. We will be contacting the relevant authorities to alert them to the potential offence under the Countryside and Wildlife Act and Habitats Regulations.

I look forward to receiving notification that the Seaway Car Park application has been made invalid. In the meantime, I would be more than happy to discuss anything set out in the above, or our objection letters, including at a meeting.

Kind regards,  
Nayan

**Nayan Gandhi**  
Principal Planner  
T +44 1235 821 888  
E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)

**From:** Nayan Gandhi  
**Sent:** 07 February 2019 23:58  
**To:** 'CharlotteWhite@southend.gov.uk' <>  
**Cc:** 'planningregistrationteam@southend.gov.uk' <[planningregistrationteam@southend.gov.uk](mailto:planningregistrationteam@southend.gov.uk)>; 'council@southend.gov.uk' <[council@southend.gov.uk](mailto:council@southend.gov.uk)>; Nick Laister <>  
**Subject:** Application Ref: 18/02302/BC4M - Objections on behalf of The Stockvale Group

Dear Ms White,

Please find attached our objection regarding ecology in relation to the above application.

I would be grateful if you would kindly confirm receipt.

Regards,  
Nayan

**Nayan Gandhi**  
Principal Planner  
RPS | Consulting UK & Ireland  
20 Western Avenue  
Milton Park  
Abingdon, Oxfordshire OX14 4SH, United Kingdom  
T +44 1235 821 888  
D +44 1235 448791 M +44 7483 445090  
E [nayan.gandhi@rpsgroup.com](mailto:nayan.gandhi@rpsgroup.com)  
[rpsgroup.com](http://rpsgroup.com)





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RPS Group Plc web link: <http://www.rpsgroup.com>

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