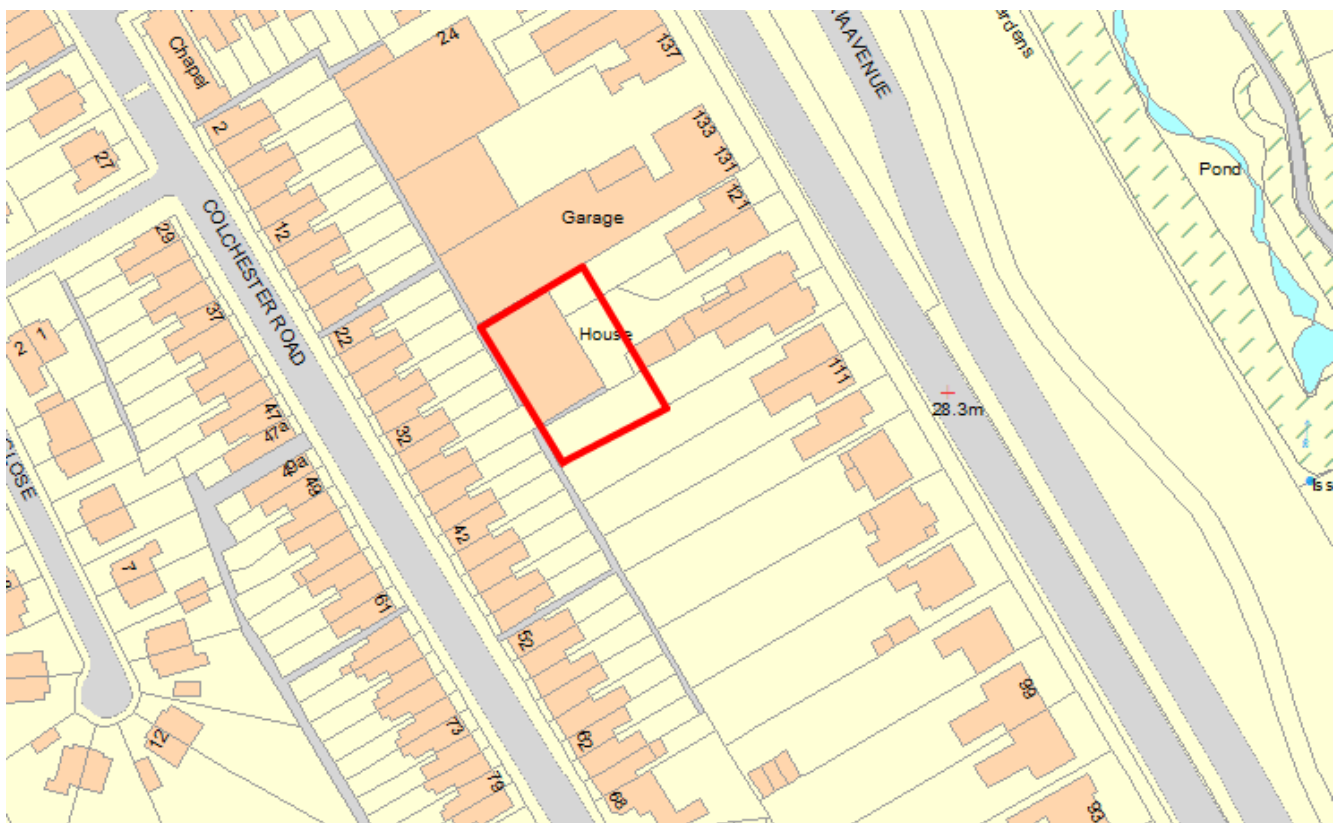


Reference:	17/00130/UNAU_B	
Ward:	Victoria	
Breaches of Control	Without planning permission, the unauthorised Development and Change of Use from an office (Use Class B1) and warehouse (Use Class B8) to 6 self-contained flats (Use Class C3)	
Address:	Viceroy House Rear of 117 Victoria Avenue, Southend on Sea, Essex. SS2 6EL	
Case Opened:	24 th May 2017	
Case Officer:	Steve Jones	
Recommendation:	AUTHORISE ENFORCEMENT ACTION	



Site and Surroundings

- 1.1 The site contains a two storey building with car parking to the east and south of the building. This backland site is accessed between No's 117 and 119 Victoria Avenue and is bounded by residential properties to the east, south and west. To the north is a commercial garage. The streetscene to the south of the site is characterised by two storey semi-detached properties and terraced properties to the west of the site in Colchester Road.
- 1.2 The site is not the subject of any site specific policy designations.

2 Lawful Planning Use

- 2.1 Records indicate that the building has been used for both offices (falling within Use Class B1) and as a warehouse (falling within use Class B8).

3 Present Position

- 3.1 In January 2015 a complaint was received that the property was undergoing unlawful development into a number of flats. Reference (15/00012/UCOU_B)
- 3.2 In February 2015 Planning staff determined that the building was being subdivided into 6 units but that the intended use of those units was as offices or warehousing and therefore concluded that no material change of use had occurred. The enforcement case was consequently closed.
- 3.3 In May 2017 a further complaint was received concerning the installation of windows to the ground floor on the east wall facing residential properties in Colchester Road.
- 3.4 Planning staff attended the site and although it was not possible to access most of the units it appeared that the property had been converted into a number of unauthorised flats. Doors number 1-6 had been installed to the west side of the property along with several new window openings to both ground and first floors.
- 3.5 A Land Registry check established the owner.
- 3.6 Planning staff wrote to the owner concerning the unauthorised material change of use and operational development and invited a retrospective planning application.
- 3.7 Planning staff were informed that an architect had been engaged to submit a retrospective planning application and by August 2017 a planning application was received under reference (17/01252/FUL). The proposal was to change the use of a warehouse/commercial unit to 6 self-contained flats. The initial application was invalid and it took several weeks to reach a point where the application was valid.
- 3.8 The above application was determined on 8th February 2018 and was refused.
- 3.9 In June 2018 an amended planning application aiming to overcome the identified

harm was received under reference (18/01262/FUL).

3.10 The above application was refused on 23rd August 2018 for the following reasons.

- *The proposal fails to justify the loss of land which is currently in employment use contrary to the provisions of Policy DM11 of the Development Management Document (2015). The loss of this land would impair economic led regeneration contrary to the National Planning Policy Framework (2018), Policy CPI of the Southend on Sea Core Strategy (2007) and Policy DM11 of the Development Management Document (2015), which seeks to promote building a strong, competitive economy, and in the absence of an adequate justification case the Council has been unable to assess whether the loss of employment use is outweighed by the merits of the proposal.*
- *The development provides inadequate amenity for occupiers, by virtue of the building's siting, layout and design forming a contrived domestic design with inadequate internal space, a poor outlook, and poor levels of daylight for future occupiers. This is unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)*
- *The poor standard design and contrived layout to the rear elevation would result in material levels of overlooking and loss of privacy to the detriment of amenities enjoyed by existing occupiers in Colchester Road. This is unacceptable and contrary to the National Planning Policy Framework (2008), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of Development Management Document (2015), and the advice contained within the Design and Townscape Guide (2009)*

4 Policy Background and Appraisal

- 4.1 The policy background is fully set out in the attached Officers Report in respect of the refusal of planning application 18/01262/FUL at Appendix 'A'. Para 4.
- 4.2 The unauthorised change of use and operational works represent development for which express planning permission is required and in respect of which two retrospective planning applications have been refused.
- 4.3 Enforcement action should be considered where there is a breach of planning control and it is expedient to take formal action to seek to remedy demonstrable harm.
- 4.4 Here, demonstrable harm has been evidenced as listed under para 3.10. It is considered that the unauthorised development is sufficiently harmful to warrant enforcement action.
- 4.5 Service of an Enforcement Notice will not prejudice the owner's ability to submit, if they wish, a further planning application seeking to address the identified harm.
- 4.6 Taking enforcement action in this case may amount to an interference with the

owner/occupiers' Human Rights. However, it is necessary for the Council to balance the rights of the owner/occupiers against the legitimate aims of the Council to regulate and control land within its area. In this particular case it is considered reasonable, expedient and proportionate and in the public interest to pursue enforcement action to require the cessation of the use of the building as 6 flats.

5 Planning History

- 5.1 On 4th August 2017 a planning application was received under reference (17/01252/FUL). The proposal was to change the use of a warehouse/commercial unit to 6 self-contained flats. – Planning Permission refused on 8th February 2018.
- 5.2 On 26th June 2018 an amended planning application was received under reference (18/01262/FUL) – Planning Permission was refused on 23rd August 2018.

6 Planning Policy Summary

- 6.1 The following policies are set out fully within the officer report attached at Appendix 'A':

National Planning Policy Framework (2018)

Policies KP1, KP2, CP1, CP3, CP4 and CP8 of the Core Strategy (2007),

Policies DM1, DM2, DM3, DM5, DM7, DM8, DM11 and DM15 of the Development Management Document (2015),

Policy PA8 of the Southend Central Area Action Plan (SCAAP) (2018) and guidance contained within the Design and Townscape Guide (2009).

7 Recommendation

- 7.1 **Members are recommended to AUTHORISE ENFORCEMENT ACTION** to (a) secure cessation of the unauthorised use of the building as 6 self-contained flats. (b) removal of the window opening/s to the east wall facing Colchester Road, (c) removal of internal fixtures and fixings serving the residential use to include kitchen units, baths and showers, domestic appliances and domestic furniture, (d) cessation of the use of the yard area used for residential parking and (e) removal of all rubble and other materials and equipment associated with complying with the notice.
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of said Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case, a compliance period of 6 months is deemed reasonable.

APPENDIX 'A'

Reference:	18/01262/FUL
Ward:	Victoria
Proposal:	Change of use of warehouse/commercial to six self-contained flats and external alterations (Class C3) (Retrospective) (Amended Proposal)
Address:	Viceroy House, 117-121 Victoria Avenue, Southend-On-Sea, Essex
Applicant:	Mr G Malekos
Agent:	APS Design Associates Ltd
Consultation Expiry:	03.08.2018
Expiry Date:	24.08.2018
Case Officer:	Charlotte White
Plan Nos:	2699 01, 2699 02 and 2699 03
Recommendation:	REFUSE PLANNING PERMISSION

1 The Proposal

- 1.1 Planning permission is sought retrospectively for the change of use of a warehouse and commercial premises to 6 flats (2 x 1 bedroom, 1 x 2 bedrooms and 3 x 3 bedrooms).
- 1.2 The external alterations proposed as part of this planning application include fenestration alterations, installation of roof lanterns and installation of privacy screens.
- 1.3 The internal floorspace of the flats are as follows:
 - Flat 1 – approximately 81sqm (2 bedroom, 3 person unit)
 - Flat 2 – approximately 39sqm (1 bedroom, 2 person unit)
 - Flat 3 – approximately 105sqm (3 bedroom, 6 person unit)
 - Flat 4 – approximately 92sqm (3 bedroom, 5 person unit)
 - Flat 5 – approximately 39sqm (1 bedroom/studio, 2 person unit)
 - Flat 6 – approximately 103sqm (3 bedroom, 6 person unit)
- 1.4 Two communal outside amenity spaces are proposed totalling some 118sqm to the side and front of the building. A communal refuse and separate cycle store are proposed to the southern side of the building.
- 1.5 The site is currently accessed from Victoria Avenue to the east of the site. 6 parking spaces are proposed as part of this development.
- 1.6 The application has been submitted with no supporting statements.
- 1.7 Planning permission was previously refused for a similar development to this proposal under reference 17/01252/FUL for the following reasons:

The proposal fails to justify the loss of land which is currently in employment use contrary to the provisions of Policy DM11 of the Development Management Document. The loss of this land would impair economic led regeneration contrary to the National Planning Policy Framework, Policy CP1 of the Southend on Sea Core Strategy (2007), Policy DM11 of the Development Management Document (2015), which seeks to promote building a strong, competitive economy, and in the absence of an adequate justification case the Council has been unable to assess whether the loss of employment use is outweighed by the merits of the proposal.

The development provides inadequate amenity for occupiers, by virtue of the building's siting, layout and design forming a cramped and contrived domestic design with inadequate internal and external space, a poor outlook, and poor levels of daylight. This is unacceptable and contrary to the National Planning Policy Framework, Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design

and Townscape Guide (2009).

The poor standard design and contrived layout to the rear elevation would result in material levels of overlooking and loss of privacy to the detriment of amenities enjoyed by existing occupiers in Colchester Road. This is unacceptable and contrary to the National Planning Policy Framework, Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of Development Management Document (2015), and the advice contained within the Design and Townscape Guide (2009).

- 1.8 The main changes proposed as part of this application include:
- Provision of roof lanterns.
 - Fenestration alterations.
 - Alterations to refuse and cycle storage facilities.
 - Provision of canopies to most of the front doors.
 - Details of amenity area and parking provided.
 - No supporting information has been submitted with this application – the previous application was submitted with marketing information which has not been provided with this application.

2 Site and Surroundings

- 2.1 The application site contains a two storey building with car parking to the east and south of the site. The site constitutes a backland site and is accessed between No's 117 and 119 Victoria Avenue. The site is bounded by residential properties to the east, south and west. To the north is a commercial garage. The streetscene to the south of the site is characterised by two storey semi-detached properties and terraced properties to the west of the site in Colchester Road.
- 2.2 The site has no specific allocation within the Development Management Document (2015). The Prittlewell Conservation Area is located to the north of the site. The site is located within the Victoria Gateway Neighbourhood Policy Area of the Southend Central Area Action Plan (SCAAP) (2018)

3 Planning Considerations

- 3.1 The key considerations are the principle of the development, the design and impact on the character of the area, the standard of living conditions for future occupiers, the impact on residential amenity and highway implications and CIL.

4 Appraisal

Principle of the Development

National Planning Policy Framework (2018), Policies KP1, KP2, CP1, CP3, CP4 and CP8 of the Core Strategy (2007), Policies DM1, DM2, DM3, DM5, DM7, DM8, DM11 and DM15 of the Development Management Document (2015), Policy PA8 of the Southend Central Area Action Plan (SCAAP) (2018) and guidance contained within the Design and Townscape Guide (2009).

Employment

- 4.1 The site is located on land that has been previously developed. Paragraph 117 of the NPPF (2018) states *'Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.'*
- 4.2 The application form states that the previous use prior to the residential conversion of the building on the 19th October 2012 was for warehouse/commercial purposes constituting storage and distribution (Class B8) uses. The site is not designated by the Development Management Document for any specific use.
- 4.3 Policy CP1 of the Core Strategy states that permission will not be normally granted for development proposals that involve the loss of existing employment land unless it can be clearly demonstrated that the proposals will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.
- 4.4 Policy DM11 Part 4 of the Development Management Document states:

"Proposals for employment generating uses outside the Employment Areas (Policy Table 8) will be allowed where they do not impact upon the amenity of the surrounding uses and do not conflict with other development plan policies".

- 4.5 Part 5 of Policy DM11 of the Development Management Document goes on to state:

"Outside the Employment Areas (Policy Table 8), proposals for alternative uses on sites used (or last used) for employment purposes, including sites for sui-generis uses of an employment nature, will only be permitted where it can be demonstrated that:

- (i) it will no longer be effective or viable to accommodate the continued use of the site for employment purposes; or*
- (ii) Use of the site for B2 or B8 purposes gives rise to unacceptable environmental problems.*

It will need to be demonstrated that an alternative use or mix of uses will give greater potential benefits to the community and environment than continued employment use".

- 4.6 Appendix 4 Part c of the Development Management Document states:

"The appraisal will set out an analysis identifying the advantages and limitations of the site or premises in question to accommodate employment uses. For each limitation that is identified, a justification should be provided as to why it could not be overcome having regard to the introduction of alternative employment uses, general investment or improvements, or through competitive rental levels.

In addition, the appraisal should include, but is not limited to, the following analysis:

- 1. The relevant national, regional, local planning and economic policy context;*
- 2. The quality of the buildings/ site;*
- 3. The accessibility of the site and its ability to serve a range of employment uses*

having regard to private and public transport; and
4. Any constraints that will limit the future use of the site or premises for employment uses.

Additional marketing and market demand information, reflecting Part A and/ or Part B as set out above, may be used to support the appraisal.

Comparison with other employment sites or areas within the locality should discuss issues that are relevant to the site or premises”.

- 4.7 This application has not been accompanied with any supporting information to justify the loss of the employment/commercial use of the site. The previously refused application (reference 17/01252/FUL) was accompanied by supporting information in the form of an advert from Eaton Green Commercial and Reliance Estates for the 6 commercial units however there were no specific dates as to when the storage and offices had been marketed.
- 4.8 Paragraph 120 of the NPPF (2018) states *‘Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan they should, as part of plan updated, reallocate the land for a more deliverable use...and in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.’*
- 4.9 Although the proposal will provide additional residential accommodation in accordance with Policy CP8 of the Core Strategy, the principle of redevelopment is contrary to policies KP1 and CP1 of the Core Strategy and Policy DM11 of the Development Management Document. The applicant has not demonstrated that there is no long term reasonable prospect of the site concerned being used for Class B purposes so criteria 5 (i) and (ii) of Policy DM11 of the Development Management Document have not been met. The proposal thus conflicts with Core Strategy Policy CP1 and Policy DM11 of the Development Management Document. This application has not been submitted with any supporting information to justify the loss of the employment use of the site and this application has therefore failed to overcome the first reason for refusal previously raised under reference 17/01252/FUL. It is therefore unacceptable and in conflict with policy in this regard.

Design and Impact on the Character of the Area (including the nearby adjoining Prittlewell Conservation Area)

The National Planning Policy Framework (2018); Core Strategy (2007) policies KP2 and CP4; Development Management Document (2015) Policies DM1, DM3 and DM5 and the Design and Townscape Guide (2009)

- 4.10 Paragraph 124 of the National Planning Policy Framework (2018) states that *‘The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.’*

- 4.11 In the Council's Development Management Document 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."*
- 4.12 In determining an appropriate contextual relationship with surrounding development, factors such as height, scale, massing and siting are material considerations. Details such as architectural style, along with colour texture of materials, are also fundamental in ensuring the appearance of any new development is sympathetic to its surroundings and therefore wholly appropriate in its context.
- 4.13 The Design and Townscape Guide states that *"The successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Buildings that are over scaled will appear dominant... the easiest option is to draw reference from the surrounding buildings."*
- 4.14 The existing building has been converted into residential flats. This application seeks to install new fenestration to the ground and first floors of the building and seeks to install privacy screens and canopies over the front doors. Whilst no objections are raised per se to the inclusion of additional fenestration the proposed arrangement to the rear elevation with an inset courtyard results in a poor quality overly contrived design which weighs against the proposed development.
- 4.15 Unlike the previous application, this application includes details of amenity areas and landscaping for the development. The proposal includes 2 communal amenity areas and landscaped areas to the front of the building. As such the development is considered acceptable in this respect and provides an acceptable setting for the building (subject to a condition requiring full landscaping details). As such the revised proposal has overcome this previous concern raised under reference 17/01252/FUL.
- 4.16 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 Conservation Areas.
- 4.17 Paragraph 193 of the NPPF (2018) states *'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 (and the more important the asset, the greater the weight should be).'*
- 4.18 Policy DM5 of the Development Management Document states *'Development proposals that result in the total loss of or substantial harm to the significance of a designated heritage asset, including listed building and buildings within conservation areas, will be resisted, unless there is clear the convincing justification that outweighs the harm or loss. Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where is no clear and convincing justification for this.'*

- 4.19 Policy PA8 of the SCAAP (2018) states that the Council will *‘ensure all development within and adjacent to Prittlewell Conservation Area, seeks to conserve and enhance the heritage assets and repair gaps in the frontage along Victoria Avenue...’*
- 4.20 The application site is located to the south of the Prittlewell Conservation Area. Given the separation between the site and the Conservation Area and the intervening buildings, resulting in very limited views of the site to and from the Conservation Area, it is considered that the proposal would have no material impact on the character or appearance of the Prittlewell Conservation Area. The proposal is therefore acceptable and policy compliant in this respect.
- 4.21 Whilst the proposal would not harm the character and appearance of the nearby Conservation Area and provides some landscaping to the site’s frontage to provide an acceptable setting for the development, the inset courtyard to the rear of the site results in a poor quality and overly contrived design. For this reason the development is unacceptable and conflicts with the National Planning Policy Framework (2018) and the above-mentioned policies of the development plan.

Standard of Accommodation:

National Planning Policy Framework (2018), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1, DM3 and DM8 and the guidance contained in the Design and Townscape Guide (2009).

- 4.22 Paragraph 127 of the NPPF (2018) states that planning policies and decisions should ensure that developments should *‘create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users...’* 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 (2 bed spaces) 50sqm
- 2 bedroom (3 bed spaces) 61sqm
- 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.

4.23 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.

4.24 The internal floorspaces for the flats proposed are as follows:

- Flat 1 – approximately 81sqm (2 bedroom, 3 person unit)
- Flat 2 – approximately 39sqm (1 bedroom, 2 person unit)
- Flat 3 – approximately 105sqm (3 bedroom, 6 person unit)
- Flat 4 – approximately 92sqm (3 bedroom, 5 person unit)
- Flat 5 – approximately 39sqm (1 bedroom/studio, 2 person unit)
- Flat 6 – approximately 103sqm (3 bedroom, 6 person unit)

4.25 The sizes of the bed spaces serving both of the 1-bedroom flats would accommodate 2 people as the bedrooms sizes both exceed 11.5sqm and are shown on drawing 2699 03 to accommodate double beds. Their adequacy therefore needs to be considered on that basis. Both 1-bed units fall significantly below the minimum size required for 1-bedroom 2-person units and would therefore provide unacceptable living conditions for any future occupiers of the site and are contrary to national and local planning policy in this respect. This is not off-set by any other aspects of the proposal such as, for example, a particularly generous external amenity area dedicated to those units.

4.26 There is also concern with respect to the outlook and daylight serving the flats, given a number of habitable rooms face a boundary wall to the north of the site, which is unacceptable. Similarly habitable rooms to all 6 flats are only served by windows which overlook a small rear courtyard which is separated by privacy screens. This would result in poor outlook and limited daylight which is unacceptable and contrary to national and planning policy. An objection is therefore maintained to the proposal on this basis.

- 4.27 Policy DM8 of the Development Management Document 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. In this instance and as with the previously considered application, given that the proposals relate to an existing building rather than the erection of a new building, it is considered that it is not reasonable or feasible to require compliance with the abovementioned standards.
- 4.28 Policy DM8 of the Development Management Document states that all new dwellings must make provision for useable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this can take the form of a balcony or semi-private communal amenity space.
- 4.29 Whilst the Council's Design and Townscape Guide states:
- “Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development”.*
- 4.30 The proposed flats will be provided with 2 amenity areas. One area measures some 50sqm and is located on the north-east, front of the site and the other measures some 68sqm and is located to the southern side of the site, to the south of the building. Whilst the amenity areas are located adjacent to the parking spaces, the plans indicate that hedging will be provided to separate the parking from the amenity spaces. The overall size and shape of the amenity spaces proposed will provide usable outside space for the occupiers of the development. Subject to a condition requiring full landscaping details no objection is therefore raised on this basis and the proposal is acceptable and policy compliant and has overcome the previous concerns raised in this regard under reference 17/01252/FUL.
- 4.31 Given the substandard sizes of the 1-bedroom 2 person units and the lack of light and outlook provided to habitable rooms to all flats overlooking the rear courtyard area, the proposal would provide substandard living conditions and is found to be unacceptable and contrary to policy in these regards.

Traffic and Transport Issues

National Planning Policy Framework (2018), Policies 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).

- 4.32 Policy DM15 of the Development Management Document states that 1 and 2+ bedroom flats should be provided with a minimum of 1 off-street car parking space.
- 4.33 The plans submitted indicate that 6 parking spaces will be provided within the courtyard at the front of the site. As such each flat will be provided with 1 parking space and the development is therefore acceptable and policy compliant in this respect.

- 4.34 Refuse and cycle storage can be successfully accommodated within the site and further details can be required as a condition in the event of any grant of planning permission.

Impact on Residential Amenity

National Planning Policy Framework (2018), Policies KP2 and CP4 of the Core Strategy (2007), Development Management Document (2015) Policies DM1 and DM3 and guidance contained within the Design and Townscape Guide (2009)

- 4.35 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.
- 4.36 The northern side windows overlook the flank wall of the adjoining commercial garage and as such would not result in any material overlooking or loss of privacy. The front windows would be located some 24m from the back of the dwellings fronting Victoria Avenue including No's 121, 119 and 117 Victoria Avenue which is considered acceptable. The southern windows would be located some 8.5m from the southern boundary of the site. The southern windows overlook only the rear part of the gardens of dwellings to the south and it is noted that there were existing windows on this elevation. As such it is considered that the proposal would not result in any material harm in terms of overlooking or loss of privacy to the north, east or south.
- 4.37 To the western rear of the site, in an attempt to avoid overlooking a courtyard with privacy screens has been created. This courtyard creates separate concerns in terms of design and living conditions for the occupiers, as discussed above. Whilst side windows are provided within the courtyard, the 1 bedroom flats retain rear windows which serve habitable rooms and are located only approximately 3.6m from the rear boundary of the adjoining dwellings to the rear in Colchester Road. This is unacceptable and would result in material harm to the residential amenity of the adjoining dwellings in Colchester Road in terms of overlooking and loss of privacy. The development is unacceptable and contrary to policy in this respect.
- 4.38 In considering any further application it would also be necessary to prevent use of the building's flat roof as an amenity area, an issue which has been raised in representations against the current proposal.
- 4.39 Given that the proposal is for the change of use of the building and the development does not seek to increase the size of the building, the development would not result in any material harm to the adjoining residents in terms of dominance, an overbearing impact, loss of light and outlook or a material sense of enclosure.
- 4.40 Taking into account the previous commercial use of the site with its associated servicing and deliveries, it is considered that the provision of 6 dwellings would

result in less noise and disturbance than the previous use on the site. The proposal is therefore acceptable and policy compliant in this respect.

- 4.41 As such it is considered that the proposed development would be detrimental to the amenities of neighbouring occupiers and is therefore unacceptable and contrary to planning policy as detailed above.

Community Infrastructure Levy

- 4.42 This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application may also be CIL liable.

5 Conclusion

- 5.1 Having taken all material planning considerations into account, the case for the loss of the former employment use of the land has not been evidenced. The contrived internal layout of the flats, their limited outlook, poor levels of natural light and inadequate levels of internal amenity areas, is found to result in unacceptable living conditions for occupiers of the site. The inset courtyard results in poor design and the development would result in material harm to the residential amenity of the adjoining dwellings to the rear in Colchester Road in terms of overlooking and loss of privacy. The proposal is considered unacceptable and contrary to development plan policy in each of these regards. Any benefits, arising from the change to residential use would not outweigh this harm.

6 Planning Policy Summary

- 6.1 National Planning Policy Framework (2018) including Chapters 5 (Delivering a sufficient supply of homes), 6 (Building a strong, competitive economy), 11 (Making effective use of land), 12 (Achieving well-designed places) and 16 (Conserving and enhancing the historic environment).
- 6.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance) and CP8 (Dwelling Provision).
- 6.3 Development Management Document (2015) Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM5 (Southend-on-Sea's Historic Environment), DM7 (Dwelling Mix), DM8 (Residential Standards), DM11 (Employment Areas), DM15 (Sustainable Transport Management).
- 6.4 Southend Central Area Action Plan (SCAAP) (2018) Policy PA8 (Victoria Gateway Neighbourhood Policy Area Development Principles).
- 6.5 Design & Townscape Guide (2009)
- 6.6 Waste Management Guide
- 6.7 Community Infrastructure Levy CIL Charging Schedule

7 Representation Summary

Public Consultation

Highways Team

- 7.1 The proposal is accessed via an existing access way which leads to a parking area for 6 vehicles. The layout of the parking area ensures that vehicles can enter and leave in a forward gear which is required as Victoria Avenue is a classified road. Secure cycle parking has also been provided. It is not considered that the proposal will have a detrimental impact upon the public highway and the change of use would generate similar volume of traffic movements as the existing use. Therefore no highway objections are raised.

Waste Management Team

- 7.2 The proposed plans show that a bin store is proposed for this development

In order to comment further on this proposal it is necessary to understand the proposal for waste collection in more detail (for example, the size and design of the bin stores, how much recycling and waste capacity has been incorporated into the design, distances crews will be required to wheel bins to collection vehicles, etc.).

Environmental Health Team

- 7.3 Conditions recommended:

1. Construction hours shall be restricted to 8am – 6pm Monday to Friday, 8am- 1pm Saturday and not at all on Sundays or Bank Holidays.
2. During construction and demolition there shall be no burning of waste material on site.

- 7.4 A site notice was displayed and 35 neighbours were notified of the proposal. 4 neighbour objections have been received which make the following summarised comments:

- Unsuitable for residential use.
- Cramped and contrived.
- Already lots of apartments being created in Southend, particularly in Victoria Avenue and Baxter Avenue – why are 6 more needed in an area used for light industry and retail.
- Residential amenity concerns including loss of privacy to Colchester Road. Windows cannot overlook Colchester Road.
- Concerns that right of way at rear of gardens in Colchester Road will be impacted. When rear windows are open it limits access to the alleyway to the rear and causes health and safety issues.
- Nothing to stop tenants accessing roof – if roof used as a garden results in overlooking. Roof has already been used by residents.
- Lack of information regarding the privacy screens. Concerns screens could be removed and balconies created.
- Is not residential, is commercial and should not have anyone living there. Lack of commercial premises in area.
- Ground floor side window that has been inserted looks directly

- into garden and kitchen causing loss of privacy.
- Design concerns – windows installed poorly and create an eyesore.
- Noise from flats restricting garden use, especially as there is no fence.
- Smells from cooking in flats is a concern and comes into garden.
- Concerns that the application has been submitted as a retrospective application and doesn't have planning permission.
- Concerns about the way in which building work has been undertaken at the site without permission.
- Impacts on pets.

These concerns are noted and they have been taken into account in the assessment of the application.

8 Relevant Planning History

- 8.1 17/01252/FUL – Change of use of warehouse/commercial to six self-contained flats (Class C3) (Retrospective) – planning permission refused 8 February 2018.

9 Recommendation

REFUSE PLANNING PERMISSION for the following reasons:

- 01 The proposal fails to justify the loss of land which is currently in employment use contrary to the provisions of Policy DM11 of the Development Management Document (2015). The loss of this land would impair economic led regeneration contrary to the National Planning Policy Framework (2018), Policy CP1 of the Southend on Sea Core Strategy (2007) and Policy DM11 of the Development Management Document (2015), which seeks to promote building a strong, competitive economy, and in the absence of an adequate justification case the Council has been unable to assess whether the loss of employment use is outweighed by the merits of the proposal.**
- 02 The development provides inadequate amenity for occupiers, by virtue of the building's siting, layout and design forming a contrived domestic design with inadequate internal space, a poor outlook, and poor levels of daylight for future occupiers. This is unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2, CP4 and CP8 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**
- 03 The poor standard design and contrived layout to the rear elevation would result in material levels of overlooking and loss of privacy to the detriment of amenities enjoyed by existing occupiers in Colchester Road. This is unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of Development Management Document (2015), and the advice contained within the Design and Townscape Guide (2009).**

The Local Planning Authority has acted positively and proactively in

determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The detailed analysis is set out in a report prepared by officers. In the circumstances the proposal is not considered to be sustainable development. The Local Planning Authority is willing to discuss the best course of action.

Informative

- 01 Please note that this application would be liable for a payment under the Community Infrastructure Levy Regulations 2010 (as amended) if planning permission had been granted. Therefore if an appeal is lodged and subsequently allowed, the CIL liability will be applied. Any revised application would also be CIL liable.**

