

Reference:	18/00874/AMDT	
Ward:	Kursaal	
Proposal:	Application to vary condition Number(s): 02, 08, 14, 17, 21, 22, 23, 24, 40 and 41(revised wording to pre-commencement conditions in relation to timing of the submission of details) of planning permission 14/01462/FULM dated 22.07.2015	
Address:	Marine Plaza Land Between Southchurch Avenue And Pleasant Road Fronting Marine Parade Southend-On-Sea	
Applicant:	Mr Larry Fenttiman of Goldfield Developments Limited	
Agent:	Christopher Wickham Assocs	
Consultation Expiry:	6th June 2018	
Expiry Date:	13th August 2018	
Case Officer:	Charlotte Galforg	
Plan Nos:	PL101C, PL102C, PL103A, PL104A, PL105A, PL106A, PL107A, PL108A, PL109A, PL110A, PL111A, PL112A, PL113A, PL114A, PL115A, PL116A, PL117B, PL201A, PL202A, PL203A, PL204A, PL205A, PL206A, PL207A, PL208A, PL209A, PL210A, PL25A, PL26A.	
Recommendation:	Delegate to the Director of Planning and Transport or the Group Manager Planning and Building Control to GRANT PLANNING PERMISSION subject to completion of a legal agreement under S106 of the Town and Country Planning Act 1990 (As Amended).	



1 The Proposal

Background

- 1.1 Planning permission was granted on 22nd July 2015 to “Demolish existing building and erect 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 blocks), erect 2717sqm of commercial floorspace (A1, A3 and D2 uses), layout 318 underground parking spaces, landscaping, cycle/motorcycle/refuse storage, formation of vehicular access from Southchurch Avenue and Pleasant Road” (ref 14/01462/FULM).
- 1.2 This permission was granted subject to a number of pre-commencement planning conditions (“pre-commencement condition” means a condition imposed on the grant of a planning permission which must be complied with before any building or other operation comprised in the development is begun) and the applicant is now seeking to amend the wording of these conditions to allow details to be submitted in an appropriate phased basis in accordance with the phasing plan that has been submitted for separate approval as a requirement of Condition 40 of the above permission.
- 1.3 The application would not change the overall contributions of the obligations in the S106 Agreement which accompanied the original application, including those relating to affordable housing. Neither would it extend the time limit allowed for implementation of the development. This matter is explored further below.
- 1.4 The proposed Phasing is as follows:

Phase 1 Enabling Works

6 months

16th July 2018 to 31st December 2018

Phase 2 Car Park and Commercial Units

20 months

1st January 2019 to 31st August 2020

Phase 3 Residential Block A and B, and Commercial Units

30 months

1st September 2020 to 28th February 2023

Phase 4 Residential Block C, D and E

15 months

1st January 2023 to 31st March 2024

Phase 5 Residential Block F and Commercial Units

15 months

1st February 2024 to 30th April 2025 (Project Completion)

Proposed changes to the conditions

1.5 Condition 02: Submission of details of Materials

Existing wording

No development shall take place until samples of the materials to be used on all the external elevations, including balconies, fenestration, and on any screen/boundary walls and fences, and on any external access way, driveway, forecourt or parking area, steps and podium have been submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of any phase other than phase 1, samples of the materials to be used on all the external elevations, including balconies, fenestration, and on any screen/boundary walls and fences, and on any external access way, driveway, forecourt or parking area, steps and podium to be constructed as part of that phase shall be submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.

1.6 Condition 08: Submission of details of acoustic insulation to residential units

Existing wording

Prior to commencement of development details of acoustic insulation to the residential units against road traffic noise, including both building elements and ventilation arrangements including purge ventilation to comply with the building regulations shall be submitted to and approved by the LPA. The development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of construction of the residential blocks above podium level (Phases 3, 4 & 5), details of acoustic insulation to the residential units against road traffic noise, including both building elements and ventilation arrangements including purge ventilation to comply with the building regulations, shall be submitted to and approved by the LPA.

The development shall be carried out in accordance with the approved details.

1.7 Condition 14: Submission of details of hard and soft landscape works

Existing wording

No development shall take place 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 unless otherwise agreed in writing by the local planning authority. These details shall include, for example:-

- i. proposed finished levels or contours;
- ii. means of enclosure;
- iii. car parking layouts;
- iv. other vehicle and pedestrian access and circulation areas;
- v. hard surfacing materials;
- vi. minor artefacts and structures e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.

This shall include details of details of the number, size and location of the trees and shrubs to be planted together with a planting specification, 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.

Proposed variation

Prior to the commencement of any phase other than phase 1, full details of both hard and soft landscape works for that phase shall be submitted to and approved in writing by the local planning authority. The works shall be carried out as approved unless otherwise agreed in writing by the local planning authority. These details shall include, for example:-

- i. proposed finished levels or contours;
- ii. means of enclosure;
- iii. car parking layouts;
- iv. other vehicle and pedestrian access and circulation areas;
- v. hard surfacing materials;
- vi. minor artefacts and structures e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.

This shall include details of details of the number, size and location of the trees and shrubs to be planted together with a planting specification, 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.

1.8 Condition 17: Submission of details of a design code for the shopfronts of the commercial units.

Existing wording

Prior to commencement of development a design code for the shopfronts of the commercial units shall be submitted to and approved by the LPA, the code shall include details of but shall not be limited to, glazing, doors, signage locations and form, shuttering, lighting and materials. The development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of phase 2, a design code for the shopfronts of the commercial units shall be submitted to and approved by the LPA, the code shall include details of but shall not be limited to, glazing, doors, signage locations and form, shuttering, lighting and materials. The development shall be carried out in accordance with the approved details.

- 1.9 Condition 21: Submission of details of balconies to internal elevations of the development

Existing wording

Prior to commencement of development details of the balconies to the internal elevations of the development shall be submitted to and approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of any phase involving the construction of residential units, details of the balconies to the internal elevations for that phase of the development shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 1.10 Condition 22: Submission of details of balconies privacy screens

Existing wording

Prior to commencement of development details of balcony privacy screens shall be submitted to and approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of any phase involving the construction of residential units, details of balcony privacy screens for that phase of the development shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 1.11 Condition 23: Submission of details of the balustrade to the podium

Existing wording

Prior to commencement of development details of the balustrade to the podium shall be submitted to and approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of phase 3, details of the balustrade to the podium shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 1.12 Condition 24: Submission of details of the design and materials of the car park gates

Existing wording

Prior to commencement of development details of the design and materials of the car park gates and screen shall be submitted to and approved by the Local Planning Authority, the development shall be carried out in accordance with the approved details.

Proposed variation

Prior to the commencement of any phase of the development involving the construction of car park gates, details of the design and materials of the car park gates and screen shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 1.13 Condition 40: Submission of details of the structural design, appearance and method of operation of the car park flood gate

Existing wording

Prior to commencement of development details of the structural design, appearance and method of operation to the car park flood gate shall be submitted to and approved by the Local Planning Authority, the development shall be implemented in accordance with the approved details and permanently maintained thereafter.

Proposed variation

Prior to the commencement of any phase of the development involving the construction of the car park flood gates, details of the structural design, appearance and method of operation to the car park flood gates shall be submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details and permanently maintained thereafter.

- 1.14 Condition 41: Submission of a Flood Response Plan

Existing wording

Prior to commencement of development a Floor [sic] Response Plans should be submitted to and approved by the Local Planning Authority. The approved Plan shall be implemented in the event of flooding.

Proposed wording

Prior to commencement of development a Floor [sic] Response Plans should be submitted to and approved by the Local Planning Authority. The approved Plan shall be implemented in the event of flooding.

- 1.15 The application was called in to be considered by Committee by Cllrs McMahon and Mulroney

2 Site and Surroundings

- 2.1 The application site, which has an area of 1.1036 hectares, is located within the established commercial central seafront area at the junction of Marine Parade and Southchurch Avenue. It includes a western frontage onto Pleasant Road. A large proportion of the site comprises open land that is used for car parking. The Marine Parade frontage includes buildings used as a fast food outlet, amusement arcades and a public house. The Pleasant Road frontage is occupied by a former sweet factory, and there is a short terrace of four houses on the north-eastern corner of the site fronting onto Southchurch Avenue. Three of these houses are derelict. Existing buildings on the site range between one and three storeys in height.

3 Planning Considerations

- 3.1 The principle of redevelopment of the site for commercial and residential uses, specifically 282 flats has previously been accepted under application ref 14/01462/FULM, as has the size, scale and mass of the development, the impact of the development on traffic generation and highways safety and amount of parking provision. The permitted scheme was intended to be carried out in phases however the detail of the phasing had not been finalised at the time of the permission. The amount of development and footprint of the building remains unchanged and therefore the impacts of the development remain the same as that previously considered to be acceptable. The application would not change the overall contributions of the obligations in the S106 Agreement which accompanied the original application, including those relating to affordable housing. Neither would it extend the time limit allowed for implementation of the development.
- 3.2 The only matters which now fall to be considered are, therefore, the impacts of the proposed revision to the timing of submission of information in relation to the conditions as discussed above.

4 Appraisal

- 4.1 Planning conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development.
- 4.2 Paragraph 206 the National Planning Policy Framework states “Planning conditions should only be imposed where they are:
- necessary;
 - relevant to planning and;
 - to the development to be permitted;
 - enforceable;
 - precise and;
 - reasonable in all other respects.”

The policy requirement above is referred to as “the 6 tests”.

- 4.3 It is necessary to consider whether the proposed changes to would still ensure the development would take place in an acceptable form and meet the 6 tests.
- 4.4 It is clear that construction of the development will be phased, in accordance with details set out in para 1.4. The applicant has submitted details of the proposed Phasing and this phasing is controlled by condition.
- 4.5 In light of the proposed phased construction, it is considered that it would be unreasonable to require the details required by conditions 02, 08, 14, 17, 21, 22, 23, 24, 40 and 41 to be submitted for the entire development prior to commencement. Furthermore the proposed wording of the amended conditions, subject to minor changes to address typographical areas, ensures that for each phase and for the development as a whole: the character and appearance of the development and the surrounding area (including the nearby Listed and Locally Listed Buildings and Conservation Area; the standard of landscaping; impact on neighbours and future occupiers; and highway safety will all be satisfactorily maintained as will suitable protection of occupiers and the surrounding development should flooding occur. Thus the conditions as amended would still adequately mitigate any adverse impact of the development and ensure the development would take place in an acceptable manner. For these reasons the amendments to the conditions as proposed as considered to be acceptable and policy compliant.

Developer contributions

Planning Policies: NPPF; Core Strategy (2007) policy KP3.

- 4.6 The Core Strategy Police KP3 requires that:

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

The above addresses the specific mitigation for Marine Plaza for matters not addressed within the Regulation 123 Infrastructure List.

4.7 Permission 14/01462/FULM was subject to a Section 106 (S.106) agreement dated 22nd July 2015 to secure the following:

- Provision of affordable housing (84 flats including 58 rented and 26 shared ownership; 32x1bed, 27x2bed, 25x3bed)
- Education contribution £160,334,
- Relocation of CCTV
- Highway works to be carried out under a Section 38 / 278 agreement
- Public art to the value of £150,000
- Travel Packs/Travel Plan
- Other monetary contributions towards tree planting, pedestrian signage, changes to signal timings, real-time bus information signs, bus shelters, new taxi rank layout, TRO, relocation of traffic speed system and car parking signs

4.8 These requirements will not change as a result of the amendments to the conditions which are now proposed, however an application to modify the terms of the S106 Agreement relating to application 14/01462/FULM (18/01060/DOV5) is currently under consideration to take account of the proposed Phasing arrangements. It is considered reasonable to negotiate triggers to suit both the Council's requirement to have time to deliver supporting infrastructure, while not seeking obligations before they are needed. For the reasons set out in the report relating to application 18/01060/DOV5 the proposed modifications are considered acceptable and the S106 agreement in relation to this application would be based on the details submitted in relation to 18/01060/DOV5 as follows:

- **Clause 7.1 and 7.2 – education contribution – £160,334 payable prior to completion of Phase 3**
- **Relocation of CCTV to be completed prior to commencement of Phase 2**
- **Highway works to be carried out under a Section 38 / 278 agreement**
- **Public art to the value of £150,000**
- **Travel Packs/Travel Plan**
- **Other monetary contributions towards:**
 - i. **£10,000 off site planting – payable prior to completion of Phase 2**
 - ii. **£40,000 pedestrian signage – payable prior to commencement of Phase 2**
 - iii. **£2,000 changes to signal timings – payable prior to commencement of Phase 2**
 - iv. **£36,000 4 x AVL displays, real time information – payable prior to commencement of Phase 2**
 - v. **£10,000 2 x bus shelters – payable prior to commencement of Phase 2**
 - vi. **£1,000 taxi rank layout – payable prior to commencement of Phase 2**
 - vii. **£10,000 traffic regulation orders – payable prior to commencement of Phase 2**
 - viii. **£30,000 relocate traffic speed system – payable prior to commencement of Phase 2**

ix. £25,000 car parking signs – payable prior to commencement of Phase 2

- 4.9 The contributions proposed are considered to meet the tests set out in the CIL Regulations 2010. Without the contributions that are set out above the development could not be considered acceptable. Therefore if the S106 agreement is not completed within the relevant timescale the application should be refused. An option to this effect is included within the recommendation in Section 10.

Community Infrastructure Levy Regulations

- 4.10 The Community Infrastructure Levy Regulations 2010 came into force on 6 April 2010. The planning obligation discussed above and as outlined in the recommendation below has been fully considered in the context of Part 11 Section 122 (2) of the Regulations, namely that planning obligations are:
- a) necessary to make the development acceptable in planning terms; and
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development

The conclusion is that the planning obligation outlined in this report would meet all the tests and so that if the application were otherwise consider to be acceptable this would constitute a reason for granting planning permission in respect of application.

- 4.11 As this application has been made pursuant to Section 73 of the Town and Country Planning Act 1990 and the original permission was granted permission before a CIL Charging Schedule took effect, Community Infrastructure Levy (CIL) Regulation 128A applies. In this instance there will be no CIL charge on this permission as there is no net increase in floorspace between the original permission and the S73 permission.

5.0 Conclusion

- 5.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of development, the proposed mix of units is found to be acceptable. The proposal would provide adequate amenities for future occupiers, have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, the street scene, adjacent Listed and Locally Listed Buildings and Conservation Area and the locality more widely. The highways impacts of the proposal are considered to be acceptable. The revised wording for the conditions would still ensure that they meet the relevant planning objectives. This application is therefore recommended for approval subject to conditions following the completion of a S106 Agreement.

6.0 Planning Policy Summary

- 6.1 NPPF - National Planning Policy Framework: Achieving sustainable development, Core Planning Principles, Policies: 1. Building a strong, competitive economy; 2. Ensuring the vitality of town centres; 4. Promoting sustainable transport, 6. Delivering a wide choice of high quality homes; 7. Requiring good design; 8. Promoting healthy communities; 10. Meeting the challenge of climate change, flooding and coastal change; 11. Conserving and enhancing the natural environment. 12. Conserving and enhancing the historic environment.
- 6.2 Core Strategy (2007) Policies: KP1 (Spatial Strategy); KP2 (Development Principles); KP3 (Implementation and Resources); CP1 (Employment Generating Development); CP2 (Town Centre and Retail Development); CP3 (Transport and Accessibility); CP4 (The Environment and Urban Renaissance); CP6 (Community Infrastructure); CP8 (Dwelling Provision).
- 6.3 Development Management Document (2015) Policies: Policy DM1 – Design Quality; Policy DM2 – Low Carbon Development and Efficient Use of Resources; Policy DM3: Efficient and Effective Use of Land; Policy DM4 - Tall and Large Buildings; Policy DM5: Southend-on-Sea's Historic Environment; Policy DM6 - The Seafront Policy DM7 – Dwelling Mix, Size and Type; Policy DM8 – Residential Standards; Policy DM10 – Employment Sectors ;Policy DM11: Employment Areas; Policy DM14: Environmental Protection; Policy DM15 – Sustainable Transport Management.
- 6.4 Southend and Central Area Action Plan (SCAAP) (2018): In particular policies: Policy DS1: A Prosperous Retail Centre; Policy DS3: Landmarks and Landmark Buildings ; Policy DS4: Flood Risk Management and Sustainable Drainage; Policy DS5: Transport, Access and Public Realm; Policy CS1: Central Seafront Policy Area Development Principles; Opportunity Site (CS1.3): Marine Plaza; Policy CS2: Nature Conservation and Biodiversity.
- 6.5 Design & Townscape Guide (2009).
- 6.6 Planning Obligations (2010)
- 6.7 CIL Charging Schedule 2015, Regulation 123 List
- 6.8 National Housing Technical Standards 2015

7.0 Representation Summary

- 7.1 **Natural England** - Natural England currently has no comment to make on the variation of the above conditions.
- 7.2 **Essex Police** - Essex Police have no specific comment at this time. However, we would like to invite the developers to contact us with a view to discussing crime prevention through environmental design.

7.3 **Waste Management** – no comments in relation to the proposed amendments.

7.4 **Environmental Health** – No comments regarding proposed amendments.

8.0 **Public Consultation**

8.1 Site notices displayed and Press notice published.

8.2 No responses received.

9.0 **Relevant Planning History**

9.1 6th June 2018 (16/01723/DOV5): Modification of planning obligation **refused** for the following reason:- *“Council policies require residential development proposals to make sustainable use of land and resources, and are expected to contribute to local housing needs including affordable housing provision. The proposed modification fails to make optimum and sustainable use of the land, which would have a significantly detrimental effect in terms of the delivery of affordable housing, for which there is a recognised need in the Borough. This is unacceptable and contrary to the National Planning Policy Framework (March 2012) and the objectives of policy KP2, KP3, and CP8 of the Council’s Core Strategy (December 2007).”*

9.2 22nd July 2015 (14/01462/FULM): Conditional planning permission granted to *“Demolish existing building and erect 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), erect 2717sqm of commercial floorspace (A1, A3 and D2 uses), layout 318 underground parking spaces, landscaping, cycle/motorcycle/refuse storage, formation of vehicular access from Southchurch Avenue and Pleasant Road”.*

Current applications:

9.3 18/01060/DOV5 - Modification of planning obligation (Section 106 agreement) dated 22nd July 2015 pursuant to application 14/01462/FULM to allow variations to Clauses 1.1, 6.1, 6.2, 7.1 & 7.2 of the Second Schedule so that the obligations set out in these clauses do not apply prior to commencement but are triggered at a later phase of the construction process.

9.4 18/00861/AD - Application of approval of details pursuant to conditions 07 (Construction Traffic Management Plan) 44 (Phasing Programme Report) of planning permission 14/01462/FULM dated 22.07.2015

9.5 18/00801/AD - Application of approval of details pursuant to condition 42 (Scheme of investigation: archaeological watching brief) of planning permission 14/01462/FULM dated 22.07.2015

9.6 18/00950/AD - Application for approval of details pursuant to condition 37 (details of foul water strategy) and condition 38 (details of SUDs) of planning permission 14/01462/FULM dated 22.07.2015

10. Recommendation

Members are recommended to:

DELEGATE to the Director for Planning and Transport or Group Manager of Planning & Building Control to GRANT PLANNING PERMISSION subject to completion of a PLANNING AGREEMENT UNDER SECTION 106 of the Town and Country Planning Act 1990 (as amended) and all appropriate legislation to seek the following:

- (a)
- **Provision of affordable housing (84 flats including 58 rented and 26 shared ownership; 32x1bed, 27x2bed, 25x3bed)**
 - **Education Contribution: £160,334 payable prior to completion of Phase 3**
 - **Relocation of CCTV to be completed prior to commencement of Phase 2**
 - **Highway works to be carried out under a Section 38 / 278 agreement**
 - **Public art to the value of £150,000**
 - **Travel Packs/Travel Plan**
 - **Other monetary contributions towards:**
 - i. **£10,000 off site planting – payable prior to completion of Phase 2**
 - ii. **£40,000 pedestrian signage – payable prior to commencement of Phase 2**
 - iii. **£2,000 changes to signal timings – payable prior to commencement of Phase 2**
 - iv. **£36,000 4 x AVL displays, real time information – payable prior to commencement of Phase 2**
 - v. **£10,000 2 x bus shelters – payable prior to commencement of Phase 2**
 - vi. **£1,000 taxi rank layout – payable prior to commencement of Phase 2**
 - vii. **£10,000 traffic regulation orders – payable prior to commencement of Phase 2**
 - viii. **£30,000 relocate traffic speed system – payable prior to commencement of Phase 2**
 - ix. **£25,000 car parking signs – payable prior to commencement of Phase 2**
- (b) **The Director for Planning and Transport or the Group Manager (Planning & Building Control) be authorised to determine the application upon completion of the above obligation, so long as planning permission when granted and the obligation when executed, accords with the details set out in the report submitted and the conditions listed below:**

01 The development shall be begun no later than 22nd July 2018

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

- 02** Prior to the commencement of any and each phase other than phase 1, samples of the materials to be used on all the external elevations, including balconies, fenestration, and on any screen/boundary walls and fences, and on any external access way, driveway, forecourt or parking area, steps and podium to be constructed as part of that phase shall be submitted to and approved by the local planning authority. The development shall only be carried out in accordance with the approved details.

Reason: To safeguard character and appearance of surrounding area, the adjacent listed and locally listed buildings and the Kursaal Conservation Area.

- 03** The development shall not be occupied until 328 parking spaces have been provided on hardstandings within the curtilage of the site, together with properly constructed vehicular access to the adjoining highway, all in accordance with the approved plans. The parking spaces shall be permanently retained thereafter for the parking of occupiers, staff and visitors to the development.

Reason: To ensure that adequate car parking is provided and retained to serve the development.

- 04** Prior to first occupation of the development a waste management plan and service plan for the development shall be submitted to and agreed by the Local Planning Authority, waste management and servicing of the development shall thereafter be carried out in accordance with the approved details.

Reason: to ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding area.

- 05** Prior to first occupation of the development a car park management plan for the development shall be submitted to and agreed by the Local Planning Authority, waste management and servicing of the development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure that the car parking is satisfactorily managed in the interests of traffic management and highway safety.

- 06** Prior to first occupation of the development 356 cycle parking spaces shall be provided within secure covered parking stores, the details of which shall have previously been submitted to and agreed by the LPA. The agreed cycle parking spaces shall be permanently retained for the cycle parking of occupiers, staff and visitors to the property.

Reason: In order to ensure that sufficient and satisfactory cycle parking is available to meet the needs of occupiers and users of the development.

- 07** Prior to commencement of development a Construction Traffic Management Plan, including but not limited to: details of routing, signage, scheduling of deliveries, construction hours, on site recycling measures, use of local labour, shall be submitted to and agreed by the Local Planning Authority, construction shall be carried out in accordance with the approved details.

Reason: to ensure that the construction is satisfactorily managed in the interests of traffic management and highway safety and to protect the amenities of surrounding occupiers.

- 08** Prior to the commencement of construction of the residential blocks above podium level (Phases 3, 4 & 5), details of acoustic insulation to the residential units against road traffic noise, including both building elements and ventilation arrangements including purge ventilation to comply with the building regulations, shall be submitted to and approved by the LPA. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the construction is satisfactorily managed in the interests of traffic management and highway safety and to protect the amenities of surrounding occupiers.

- 09** The residential development shall not be occupied until extract ventilation, filtration and deodorising equipment and laundry extract ducts have been installed in accordance with a scheme including details of the predicted acoustic performance of the system, ducting runs and of discharge points, which shall have previously been submitted to and approved by the local planning authority. The equipment as installed shall be retained in good working order at all times thereafter.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and visual amenities of the area.

- 10** The commercial development shall not be occupied until extract ventilation, filtration and deodorising equipment and laundry extract ducts have been installed in accordance with a scheme including details of the predicted acoustic performance of the system, ducting runs and of discharge points, which shall have previously been submitted to and approved by the local planning authority. The equipment as installed shall be retained in good working order at all times thereafter.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and visual amenities of the area.

- 11** With reference to BS4142, the noise rating level arising from all plant and extraction/ventilation equipment should be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and visual amenities of the area.

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

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers.

13 Decontamination

1. Site Characterisation

No development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: human health, property, existing or proposed, including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments;

2. Submission of Remediation Scheme

No development shall take place 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, an appraisal of remedial options, and proposal of the preferred option(s), and a 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.

3. Implementation of Approved Remediation Scheme

The remediation scheme shall be implemented in accordance with the approved timetable of works. Within 3 months of the completion of measures identified in the approved remediation scheme, a validation report that demonstrates the effectiveness of the remediation carried out must be submitted to the Local Planning Authority.

4. Reporting of Unexpected Contamination

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 and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted

on that part of the site. An assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of condition 2. 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 in accordance with condition 3.

5. Long Term Monitoring and Maintenance

No development shall take place until a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must both be submitted to and approved in writing by the Local Planning Authority. Following completion of the measures identified in that scheme and when The remediation scheme is complete, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be submitted to the Local Planning Authority.

Reason: To ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters.

- 14.** Prior to the commencement of any phase other than phase 1, full details of both hard and soft landscape works for that phase shall be submitted to and approved in writing by the local planning authority. The works shall be carried out as approved unless otherwise agreed in writing by the local planning authority. These details shall include, for example:-
- i. proposed finished levels or contours;**
 - ii. means of enclosure;**
 - iii. car parking layouts;**
 - iv. other vehicle and pedestrian access and circulation areas;**
 - v. hard surfacing materials;**
 - vi. minor artefacts and structures e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.**

This shall include details of details of the number, size and location of the trees and shrubs to be planted together with a planting specification, 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.

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping.

15. A Landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the local planning authority prior to the occupation of the development. The landscape management plan shall be implemented as approved.

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping.

16. Prior to first occupation of the development renewable energy measures set out in the Energy Statement by Xc02 energy dated February 2015 and plan ref 3202 PL117B shall be implemented and shall be permanently retained thereafter.

Reason: To ensure the development maximises the use of renewable and recycled energy, water and other resources.

17. Prior to the commencement of phase 2 of the development, a design code for the shopfronts of the commercial units shall be submitted to and approved by the LPA, the code shall include details of but shall not be limited to, glazing, doors, signage locations and form, shuttering, lighting and materials. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

18. Prior to installation of any shopfront, details of the design and materials, glazing, doors, signage locations and form and lighting, shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

19. Prior to installation of any shopfront, details of the design and materials, glazing, doors, signage locations and form and lighting, shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

20. Prior to installation details of any shutters to the commercial units shall be submitted to and approved by the Local Planning Authority. The shutters shall be installed and retained in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

21. Prior to the commencement of any phase of the development involving the construction of residential units, details of the balconies to the internal elevations for that phase of the development shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

22. Prior to the commencement of any phase of the development involving the construction of residential units, details of balcony privacy screens for that phase of the development shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

23. Prior to the commencement of phase 3, details of the balustrade to the podium shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area

24. Prior to the commencement of any phase of the development involving the construction of car park gates, details of the design and materials of the car park gates and screen shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area

25. Prior to first occupation of the development details of the control mechanism for the podium vehicular access shall be submitted to and approved by the Local Planning Authority the development shall be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area.

26. Notwithstanding the provisions of the Town and Country Planning (Control of Advertisements) Regulations 2007, or any order revoking and re-enacting that Order with or without modification, no advertisement shall be displayed on the buildings without the prior written consents of the Local Planning Authority.

Reason: In the interest of the visual amenities of the area.

- 27** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any order revoking and re-enacting that Order with or without modification, no structures such as canopies, fences, loggias, trellises or satellite or radio antennae are allowed to be installed within the development or on the buildings unless otherwise agreed in writing by the local planning authority.

Reason: 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.

- 28** Prior to installation of any external lighting to the building; details of the external lighting of the building, including direction, siting, and hours of illumination and an assessment using the Institution of Lighting Engineers Guidance Note for the Reduction of Obtrusive Light, shall be submitted to and approved by the LPA and the development shall be carried out in strict accordance with the approved lighting scheme. No additional external lighting shall be installed on the building without the prior approval of the LPA.

Reason: In the interest of the visual amenities and character of the area, adjacent listed and locally listed buildings and the Kursaal Conservation Area and to protect the amenities of surrounding occupiers and to protect to adjacent SSSI.

- 29** The delivery and refuse collection hours to the premises shall be restricted to between 7am and 7pm and Monday to Friday; 8am - 1pm Saturday and not at all on Sundays or Bank Holidays.

Reason: In order to the protect the amenities of surrounding residents.

- 30** The permitted hours for noise beyond the site boundary due to construction and demolition site works including loading and unloading are Monday to Friday 7.30 a.m. to 6.00 p.m. and Saturday 8.00 a.m. to 1.00 p.m. and not at all on Sundays or Bank Holidays. Noise from construction site activity shall not occur beyond the site boundary at any other time.

Reason: In order to the protect the amenities of surrounding residents.

- 31** During any Construction and Demolition there shall be no burning of waste material on the site.

Reason: In order to the protect the amenities of surrounding residents.

- 32** The mitigation measures with regard demolition, earthworks, construction and trackout of the Construction phase of the development, set out at section 8.6 of the Environmental Statement submitted September 2014 in support of application 14/01462/FULM shall be implemented during development.

Reason: To minimise the environmental impact of the development and that demolition, construction, earthworks and trackout is satisfactorily managed in the interests of traffic management and highway safety and to protect the amenities of surrounding occupiers.

- 33 The mitigation measures with regard to piling, lighting, storage and movement of materials, drainage, and tree and scrub clearance set out at section 6.1142 to 6.1220 of the Environmental Statement submitted September 2014 in support of application 14/01462/FULM shall be implemented during development.**

Reason: To minimise the environmental impact of the development and to minimise the risk of harm to a protected species.

- 34 The mitigation measures in relation to Construction Noise and Construction Vibration set out at section 9.5 of the Environmental Statement submitted September 2014 in support of application 14/01462/FULM shall be implemented during development.**

Reason: To minimise the environmental impact of the development and that construction is satisfactorily managed to protect the amenities of surrounding occupiers.

- 35 The Commercial floorspace hereby approved can only be used as A1 shops A3 Restaurants and cafes, or D2 Assembly and Leisure and for no other purpose including any within Classes A, B1, C3 or D1 of the Town and Country Planning (Use Classes) Order 1987 as amended April 2005 (or any statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force).**

Reason: Planning permission for unrestricted use within Classes A, B1, C3 or D1 cannot be granted in this case because the development would fail to comply with Core Strategy 2007 policies KP1, CP1 and CP2.

- 36 A maximum of 687sqm of commercial floorspace hereby approved shall be used for A1 retail use unless otherwise agreed in writing with the Local Planning Authority.**

Reason: Planning permission for unrestricted retail cannot be granted in this case because the development it would fail to comply with Core Strategy 2007 policies KP1, CP1 and CP2.

- 37 No development shall commence until a foul water strategy has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.**

Reason: To prevent environmental and amenity problems arising from flooding.

38 Development shall not commence until a surface water drainage scheme in line with that detailed in the revised Flood Risk Assessment undertaken by SLR Consulting Limited, referenced 407.04361.00002 and dated January 2015, and Indicative Drainage Layout drawing no 003, dated January 2013, is submitted to and approved in writing by the local planning authority. The scheme shall be implemented before the development is completed in accordance with the approved details.

The scheme shall:

Fully investigate the feasibility of infiltration SuDS as a preference and provide evidence to establish if the principles of any infiltration based surface water drainage strategy are achievable across the site, based on the ground conditions. Infiltration or soakaway tests should be provided which fully adhere to BRE365 guidance to demonstrate this. Infiltration features should be included where infiltration rates allow. Provide drainage plans and drawings showing the proposed locations and dimensions of all aspects of the proposed surface water management scheme. The submitted plans should demonstrate that the proposed drainage layout will perform as intended based on the topography of the site and the location of the proposed surface water management features. In addition, full design details, including cross sections of any proposed infiltration or attenuation features will be required. Provide attenuation storage to cater for the 1 in 100 year critical duration rainfall event including allowance for climate change over the lifetime of the development without causing nuisance or damage. Calculations should be provided to demonstrate the functionality of each drainage feature. Provide calculations of the piped network performance in the 1 in 30 year rainfall event to show no above ground flooding, and in the 1 in 100 year rainfall event including climate change to provide details of the volumes of flooding from each pipe, if any. Provide sufficient information to demonstrate that people and property will be kept safe from flooding, with consideration given to exceedance flows and overland flow routing from on and off site sources, in accordance with CIRIA C635. Provide details of the future adoption and maintenance of the proposed surface water scheme for the lifetime of the proposed development. Detail who will maintain each element of the surface water system for the lifetime of the development by submission of a maintenance schedule. Fully investigate the impacts of tide locking on the site and model a surcharge outfall scenario if required. Discharge to Anglian Water sewer shall be at the maximum agreed rate of 22l per second. Provide confirmation that Anglian Water accepts the surface water discharge proposed to both manhole 0251 and 9151 detailed in the Indicative Drainage Layout Drawing referenced 003, dated January 2015. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding 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.

- 39 The development permitted by this planning permission shall be carried out in accordance with the Flood Risk Assessment (FRA) prepared by SLR Consulting Limited referenced 407.04361.00002, dated January 2015 and approved as part of application 14/01462/FULM and the following mitigation measures detailed within the FRA: Finished ground floor levels of the residential development are set no lower than 6.05 meters above Ordnance Datum (AOD). Finished first floor levels of the residential unit and Podium level are set no lower than 8.4 meters above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing and phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.**

Reason: To prevent environmental and amenity problems arising from flooding.

- 40 Prior to the commencement of any phase of the development involving the construction of the car park flood gates, details of the structural design, appearance and method of operation to the car park flood gates shall be submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details and permanently maintained thereafter.**

Reason: To prevent environmental and amenity problems arising from flooding.

- 41 Prior to commencement of development a Flood Response Plan should be submitted to and approved by the Local Planning Authority. The approved Plan shall be implemented in the event of flooding.**

Reason: To prevent environmental and amenity problems arising from flooding.

- 42 a) No development shall take place until a written scheme of investigation for a programme of archaeological work has been submitted to and approved in writing by the local planning authority. This must include details of the suitably qualified person or organisation that will carry out the archaeological work. (b) The archaeological work and development must then be carried out in accordance with the approved scheme. A written report of the investigation and findings must be produced, showing that the archaeological work and development has been carried out in accordance with the approved scheme.**

Copies of the written report of the investigation and findings must be sent to Southend Borough Council, Essex County Council and English Heritage.
(c) No part of the new building can be used until the local planning authority has provided written confirmation that the archaeological fieldwork and development has been carried out in accordance with the approved scheme.

Reason: To avoid damage to archaeological remains

- 43 Unless otherwise agreed in writing the development hereby permitted shall be carried out in accordance with the following approved plans submitted with application 14/01672/FULM: PL101C, PL102C, PL103A, PL104A, PL105A, PL106A, PL107A, PL108A, PL109A, PL110A, PL111A, PL112A, PL113A, PL114A, PL115A, PL116A, PL117B, PL201A, PL202A, PL203A, PL204A, PL205A, PL206A, PL207A, PL208A, PL209A, PL210A, PL25A, PL26A.

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

- 44 The Development shall be phased as follows and as shown on the plan submitted under the application with LPA ref 18/00861/AD:

Phase 1 Enabling Works
Phase 2 Car Park and Commercial Units
Phase 3 Residential Block A and B, and Commercial Units
Phase 4 Residential Block C, D and E
Phase 5 Residential Block F and Commercial Units

Each phase shall be completed in its entirety in accordance with the phasing plan approved under application with the application with LPA ref 18/00861/AD before the next subsequent phase commences unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of visual and general amenity, highway safety and to ensure a coordinated development.

c) In the event that the planning obligation referred to in part (a) above has not been completed by 13th August 2018 the Director of Planning and Transport or Group Manager (Planning & Building Control) be authorised to refuse planning permission for the application on the grounds that the development will not i) provide for improvements to the public highway and the public realm within the vicinity of the site; ii) provide an effective means of enforcing/delivering a Travel Plan; iii) provide for a satisfactory provision of public art and iv) provide for a satisfactory method of servicing the development vi) provide for affordable housing or education accommodation to serve the needs of local residents. As such, the proposal would not make a satisfactory contribution towards the quality of the built environment within the vicinity of the site, would cause traffic congestion and fail to encourage sustainable modes of transport and be to the detriment of highway safety, would not contribute to affordable housing provision and is likely to place increased pressure on public services and

infrastructure to the detriment of the general amenities of the area.

Informatives:

- 01 **As this application has been made pursuant to Section 73 of the Town and Country Planning Act 1990 and the original permission was granted permission before a CIL Charging Schedule took effect, Community Infrastructure Levy (CIL) Regulation 128A applies. You are advised that in this instance there will be no CIL charge on this permission as there is no net increase in floorspace between the original permission and the S73 permission.**
- 02 **You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that 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.**
- 03 **Compliance with this decision notice does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and also to the relevant sections of the Control of Pollution Act 1974. Contact 01702 215005 for more information.**
- 04 **The applicant is reminded that this permission does not bestow compliance with the Food Safety and Hygiene (England) Regulations 2013 or any other provision so enacted, such as those located within the Food Safety Act 1990. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215005 or at Regulatory Services Department, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ZG.**
- 05 **For further guidance on the control of odour and noise from ventilation systems you are advised to have regard to - Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems published by DEFRA. This can be downloaded free from www.DEFRA.Gov.UK.**
- 06 **The developer should also consider control measures detailed in Best Practice Guidance "The control of dust and emissions from construction and demolition".
http://www.london.gov.uk/thelondonplan/guides/bpg/bpg_04.jsp**
- 07 **The developer should ensure the enclosed car parking areas are adequately naturally or mechanically ventilated to disperse exhaust fumes.**

- 08 Please note that if you require a crane or pilling rig to construct the proposed development, this will need to be safeguarded separately and dependent on the location may be reinstatement in height and may also require full co coordination with the Airport Authority
- 09 The applicant is reminded that this permission does not bestow compliance with the Licensing Act 2003. Applicants should contact the Council's Licensing Team for more advice on 01702 215005.
- 10 Water Supplies - the applicant or architect is reminded that additional water supplies for firefighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters tel 01376 576342.
- 11 Details of the shopfronts and advertisements to the commercial buildings should follow the approved Design Code for these elements.
- 12 Hard landscaping materials to the Marine Parade, Southchurch Avenue and Pleasant road frontages of the development shall match those of the existing City Beach scheme.
- 13 An application to discharge trade effluent must be made to Anglian Water and must have been obtained before any discharge of trade effluent can be made to the public sewer.
- 14 Anglian Water recommends that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of such facilities could result in pollution of the local watercourse and may constitute an offence.
- 15 Anglian Water also recommends the installation of a properly maintained fat traps on all catering establishments. Failure to do so may result in this and other properties suffering blocked drains, sewage flooding and consequential environmental and amenity impact and may also constitute an offence under section 111 of the Water Industry Act 1991.
- 16 The Flood Response Plan (FRP) shall include details of what should be done in the event of surface water flooding.
- 17 This permission is governed by a legal agreement between the applicant and the Borough Council under Section 106 of the Town and Country Planning Act 1990. The agreement relates to highways works, affordable housing provision, contributions for education, public art, off site tree planting and additional highways works and submission of a Travel Plan

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.