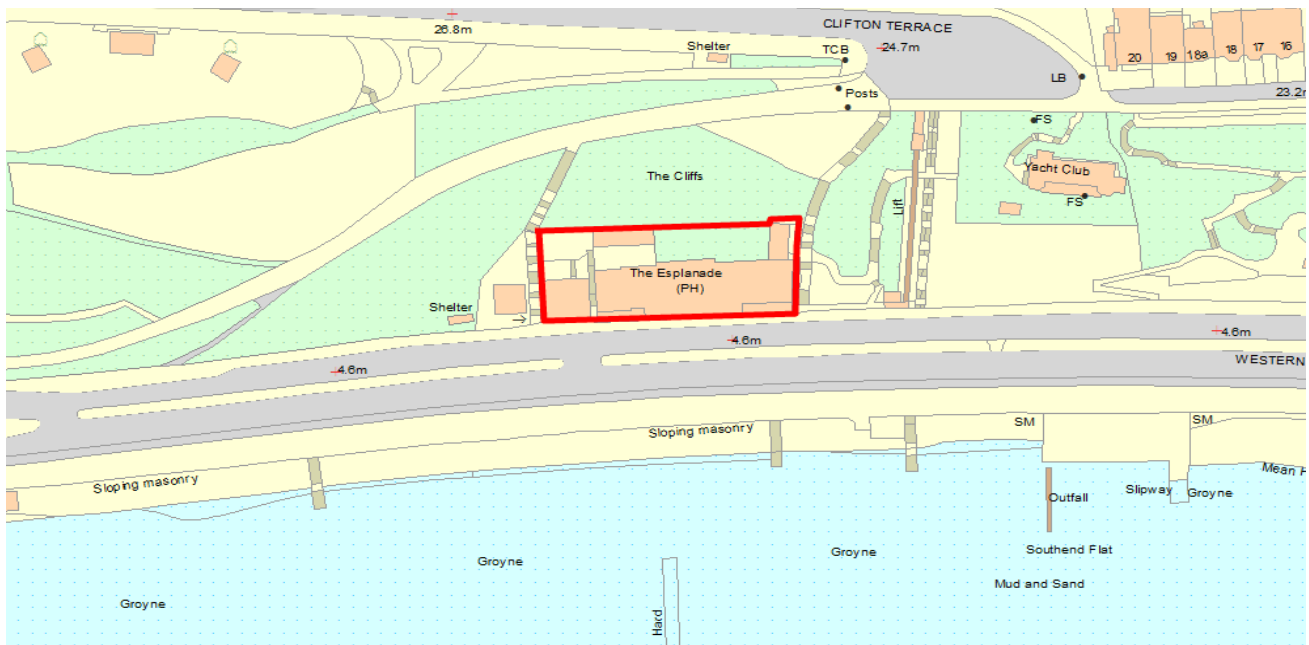


Reference:	17/02266/FULM	
Ward:	Milton	
Proposal:	Demolish existing buildings, erect five storey building comprising 49 self-contained flats with ground floor restaurants, basement parking, refuse and cycle storage and landscaping, plant and storage rooms, form new vehicular access onto the Western Esplanade (amended proposal)	
Address:	The Esplanade, Western Esplanade, Southend-on-Sea, Essex, SS1 1EE	
Applicant:	Cliff town Shore Developments Ltd	
Agent:	Strutt and Parker	
Consultation Expiry:	08.02.2018	
Expiry Date:	08.08.2018	
Case Officer:	Charlotte White	
Plan Nos:	8531-01 P1, 8531-02 P1, 8531-03 P1, 8531-04 P1, 8531-05 P1, 8531-06 P1, 8531-07 P1, 8531-08 P2, 8531-09 P2, 8531-10 P2, 8531-11 P2, 8531-12 P2, 8531-13 P1, 8531-14 P2, 8531-15 P1, 8531-16 P2, 8531-17 P1, 8531-18 P1, 8531-19 P1	
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

1.1 Planning permission is sought to demolish the former Esplanade Public House and the adjoining Marriott's buildings and erect a replacement, 5 storey building comprising two ground floor restaurants (measuring 426sqm and 137sqm) with basement parking and 49 flats on the top 4 levels. Vehicular access will be provided to the front of the site, from Western Esplanade. The restaurants have main entrance doors to Western Esplanade and the main entrance to the flats is from Western Esplanade at the eastern end of the building. Each flat will be provided with a private balcony or terrace area. 53 cycle parking spaces will be provided, accessed from the ground floor lobby. Separate commercial and residential refuse stores will be provided at lower ground level, along with 49 parking spaces which will utilise a parking stacker system. In front of the site five on-street parking spaces will be retained and a clear zone will be provided for refuse collection and deliveries.

1.2 The details of the scheme are summarised as follows:

Units	23x 1-bedroom units (sizes ranging from 47.44sqm to 70.5sqm) 23x 2-bedroom units (sizes ranging from 64.69sqm to 95.16sqm) 3x 3-bedroom units (sizes ranging from 92sqm to 107.41sqm)
Parking	49 parking spaces for the 49x residential flats (no parking for the restaurants)
Amenity space	Private balconies provided to each flat ranging from approximately 3.6sqm to some 94.8sqm
Height (max)	Approximately 17.9m
Width (max)	Approximately 64.5m
Depth (max)	Approximately 25m (including balconies)

1.3 The floors will include:

- Lower ground and mezzanine levels – 49 parking spaces (using stacker system), separate commercial and residential refuse stores, 53 cycle spaces and plant stores.
- Ground floor- 2x restaurants with terraces to the front.
- First floor - 6x 1-bedroom flats and 8x 2-bedroom flats.
- Second floor - 7x 1-bedroom flats and 7x 2-bedroom flats
- Third floor – 10x 1-bedroom flats and 4x 2-bedroom flats
- Fourth floor – 4x 2-bedroom flats and 3x 3-bedroom flats

1.4 Each flat will be provided with a private balcony or terrace measuring from some 3.6sqm to some 94.8sqm

- 1.5 The site is currently vacant and in a poor state or repair, but previously contained a public house and a café.
- 1.6 The current application is accompanied by a design and access statement, a preliminary ecological appraisal, a structural philosophy statement, a planning statement, a statement of community involvement, a transport assessment and framework travel plan, a flood risk assessment, noise assessment, energy strategy report, an arboricultural impact assessment report, a construction management plan, a fire strategy report, an internal daylight report, a landscape strategy, badger survey, a viability assessment and a planning obligations statement.

Background Information

- 1.7 The site has an extensive planning history (see section 9 below). Relevant history includes planning permission being granted for the construction of a 58 bedroom hotel on the site (ref's 13/00153/EXTM and 10/00112/FULM); however, these permissions have lapsed and are no longer extant. More recently, planning permission was refused and dismissed at appeal for the construction of a ground floor restaurant with 24 self-contained flats and basement parking (ref. 15/00155/FULM). Planning permission was subsequently granted to demolish the Esplanade building and to construct a 5 storey building comprising 23 self-contained flats with ground floor restaurant and basement parking (15/01842/FULM), subject to conditions and a S106 Legal Agreement relating to highway work contributions, travel plan and travel packs, public art contribution/provision, tree replacement contributions and a viability review mechanism. This permission remains extant until 5th April 2019.
- 1.8 The information supplied with this application indicates that the development is of a similar overall height and depth as the extant scheme; however, the width has significantly increased as a result of this proposal now incorporating the redevelopment of Marriott's in addition to The Esplanade.

2 Site and Surroundings

- 2.1 The site is on the northern side of Western Esplanade and is currently occupied by the two storey Esplanade public house which is now vacant and in a poor state of repair and the single storey Marriott's building. To the rear of the site land levels increase significantly.
- 2.2 To the immediate west of the site beyond a set of steps providing access up and down the steeply sloping cliff is Pier West Coffee Shop which is a narrow, three storey building with residential uses on the upper floors. To the immediate east of the site are further sets of steps and associated amenity gardens and the cliff lift. To the immediate rear of the site, the ground slopes up significantly. There are a number of trees to the rear of the site. Further north is Clifton Terrace which includes a row of Listed Buildings (Grade II) and is within the Clifftown Conservation Area. To the south of the site is the busy Western Esplanade with associated parking with the beach and seafront beyond.
- 2.3 The site itself does not have a specific allocation in the Development Management Document's Proposals Map, but is surrounded by public open space and whilst the site is located in Flood Zone 1, the land to the immediate front of the site is within

Flood Zone 2. To the south of the site lies the Estuary which is a Site of Special Scientific Interest (SSSI), SPA (Special Protection Area) and RAMSAR site (wetlands of International Importance).

- 2.4 The site lies within the Central Seafront Policy Area of the Southend Central Area Action Plan (SCAAP) 2018.

3 Planning Considerations

- 3.1 The main considerations in relation to this application include the principle of development, design, impact on the street scene and adjoining heritage assets, residential amenity for future and neighbouring occupiers, traffic, transport and parking implications, sustainability and impact on cliff stability, loss of trees, flood risk and drainage, ecology and biodiversity, developer contributions, viability and CIL.

4 Appraisal

Principle of development

National Planning Policy Framework (2012); Core Strategy (2007) Policies KP1, KP2, CP1, CP2, CP4, CP7, CP8; Development Management Document (2015) Policies DM1, DM2, DM3, DM5, DM4, DM6, DM7, DM8, DM10, DM14 and DM15, Southend Central Area Action Plan (SCAAP) (2018) Policies DS2, DS3, DS4, DS5, CS1 and CS2 and the Design and Townscape Guide (2009)

Principle of mixed development, including residential development

- 4.1 The NPPF states that planning should *‘proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs...encourage the effective use of land by reusing land that has been previously developed...promote mixed use developments...’*
- 4.2 Policy KP1 of the Core Strategy seeks to *focus appropriate regeneration and growth within the Seafront, to enhance the Seafront’s role as a successful leisure and tourist attraction and place to live and work and make the best use of the River Thames, subject to the safeguarding of the biodiversity importance of the foreshore.’*
- 4.3 Policy CP4 of the Core Strategy states that *development proposals will be expected to contribute to the creation of a high quality, sustainable urban environment which enhances and complements the natural and built assets of Southend by, promoting sustainable development of the highest quality and encouraging innovation and excellence in design to create places of distinction and a sense of place, maximising the use of previously developed land, whilst recognising potential biodiversity value and promoting good, well-designed, quality mixed use development.*
- 4.4 Policy KP2 of the Core Strategy requires that *“all new development contributes to economic, social, physical and environmental regeneration in a sustainable way”* and seeks to *“make the best use of previously developed land, ensuring that sites*

and buildings are put to best use'. Policy CP8 of the Core Strategy identifies the need for 6,500 homes to be delivered within the whole Borough between 2001 and 2021 and of these 550 should be provided in the sea front area. Policy CP8 also requires the provision of not less than 80% of residential on previously developed land.

- 4.5 Policy DM3 of the Development Management Document promotes *“the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity.”*
- 4.6 The SCAAP (2018) identifies the central seafront area as able to deliver a total of 282 additional dwellings by 2021. Policy CS1 of the SCAAP states that the Council will *‘secure high quality and sustainable redevelopment of poor quality, vacant or underused sites and buildings to improve the local townscape, including the provision of active ground floor frontages to add to the vibrancy and vitality of the streetscene.’*
- 4.7 The existing site contains an A4 drinking establishment (The Esplanade) and an A3/A5 café (Marriotts). This proposal seeks to provide two restaurant uses on the ground floor as part of the mixed use development proposed, which will provide an active frontage which would add to the vibrancy of the streetscene. In this respect, the proposal would also retain some employment on the site. The development would also increase the offer to visitors which is positive. No objection is therefore raised to the principle of the development or the loss of the existing uses on the site on this basis.
- 4.8 The proposal will result in the provision of 49 additional dwellings which is positive. It is also noted that the principle of developing part of the site (The Esplanade) for a mixed use development comprising a restaurant and 23 flats has already been permitted (ref. 15/01842/FUL). Unlike the previous proposal, the current proposal also seeks to incorporate and redevelop the single storey Marriotts building, which would result in the more comprehensive redevelopment of the site and the more efficient and effective use of the land which is welcomed in principle, subject to other considerations such as design impacts which are discussed below. This prominent site is currently in a poor state of repair and its suitable redevelopment would significantly improve the local townscape. Whilst neighbours have raised concerns that this development would reduce the provision of green space and negatively impact the cliff gardens, given that the site is already developed and given the previous consent it is not considered that the proposal would result in any material harm in this respect.
- 4.9 As such, the development is policy compliant in this respect and no objection is raised to the principle of the development, subject to other material considerations which are discussed below.

Dwelling Mix

- 4.10 The NPPF states that planning should *‘deliver a wide choice of high quality homes, wider opportunities for home ownership and create sustainable, inclusive and mixed communities...’*

- 4.11 Policy DM7 of the Development Management Document states that all residential development is expected to provide a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing on appropriate sites, to reflect the Borough’s housing need and housing demand. The Council seeks to promote a mix of dwellings types and sizes as detailed below. The relevant dwelling mixes required by the abovementioned policy and proposed by this application are shown in the table below.

Dwelling size: No bedrooms	1-bed	2-bed	3-bed	4-bed
Policy Position (Market Housing)	9%	22%	49%	20%
Proposed	47%	47%	6%	0%

- 4.12 The development would provide a very small level of 3-bedroom accommodation, mainly providing 1 and 2 bedroom units which does not fully reflect the mixture of housing identified as being required for Southend. However, it is noted that the extant permission (15/01842/FULM) permitted the provision of 23x 2-bedroom units only. This proposal seeks to provide a greater mix of dwelling types than the extant permission and as such, on balance it is considered the mix hereby proposed is acceptable and a reason for refusal on this basis could not be substantiated. No objection is therefore raised to the proposal on this basis.

Design and Impact on the Character of the Area and the nearby Heritage Assets including the Clifftown Conservation Area and Grade II Listed Buildings to the north

National Planning Policy Framework (2012); Core Strategy (2007) Policies KP2, CP1 and CP4, Development Management Document (2015) Policies DM1, DM3, DM4, DM5 and DM6, Southend Central Area Action Plan (SCAAP) (2018) Policies DS2, DS3 and CS1 and the Design and Townscape Guide (2009)

- 4.13 Section 72(1) of the Planning and 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 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.
- 4.14 This proposal is considered in the context of the Borough Council policies relating to design. Also of relevance are National Planning Policy Framework Sections 56 and 64 and Core Strategy Policies KP2 and CP4.
- 4.15 One of the core planning principles of the NPPF is to “*encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value.*” Paragraph 56 of the NPPF states; “*the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.*” Paragraph 64 of the NPPF states; “*that permission should be refused for development of poor design that fails to take the opportunities available*

for improving the character and quality of an area and the way it functions.”

- 4.16 Policy KP2 of the Core Strategy requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood. Policy CP4 requires that new development be of appropriate design and have a satisfactory relationship with surrounding development.
- 4.17 Policy DM3 of the Development Management Document states that *“The Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification.”* Moreover, policy DM1 states that development should *“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”.*
- 4.18 Policy DM5 of the Development Management Document states that *“Development proposals that result in the total loss of or substantial harm to the significance of a designated heritage asset, including listed buildings and buildings within conservation areas, will be resisted.”*
- 4.19 The pre-amble to Policy DM4 states that for the purposes of that policy tall and large buildings are defined as buildings that are substantially taller and/or bulkier and out of scale with the surrounding and/or have a significant impact on the skyline.
- 4.20 The NPPF states that:
- “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation”.*
- 4.21 Policy DM4 of the Development Management Document states
- Tall and large buildings are by definition substantially taller and out of scale with the prevailing built form of the surrounding area and/or have a significant impact on the skyline. Tall buildings will only be permitted in appropriate locations in the Southend Central Area and will only be considered outside this area in exceptional circumstances, where the development would be within the street block of an existing cluster of tall buildings, where it can be demonstrated that it would not be incongruous with the character and function of the area, and where the proposed development meets the criteria set out within this policy.*
- 4.22 *Tall and large buildings will be considered 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; and

(iv) The highest standards of architecture and materials are incorporated; and

(v) The latest regulations and planning policies for minimising energy use and reducing carbon emissions over the lifetime of the development are exceeded, where viable and feasible; and

(vi) Ground floor activities provide a positive relationship to the surrounding streets; and

(vii) They are located in a sustainable area with frequent public transport links, and where local services are accessible by foot and bicycle

4.23 2. *Tall and large buildings will not be acceptable where:*

(i) They adversely affect their surroundings in terms of character, microclimate, wind turbulence, overshadowing, noise, reflected glare, navigation and telecommunication interference; or

(ii) They impact adversely on local views that make an important contribution to the character of the area; or

(iii) They adversely impact upon the skyline of Southend as viewed from the foreshore and other important viewpoints and vistas within and outside the Borough; or

(iv) They adversely impact upon London Southend Airport; or

(v) They detrimentally impact upon the setting of heritage assets.

4.24 Policy DM6 of the Development Management Document states that *'Development within or near the Seafront Area must not detrimentally impact upon the Thames Estuary's openness or views across and backdrops to the River Thames and Southend's beaches'*.

4.25 Policy DS2 of the SCAAP states that new development within Southend Central Area will be expected to demonstrate that it is compatible with and/or enhances key views of key areas and landmarks including the seafront, the pier and Clifftown Parade. There are also a number of buildings and structures within the surrounding area that are classified as landmarks and landmark buildings by the SCAAP including the Clift Lift, Pier Hill Observation Tower and Lift.

4.26 Policy DS3 of the SCAAP states that *'The Council...will seek to conserve landmarks and landmark buildings...from adverse impact by encouraging the provision of open spaces and public realm improvements which provide views to landmarks or landmark building or enhance their setting, resisting adverse impacts of new development by virtue of excessive height, massing or bulk; ensuring development proposals respect views, settings and character.'*

4.27 Policy DS3 of the SCAAP states that *'The Council will support and encourage the creation of new landmarks in the areas identified in table 3...'* In this respect, the application site is not identified as a site for a new landmark, however, this proposal will undoubtedly constitute a landmark building and as such the criteria outlined in Policy DS3 for landmarks is relevant and includes that landmark development proposals must demonstrate that: *'design, detailing and use of materials are of exceptional quality and interest and will help to reinforce local*

character and distinctiveness, the location would provide a focal point for an existing vista/sight line or generate a new one, the proposals do not adversely affect the amenity of local residents and the proposals do not harm the setting of nearby heritage assets.'

- 4.28 Policy CS1 of the SCAAP states that the Council will *'secure high quality and sustainable redevelopment of poor quality, vacant or underused sites and buildings to improve the local townscape, including the provision of active ground floor frontages to add to the vibrancy and vitality of the streetscene...ensure that all development proposals affecting all designated and non-designated heritage assets...conserve and enhance these buildings and their settings...seek to conserve and enhance existing landmarks and landmark buildings and ensure new development respects views to and from them, their setting and character...'*
- 4.29 Whilst the buildings on the application site are not listed and the site is not located within a Conservation Area, the Clifftown Conservation Area is to the north and east of the application site. There are Grade II Listed Buildings to the north of the site, including the Grade II listed statue of Queen Victoria to the north of the site and locally listed buildings to the east and west.
- 4.30 The Clifftown Conservation Area Appraisal makes it clear that *'The Cliff Gardens have a relaxed character as part of the resort and provide the setting for much of the conservation area...The dominant character is one of openness...'* In relation to the Cliffs area, the Appraisal states *'The roof and rear of the Esplanade Pub are visible from this area and need visual improvements or screening.'*
- 4.31 The site is highly visible including from a number of Listed Buildings and landmark buildings, such as The Pier and as such any large development on this site will inevitably create a landmark building. It is noted that the character of the surrounding area contrasts with the lively tourist area along Western Esplanade and the seafront and the quieter more domestic and residential character to the north. The two areas are separated by the Cliff Gardens. The central sea front area has strong horizontal lines formed by the local topography and by the canopies, balconies and glazing typical of the built form.
- 4.32 In terms of scale, the development proposed is of a fairly substantial size. Whilst planning permission was previously granted to replace the existing Esplanade Public House with a building comprising 23 flats and a restaurant, this proposal now also includes Marriotts and the application site is approximately 42% larger than the previous site. In this respect, it is positive that the development includes Marriotts which is a visually weak single storey building and would result in the more comprehensive development of the area, rather than subsequent piecemeal development. The width of the development has significantly increased, resulting in an increase in the scale and mass of the development. However, the perceived scale of the development is reduced by virtue of the receding, stepped profile. The set backs mitigate the scale of the building in the streetscene and reduce its bulk. It is also noted that this development would constitute a landmark building. In terms of height, the overall proposal is similar to that previously permitted and would not exceed the height of the top of the cliff, reducing its impact on the character and appearance of the adjoining Conservation Area and the setting of the nearby listed buildings. No objection is therefore raised to the design, size, scale, height, bulk and mass of the proposed development and no objection is raised to the siting of

the development or the building line proposed.

- 4.33 In terms of detailed design and appearance, concern was originally raised to the design of the rear stair tower which would have been prominent and appeared bulky and out of keeping with the design of the main building. Amended plans in this respect have now been received which have significantly improved this element, reducing its bulk and providing a more cohesive design.
- 4.34 The design approach includes a distinctive horizontal emphasis to the front and sides and includes a curved form which the Design and Access Statement explains is designed to reflect the oscillating curves of the tide. The curved lines of the balconies and architectural styling are reminiscent of seaside development and reflect the horizontal lines of neighbouring development within the surrounding seafront area adding interest to the streetscene. The overall design and appearance is considered to represent a high standard of architectural approach which would create a suitable landmark building.
- 4.35 The rear elevation has a different character and is simpler than the front and side elevations. Views of this elevation are more limited, would be seen in isolation and are considered similarly to represent a high standard of architectural design. As such no objection is raised on this basis.
- 4.36 At ground floor level two restaurants will be provided which include large areas of glazing and prominent entrances, retaining an active frontage which is positive. Subject to conditions requiring detailing of matters such as lighting this element of the proposal is also considered to constitute a good design. It is also positive that access to the underground parking is not overly prominent and does not dominate the principal elevation of the building. A condition would be attached to any grant of consent in this respect, requiring details of the shutter to be installed here.
- 4.37 In terms of the impact of the development on the adjoining heritage assets, it is considered, given the location of the proposed building, that the development would not result in any harm to the setting of the listed buildings to the north, including the Statue of Queen Victoria to the north of the site which is grade II listed. The development would be visible from the Conservation Area and the development has the potential to impact the character and appearance of the Conservation Area. However, given the changes made to the stair tower and given the previous consent to redevelop the Esplanade site and subject to conditions restricting plant and other structures on the roof of the building and requiring a green roof to be retained, it is considered that the development would preserve the character and appearance of the adjoining Conservation Area. The height of the building does not exceed the height of the previously approved building. It is also noted that the Conservation Area Appraisal promotes the improvement or screening of the existing Esplanade Public House building. No objection is therefore raised on this basis.
- 4.38 The application has been submitted with a landscape strategy which outlines a number of landscape objectives for the development including providing a visual link between the building and the surrounding landscape, increasing biodiversity, retaining views over the site from the existing residential dwellings to the north with buffer planting, additional tree planting and a green roof to reduce any potential visual impact and integrate the building into the landscape. Whilst all the trees on

the application site will be removed for this development, additional trees will be planted to the rear of the site to mitigate for this.

- 4.39 The application has also been submitted with an arboricultural impact assessment report which comments that the trees within the site are self-seeded sycamore and ash trees which have grown too close together to flourish. To the north of the site three low-quality small/medium trees with structural faults and one leaning medium quality tree will be removed and a sycamore to the east (which is protected by a TPO) will be removed due to its proximity to the development. It is also noted that this tree is in the early stages of sooty bark disease. 10 new trees will be planted in connection with this development to the north and east of the site. The report concludes that all of the trees to be removed are of sub-optimal condition and the development includes a tree replacement scheme which will not block the sea views of the dwellings to the north.
- 4.40 In terms of landscaping, the incorporation of a green roof is positive and would soften the development's appearance in keeping with its wider landscaped setting. The loss of existing trees on the site has already been permitted under planning permission reference 15/01842/FULM. With regards to the replacement tree planting proposed, the Council's park team identified concerns and made a number of recommendations (see full comments below in section 7), including relocating some of the proposed trees, altering the species submitted and requesting further details. A revised landscape strategy (Rev. B) was submitted and the Parks Team have subsequently confirmed that this is acceptable. Subject to a condition requiring the development to be undertaken in accordance with the approved landscape strategy, and requiring the applicant to provide the agreed trees to the north and east of the site, no objection is raised on this basis.
- 4.41 The development would be visible from a number of landmark areas and buildings and would be a prominent building in the area, becoming a landmark itself. Given the assessment above and that it is concluded that, subject to appropriate, high quality detailing and materials that the development would constitute a high quality design that would enhance the character and appearance of the area. Accordingly it is considered that the proposal would not adversely impact any of these landmarks or landmark buildings.
- 4.42 In terms of natural surveillance and security, it is considered that the proposed development, with fenestration provided on all elevations would improve natural surveillance in the area, which is positive. The information contained within the Design and Access Statement also indicates that the site will benefit from CCTV. A condition can be imposed requiring full details of the CCTV in the interests of maintaining the design and character of the proposed building.
- 4.43 It is considered that the amended proposal is of a high standard of design that would preserve the setting of the nearby listed buildings and would preserve the setting, character and appearance of the adjoining Conservation Area. It would enhance the overall appearance of the site and the wider surrounding area. The proposal is therefore policy compliant in this respect and no objection is raised, subject to the described conditions.

Impact on Residential Amenity

National Planning Policy Framework (2012), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1 and DM3 and Design and Townscape Guide.

- 4.44 Policies DM1 and DM3 of the Development Management Document and CP4 of the Core Strategy refer to the impact of development on surrounding occupiers. High quality development, by definition, should provide a positive living environment for its occupiers whilst not having an adverse impact on the amenity of neighbours. Protection and enhancement of amenity is essential to maintaining people's quality of life and ensuring the successful integration of proposed development into existing neighbourhoods.
- 4.45 Amenity refers to well-being and takes account of factors such as privacy, overlooking, outlook, noise and disturbance, the sense of enclosure, pollution and daylight and sunlight. Policy DM1 of the Development Management Document requires that all development should (inter alia):
- 4.46 *“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;”*
- 4.47 One of the core planning principles contained within the NPPF is to *‘always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings’*.
- 4.48 In terms of residential amenity, the site sits apart from other development with the exception of Pier West Café to the west of the site. Pier West Café is a three storey building containing a ground floor café with living accommodation above. The development would result in a five storey building in close proximity to Pier West Café. Given the limited extent of the windows on the eastern side of Pier West café and given that the proposal has been designed with the upper storeys stepping back away from Pier West café, it is considered that the proposal would not result in any material harm to the occupiers of the Pier West café in terms of dominance, an overbearing impact, loss of light and outlook, material sense of enclosure or overlooking and loss of privacy. The proposal is therefore Policy compliant in this respect.
- 4.49 The dwellings to the north of the site in Clifton Parade are removed from the site and the development has been designed to be set below the top of the cliff. As such it would not obscure the views to the seafront from these dwellings and would not result in any harm to the residential amenity of these residents in terms of dominance, an overbearing impact, loss of light and outlook, a material sense of enclosure or overlooking or loss of privacy. The proposal is therefore Policy compliant in this respect.
- 4.50 In terms of noise and disturbance, the mixed use development would replace an existing public house and cafe with restaurants at ground floor level. As such it would not result in any material harm to the living conditions of the adjoining residents over and above the existing lawful situation. Whilst 49 dwellings are proposed, given that the dwellings are accessed from the busier Western

Esplanade, rather than the quieter Clifftown Parade, it is considered that the proposal would not result in any material harm to the nearest adjoining residents in terms of noise and disturbance. It is also noted that the submitted construction management plan limits the demolition and construction works to 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 Saturdays only with no working on Sundays and bank holidays, which is positive. The proposal is therefore Policy compliant in this respect.

- 4.51 The Design and Access Statement submitted indicates that the *‘the external lighting will be carefully integrated within the building to illuminate the public areas such as the restaurant terrace at ground floor level, vehicle access to basement, residential entrance and public step and ramps. The lighting design will be simple and clean to mimic the streamlined appearance of the building’*. Subject to a condition requiring a full lighting scheme in the interests of the character and appearance of the area, biodiversity impacts and the residential amenity of the adjoining residents no objection is raised on this basis and the proposal is considered acceptable and policy compliant in this respect.

Standard of Accommodation:

National Planning Policy Framework, Policy KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1, DM3 and DM8 and the Design and Townscape Guide (2009).

- 4.52 Paragraph 17 of the NPPF states that *“planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*. It is considered that most weight should be given to the Technical Housing Standards that have been published by the Government which are set out as per the below table:

- Minimum property size for residential units shall be as follow:
 - 1 bedroom (1 bed space) 39sqm
 - 1 bedroom (2 bed spaces) 50sqm
 - 2 bedroom (3 bed spaces) 61sqm
 - 2 bedroom (4 bed spaces) 70 sqm
 - 3 bedroom (5 bed spaces) 86sqm
 - 3 bedroom (6 bed spaces) 95sqm.
- Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5m² for a single bedroom with a minimum width of 2.15m; and 11.5m² for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.
- Floorspace with a head height of less than 1.5 metres should not be counted in the above calculations unless it is solely used for storage in which case 50% of that floorspace shall be counted.
- A minimum ceiling height of 2.3 metres shall be provided for at least 75% of the Gross Internal Area.

4.53 The following is also prescribed:

- Provision of a storage cupboard with a minimum floor area of 1.25m² should be provided for 1-2 person dwellings. A minimum of 0.5m² storage area should be provided for each additional bed space.
- Amenity: Suitable space should be provided for a washing machine and for drying clothes, as well as private outdoor amenity, where feasible and appropriate to the scheme.
- Storage: Suitable, safe cycle storage with convenient access to the street frontage.
- Refuse Facilities: Non-recyclable waste storage facilities should be provided in new residential development in accordance with the Code for Sustainable Homes Technical Guide and any local standards. Suitable space should be provided for and recycling bins within the home.
- Refuse stores should be located to limit the nuisance caused by noise and smells and should be provided with a means for cleaning, such as a water supply.
- Working: Provide suitable space which provides occupiers with the opportunity to work from home. This space must be able to accommodate a desk and filing/storage cupboards.

4.54 The flats proposed all satisfy the minimum sizes required and all flats are provided with dedicated, built-in storage and the bedrooms are of acceptable sizes. The proposal is therefore acceptable and policy Compliant in this respect.

4.55 In terms of light, ventilation and outlook, the proposed flats are only single aspect which is unfortunate. In this respect, concern was originally raised with regard to the single aspect, north facing units, which overlook a steeply rising cliff with trees, and therefore have the potential to result in limited light and outlook to these flats, particularly on the lower levels. However, the application has been submitted with an internal daylight report which concludes that the development would provide acceptable levels of daylight into all of the habitable rooms. In this respect the information submitted within the submission indicates that the north facing balconies have been carefully positioned so to minimise the overshadowing of living rooms and kitchens. Subject to a condition requiring the management of the trees to the rear of the site no objection is therefore raised on this basis and the development is considered Policy compliant in this respect.

4.56 In terms of outside amenity space, all the units will be provided with private balconies or terraces which range from approximately 3.6sqm to some 94.8sqm. Whilst the balconies that face north, provide the northern flats with only limited outside space, given the location of the site, close to amenities provided by public gardens and the seafront, it is considered that these balconies proposed are sufficient to meet the needs of the future occupiers. It is also noted that the majority of the rear units that only have a small rear balcony (some 3.6sqm) tend to serve one bedroom units. The proposal is therefore considered to be Policy compliant in this respect and no objection is raised on this basis.

- 4.57 Policy DM8 states that developments should meet the Lifetime Homes Standards unless it can be clearly demonstrated that it is not viable and feasible to do so. Lifetime Homes Standards have been dissolved, but their content has been incorporated into Part M of the Building Regulations and it is considered that these standards should now provide the basis for the determination of this application. Policy DM8 also requires that 10% of dwellings in 'major applications' should be built to be wheelchair accessible.
- 4.58 The information submitted with the application states that internal lifts will be provided within the building for residents and the Design and Access Statement states that a Part M compliant ramp next to the basement vehicular ramp provides step free access to both the restaurant and residential development and the residential development has the provision of Part M compliant lifts and communal spaces. Three of the parking spaces proposed are accessible spaces. The applicant's agent has confirmed the applicant is 'happy to accept a condition requiring the development to be built to comply with Building Regulations M4(2) and for 10% of dwellings to comply with Building Regulations M4(3)'. Subject to a condition in this respect no objection is raised to the proposal on this basis.
- 4.59 Adequate covered and secure cycle parking will be provided which is conveniently located for the residents. This is considered in more detail below, however, the cycle parking provisions are considered acceptable in respect of having no adverse impact upon the living conditions of the future occupiers of the site.
- 4.60 Separate, dedicated refuse storage has been provided for the residential and commercial uses. The refuse store is conveniently located for the future occupiers of the site. The applicant states that, on collection day refuse containers will be taken to the loading bay at street level, which will be undertaken by the management company using an electric bin tug which will be stored and charged in the refuse store itself. In this respect the Waste Management Team has requested a full Waste Management Plan, which could be controlled with the imposition of a condition in this respect. Subject to a condition no objection is therefore raised on this basis.
- 4.61 The application has been submitted with a Noise Assessment in which a noise survey was carried out on 13th and 14th October 2017. The findings of the survey indicate that noise levels across the site were generally dictated by road traffic on Western Esplanade. There was no significant increase in noise at rush hour with road traffic noise not decreasing until well into the night. The report concludes that appropriate noise levels will be achievable in the development subject to the installation of suitable glazing and ventilation systems (which could be secured with suitable planning conditions). Noise levels in external amenity areas are shown to be in line with British Standards and Council recommendations. The report therefore concludes that the development is acceptable with regards to the noise levels that will exist in habitable areas. The report also indicates that sound installation will be provided between the ground floor commercial and first floor residential units and guideline noise levels within the residential units would be readily achievable. In this respect the Environmental Health Team has recommended a number of conditions. Subject to such conditions the development is considered to be policy compliant in this respect and no objection is therefore

raised on this basis.

- 4.62 The phase 1 assessment undertaken concludes that contamination risks are low to medium but recommends that further investigations should be carried out to assess the potential contamination risks on the site. In this respect the Environmental Health Team has raised no objection to the proposal, subject to a condition in this respect. Subject to such a condition no objection is raised on this basis.
- 4.63 The development therefor provides an adequate standard of living for the future occupiers of the site and is policy compliant in this respect.

Highways and Transport Issues:

National Planning Policy Framework (2012), Policy KP2, CP3 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1, DM3 and DM15 and the Design and Townscape Guide (2009).

- 4.64 Policy DM15 of the Development Management Document seeks a minimum of 1 car parking space per flat. This would equate to a minimum requirement of 49 spaces.
- 4.65 The A3 use proposed would require a maximum of 1 space per 6sqm which equates to a maximum of 94 parking spaces.
- 4.66 The application has been submitted with a Transport Assessment and a Framework Travel Plan.
- 4.67 This proposal provides policy requirement parking provisions for the residential units and the restaurants. It is noted that the existing public house and café do not benefit from any off-street parking and there are pay and display parking spaces to the front of the site. The site is also considered to be in a sustainable location. The proposed parking provisions are therefore considered acceptable in this instance. The Highway Team has raised no objection to the proposal in parking terms on this basis. Whilst the proposed loading bay will result in the loss of three on-street parking bays, given the wider benefits of the loading bay (as discussed below) and the relatively small reduction in on-street parking within the overall context of the seafront parking, no objection is raised on this basis.
- 4.68 49 cycle parking spaces will be provided for the residential units (one per unit). Additional cycle parking spaces will be provided on-site for use by restaurant staff, within the mezzanine cycle store.
- 4.69 The Highway Team has commented that the red light system to control access to and from the car park and its priority system will help reduce the likelihood of vehicles stacking on the highway and raises no objection on this basis subject to securing a car park management plan which can be controlled via condition.
- 4.70 The Highway Team has considered the trip data provided with the application. This indicates that the residential part of the development would result in 152 daily two-way vehicles trips between 07:00 and 19:00 and the commercial element 72 daily two-way vehicle trips. It concludes that this would have no adverse impact on the

highway.

- 4.71 In terms of servicing, the residential refuse collection point is suitably located and a loading bay will be provided to ensure that the waste collection vehicle will not obstruct the free flow of traffic on Western Esplanade. The commercial waste collection will utilise the same loading bay. The Highways Team raise no objection on this basis (subject to the developer obtaining separate highway consents), subject to a full waste management plan, which can be secured via a planning condition and subject to a condition restricting the commercial refuse collection times.
- 4.72 The application has been submitted with a framework travel plan which indicates that a travel plan co-ordinator will be appointed from the management company or externally contracted, details of which will be provided to the local planning authority prior to first occupation or first use of the development. The Framework Travel Plan states that all new residents will be provided with a welcome pack which will include public transport information, information about Travel wise, taxi details, car share organisations and walking and cycling maps. New restaurant staff will receive travel inductions. A dedicated travel plan page will be developed as part of the marketing website and the restaurant webpage will make it clear that there is no dedicated customer parking and will provide information on accessing the site via walking, cycling and public transport. The Travel Plan will be monitored. The Travel Plan submitted is considered acceptable and subject to conditions in this respect, no objection is raised on this basis.
- 4.73 The application has been submitted with a construction management plan which is comprehensive and the Highways Team have raised no objection to proposal on this basis. Subject to a condition requiring the development to be undertaken in accordance with the submitted construction management plan no objection is raised on this basis.
- 4.74 The applicant would be required to fund all costs relating to the introduction of the loading bay and re-provision of dropped kerbs and parking spaces and tactile paving which is estimated at approximately £14,000.
- 4.75 Subject to prior completion of an appropriate S106 Legal Agreement, requiring the applicant to fund the costs relating to the loading bay and other works and subject to appropriate conditions, it is considered that the proposal would provide adequate access, servicing and parking for the development and would not result in any material harm to highway safety operation or capacity. The proposal is therefore considered to be policy compliant in this respect and no objection is raised on this basis.

Sustainability

National Planning Policy Framework, Core Strategy (2007) Policies KP2, CP4 and CP8, Development Management Document (2015) Policies DM1, DM2 and the Design and Townscape Guide (2009).

- 4.76 Policy KP2 of the Core Strategy states; *“All development proposals should demonstrate how they will maximise the use of renewable and recycled energy, water and other resources”* and that *“at least 10% of the energy needs of a new*

development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)". The provision of renewable energy resources should be considered at the earliest opportunity to ensure an integral design.

- 4.77 A condition is required to be attached to any grant of consent requiring full details of the renewable systems to be provided to ensure that at least 10% of the energy needs of the development come from on-site renewables. Subject to such a condition no objection is therefore raised on this basis.
- 4.78 Policy DM2 of the Development Management Document part (iv) requires water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting. Whilst details have not been submitted for consideration at this time, this would be dealt with by conditions if the application is deemed acceptable.

Flood Risk and Environmental Protection

National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and KP3 and Development Management Document (2015) Policies DM6 and DM14

- 4.79 Paragraph 100 of the NPPF states that *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.'* In this respect the NPPF requires the Sequential Test and if necessary the Exception Test to be applied in areas of high flood risk.
- 4.80 Policy KP1 of Core Strategy states that all development proposals within flood risk zone *"shall be accompanied by a detailed flood risk assessment appropriate to the scale and the nature of the development and the risk"*. It is also noted that *"development will only be permitted where that assessment clearly demonstrates that it is appropriate in terms of its type, siting and the mitigation measures proposed, using appropriate and sustainable flood risk management options."*
- 4.81 Policy DM6 of the Development Management Document states that *'all development proposals within the Seafront Area must take account of flood risk and coastal change...'*
- 4.82 Policy DS4 of the SCAAP states that *'development proposals which are or will be within a flood risk zone will be accompanied by a flood risk assessment... [and] will locate more vulnerable uses in the area of the proposal least at risk...'*
- 4.83 The application site falls within the Central Seafront Area designated under Policy KP1 of the Core Strategy. This area is promoted as an area for regeneration and growth. The preamble to policy KP1 notes there are limited options to achieve regeneration and growth within the Borough and that development on flood plains will be considered. Policy KP1 directs development into the area in which the site falls. This policy was adopted following The Thames Gateway South Essex Partnership Strategic Flood Risk Assessment. A total of 550 new dwellings have

been earmarked for the seafront area between 2001 and 2021. It is considered further development in the Central Seafront Area is acceptable in principle subject to a site specific investigation. The proposal is therefore considered to pass the requirements of the sequential test.

- 4.84 For the exceptions test to be passed it must be demonstrated that:
- a) The development provides wider sustainability benefits to the community that outweigh flood risk.
 - b) The development should be on developable, previously developed land.
 - c) A flood risk assessment must demonstrate that the development will be safe, without increasing flood risk elsewhere, and where possible, will reduce flood risk overall.
- 4.85 The proposal would provide sustainability benefits by redeveloping the vacant site and would result in the more efficient use of land. The site is also previously developed land. Parts A and B of the exceptions test of the National Planning Policy Framework are therefore, considered to be satisfied in this instance.
- 4.86 Part C of the exception test set out in in the National Planning Policy Framework, requires development to be safe. The Environment Agency advises that the safety of residents is reliant upon either evacuation prior to floodwater reaching the site or provision of a safe refuge, above the flood level.
- 4.87 The site is currently located within Flood Zone 1 (low risk of flooding) and the application has been submitted with a Flood Risk Assessment (FRA). The FRA concludes that if the climate change predictions are correct, due to predicted increases in sea levels, the ground floor of the building will move into Flood Zone 2 in approximately 50 years and will transfer into Flood Zone 3 towards the end of its working life (2115). The submitted FRA comments that it is not known if local tidal defences will keep pace with this rise, however it would be realistic to expect plans to emerge in the future aimed at protecting coastal areas. However, tidal surges are highly predictable events enabling the Environment Agency to provide adequate warnings. It is also noted that the ground floor restaurant (A3) uses constitute a 'less vulnerable' use which is an appropriate use within Zones 2 and 3a and the 'more vulnerable' residential uses which are appropriate in flood zone 2 and only appropriate in flood zone 3a subject to the exceptions test are located on the upper storeys. The information submitted also indicates that, to futureproof the building, flood gates or doors will be fitted to the vehicle entrance and ground-floor entrances and flood proof construction will be used. As such it is considered that the development would be safe for its lifetime. It is also noted that planning permission has already been granted for an extant scheme to redevelop a large proportion of the site (reference 15/01842/FULM).
- 4.88 As such, it is considered that the development satisfies Part C of the exceptions test and that the development would be safe for the future occupiers, without increasing flood risk elsewhere.
- 4.89 In light of the above, the development is considered to comply with the sequential and exceptions test in accordance with the National Planning Policy Framework and Policies KP1 and KP2 of the Core Strategy. No objection is therefore raised on this basis.

- 4.90 The submitted FRA includes a surface water drainage strategy which comments that it is not practical to provide on-site infiltration of surface water as the development fills the site and the ground conditions do not favour the use of infiltration. In order to provide a reduction in flood risk, the building incorporates a green roof which will attenuate surface water flows to some extent. The Council's Coastal Defence Engineers have indicated that additional information is required in this respect. It is considered that appropriate conditions can be attached to any grant of consent in this respect. Subject to these conditions the proposal is considered policy compliant in this respect and no objection is raised.
- 4.91 Policy DM14 of the Development Management Document states that *'all development proposals in the vicinity of the cliff frontages shall take full account of the risk of ground instability, Development that is at risk from land instability or that is likely to increase risk to a site or the surrounding areas will not be acceptable.'*
- 4.92 The Design and Access Statement submitted indicates that the stepped profile of the basement has been designed to ensure slope stability is maintained, without future slippage and the building will utilise post tension concrete technology. The Planning Statement submitted also indicates that the scheme has been designed to maintain slope stability during demolition, ensures that the development can be erected in a safe manner and provides a permanent structure that will maintain the long-term stability of the coastal slope. The proposal is therefore policy compliant in this respect and no objection is raised.

Ecology and Biodiversity

National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and CP4, Development Management Document (2015) Policies DM2 and DM6, Southend Central Area Action Plan (SCAAP) (2018) Policy CS2

- 4.93 The application site is close to an area which forms part of the Benfleet and Southend Marshes SPA (Special Protection Area), SSSI (Site of Special Scientific Interest) and RAMSAR site (wetlands of International importance).
- 4.94 Chapter 11 of the NPPF states that the *planning system should contribute to and enhance the natural and local environment...minimising impacts on biodiversity and providing net gains in biodiversity where possible...*
- 4.95 Policy KP2 of the Core Strategy states that all new development must *'respect, conserve and enhance and where necessary adequately mitigate effects on the natural and historic environment, including the Borough's biodiversity and green space resources; ensure that European and international sites for nature conservation are not adversely affected and contribute positively towards the 'Green Grid' in Southend.'*
- 4.96 Policy CP4 of the Core Strategy seeks to contribute to the creation of high quality, sustainable urban environments by *'safeguarding, protecting and enhancing nature and conservation sites of international, national and local importance.'*
- 4.97 Policy DM6 of the Development Management Document states that *'All development within the Seafront Area will incorporate measures which will limit any adverse impact and where possible enhance the biodiversity of the local nature*

reserves and coastal and marine environment and protect the valuable natural amenity areas of International, European, national importance.'

- 4.98 Policy CS2 of the SCAAP states that the Council will *'not permit development proposals that will result in significant harm to the foreshore that cannot be avoided, adequately mitigated, or as a last resort, compensated for...not normally permit development proposals that adversely affect a site of national importance...apply planning conditions or legal obligations to secure the protection, conservation and enhance of a SSSI...and integrate the seafront and foreshore open space...'*
- 4.99 A preliminary ecological appraisal has been submitted with the application which comments that despite the close proximity of the site to the Benfleet and Southend Marshes SSSI, SPA and RAMSAR, the development is situated within a landscape that is already an extensively developed tourist area and will not result in any significant increase in the number of visitors or type of activity within the designated sites. Therefore no impacts are anticipated in this respect. The habitats within the site are considered to be of low ecological value. The submitted ecological appraisal concludes that the existing buildings are considered to have negligible to low potential for roosting bats. The report therefore recommends a pre-work bat activity survey (which can be controlled via condition) and bat boxes would be appropriate mitigation (which can be controlled via condition). In terms of birds the report recommends that site clearance should be undertaken during the period of October to February (inclusive) to avoid the nesting season, however, if within the nesting season works should be preceded by a pre-works check by an ecologist (which can be controlled via condition).
- 4.100 A badger survey has been submitted which found no evidence of badgers at the site and surrounding area and that an artificial sett to the north of site was unoccupied. The report makes a number of recommendations such as a pre-works check for badgers prior to the commencement of the development and that trenches should be provided with escape ramps. Subject to the development being undertaken in accordance with the recommendations contained in the badger survey, no objection is raised.
- 4.101 Natural England have commented that the application site is located in close proximity to the Benfleet and Southend Marshes Special Protection Area (SPA), which is a European designated site and therefore has the potential to affect its interest features. The site is also listed as the Benfleet and Southend Marshes Ramsar site and is also notified at a national level as the Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI)
- 4.102 Natural England has commented that due to the absence of detail on the timings of works there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. The proposed development has the potential to result in disturbance to wintering birds which constitute the interest features for which the Benfleet and Southend Marshes SPA and Ramsar site is designated. However, in view of the localised character of the works and the extend of the foreshore, Natural England is satisfied that there would only be a significant risk of disturbance if the construction workers were using particularly noisy techniques at a time close to the high tide period (when the birds are occupying the upper part of the foreshore) and in particularly cold weather conditions (when the birds are

already subject to increased levels of stress) during the over wintering bird season (October to March inclusive). However, this risk can be avoided with the imposition of a condition. Subject to such a condition no objection is raised.

- 4.103 In terms of the impact of the proposal on the Benfleet and Southend Marshes SSSI, Natural England are satisfied, given the nature and scale of the development, that the proposal is unlikely to adversely impact this site and as such the SSSI does not represent a constraint in determining the application.
- 4.104 Given the findings and recommendations of the ecological appraisals submitted and the advice received from Natural England and subject to conditions, it is considered that the proposal would have no adverse impact upon biodiversity, wildlife or the designated European and National sites. Subject to conditions the development is therefore in accordance with National and Local Planning Policy and no objection is therefore raised on this basis.

Other Matters

- 4.105 The Environmental Health Team has recommended a number of conditions. As discussed above most of these conditions are necessary and relevant. The conditions suggested relating to an asbestos survey and the burning of waste material on the site are issues that are covered by other legislation and are not therefore necessary in this instance.
- 4.106 The majority of the issues raised by the public consultation process have been considered above including the history of the site, design and impact on the surrounding area and adjoining heritage assets, impact on views, the principle of residential development in this location, parking and traffic and highway impacts, noise impacts, living conditions and impact on the residential amenity of adjoining residents, impact on the green space, ecology impacts, impacts on trees and landscaping, flood risk, sustainability and cliff stability.
- 4.107 A number of other, non-material matters have also been raised within the representations received such as developer profits and impact on property values. In terms of disruption, this is not a reason to refuse planning permission, however, a construction management plan has been submitted with the application and a condition can be imposed on any grant of consent restricting the hours of construction. In terms of precedent each planning application must be considered on its own merits. In terms of public consultation, the Council has no control over the developer's public consultation events; however, planning policy and guidance encourages applicants' prior consultation with the community and the local planning authority has undertaken public consultation in accordance with Statutory and Local requirements. With regard to the developer purchasing Pier West Café, this is not material in the determination of this application.

Community Infrastructure Levy

- 4.108 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The application site is located within Zone 2

therefore a CIL rate of £36.12 per sqm is required for the residential development and £12.04 per sqm for the commercial uses. The proposed development equates to CIL a charge of approximately £132,454.03 (subject to confirmation and subject to Social Housing Relief being agreed).

Planning Obligations

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (NPPG), Southend Core Strategy (2007) strategic objective SO7, policies KP3, CP7 and CP8; Development Management Document (2015) policy DM7 and A Guide to Section 106 & Developer Contributions (2015)

4.109 The Core Strategy Policy 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.”

4.110 In this instance, affordable housing, highway works, tree planting, public art and a contribution towards secondary education are of relevance. For information, primary education is covered by the Community Infrastructure Levy, as set out in the Council’s Infrastructure Delivery Plan and CIL Regulation 123 Infrastructure List, but the impact on secondary education is currently addressed through planning obligations (subject to complying with statutory tests and the pooling restriction).

4.111 Paragraph 205 of the NPPF states the following:

Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

4.112 The need to take viability into account in making decisions in relation to planning obligations on individual planning applications is reiterated in Paragraph: 019 Reference ID: 10-019-20140306 of the NPPG, which sets out the following guidance:

In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.

This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.

4.113 Specifically in relation to incentivising the bringing back into use of brownfield sites, which the application site is, the NPPG also requires local planning authorities “...to take a flexible approach in seeking levels of planning obligations and other contributions to ensure that the combined total impact does not make a site unviable.” (NPPG Paragraph: 026 Reference ID: 10-026-20140306).

4.114 The need for negotiation with developers, and a degree of flexibility in applying affordable housing policy, is echoed in Core Strategy policy CP8 that states the following:

The Borough Council will:

...enter into negotiations with developers to ensure that:

.... all residential proposals of 10-49 dwellings or 0.3 hectares up to 1.99 hectares make an affordable housing or key worker provision of not less than 20% of the total number of units on site...

For sites providing less than 10 dwellings (or below 0.3 ha) or larger sites where, exceptionally, the Borough Council is satisfied that on-site provision is not practical, they will negotiate with developers to obtain a financial contribution to fund off-site provision. The Council will ensure that any such sums are used to help address any shortfall in affordable housing.

4.115 Furthermore, the responsibility for the Council to adopt a reasonable and balanced approach to affordable housing provision, which takes into account financial viability and how planning obligations affect the delivery of a development, is reiterated in the supporting text at paragraph 10.17 of the Core Strategy and paragraph 2.7 of “Supplementary Planning Document: Planning Obligations”

4.116 The application has been submitted with a viability assessment and a Planning Obligations Statement.

4.117 Discussions regarding the S106 requirements of the development, particularly with reference to the affordable housing contributions have been ongoing during the course of this application. The Heads of Terms now proposed by the applicant constitute:

- Affordable housing financial contribution: £331,673.46
- Secondary education financial contribution: £27,692.42
- Highway works financial contribution: £14,000
- Implementation of landscaping works and tree planting
- Implementation of Travel Plan (including provision of Welcome Packs and appointment of Travel Plan Coordinator).

4.118 In terms of affordable housing, the viability report originally submitted by the applicant indicated that the viability of the development is affected by the high build costs associated with the location of the site on the cliffs and the high quality design proposed. The Planning Statement submitted states that due to the need to address technical structural and cliff stability issues and the requirement for a high-quality landmark development which entails the use of high-quality materials, there are viability challenges. The Planning Statement also refers to the previous

consent (ref. 15/01842/FULM) which included a viability assessment which confirmed that the provision of on-site affordable housing would not be viable, which was accepted at that time by the Council. In terms of affordable housing, the applicant's viability statement originally submitted with this application concluded that the scheme is not viable if affordable housing is provided on the site.

- 4.119 Following detailed submissions and discussions between the Council, the applicant, their agent and their viability consultants and the Council's independently appointed viability consultants, it has been agreed between all parties that the site could viably contribute a sum of £331,673.46 towards off-site affordable housing. The Council's preference is for on-site affordable housing but given the comments received from the Housing Department that the scheme does not lend itself to the provision of on-site affordable housing, that the development is likely to have high service charges and as a result of the viability evidence, in this instance and on balance the principle of off-site provision is acceptable.
- 4.120 The secondary education and highway works contribution required have been agreed by all parties and all parties have agreed to the S106 requiring the provision of a Travel Plan to include welcome packs.
- 4.121 The implementation of the replacement tree planting to the rear of the site can be secured via the S106 agreement.
- 4.122 As such, and subject to the following S106 requirements, the development is considered acceptable as it would provide an appropriate contribution towards secondary education to meet the needs of the development, the necessary contribution towards the highway works that are required specifically as a result of this development, tree and landscape delivery and an acceptable contribution towards affordable housing which would also provide for a viable development:
- A contribution of £331, 673.46 towards off-site affordable housing.
 - A contribution of £27,692.42 towards the expansion of Eastwood Academy.
 - A contribution of £14,000 for the highway works.
 - Implementation of landscaping works and tree planting
 - Implementation of Travel Plan (including provision of Welcome Packs and appointment of a Travel Plan Coordinator).
- 4.123 The above Section 106 contributions proposed are considered to meet the tests set out in the CIL Regulations 2010 (as amended). Without the contributions 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. Recommendation to this effect is included within Section 10 of this report.

5 Conclusion

- 5.1 Having taken all material planning considerations into account, it is found that the proposed development would constitute sustainable development and is in accordance with the development plan and is therefore recommended for approval, subject to prior completion of a S106 Legal Agreement and imposition of planning conditions. The development is of a high standard of design that would

improve the character and appearance of the site and would not adversely harm the adjoining heritage assets, would not result in any material harm to the residential amenity of the adjoining residents and would provide adequate living conditions for the future occupiers of the site. The proposal would not adversely impact wildlife or biodiversity nor increase flood risk elsewhere and would provide appropriate contributions towards affordable housing, secondary education and highway works. The proposal provides adequate parking and would not harm highway safety. The proposal is therefore recommended for approval on this basis.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (2012) including chapters 1 (building a strong, competitive economy), 6 (delivering a wide choice of high quality homes), 7 (requiring good design), 10 (meeting the challenge of climate change, flooding and coastal change), 11 (conserving and enhancing the natural environment) and 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) CP7 (Sports, Recreation and Green Space) and CP8 (Dwelling Provision)
- 6.3 Development Management Document (2015): Policies DM1(Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM4 (Tall and Large Buildings), DM5 (Southend-on-Sea's Historic Environment), DM6 (The Seafront), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), Policy DM10 (Employment Sectors), Policy DM11 (Employment Areas), Policy DM14 (Environmental Protection) and Policy DM15 (Sustainable Transport Management)
- 6.4 Southend Central Area Action Plan (SCAAP) (2018) Policies DS2 (Key Views), DS3 (Landmarks and Landmark Buildings), DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport, Access and Public Realm), CS1 (Central Seafront Policy Area Development Principles) and CS2 (Nature Conservation and Biodiversity)
- 6.5 Design & Townscape Guide (2009)
- 6.6 Planning Obligations (2010)
- 6.7 Community Infrastructure Levy Charging Schedule (2015)
- 6.8 Technical Housing Standards – Nationally Described Space Standards (2015)
- 6.9 Clifftown Conservation Area Appraisal (2006)

7 Representation Summary

Environment Agency

- 7.1 The site falls outside the Environment Agency constraints and the development is covered by flood risk standing advice.

Natural England

- 7.2 No objection – with conditions

The application site is in close proximity to the Benfleet and Southend Marshes Special Protection Area (SPA), which is a European designated site (also commonly referred to as Natura 2000 sites) and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The site is also listed as the Benfleet and Southend Marshes Ramsar site and also notified at a national level as the Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI).

This application is in close proximity to the Benfleet and Southend Marshes Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.

Conditions

- No particularly noisy demolition equipment (eg concrete breakers) or construction techniques (eg percussive piling) shall be used during the period from 2 hours before high tide until 2 hours after high tide, on any days when either the air temperature is below 5 degrees Centigrade or the ground remains frozen.

This condition is required to ensure that the development, as submitted, will not impact upon the features of special interest for which the Benfleet and Southend Marshes SSSI is notified.

Natural England does not hold locally specific information relating to local sites, local landscape character or local and national biodiversity priority habitats and species. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies (which may include the local records centre, your local wildlife trust, local geo-conservation group or other recording society and a local landscape characterisation document) in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application. A more comprehensive list of local groups can be found at Wildlife and Countryside link.

Essex and Suffolk Water

- 7.3 Our records show that we do not have any apparatus located in the proposed development.

We have no objection to this development subject to compliance with our requirements; consent is given to the development on the condition that a water connection is made onto our Company network for the new dwelling for revenue purposes.

Coastal Defence Engineer

- 7.4 According to the Risk of Flooding from Surface Water mapping, available on the gov.uk website, the majority of the site is at very low risk (<0.1% Annual Exceedance Probability (AEP)) of surface water flooding. There is a flow path at low risk (between 0.1% and 1% AEP) of surface water flooding through the site and along the eastern boundary of the site.

The British Geological Survey (BGS) susceptibility to groundwater flooding dataset indicates the site is located within a medium groundwater flooding susceptibility zone.

The site is situated within Flood Zone 1 according to the Environment Agency's Flood Risk from Rivers and Seas mapping.

The closest waterbody to the site is the tidal estuary of the River Thames approximately 30 metres to the south of the site.

The applicant has not provided any details of their proposed drainage strategy. Applicant to provide a drainage strategy and supporting information demonstrating the requirements set out by the National Planning Policy Framework and the Essex County Council SuDS Design Guide are met, along with a completed Essex County Council SuDS Checklist.

7.5 Waste Management Team

It is noted that in section 4.08 the proposal is to have 5 x waste Eurobins. For a development of this size a minimum of 6 waste bins would be expected. The proposal is also to have 1 x food waste Eurobin. At the moment food waste is collected using 140L wheeled bins in communal situations; therefore could the developer confirm that the bin store area will be able to accommodate the required number of food waste bins based on the 20L per unit calculation.

For a development of this size we would also normally expect to see more detail in the Waste Management Plan covering the themes outlined in our Guidance.

7.6 Education Team

This application falls within the school Catchment areas for Milton Hall and Barons Court Primary schools who share a catchment area and Belfairs Academy. All these schools are oversubscribed. Any further developments with the area, even flats, will add to this oversubscription. A contribution towards Secondary expansion at Eastwood Academy of £27,692.42 is requested.

7.7 Housing Team

Further to the viability report carried out by BPS the Strategic Housing Team is supportive of the offer of £331k in lieu of affordable housing on this occasion. Noting that, additional to viability concerns there were concerns over the suitability of affordable housing within this scheme (high service charges, RP interest etc.).

7.8 **Parks Team**

Comments relating to Preliminary Ecological Appraisal report:

1. As stated in the report, a pre-works bat activity survey and associated reporting needs to be undertaken of Building 2 during appropriate conditions and at the appropriate seasonal timing. Any vegetation clearance undertaken between the months of March – September (inclusive) needs to be preceded by a pre-works check by a suitably trained and qualified ecologist.
2. Recommendations within the PEA with regards to mitigation, additional surveys and associated reports and soft strips and demolition should be conditions of the planning permission if the scheme is approved.
3. PEA states 18 trees to be removed from the site. Landscape plans only show 10 trees to be reinstated and the green roof. On the 2-for-1 replacement policy, this results in a deficit of 26 trees. Additional details on the total size of the green roof needs to be supplied in order to assess if it is appropriate mitigation for this deficit. If the roof is deemed unsatisfactory in its size, a commuted sum from the developer for the planting of replacement trees within the borough will be sought.
4. Bird boxes, as recommended by the ecologist, are not shown on any plans. These need to be shown in appropriate locations and should be integrated into the fabric of the building. Their location and design should be submitted for prior approval along with the finalised landscape plans.

Following the submission of an amended landscape plan (reference Rev. B) the Parks Team have subsequently commented:

The Parks Team are satisfied with the landscape design sent on 16th May 2018

7.9 **Design and Conservation Team**

Detailed design comments were received, are summarized in the report and have informed the scheme now under consideration.

7.10 **Traffic and Transportation**

Highway improvements

If permission were to be granted the applicant would be required to fund all costs relating to the introduction of the loading bay and re-provision of parking spaces and dropped kerbs. The cost is now estimated at approximately £14,000 due to contract rate increases. The applicant will require the appropriate highway agreement (Section 278 Agreement) to carry out these works on the public highway.

Residential Element

Access

Future residents will access the underground parking area via a single access ramp from Western Esplanade. A one-in, one-out arrangement will be operated to prioritise to vehicles entering the car park. This will be controlled via a control light linked to the barrier at the top of the ramp. When the light is red the vehicle exiting will be held in the underground waiting area. This will help reduce the likelihood of vehicles stacking on the highway. A car park management plan will be required by condition.

Parking

49 car parking spaces have been provided for the 49 flats which include 3 disabled spaces with 49 cycle spaces and 4 motorcycle spaces. This is policy compliant and is also in a sustainable location of the site with good public transport links in close proximity.

Trip Generation

The applicant has used TRICS software to assess the residential impact of the development which has shown 152 daily two-way vehicle trips between 07:00 and 19:00. The applicant has used Census 2011 data which has indicated a lower vehicle use than the TRICS software assumes. This indicates the estimated TRICS software is likely to be an overestimate and is therefore a robust approach thereby assessing the development in a worst case scenario. There is no objection to this approach and is not considered that the residential element will have a detrimental impact upon the public highway.

Servicing

The residential refuse collection point is located within the required collection guidance criteria. Access for the waste collection vehicle will be via a loading bay on the public highway which will require the removal of 3 on street parking bays. There are no objections to this approach as it will ensure that the waste collection vehicle will not obstruct the free flow of traffic on Western Esplanade. The amended traffic regulation will require advert and subsequent approval via the traffic and parking committee and may require time restricted use/dual loading and parking capacity. A waste management plan should be secured via condition.

Commercial Element

Parking

No commercial parking has been provided in conjunction with the proposal, however no parking is currently provided for the existing use. Therefore it is not considered that an objection can be raised on this basis. 2 on site cycle parking spaces will be provided for staff use as well as 10 cycle spaces for customers to be located opposite the site on national cycle route 16.

Trip Generation

The proposal has a smaller gross floor area (474sqm) than the existing use (784sqm). Traffic generation has been assessed using TRICS software which has shown 72 daily two-way vehicle trips. The applicant has used the Census 2011 data to demonstrate that the development will increase the number of pedestrians and public transport users travelling to and from the site, but will reduce the number of vehicles trips due to the reduced floor area.

Servicing

The applicant will be making their own refuse collection using the proposed loading bay on the highway. Servicing will be carried out using the same loading bay timings of these deliveries should be subject to a condition.

Given the above information there are no highway objections to the proposal. It is not considered that the proposal will have a detrimental impact on the public highway and the surrounding area.

The applicant will be required to fund the all costs relating to the introduction of the loading bay and re-provision of parking spaces and dropped kerbs. This cost will be £14,000. Any works on the public highway will require the appropriate highway agreement.

Conclusion

It is considered the applicant has provided a detailed analysis of all transport related elements relating to the future use of the proposal. The applicant has used industry standard software which demonstrates that there is a net reduction of 124 daily two-way trips, 65 arrivals and 68 departures. It is considered that this is robust approach and no highway objection is raised. It should be noted that within the NPPF development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.11 **Environmental Health**

Noise

Building

A noise assessment has been carried out by the applicant's acoustic consultant Cass Allen. The assessment shows that the main source of noise affecting the development is road traffic noise. There is also potential for noise disturbance from the restaurant/A3 use located on the ground floor under the residential units.

The assessment details that in order to achieve the internal ambient noise levels set out in British Standard 8233:2014; a number of mitigation measures are required.

At the detailed design stage appropriate mitigation must be given to ensure that cumulative noise levels in accordance with BS4142:2014 meet relevant internal noise criteria in accordance with BS8233:2014, along with tonal and impulsive penalties where necessary. At that time further information would need to be submitted detailing compliance with the above and should include but not be limited to final glazing and ventilation details for approval. Glazing and ventilation shall be selected as per the specifications detailed in the Acoustic Report compiled by Cass Allen.

There appears to be an outdoor terrace serving the ground floor commercial use. Due to residential units/amenity space above hours of use to this area will need to be restricted

Amenity Noise Levels

It is predicted within the noise assessment that amenity noise levels in some areas will exceed the WHO guidance of 55dBLAeq. It is stated that in BS8233:2014 where amenity space near to strategic transport networks exceed relevant criterion, this should not present a constraint to the granting of planning permission. It should be noted however that there is a requirement for the development to be designed to achieve the lowest practicable noise levels possible.

Taking the above into account, it is recommended that any detailed design advice should include mitigation along the boundary of the site in particular those subjected to the higher noise levels, such as screening, to keep noise to a minimum.

Plant

Any mechanical extraction, ventilation or air conditioning plant associated with the retail and residential uses would need to be carefully located and designed in order to prevent statutory noise nuisance. 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 façades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

Construction

During the construction phase noise and vibration issues may arise which could lead to the hours of work being restricted. A construction management plan has been submitted and it details various measures and actions to be carried out to keep disruption to a minimum. This plan shall be implemented during the development phase. The developer should also consider control measures detailed in Best Practice Guidance “The control of dust and emissions from construction and demolition”.

External lighting

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

Contaminated Land

A Phase 1 contaminated land report compiled by CGL has been submitted with the application. This indicated that further investigation is required.

Environmental Health recommend conditions relating to

1. A full asbestos survey
2. Final glazing and ventilation details with the glazing and ventilation according with the acoustic properties outline in the noise assessment
3. Mechanical extraction, ventilation and air conditioning carefully located and designed to prevent noise and odour nuisance
4. Extract and ventilation details
5. Outdoor terrace on the ground floor shall not be open to members of the public between 22:00 and 08:00.
6. Deliveries and collections to be between: 08:00-19:00hrs Monday to Friday; and 08:00-13:00hrs Saturday; with no deliveries on Sundays or Bank Holidays.
7. Construction Management plan to be implemented.
8. Construction hours restricted to 08:00 – 18:00 Monday to Friday, 08:00 – 13:00 Saturday and not at all on Sundays or Bank Holidays.
9. No burning of waste on the site
10. External lighting to be directed, sited and screened so as to not cause detrimental harm to neighbours.
11. Decontamination

8.1 A site notice was displayed, the application was advertised in the press and 91 neighbour letters were sent out.

8.2 28 representations have been received in total.

8.3 8 letters of support make the following summarised comments:

- Shame the existing building was left to fall into its current state of repair.
- Existing building is an eyesore.
- Has been derelict for too long.
- Existing building causing problems for residents, Police and Fire Brigade. It must be dangerous and is being set fire to and used by gangs of children. Sooner the development goes ahead the better.
- Design looks smart.
- Will generate further interest into Southend.
- Will ensure I continue to visit Southend more often.
- Would upgrade prominent part of the town's offering and uplift and continue to transform the area and make it more attractive.
- Welcome the application which will improve the existing structure and contribute towards the continued regeneration of Southend's seafront.
- Would want to ensure that future residents will not be able to purchase season tickets, residential permitted, etc. that would result in the loss of seafront parking.

8.4 20 letters of objection raise the following, summarised concerns and objections:

- Concerns relating to the size and height of the development which is out of scale with the surroundings. More than double the extant permission. Previous refusals.
- Impact on character and beauty of the area. Inappropriate design and blight on the landscape and visually dominant within the streetscene. Should be no higher or larger than the existing building. Poor, visually cheap and inconsiderate design. Too high and big for the area. Scale, mass and modern design would result in an inappropriately bulky development which would not integrate with its surroundings. Out of keeping with surrounding green space. Imposing and alter the aesthetics of the area. Three storeys would be more than enough.
- Overbearing and obtrusive structure that would erode the character of this part of the seafront.
- Need to preserve the dwindling numbers of pre-war character properties in the Borough. New build at the expense of local heritage.
- Impact, encroachment upon and harmful to the character of the Conservation Area. Not sympathetic to the 160 year old houses and beautiful Prittlewell Square.
- Site has always been used for commercial purposes in the past and this should be retained. Cliffs Gardens have always been free of any residential development and maintained and used for leisure purposes.
- Loss of estuary views as a result of the height of the building, screening and trees.
- Increased traffic and congestion and parking concerns; parking is already an issue in the area. Inadequate parking provided including visitor parking

and concerns parking spaces will be an optional extra. Impact upon availability of existing residential parking spaces which are already an issue. Traffic will impact Conservation Area and Western Esplanade. Western Esplanade is already a congested road. 120 parking spaces would be required.

- Noise pollution and increased noise levels.
- Unsustainable living provisions
- Loss of green space which will impact the visitor experience and would affect resident's enjoyment of the open space. Will make the area less attractive for visitors. Will spoil the existing green and tranquil space. Remaining green areas must be protected.
- Loss of wildlife
- Changes leisure area to residential
- Adds nothing to the seafront.
- Inadequate amount of trees in the landscape plans.
- Object to commercial element unless adequate licensing and noise abatement conditions are put in place.
- Reduce quality of life in the community.
- Environmental impact.
- Flood risk concerns
- Fails to balance environmental, economic and social factors to meet the needs of the present generation without compromising the ability of future generations to meet their own needs.
- Contrary to Policies DM1, DM4 and DM5 of the Development Management Document and Policy CP4 of the Core Strategy.
- East of the Pier is for amusements and beach goers and west of the Pier is quieter for walks and picnics.
- Disruption – Clifton Terrace has already endured disruption from recently developments. Increase in traffic during construction and after completion.
- Site needs to be redeveloped but plans submitted are inconsiderate.
- Precedent for future development on the cliffs and may be used to support the museum proposal.
- Concerns relating to the stability of the cliff. Previous consent only passed with incentive of shoring up the cliffs. Land is known to be unstable with historic water drainage issues.
- Inadequate public consultation – developer consultation presentation took place on a single day which is limited. Further consultation needed and concerns relating to the developer consultation process.
- Query relating to developer purchasing Pier West Café and therefore concerns the new plans for a bigger structure will be forthcoming.
- Impact property values
- Developer profits.
- Harm to amenity
- Contrary to Development Plan Policy.
- Parking and highway concerns.

The concerns raised are noted and they have been taken into account in the assessment of the proposal. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

8.5 An objection has also been received from the Milton Conservation Society which makes the following summarised comments:

- Overdevelopment and concerns relating to the bulk of the development
- Harmful to historic and important cliff gardens
- Harmful to public enjoyment of the cliff gardens
- Impacts views
- Contrary to Southend Central Area Action Plan which does not permit residential uses in this location.
- Loss of significant tree to east of site
- Inadequate noise survey – undertaken in October and therefore doesn't take account of Adventure Island noise. Noise would impact desirability and saleability of flats.
- Development creep
- Overlook public gardens
- Change the public characteristic of this part of the gardens
- Replaces trees in front of the Listed Queen Victoria statue with building mass which is harmful to the gardens.
- Concerns relating to developers public consultation event.

The concerns raised are noted and they have been taken into account in the assessment of the proposal. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

8.6 This application was called in to the Development Control Committee by Cllr J Garston and Cllr Ware-Lane and also constitutes a major application and therefore the application needs to be determined by the Development Control Committee.

9 Relevant Planning History

9.1 15/01842/FULM - Demolish existing building, and erect 5 storey building comprising 23 self-contained flats with ground floor restaurant and basement parking, layout amenity area, refuse and cycle storage and landscaping, form new vehicular access onto Western Esplanade (Amended Proposal) – planning permission granted subject to conditions and a S106 Legal Agreement relating to highway work contributions, travel plan and travel packs, public art contribution/provision, tree replacement contribution and a viability review mechanism. This permission is extant until 5th April 2019.

9.2 15/00155/FULM - Demolish existing building, erect 5 storey building comprising 24 self-contained flats with ground floor restaurant and basement parking, layout amenity area, refuse and cycle storage and landscaping, form new vehicular access onto Western Esplanade – application refused and dismissed at appeal. The reasons for refusal included:

1. The development, as a result of its scale, mass and detailed design, is considered to have an unacceptable impact on the Streetscene and the character of the area. The development is therefore considered to be contrary to policies KP2 and CP4 of the Core Strategy, together with DM1, DM2, DM4 and DM6 and the Design and Townscape Guide and SPD 1 Design and Townscape Guide 2009.
2. The proposed development fails to provide a sustainable housing mix in

terms of provision of affordable housing and would fail to contribute to the creation of a sustainable and balanced community. The proposal is therefore considered to be contrary to the National Planning Policy Framework, Policy CP8 of the Core Strategy DPD1 and policy DM7 of the Development Management DPD.

3. In the absence of a signed legal agreement, the proposed development fails to:- i) provide an effective means of enforcing/delivering a Travel Plan; ii) provide for a satisfactory provision of public art iii) provide affordable housing based on local need iv) provide for replacement tree planting and vi) provide for a satisfactory method of servicing the development. As such, the proposal would not make a satisfactory contribution towards the quality of the built environment within the vicinity of the site, would result in service vehicles blocking the highway to the detriment of highway safety and is likely to place increased pressure on public services and infrastructure to the detriment of the general amenities of the area, contrary to Policies KP2, KP3, CP3, CP4, CP6 and CP8 of the Core Strategy policies DM1, DM7 and DM15 of the DM DPD and the Design and Townscape Guide (2009)

Key comments from the Inspector include:

- There is an absence of a robust cohesive design style in this particular part of the seafront. However, with some exceptions, I consider that there is a strong horizontal emphasis within both the built development and the cliff gardens along the seafront. (paragraph 8)
- Due to the overall height and substantial depth of the building proposed, the appeal scheme would be a visually dominant element within the streetscene... I find that the considerable scale, mass and box-like form of the proposal would result in an inappropriately bulky development, which would not integrate satisfactorily into its surroundings. As such, it would not sit comfortably with other recent contemporary developments nearby, but would result in a detrimentally obtrusive structure, which would erode the distinctive context and character of this important part of the seafront. (paragraph 9)
- It is not disputed that the proposal would be visible from within the Conservation Area and would be clearly seen in views of the Area and the listed terraces from the Western Esplanade, as well as from the pier. (paragraph 10)
- Notwithstanding these historic connections and the scale of the development proposed, given the significant differences in land levels around the site, the intervening tree cover and the considerable separation distances between the site and the listed terraces, I am satisfied that the proposal would not be harmful to the setting and significance of the listed buildings. Nonetheless, taking into account the close geographical proximity and visual relationship of the site to the Conservation Area, and for similar reasons to those given above, I consider that the overall scale and design of the proposal would be harmful to the character of the Conservation Area (Paragraph 11)
- I conclude that the benefits of the proposal would not be sufficient to outweigh the harm identified to the significance of the heritage asset or to the character and appearance of the local area. The proposal would not meet the aims of paragraph 17 of the Framework, to achieve high quality design, take account of the different roles and character of different areas

and conserve heritage assets in a manner appropriate to their significance (paragraph 24).

- 9.3 13/00153/EXTM - Demolish Public House (class A4) and park store, erect four storey 58 bedroom hotel (class C1) and restaurant with basement parking, replace park store and form vehicular access onto Western Esplanade (application to extend the time limit for implementation following planning permission 10/00112/FULM dated 18/05/2010) – permission granted subject to conditions and a S106 Legal Agreement. This consent is no longer extant.
- 9.4 10/00112/FULM - Demolish Public House (class A4) and park store, erect four storey 58 bedroom hotel (class C1) and restaurant with basement parking, replace park store and form vehicular access onto Western Esplanade – permission granted subject to conditions and a S106 agreement included highway works, a tree planting contribution, public art, provision of a park store and S106 monitoring contributions.

10 Recommendation

Members are recommended to:

- (a) **DELEGATE to the Director of Planning and Transport or Group Manager of Planning & Building Control to GRANT PLANNING PERMISSION subject to the following conditions and 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 secure the provision of:**
- **A financial contribution towards off-site affordable housing of £331,673.46 (index linked), which is to be paid no later than occupation of the 20th dwelling.**
 - **A financial contribution towards secondary education provision of £27,692.42 (index linked) specifically for expansion of Eastwood Academy, which is payable prior to commencement of the development.**
 - **A financial contribution for the highway works of £14,000 (index linked) specifically to provide a loading bay and re-provision of dropped kerbs and parking spaces and tactile paving which is payable prior to the commencement of the development.**
 - **Implementation of landscaping works and tree planting**
 - **Implementation of Travel Plan (including provision of Welcome Packs and appointment of a Travel Plan Coordinator).**
- (b) **The Director of 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 hereby permitted shall be begun not later than 3 years beginning with the date of this permission.**

Reason: Required to be imposed pursuant to Section 91 of the Town and

Country Planning Act 1990.

- 02** The development shall be carried out in accordance with the approved plans: 8531-01 P1, 8531-02 P1, 8531-03 P1, 8531-04 P1, 8531-05 P1, 8531-06 P1, 8531-07 P1, 8531-08 P2, 8531-09 P2, 8531-10 P2, 8531-11 P2, 8531-12 P2, 8531-13 P1, 8531-14 P2, 8531-15 P1, 8531-16 P2, 8531-17 P1, 8531-18 P1, 8531-19 P1

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

- 03** Notwithstanding the details shown on the plans submitted and otherwise hereby approved the development hereby permitted shall not commence, other than for groundworks and site preparation works, unless and until details and appropriately sized samples of the materials to be used for all the external surfaces of the proposed buildings at the site including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascia, balconies, and balustrades have been submitted to and approved in writing by the local planning authority. The works must then be carried out in full accordance with the approved materials, details and specifications before the dwellings or non-residential units hereby approved are first occupied.

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

- 04** Notwithstanding the details shown on the plans hereby approved no development shall take place, other than demolition ground and site preparation works, until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping for the site. This shall include details of the number, size and location of the trees and shrubs to be planted together with a planting specification, details of measures to enhance biodiversity within the site; details of the treatment of all hard and soft surfaces (including any earthworks to be carried out) and all means of enclosing the site.

Reason: In the interests of visual amenity, biodiversity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policies KP2 and CP4 of the Core Strategy, Policies DM1 and DM3 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

- 05** All planting in the approved landscaping scheme shall be carried out within the first available planting season following first occupation of any of the residential or commercial units within the development. Any shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority. Hard landscaping and means of enclosure shall be implemented in full accordance with the approved scheme prior to occupation of any part of the

development hereby approved.

Reason: In the interests of visual amenity and to ensure a satisfactory standard of landscaping, pursuant to Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 06** The development shall not be first occupied until 49 on site car parking spaces have been provided and made available for use in full accordance with drawings 8531-06 P1 and 8531-18 P1, together with properly constructed vehicular access to the adjoining highway, all in accordance with the approved plans. The parking spaces shall be permanently maintained thereafter solely for the parking of occupiers of and visitors to the development.

Reason: 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) and Policy CP3 of the Core Strategy (2007).

- 07** The development shall not be first occupied until the secure, covered cycle parking spaces to serve the development as shown on drawing 8531-07 P1 have been provided at the site and made available for use for occupiers of the development in full accordance with the approved plans. The approved facility shall be permanently maintained thereafter.

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

- 08** No part of the mixed use development hereby approved shall be first occupied or brought into first use until a waste management plan has been submitted to and agreed in writing by the Local Planning Authority. The waste management and servicing of the development shall thereafter be carried out solely in accordance with the approved details which shall include details of refuse storage facilities and waste servicing arrangements.

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, in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015) and Design and Townscape Guide (2009).

- 09** No extraction and ventilation equipment for the proposed non-residential uses shall be installed until and unless full details of its location, design and technical specifications and a report detailing any mitigation measures proposed in respect of noise and odour impacts has been submitted to, and approved in writing by, the Local Planning Authority. The installation of extraction equipment shall be carried out in full accordance with the approved details and specifications and any noise and odour mitigation

measures undertaken in association with the agreed details before the extraction and ventilation equipment is brought into use. With reference to British Standard BS4142 the noise rating level arising from all plant and extraction/ventilation equipment shall be at least 5dbB(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: To protect the amenities of the occupiers from undue noise and disturbance in order to protect their amenities in accordance with Core Strategy (2007) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the Development Management Document (2015) and Design and Townscape Guide (2009).

- 10 The non-residential units hereby approved shall not be open for customers outside the following hours: - 0700 hours to 2300 hours on any day.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

- 11 Before the development is occupied or brought into first use, the development hereby approved shall be carried out in a manner to ensure that 5 of the flats hereby approved comply with the building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 44 flats comply with building regulation part M4(2) 'accessible and adaptable dwellings' standard.

Reason: To ensure the residential units hereby approved provides high quality and flexible internal layouts to meet the changing needs of residents in accordance with National Planning Policy Framework, (2012), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM8 and Design and Townscape Guide (2009).

- 12 External lighting shall only be installed in the development hereby approved in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

Reason: In the interest of the safety and amenities of the area, and to protect the amenities of surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 13 Prior to occupation of the development hereby approved a scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources must be submitted to and agreed in writing prior to occupation of the development hereby approved by the Local Planning Authority and implemented in full prior to the first occupation of any part of the development. This provision shall be made for the lifetime of the development.

Reason: In the interests of providing sustainable development and ensuring a high quality of design in accordance with Policy KP2 of the Core Strategy (2007) and the Design and Townscape Guide (2009).

- 14 Prior to occupation any part of the residential units hereby approved details of the water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details before it is occupied and shall be retained as such in perpetuity.**

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

- 15 Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00hours to 13:00hours on Saturdays and at no time on Sundays or Bank Holidays.**

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 16 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not be first occupied or brought into first use unless and until details of the shutter to the car park have been submitted to and approved in writing by the local planning authority. The works must be carried out and completed in full accordance with the details approved under this condition before the dwellings or non-residential units hereby approved are first occupied or brought into first use.**

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

- 17 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order), no structures including but not limited to plant, satellite, radio antennae, renewable energy or telecommunications equipment shall be installed on the external elevations of the building or roof of the development hereby approved unless permission has been obtained beforehand in writing from the local planning authority.**

Reason: In order to protect the character and visual amenities of the development and surrounding area and airport safety in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 18** Any CCTV shall only be installed in the development hereby approved in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

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

- 19** The development hereby approved shall be implemented in strict accordance with the findings, recommendations and conclusions of the approved Flood Risk Assessment undertaken by Systra reference STHLSD32-03 dated 18 December 2017 including the mitigation measures on pages 19 and 20 before the development is occupied.

Reason: To ensure the approved development does not increase flood risk elsewhere in accordance with National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and KP3 and Development Management Document (2015) Policies DM6 and DM14

- 20** The development hereby approved shall be undertaken in strict accordance with the findings, recommendations and conclusions of the approved Construction Management Plan undertaken by Cura.

Reason: In the interests of visual amenity and the amenities of neighbouring occupiers pursuant to Policy CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 21** The development shall be undertaken in strict accordance with the findings, recommendations and conclusions of the approved Noise Assessment undertaken by Cass Allen reference RP01-17591 and notwithstanding the details shown on the plans submitted and otherwise hereby approved, and approved no development above ground level shall be undertaken unless and until full details of the acoustic properties of the development including all glazing and ventilation have been submitted to and approved in writing by the local planning authority. The development must be undertaken in accordance with the approved details prior to the first occupation of the development and thereafter retained as such in perpetuity.

Reason: To safeguard the residential amenity of the adjoining and nearby residents accordance with policy DM1 of the Development Management Document (2015) and Policies KP2 and CP4 of the Core Strategy (2007).

- 22** Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not be first occupied or brought into first use unless and until a car park management

plan has been submitted to and approved in writing by the local planning authority. The car park management plan must be implemented in full accordance with the details approved under this condition before the dwellings hereby approved are first occupied and maintained in perpetuity.

Reason: To ensure that adequate car parking arrangements are provided to serve the development in accordance with Policy DM15 of the Council's Development Management Document (2015) and Policy CP3 of the Core Strategy (2007).

- 23 Commercial refuse collection and delivery times shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00hours to 13:00hours on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 24 The development hereby approved shall be undertaken and completed in strict accordance with the findings, recommendations and conclusions of the approved Ecology Appraisal undertaken by Peak Ecology Limited reference BeyBo01 dated 13 December 2017 and the approved Badger Survey undertaken by Peak Ecology Limited reference BeyBo01 dated 13 December 2017.

Reason: To ensure the development results in no adverse harm to ecology or biodiversity in accordance with the National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and CP4.

- 25 No particularly noisy demolition equipment (eg concrete breakers) or construction techniques (eg percussive piling) shall be used during the period from 2 hours before high tide until 2 hours after high tide, on any days when either the air temperature is below 5 degrees Centigrade or the ground remains frozen.

Reason: To ensure the development results in no adverse harm to ecology or biodiversity and to ensure that the development, as submitted, will not impact upon the features of special interest for which the Benfleet and Southend Marshes SSSI is notified in accordance with the National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and CP4.

- 26 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not commenced other than for demolition unless and until a drainage strategy and SuDS design statement has been submitted to and approved in writing by the local planning authority. The drainage strategy and SuDs design statement must be implemented in full accordance with the details approved under this condition before the development hereby approved is first occupied or brought into first use.

Reason: To ensure the approved development does not increase flood risk elsewhere in accordance with National Planning Policy Framework (2012), Core Strategy (2007) Policies KP1, KP2 and KP3 and Development Management Document (2015) Policies DM6 and DM14

- 27 The ground floor outdoor terrace area shall not be open to members of the public between 22:00 and 08:00 on any day.**

Reason: In order to protect the amenities of surrounding occupiers and to protect the character the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 28 Other than the demolition and site clearance, no development shall take place until a site investigation of the nature and extent of any land contamination present has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority.**

The results of the site investigation shall be made available to the local planning authority before any construction begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before any construction begins. The site shall be remediated in accordance with the approved remediation measures before the development hereby approved is occupied and evidence to demonstrate that the remediation has taken place shall be submitted in writing to the Local Planning Authority before the development is occupied.

If, during the course of development, any contamination is found which has not been identified in the site investigation, development shall stop and additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and these shall be fully implemented before the site is occupied.

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 in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

- 29 No development shall be undertaken until full details of tree protection measures to be provided to off-site trees that are to be retained as part of the development or will be affected by their proximity to the development have been submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved tree protection measures thereafter.**

Reason: This pre-commencement condition is required in the interests of

the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework, Core Strategy 92007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009)

- 30 Prior to demolition of the existing buildings a method statement, prepared by a chartered civil engineer, to demonstrate how the surrounding land will be established during and following demolition shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved method statement.

Reason: This pre-commencement condition is required to ensure the demolition does not adversely affect stability of the surrounding land in accordance with Policy KP2 of the Core Strategy (2007) and DM14 of the Development Management Document (2015).

- 31 Prior to commencement of development a full site investigation and structural survey, including slip circle analysis and details of mitigation measured prepared by a chartered civil engineer shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the approved mitigation measures shall be implemented and retained thereafter.

Reason: This pre-commencement condition is required to ensure the demolition does not adversely affect stability of the surrounding land in accordance with Policy KP2 of the Core Strategy (2007) and DM14 of the Development Management Document (2015).

- 32 Notwithstanding the details shown in the plans submitted and otherwise hereby approved none of the building granted consent shall be occupied unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify the size, design and materials and location of all privacy screens to be fixed to the proposed building. Before the building hereby approved is occupied the development shall be implemented in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.

Reason: In the interests of the residential amenity of adjoining residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework, Core Strategy 92007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009).

- 33 Notwithstanding the details shown on the plans hereby approved no development shall take place above ground level until full details and specifications of the green roof have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.

Reason: In the interests of the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework, Core Strategy 92007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009)

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.

- c In the event that the planning obligation referred to in part (a) above has not been completed by 8th August 2018 or an extension of this time as may be agreed, 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 would not provide for affordable housing, highways, travel packs or education provision and that as such the proposal would be unacceptable and contrary to Policies KP2, KP3, CP6 and CP8 of the Core Strategy (2007).**

Informatives

- 1 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The application site is located within Zone 2 therefore a CIL rate of £36.12 per sqm is required for the residential development and £12.04 per sqm for the commercial uses. The proposed development equates to CIL a charge of approximately £132,454.03 (subject to confirmation).**
- 2 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.**
- 3 Essex & 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 & 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) Regulations 1999.**

- 4 **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 21500**

- 5 **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) and also to the relevant sections of the Control of Pollution Act 1974. The provisions apply to the construction phase and not solely to the operation of the completed development. Contact 01702 215005 for more information.**

- 6 **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

- 7 **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.**

- 8 **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**