

<b>Reference:</b>	<b>18/02151/FULM</b>	
<b>Ward:</b>	<b>Victoria</b>	
<b>Proposal:</b>	<b>Erect 217 self-contained flats comprising of part 13/part 15 storey building fronting Victoria Avenue and part 2 to part 12 storeys to rear with balconies to all elevations, roof terraces at second, eighth, ninth, eleventh and twelfth floors to rear, form commercial units (Use Classes A1, A2, A3 and A4) at ground floor level, layout 172 parking spaces at ground and first floor car park and cycle storage to rear, install vehicular accesses on to Victoria Avenue, form loading bays, alterations to highway, public realm alterations and associated landscaping (amended proposal)</b>	
<b>Address:</b>	<b>Car Park At 27 Victoria Avenue Southend-On-Sea Essex</b>	
<b>Applicant:</b>	<b>Weston Homes Plc and Mapeley Steps Ltd</b>	
<b>Agent:</b>	<b>n/a</b>	
<b>Consultation Expiry:</b>	<b>19<sup>th</sup> December 2018</b>	
<b>Expiry Date:</b>	<b>21<sup>st</sup> February 2019</b>	
<b>Case Officer:</b>	<b>Abbie Greenwood</b>	
<b>Plan Nos:</b>	<b>AA7218-2000-RevA, AA7218-2001-RevA, AA7218-2010-RevA, AA7218-2011-RevA, AA7218-2100-RevA, AA7218-2101-RevB, AA7218-2102-RevB, AA7218-2103-RevB, AA7218-2104-RevA, AA7218-2105-RevA, AA7218-2106-RevA, AA7218-2107-RevA, AA7218-2108-RevA, AA7218-2109-RevA, AA7218-2110-RevB, AA7218-2111-RevB, AA7218-2112-RevB, AA7218-2113-RevB, AA7218-2114-RevB, AA7218-2115-RevA, AA7218-2200-RevA, AA7218-2201-RevA, AA7218-2210-RevA, AA7218-2211-RevA, AA7218-2220-RevA, AA7218-2221-RevA, AA7218-2222-RevA, AA7218-2223-RevA, AA7218-2224-RevA, AA7218-2225-RevA, AA7218-2226-RevA, AA7218-2240-RevA, AA7218-2241-RevA, AA7218-2242-RevA, AA7218-2243-RevA, AA7218-2300-RevA, AA7218-2301-RevA, AA7218-2302-RevA, AA7218-2304-RevA, AA7218-2305-RevA, AA7218-2306-RevA, AA7218-2307-RevA, AA7218-2320-RevA, AA7218-2340-RevA, AA7218-2341-RevA, AA7218-2342-RevA, AA7218-2343-RevA, AA7218-2345-RevA, AA7218-2346-RevA, AA7218-2347-RevA, AA7218-2348-</b>	

	<b>RevA, AA7218-2349-RevA, AA7218-2350-RevA, AA7218-2351-RevA, AA7218-2552, AA7218-2353, AA7218-2360-RevA, WH189/18/15.02 (Surface Water Drainage Strategy), 2785-SK-08-RevC, 21110se-01</b>
<b>Recommendation:</b>	<b>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).</b>



# 1 The Proposal

- 1.1 The application proposes to erect a mixed use development varying between 2 and 15 storeys in height, totalling 217 units (55x1-bed (25%), 149x2-bed (69%) and 13x3-bed (6%)), together with associated ground floor commercial space (use classes A1-A4) totalling 275 sqm split into two units. It also includes ground floor and first floor parking for 172 vehicles including 2 spaces for the commercial units and 22 disabled parking spaces, which equates to 0.8 spaces per unit. 10% of the units are M4(3) compliant and suitable for wheelchair users. All other units are M4(2) compliant (accessible dwellings).
- 1.2 The block is a 'C' shape with its tallest elements fronting Victoria Avenue. The frontage has a 2 storey plinth feature then rises to 15 storeys (49.5m) at the southern end of the main frontage (with a maximum height of 50m including plant), dropping down 2 storeys to 13 storeys (43.7m) at the northern end. To the rear are two projecting wings. The southern wing is part 12 storeys (36.1m) part 11 storeys (39.9m) and the northern wing is part 9 storeys (30m) and part 8 storeys (26.4m). The proposal is set away from the northern boundary of the site with Baryta House by 9.4m and vehicular and pedestrian access is proposed along the northern side of the building. It is envisaged that this area could potentially provide a footpath link to Baxter Avenue. The building line to the front is between 1.6m and 2.6m back from the pavement which references the other buildings along the western side of Victoria Avenue. The western elevation of the car park is set 1.3m off the western boundary of the site and the wings above are 2.7m to 3.4m off this boundary.
- 1.3 The proposal will be faced in 3 colours of brick (Red: Freshfield Lane- Selected Light, Grey/Brown: Weinberger - Pagus Grey and Black: Weinberger - Graphite Black) with feature brick detailing and glazed balconies to the front and railed balconies to the rear. Other materials include white stone effect masonry, cladding, clear glazed windows and curtain walling and dark grey metal panels.
- 1.4 Two car park accesses are proposed, one on the principal eastern elevation at the south east corner of the site, which includes an internal ramp to access the spaces at first floor level, and one on the northern elevation which access the spaces at ground floor level. The car parking is situated behind the commercial units to the front of the site. Secure cycle parking and refuse storage is provided at ground level within the block. Two loading bays (12m x 4m) are proposed on the service road to the front to serve the development.
- 1.5 A range of amenity spaces is proposed within the development. Projecting balconies are provided to all but 6 units. There are three amenity decks at 2<sup>nd</sup> floor level, one between the two rear wings, one to the southern side of the south wing and one to the northern side of the northern wing. There are also four further roof gardens on top of the split level rear wings. The balconies are approximately 4.3sqm each and the total area of the amenity decks and roof gardens is approximately 1300sqm.
- 1.6 The proposal also includes associated landscaping to the front of the site, including landscaping works to the highway in this location, and to the northern side of the building adjacent to Baryta House.

- 1.7 The planning statement confirms that 10% (22 Units – 14 x 1 bed and 8 x 2 bed) of the proposed units will be affordable units (intermediate shared ownership housing only, no social rented). A viability assessment has been submitted to seek to justify this contribution.
- 1.8 This is a stand-alone development but the applicant has provided explanatory comments on how the scheme might relate to a wider redevelopment which includes the land immediately west of the site should this site come forward.
- 1.9 The application is supported by a Planning Statement, Design and Access Statement, Daylight and Sunlight Report, Transport Assessment, Car Park Management Strategy, Travel Plan, Accommodation Schedule, Ecological Assessment, Habitats Regulations Assessment, Archaeological Desk Based Assessment, Environmental and Plant Noise Assessment and, Contaminated Land Survey, Energy and Sustainability Report, Flood Risk Assessment/Drainage Strategy, and Landscaping strategy and Masterplan, Topological Survey and a Viability Statement.
- 1.10 The application is an amended proposal following a refusal in 2018 for a similar scheme of 227 units reference 18/00978/FULM. This application was refused for the following reasons:

*01 The proposal would have an unacceptable impact on the amenity and living conditions of the adjoining residents in terms of daylight and sunlight to habitable rooms in the south elevation of Baryta House. The application is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) policies DM1 and DM3 and Southend Central Area Action Plan (SCAAP) (2018) policy DS3 and the guidance contained within the Design and Townscape Guide (2009).*

*02 The application does not include a formal undertaking to secure a suitable contribution towards affordable housing provisions incorporating a satisfactory review mechanism to meet the demand for such housing in the area. Formal undertakings to secure contributions to the delivery of education facilities, to meet the need for such infrastructure generated by the development, and to provide highways works and transport mitigation measures needed to achieve an appropriately sustainable form of development are also absent. In the absence of these undertakings the application is unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2, KP3, CP4, CP6 and CP8 of the Core Strategy (2007), Policy DM7 of the Development Management Document (2015) and Policy PA8 of the Southend Central Area Action Plan (SCAAP) (2018).*

- 1.11 In order to address these reasons for refusal the following amendments have been made to the proposal:
- The number of units has been reduced from 228 flats to 217 flats.
  - The height of the front building at the northern end has been reduced by 1 storey from 14 storeys (48.1m) to 13 storeys (43.7m).
  - The height of the northern rear wing has been reduced from 10 storeys (34.2m) to part 8 storeys (26.4m) and part 9 storeys (30m).

- The height of the southern rear wing (i.e. away from Baryta House) has increased from 11 storeys (37.7m) to part 11 storeys (39.9m) and part 12 storeys (36.1m).
- The floor to floor heights of the residential floors have been slightly reduced from 3.2m to 3m which means that the overall height of the building has reduced.
- The car park podium has been cut back in the north west corner of the site adjacent to Baryta House and its height has been reduced from 8.6m to 8.4m at its tallest point on the northern elevation facing this neighbour.
- Associated internal layout changes.

1.12 The impact of these changes are discussed in more detail below.

## **2 Site and Surroundings**

- 2.1 The application site is the rectangular-shaped former Portcullis House site (0.41 Ha) measuring 79m x 51m. The former office block on this site was demolished in 2013 and it is currently being used as a temporary car park. Temporary planning permission for this (2 years) has recently been renewed (application reference 18/01205/FUL). It has two existing single vehicular crossovers leading off the Victoria Avenue Service Road and a small building in its south west corner.
- 2.2 The site is located at the southern end of Victoria Avenue between Alexandra House, a 16 storey office building, and Baryta House, a 12 storey block which has recently been converted to residential use under permitted development. The wider streetscene on the west side of Victoria Avenue comprises a number of tall/large blocks which were constructed in the 1960s and 1970s as offices but most of which have now been converted or are undergoing conversion to residential use. The buildings are faced in a variety of materials including brick, concrete and cladding. This area is the largest area of tall buildings in the Borough.
- 2.3 Victoria Avenue is a key vehicular route to Southend Town Centre and busy dual carriage way. The buildings on the west side, including the application site are accessed via a one way, single width service road which runs parallel to the main carriageway. The buildings here are set fairly close to the footpath but are separated from the busy traffic by the service road.
- 2.4 There is no service road to the eastern side of the street but the buildings on this side are generally set much further back from the road. There is also a much greater variety of building style to the eastern side of Victoria Avenue including the listed Southend Museum, the low rise blocks of the Beecroft Gallery and Court House and the tower of the Civic Centre.
- 2.5 The wide street width and mature street trees help to offset the scale of the buildings in this section of Victoria Avenue. The overall character is that of a grand boulevard which feels comfortable to the pedestrian but also serves as a gateway to the town centre.

- 2.6 The mature trees which run alongside the road and within the central reservation help to offset the impact of the traffic and are an important part of local character. There is scope for further environmental enhancement works to contribute to the regeneration of this area. The existing street trees are set away from the development so are not affected by the proposal.
- 2.7 The site is close to the town centre and a variety of public transport links including buses and train interchanges. It is considered to be a very sustainable location.
- 2.8 The site falls within the 'Southend Central Area' and is located within the Victoria Gateway Neighbourhood as identified within the Southend Central Area Action Plan (SCAAP). The southern section of Victoria Avenue is allocated as Opportunity Site PA8.1 and is identified as an area in need of regeneration. In addition to the renewal of the built environment, key aims of the regeneration of this area include improving east west pedestrian links to the wider area and an enhancement of the public realm.
- 2.9 The wider area is mixed in character containing a variety of building types and uses including residential, commercial, civic and leisure. The only heritage building in the location is the Southend Museum opposite the site which is grade II listed. This building and the adjacent Beecroft Gallery are identified as landmark buildings within Policy DS3 of the SCAAP.
- 2.10 The site lies within Flood Risk Zone 1 (low risk).

### **3 Planning Considerations**

- 3.1 The main considerations in relation to this proposal are the principle of the development; design and impact on the character of the area including the setting of the listed museum building; impact on the amenity of neighbouring buildings; standard of accommodation for future occupiers; traffic generation; access and parking implications; sustainable construction including the provision of on-site renewable energy sources; CIL (Community Infrastructure Levy) and developer contributions and in the above respects whether this amended proposal satisfactorily overcomes the two reasons for refusal of the previous application.

### **4 Appraisal**

#### **Principle of the Development**

**Planning Policies: National Planning Policy Framework (2018) (NPPF), Core Strategy (2007) Policies KP1, KP2, KP3, CP2, CP3, CP4, CP6, CP8; Development Management Document (2015) Policies DM1, DM2, DM3, DM4, DM5, DM7, DM8, DM14 and DM15; Southend and Central Area Action Plan (SCAAP) (2018) Policies PA8 and DS3 and the Design and Townscape Guide (2009)**

- 4.1 The principle of residential redevelopment was not a reason for refusal of the previous application and was judged acceptable having regard to the following policy context.
- 4.2 The Core Strategy confirms that the primary focus of regeneration and growth within Southend is in Southend Town Centre and the Central Area. The Southend Central Area Action Plan (SCAAP) provides a more detailed and comprehensive planning policy framework for the town centre to guide future development decisions.
- 4.3 The application site is brownfield land within the Southend Central Area. It is also part of the Victoria Avenue 'Broad Location A' which has been identified within the 2017 Strategic Housing Land Availability Assessment being suitable for high density residential development. Policy PA8 of the SCAAP sets out the principles for development in the Victoria Gateway Neighbourhood Policy Area. This policy confirms that the Council will look favourably on high quality large scale developments provided they are well designed, can demonstrate that they will contribute to the transformation of this area into a vibrant community, are well integrated with the surrounding neighbourhood and are of a quality that befits this key gateway to the Town Centre.
- 4.4 Policy DS3 confirms that the Council will seek to conserve landmarks and landmark buildings as identified in Table 2 and Appendix 3 which include Southend Museum and the Beecroft Gallery from adverse impact by: a) encouraging the provision of open spaces and public realm improvements which provide views to landmarks or landmark buildings or enhance their setting; b) resisting adverse impacts of new development by virtue of excessive height, massing or bulk; and c) ensuring development proposals respect views, setting and character.
- 4.5 Policy KP1 of the Core Strategy seeks the provision of additional homes within the Town Centre. Policies KP2 and CP4 of the Core Strategy seek development that makes the best use of land and is sustainably located. It is also noted that the provision of new high quality housing is a key Government objective.
- 4.6 Policy CP2 seeks to support the Town Centre as a regional centre including promoting mixed-use development. A stated aim of Policy CP3 is to reduce reliance on the car in new development. 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 seeks that 80% or more of residential development be provided on previously developed land.
- 4.7 Policy DM1 of the Development Management Document seeks to promote successful places. Policy DM1 also requires new development to be of a design that positively contributes to the overall quality of an area and respects the character of a site and its local context. Policy DM3 seeks to support development that is well designed and that looks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification.

4.8 Policy DM4 states that 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'*

4.9 Policy DM5 requires that all development proposals that affect a heritage asset to conserve and enhance its historic and architectural character, setting and townscape value.

4.10 Policy DM7 states that the Council will encourage new development to provide a range of dwelling sizes and types to meet the needs of people with a variety of different lifestyles and incomes. Through Policy DM8 the Council seeks appropriate flexibility and dimensions within internal accommodation to meet the changing needs of residents.

4.11 Policy DM15 states that development will be supported where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.

4.12 The principle of using this brownfield land for residential led mixed use proposal is therefore considered acceptable under Policies KP1, KP2, CP4, CP6, CP8 and PA8

#### *Principle of a Tall Building*

4.13 Victoria Avenue Opportunity Site PA8.1 is specifically identified in the SCAAP as being suitable for new tall buildings. The site is considered to meet the criteria set out in DM4 (i), (ii) and (vii) above and no objection has been raised by the airport to this proposal provided the overall height of the building to the tallest part is no greater than the closest existing building, Alexandra House, which measures 52.07m. The maximum height of the building including lift overrun is 50m which meets this requirement.



- 4.14 The principle of the form and nature of the application site's redevelopment and strategic impact also needs to be considered having regard to the effect on landmark views of Southend Museum and the Beecroft Gallery, required under Policy DS3. The Museum is located at the southern end of the east side of Victoria Avenue and is most prominent when seen from the Victoria Gateway development and on approach to the building from the north and south. The Beecroft Gallery is on the northern side of the museum but set back from the street. The most prominent views of this building are on approach from the north. The proposal is of a significant scale but it is located opposite the site to these buildings (approximately 44m away) so will not impact materially on any existing views of these landmarks. In terms of the scale relationship it is noted that the proposed development is much larger than the museum and gallery but the character of Victoria Avenue is varied and a large scale block on the western side of the street as proposed, would not appear out of place or context within the streetscene on this side of the road. It is also noted that the application has sought to reference the older buildings in the vicinity, including the museum, in its use of red brick and stone detailing. This is seen as a positive reference to the historic context. The impact on the views and setting of the listed museum building and the Beecroft Gallery are therefore considered to be reasonable and, subject to the scheme meeting the remaining criteria in terms of its detailed design, the principle of a tall building in this location is acceptable.
- 4.15 It would be preferable to consider the redevelopment and wider regenerative role of the current application site simultaneously with further redevelopment proposals for the site to the west of the application site. This area includes another open car park and is also recognised as a potential development site. However it is considered that this cannot be insisted upon nor can the Council reasonably withhold determination of the current application on that basis because the proposals presented here are entirely self-contained i.e. they do not rely upon the adjacent site for any fundamental design components such as access. Furthermore the essential form and layout of this proposal have been designed so as not to rely upon, nor to materially prejudice, the redevelopment potential of the adjacent site to the west. For example habitable rooms in this proposed development would not rely on principal outlooks across site boundaries to the west. Equally the site to the west is sufficiently large that any constraints created by the prior redevelopment and presence of new buildings within the current application site could be addressed through design. It is also noted that the applicants' Design & Access Statement includes an indicative sketch showing how the neighbouring site could be developed and satisfactorily integrated with the proposed scheme.
- 4.16 Therefore the effect of this site's development on the future development potential of the site to the west is primarily an issue to be addressed at the appropriate time by the designers of any future redevelopment proposals submitted for that site. Whether such a proposal comes forward in practice is a matter for the respective site developers. Officers do not consider that this issue alone, which was not a reason for refusal of the previous application, would constitute a materially defensible reason for opposing the principle of this site's redevelopment in its self-contained form or for the residential purposes proposed. It is therefore acceptable and policy compliant in the above regards.

## *Housing Mix and Affordable Housing Provision*

- 4.17 To create balanced and sustainable communities in the long term, it is important that future housing delivery meets the needs of households that demand private market housing and also those who require access to affordable housing. Providing dwellings of different types, including tenure and sizes, helps to promote social inclusion by meeting the needs of people with a variety of different lifestyles and incomes. A range of dwelling types provides greater choice for people seeking to live and work in Southend and will therefore also support economic growth. So the Council seeks to ensure that all residential development provides a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing, to reflect the Borough's housing need and housing demand. Policy DM7 of the Development Management Document requires all residential development to provide a mix of dwelling size and type.
- 4.18 The Southend-on-Sea Housing Strategy 2011, the Strategic Housing Market Assessment (SHMA) 2017 and the Council's Community Plan 2011-2021 seek to provide sustainable balanced communities and advise that housing developments will need a range of tenures and size of dwelling. The SHMA has identified a shortage of family accommodation in Southend, despite an acute demand for this type of dwelling. Consequently, to address this shortfall and meet demand, residential development proposals will normally be expected to incorporate suitable family accommodation. The provision of high quality, affordable family homes is an important strategic housing priority in Southend. The Core Strategy also highlights a need to retain a stock of larger family housing.
- 4.19 Policy DM7 sets out the desired mix of dwellings types and sizes in all new major residential development proposals. This includes providing a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing. The desired mix for major schemes is as follows:

### Market Housing

No of bedrooms	1-bed	2-bed	3-bed	4-bed
Proportion of dwellings	9%	22%	49%	20%

- 4.20 Where a proposal significantly deviates from this mix the reasons must be justified and demonstrated to the Council.
- 4.21 Policy CP8 seeks an affordable housing provision of 30% for residential proposals of 50 dwellings or more. The desired mix for affordable housing units is as follows:

### Affordable Housing

No of bedrooms	1-bed	2-bed	3-bed	4-bed
Proportion of dwellings	16%	43%	37%	4%

- 4.22 Policy DM7 also states that where affordable housing is proposed an indicative tenure mix of 60:40 between social and/ or affordable rented accommodation and intermediate housing is sought respectively.

4.23 In relation to Affordable Housing paragraph 64 of the NPPF (2018) states that *‘where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.’*

*Housing Mix*

4.24 The amended proposal has reduced the number of units, by 11, and altered the housing mix. The tenure and mix of both applications is summarised below:

*1<sup>st</sup> Application 18/00978/FULM*

	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>Total</b>
Market Housing	56 (27%)	136 (66%)	13 (6%)	205 (90%)
Intermediate Housing	15 (65%)	8 (35%)	0 (0%)	23 (10%)
Total	71 (31%)	144 (63%)	13 (6%)	228

*2<sup>nd</sup> Application 18/02151/FULM (current proposal)*

	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>Total</b>
Market Housing	41 (21%)	141 (72%)	13 (7%)	195 (90%)
Intermediate Housing	14 (64%)	8 (36%)	0 (0%)	22 (10%)
Total	55 (25%)	149 (69%)	13 (6%)	217

4.25 The tables show that, in percentage terms, the proportion of two beds has risen slightly, the proportion of 1 beds has dropped slightly and the percentage of 3 beds remains relatively unchanged for the proposal as a whole and for the individual tenures.

4.26 As with the previous proposal, which was not refused on ground of housing mix, the amended proposal seeks to build a higher proportion of 1 and 2 bed units and less family sized units than the Council’s preferred mix as set out above although it is noted that the increase in 2 beds over 1 beds is a slight improvement on the desired mix than the previously refused proposal. The number of family sized (3 bed plus) units, remains low (7% market housing 6% overall) in comparison to the policy requirement of 69%. In relation to this issue, the applicant contends that the town centre location and form of development would not be suitable for family housing and that this type of development seeks to provide for ‘entry level housing’ (young people looking to take their first step on the housing ladder) where the demand is for smaller cheaper units. They have supplied comment from a local estate agent that supports this position. They also comment that the unit sizes for the 2 beds are generous when compared to the national space standards and are therefore also better able to accommodate small families.

4.27 Taking account of the site context and nature of development proposed, it is considered that the above mix, which includes a limited element (7%) of larger 3 bedroom market housing units capable of family occupation plus 72% two bedroomed units, would make a satisfactory contribution to the Council’s housing policy objectives. It is noted that this accords with the judgement made on the previously refused proposal where a mix of 27% (1 bed), 66% (2 bed) and 6% (3 bed) market housing units was also judged to be acceptable in this context.

- 4.28 As with the previously refused application the proposal also seeks to provide a sizeable element of retail development at ground floor (275 sqm). It is considered that a mixed use development is appropriate for this location which is close to the town centre. This is consistent with the objectives of opportunity site (PA8.1) of the SCAAP and is seen as a positive aspect of the scheme. It is envisaged that the mix of uses proposed will help to enliven the streetscene and create a mixed community in this area. This would support sustainable development, the policy objectives for this area and the objectives of the NPPF.

#### *Affordable Housing Provision*

- 4.29 The percentage of intermediate shared ownership units remains unchanged at 10%. As with the previous proposal it is noted that this does not meet the local policy requirement set out above. A viability assessment has been submitted to justify the shortfall. This concludes that the proposal could not support a policy compliant scheme of 30% affordable housing.
- 4.30 The Council has commissioned an independent appraisal of this viability report. This concurs with the applicant's conclusion that the development is unviable and cannot support a policy compliant affordable housing provision at this time; it notes that the applicant proposes 10% affordable housing and also recommends that the Council look to include a review mechanism to enable the viability of the proposal to be reappraised at a later stage in the development process. In relation to this the report states:

*'Therefore we conclude that for this development to become deliverable there is a high prospect that the site could await development for some time and the consent could be secured through technical implementation. The applicant in the meantime has the benefit of car park revenue and could await an upturn in the market by which time the level of affordable housing may no longer be maximised. To avoid these circumstances we recommend that the S106 Agreement either time limits delivery or includes provisions for reassessment in the event that substantial implementation of the consent is delayed. In this context substantial implementation should be reflect a significant progress through the build programme of the scheme.'*

- 4.31 These provisions would ensure that any improvements in the viability of the proposal in future years, for example those due to enhanced market values or reduced costs are captured and the level of affordable housing adjusted accordingly. It is therefore proposed that a review mechanism is included in the S106; this option is commonly used in other authorities. The suggestion of a viability review has been put to the applicant and has been agreed in principle subject to agreement of details.
- 4.32 The Councils Strategic Housing Team recognise that the scheme falls short of the policy requirement in relation to affordable housing provision, mix and tenure however they accept the arguments put forward in terms of viability. It is therefore considered that the proposal for 10% (22 units) of affordable intermediate housing could be considered acceptable in principle at this time subject to the detailed agreement of a review mechanism to assess the actual costs at a later stage in the development process.

A S106 agreement is being drafted to secure this provision and the review mechanism.

- 4.33 In relation to the practicality of the proposal for affordable housing it is noted that the design and internal layout has not made any provision for a separate core to serve the intermediate units. This is often required by housing associations to enable them to control service costs and assist with the management of the units. The Council is not aware that a specific housing association has been engaged for this project and therefore the exact design and operational requirements are unknown, which is not seen to be a positive aspect of the proposal.
- 4.34 Overall therefore, it is considered that the principle of this form, scale, type and mix of development in this location is consistent with the policies noted above and is acceptable subject to the detailed considerations set out below.

### **Design, Regeneration and the Impact on the Character of the Area.**

**Planning Policies: National Planning Policy Framework (2018) (NPPF), Core Strategy (2007) Policies KP1, KP2, CP4; Development Management Document (2015) Policies DM1, DM3, DM4 and DM5; Southend Central Area Action Plan (2018) (SCAAP) Policy PA8 and the Southend Design and Townscape Guide (2009).**

- 4.35 Paragraph 124 of the NPPF 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'*
- 4.36 The need for good design is reiterated in Policies KP2 and CP4 of the Core Strategy DM1 and DM3 of the Development Management Document and in the Design and Townscape Guide.
- 4.37 In relation to development within the Victoria Gateway Area Policy PA8 states that the Council will *'look favourably on high quality developments and schemes which can demonstrate that they will contribute to the transformation of this area into a vibrant community, which is integrated with the surrounding neighbourhood and set within a remodelled built form of a quality that befits this key gateway to the Town Centre'*
- 4.38 The site is located within a cluster of tall buildings on the west side of Victoria Avenue close to Southend Town Centre. The buildings here vary between 7 and 15 storeys in height and were mainly built between 1960 and the 1980s when there was greater demand for large scale office blocks. They are mixed in quality and design.
- 4.39 The reduction in the demand for this type and scale of office space has had a marked effect on the buildings in this section of Victoria Avenue with many lying vacant for long periods. Some of the vacant buildings have more recently been converted to residential flats under permitted development and this has kick started the regeneration of this area. The character of the area is now evolving into a more mixed use community.

### *Mix of Uses*

- 4.40 The proposal is seeking to erect a mixed use development on the site comprising retail uses (A1-A4) at ground level and up to 15 storeys of residential dwellings above. The retail uses will make up the majority of the frontage at ground level facing the street and will provide vitality and activity to the streetscene in this location. The residential uses above will bring footfall into the area supporting the commercial uses. The mix of uses proposed is therefore considered to be in line with Policy PA8, the objectives of Opportunity Site PA8.1 and the evolving character of this area as it transforms into a sustainably mixed use community. The mix of uses proposed is therefore considered compatible with local character and policy compliant in this regard.

### *Scale and Form*

- 4.41 The site is flanked by tall buildings of up to 16 storeys. The application site used to contain a tall building of 14 storeys. This was demolished in 2013 and the land has since been used as a temporary car park. The lack of a building here has created a visually weak void in the street frontage which has had a detrimental impact on the townscape and enclosure of the street.
- 4.42 The proposal seeks to erect a new tall building on the site. The proposed frontage element would be 15 storeys at its southern end dropping to 13 storeys at the northern end. This change in height is proposed to help provide a transition between the 16 storeys of Alexandra House to the south and the 12 storeys of Baryta House to the north. To further break up the massing of the building, the frontage has been broken down into a series of smaller elements. The lower two floors, which include the commercial development and the feature entrance, have been designed to form a plinth to the building using a run of arch features to highlight the entrances and provide visual separation to the upper floors. This helps to break the mass of the building horizontally, gives the frontage a human scale at street level and references the scale of the plinth features of the neighbouring Alexandra House and Baryta House and the lesser scale of the buildings opposite. In addition to this a vertical section in the centre of the frontage has been recessed and detailed in darker brick to emphasise the shadowing of the recess. This provides a vertical break in the frontage again helping to reduce the scale of the frontage and to articulate the building's appearance in the streetscene.
- 4.43 To the rear, the accommodation wings have also been stepped down from that of the frontage section creating a hierarchy of scale within the overall form of the building giving greatest presence to the front block where it fronts the main street. The northern wing has also been set well in from the northern flank of the main block to reduce its impact in the streetscene and on the neighbouring properties. The storey heights of the rear wings have been amended since the previously refused proposal to further reduce the impact on the amenities of residents in Baryta House. This has resulted in a reduction in the height of the northern wing and an increase in height to the southern wing. Both wings now also have a stepped form to further break up their massing in addition to the stepping of their footprint as previously proposed.

These changes have maintained the subservience to the front block and have not had a material impact on the design approach to the development which is based on a hierarchy of stepped forms and which did not form a reason for refusal of the previous application. As with the previously application, this is considered an acceptable design solution to the site.

- 4.44 In addition to its stepping in storey heights the building also has significant detailing and articulation to all the elevations including the use of a range of complementary brick tones to emphasise the recesses and breaks in the form, a variety of horizontal, vertical and projecting features and recesses creating vertical breaks in the building form and a grid / bay pattern to the facades. This layering and articulation of the building will break up the scale of the frontages into more comfortable proportions and help to offset the length of the facades and the scale of the building generally.
- 4.45 Overall it is considered that this combination of stepping, recessing and detailing will provide an acceptable transition in the streetscene between the existing neighbouring buildings break down the scale and massing of the building in the streetscene. It is therefore considered that the form of the development as proposed should not appear over scaled in this context and the proposal is therefore acceptable and policy compliant in the above regards.

#### *Detailed Design*

- 4.46 Policy DM4 requires new tall buildings to achieve the highest standards of design, use the highest quality materials and have a positive interaction with the street. Without all these aspects working together the proposal will not be successful at ground level or in wider views.
- 4.47 As noted above the façade is broken up into a series of smaller bay elements to reduce the overall mass of the building. The detailing of the facades within this framework is just as important in achieving a well resolved frontage. Larger scale studies of these bays within the Design and Access Statement show how the grid pattern is defined with brick recesses, deep reveals, feature balconies and stone banding detail. All of these elements combined provide a layering of the façade, creating shadowing and interest to the development. It is also noted that the materials, including the brick and stone detailing, have been chosen to provide a positive reference to the materials found in the surrounding area. This level of articulation is a positive feature of the design and is welcomed.
- 4.48 At ground level the grid transforms into a series of double height (two storey) square arches framing the feature entrance to the residential units and the commercial frontages. These arches are edged in stone, referencing the grid banding used above, and the more traditional properties in the area. The arches incorporate the shopfront glazing and fascia for the retail units and extensive Juliette balconies for the flats at first floor above. Combining these elements into a single repeating feature at ground level provides a positive and distinctive base for the building and this should work well at street level.

It is noted that the arches at either end of the front elevation, which continue around the sides of the building, contain the entrances to the refuse store and substation so will not have an active frontage, however, this is a small proportion of the facade as a whole and the same quality of detailing has been applied to these areas to ensure that they integrate into the overall design.

- 4.49 The proposal at ground level will be complemented by landscaping within the site and on the area in front of and to the north of the building. This too will have a positive impact on its setting in the wider streetscene by providing softening at ground level.
- 4.50 On the secondary frontages, whilst the overall design approach remains the same some aspects of the detailing have been varied, such as changing the tone of the brick and the style of balcony from glass to railing. This will add further variety and interest to the proposal creating a hierarchy of facades and appears to work well.
- 4.51 Some information has been provided in respect to the materials including samples for the 3 types of complementary brick to be used on the main façade, the secondary wings and the feature recessed elements. The Design Statement also highlights the intention to use white reconstituted stone, frameless glazing balconies and metal windows and doors. These materials are, in principle, sufficiently compatible with the design of the building and the wider streetscene but full product details of the external materials will need to be conditioned along with the brick and stone detailing to ensure that a quality finish is achieved.

#### *Building Layout*

- 4.52 The proposal has a legible arrangement with clear and appropriately designed entrances facing the main street to provide a positive and active frontage to the development. This will be supplemented with an enhancement of the landscaping to the front of the building including to the pavement area outside the building. This would provide an adequate setting for the building in the street and contribute to the regeneration of this area. This landscaping is proposed to continue around the building to the north where a shared surface approach is proposed for the second car park access and a potential pedestrian link to Baxter Avenue is proposed. This arrangement appears to work well in principle. The detailed landscaping and materials can be controlled by condition.
- 4.53 In relation to the internal design and layout it is pleasing to see that the two floors of car parking for the development will be located within the building behind the commercial frontage so that it is hidden from public view. It is noted that the parking will be exposed to the rear of the building and will be viewed across the open car park to the rear and through the gap to the north, however its façade is broken into open and closed elements and will be softened with climbing plants. This is considered to be a reasonable and satisfactory response to this elevation which has no street frontage.



- 4.54 Internally the flats are accessed via two lift cores which link to the main entrance. This seems to be an efficient arrangement. The layout of the units themselves are generally well planned with the majority of flats having the benefit of some private outdoor space. It is pleasing to see that in addition to the balconies 7 useable areas of communal amenity space are proposed which will provide a pleasant outlook for the units as well as a convenient and useable outdoor amenity. Some indicative information has been provided in relation to the landscaping of these amenity areas which shows them to be properly landscaped spaces. Full details can be conditioned.
- 4.55 The rear wings are set close to the western boundary. Concerns were raised during pre-application stage about the impact this may have on the future development of this adjoining site. To address this the flats to the western flanks of the rear wings have been re-orientated to have their outlook to the north or south with only secondary obscured or non-habitable rooms facing west and this did not form a reason for refusal of the previous application. The Design and Access Statement also provides a sketch design for the neighbouring site to demonstrate how the two developments could potentially work together. On balance it is considered that this arrangement has addressed the concerns raised in regard to future overlooking whilst also managing to maintain a rear elevation with some articulation. This arrangement is therefore considered to be a reasonable solution to this issue.
- 4.56 Viewed comprehensively it is considered that the resulting massing, detailed design, layout and use of external materials would satisfactorily complete the missing street frontage over this significant section of Victoria Avenue and would be suitably responsive to the mixed character of uses and buildings around the site. The scheme is considered to represent an acceptable standard of design in terms of its appearance therefore justifying the tall building form proposed in this location and wider streetscene. The design of the proposal is therefore considered to be acceptable and policy compliant in the above regards subject to conditions controlling the detailing and materials.

#### **Impact on amenity of future occupiers**

**Planning Policies: National Planning Policy Framework (2018) (NPPF), Core Strategy (2007) Policies KP2, CP4, CP8; Development Management Document (2015) policies DM1, DM3, DM8; Design and Townscape Guide (2009); the National Technical Housing Standards**

- 4.57 The NPPF states that the planning system should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.58 Policies DM1 and DM3 of the Development Management Document and CP4 of the Core Strategy refer to the impact of development on future and surrounding occupiers and seek to ensure good relationships between new and existing development.

4.59 Policy DM1 of the Development Management Document requires that development provide an internal and external layout that takes account of all potential users.

#### *Internal Space Standards*

4.60 Policy DM8 states that the internal environment of all new dwellings must be high quality and flexible to meet the changing needs of residents.

4.61 Paragraph 127 of the National Planning Policy Framework states that planning policies and decisions should ensure that developments '*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*'.

4.62 From the 1st October 2015 the space standards within Policy DM8 of the Development Management Document were superseded by the National Housing Standards concerning internal floor space standards. These standards require:

- Requirement for 86 sqm internal floor space per 3 bed dwelling 5 person dwelling, 74sqm internal floor space per three bed, 4 person dwelling, 70sqm internal floorspace per two bed 4 person dwelling, 61sqm internal floor space per two bed 3 person dwelling and 50sqm internal floor space per one bed 2 person dwelling to ensure the development is in line with Building Control requirements.
- Minimum floor area for bedrooms to be no less than 7.5sqm for a single bedroom with a minimum width of 2.15m; and 11.5sqm for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.
- Provision of a storage cupboard with a minimum floor area of 1 – 1.5sqm should be provided for 1-2 person dwellings, a minimum of 2sqm storage area for a 2 bed dwelling and 2.5 sqm for a 3 bed dwelling.

4.63 Weight should also be given to the content of Policy DM8 which states the following standards in addition to the national standards.

- 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 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.

- 4.64 Policy DM8 also requires all new dwellings to be accessible and adaptable to Building Regulations M4(2) standards with 10% of dwellings in major developments being suitable for wheelchairs and meeting M4(3) standards.
- 4.65 The plans supplied with the application demonstrates that all of the proposed development will meet the National Technical standards for individual unit and bedroom sizes and storage provision.
- 4.66 Lifts serve all proposed dwellings. 10% of the units are wheelchair accessible or adaptable M4(3) standard and the remainder are accessible dwellings M4(2) standard. This too meets the policy requirement.

#### *Daylight and Sunlight for Future Occupiers*

- 4.67 The plans show that all habitable rooms will be provided with sufficient windows and openings to provide adequate ventilation and outlook. A Daylight and Sunlight Assessment has been submitted to assess the standards of light within the proposed dwellings. This document concludes that a high percentage of rooms would meet or exceed the recommendations of the BRE guidelines. The consultant considers this to be a good result for a large development in an urban environment.
- 4.68 The study also concludes that the majority of habitable rooms and kitchens (477 out of 610 (78%)) will either meet or exceed the Average Daylight Factor BRE targets. The report comments that the reason for the remaining rooms failing to reach this target is due in many cases to shadowing caused by a balcony. The shadow analysis within the report also confirms that the amenity spaces will meet the BRE guidelines in relation to sunlight for amenity spaces.
- 4.69 The Council's Environmental Health Service has reviewed this document and has not raised any objections to the standard of the proposed accommodation in terms of daylight and sunlight. While the conditions in a number of the rooms are found to be less than ideal the proposal is on balance considered to be acceptable and policy compliant in this regard when considered in the round and for a development of this nature and scale in an urban context. This is the same conclusion as was reached in regard to this issue for the previous application.

#### *Amenity Provision*

- 4.70 The proposal has a good level of outdoor amenity space. All but 6 of the units benefit from a useable private balcony or roof terrace suitable for seating, dining and drying clothes and are positioned conveniently, connecting to the dining/living rooms of each unit. The remaining 6 units each have more than one Juliette balcony overlooking the Victoria Avenue frontage. In addition all future residents will have access to some 1300sqm of semi-private communal amenity space, provided above the car park at second floor level and as roof terraces above both the rear wings.

The total provision of outdoor amenity space for residents is considered acceptable and compliant with the objectives of Policies CP8, DM3 and DM8.

### *Noise*

- 4.71 A Noise Assessment has been submitted which considers the site's prevailing noise climate and assesses potential noise impacts that may affect future occupiers particularly from the adjacent road. The assessment concludes that standard double glazing with a minimum  $R_w$  reduction value of 32 dB and trickle vent ventilation, as proposed, would address any potential noise concerns related to road traffic noise, predominantly in Victoria Avenue and would achieve the relevant internal standard in British Standard 8233. A noise assessment has also been undertaken to establish whether the cooling plant on Alexandra House would cause a nuisance to potential residents of this proposal. The report concludes that noise arising from this plant was found to be below the background noise level confirming therefore that this would not be an issue.
- 4.72 The Noise Assessment's conclusions have been reviewed by the Council's Environmental Health Officer. He comments that the report recommendations are reasonable in relation to mitigating the existing background noise levels, however, it is considered that the report has failed to consider the potential noise from the A3/A4 uses within the proposed development or the noise potential from any associated extraction including any structure borne noise on the future or neighbouring residents. It is considered, however, that details and mitigation measures associated with any future use of the commercial units could be required and agreed by condition.
- 4.73 A condition will also be required to ensure the implementation of the noise mitigation measures such as glazing specifications recommended in the submitted report.
- 4.74 Overall therefore it is considered that, subject to these conditions, the proposal would provide an acceptable standard of accommodation for future occupiers and is policy compliant in this regard.

### **Impact on the Amenity of Neighbouring Occupiers**

**Planning Policies: National Planning Policy Framework (2018) (NPPF), Core Strategy (2007) Policies KP2, CP4, CP8; Development Management Document (2015) policies DM1, DM3, DM8; Design and Townscape Guide (2009); the National Technical Housing Standards**

- 4.75 Policies DM1 and DM3 of the Development Management Document and Policy 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 as 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.

- 4.76 In relation to the impact on neighbour amenity Development Management Document Policy DM1 states *'In order to reinforce local distinctiveness all development should:....iv) 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'*
- 4.77 In relation to infill development Policy DM3 states *' All development on land that constitutes infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals..(i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents'*
- 4.78 In relation to the creation of new landmark buildings Southend Central Area Action Plan Policy DS3 states *'The Council will support and encourage the creation of new landmarks in the areas identified within Table 3 [including Victoria Avenue],where development proposals must demonstrate that.....c. the proposals do not adversely affect the amenity of local residents;.'*
- 4.79 The proposed development has its main length of frontages and outlook facing east, north and south. The western elevation comprises the shorter flank elevations of the rear wings only which have no outlook, only secondary light sources from obscure glazed windows.
- 4.80 The closest residential neighbour to the site is the recently converted Baryta House to the north. At the eastern end there is a separation distance of 10.5m between the main front block of the proposal and the first floor windows of Baryta House. This increases to 14.8m above first floor where the flats in Baryta House step back. Behind the front block the rear wing of the proposal steps back to provide a separation distance of 14.8m between the tower of Baryta House and the two storey car park plinth and 23.1m between Baryta House and the proposed residential wing above the car park. The front section of the proposal is the short flank of the 13 storey frontage block which is 12m wide and 43.7m tall, the car park plinth behind this is 2 storeys with a max height of 8.4m and the rear wing is stepped in height being part 8 storeys (26.4m) closest to Baryta House rising to 9 storeys (30m) on its southern side.

#### *Interlooking and Privacy*

- 4.81 In order to prevent any overlooking of the first floor front units of Baryta House, which are the closest to the proposal at 10.5m and which was raised as a concern during the pre-application process, the internal layout of the proposal has been amended in relation to the north eastern first and second floor flats to provide only secondary or non-habitable room windows facing north towards Baryta House. As secondary and non-habitable room windows these can be conditioned to be obscure glazed without impacting on outlook for future residents of these units. It is considered that this would prevent material interlooking between the first and second floor flats at the north east corner of the development and the closest first floor flats in Baryta House and this relationship is now acceptable in terms of privacy.

- 4.82 Above second floor the internal layout of the proposed front wing of the development changes to include one habitable room window to bedroom 2 and two secondary windows to the living area and bedroom 1 facing north. However, above second floor level the flats of Baryta House are located in the main tower which has an increased separation distance to 14.8m from the proposal. On balance it is considered that this separation distance is reasonable in an urban context especially as the windows in the proposed development are not the principal outlook and therefore this relationship is acceptable.
- 4.83 Behind the front block the northern rear wing is set back further and a separation distance of around 23.1m achieved to the tower of Baryta House. The proposed flats in this wing have their primary outlook towards Baryta House, however, the separation distance proposed is considered to be reasonable in the context of the site and the characteristics of that neighbouring development and should not result in material interlooming between the buildings. There are no interlooming or privacy concerns in relation to the other residential properties in the area which have a much greater separation distance than Baryta House. These conclusions are consistent with the judgements made on these issues in the previous application and within which impact on neighbour's privacy was not a reason for refusal.

#### *Outlook and sense of enclosure*

- 4.84 The proposed building will also impact on the outlook and sense of enclosure for the neighbouring buildings but particularly for those residents of Baryta House which face the development site. The scale of the rear wing closest to Baryta House has been reduced in height from the previous proposal which will reduce the sense of enclosure on the residents of Baryta House to a modest extent although the change in outlook for these residents will still be significant given the current situation of the open car park. However, it is recognised that the site is within an urban location and in this town centre context properties often outlook onto other buildings of a similar scale and height. The separation distances between the proposal and Baryta House are considered, on balance, to be sufficient to ensure that the existing residents of Baryta House would not feel that the development was materially overbearing or giving rise to an unacceptable sense of enclosure. The design and significant articulation of the proposal also helps to offset the impact of the proposal in this regard. The scale and siting of the development is therefore considered reasonable in terms of its impact on outlook on the neighbouring properties in Baryta House.
- 4.85 There are no concerns in relation to outlook or sense of enclosure for the other residential properties in the area which have a much greater separation distance than Baryta House. These conclusions are consistent with the judgement made on this issue in the previous application where no objection was raised on these grounds for a larger development. It should be noted that the impact on daylight and sunlight is a separate consideration which is assessed below.

### *Daylight and Sunlight*

4.86 It is also necessary to consider the impact of the proposed development on the future sunlight and daylight conditions for residents of Baryta House and the closest residents of Baxter Avenue within Catherine Lodge. There are specific British Standard guidelines for assessing daylight and sunlight impacts of new development (BR209). These guidelines are not mandatory but offer guidance on how to assess the impact of a development proposal on existing and proposed residents and they make recommendations as to what might be considered acceptable. These guidelines recommend measurements for changes in:

- Vertical Sky Component (VSC) which is a measure of the amount of sky visible from a centre point of a window.
- No Sky Line (NSL) which is a measure of the distribution of light within a room including determining the point at which there is no view of the sky
- Annual Probable Sunlight Hours (APSH) which is a measure of how much sunlight a window can receive
- Overshadowing diagrams for various point throughout the year.

### *Daylight and Sunlight Impact on Baryta House*

4.87 The previous application reference 18/00978/FULM was refused because it was considered that the impact on the daylight of residents of Baryta House was severe and unacceptable (see reason for refusal 01 in Section 1 above). In order to reduce this impact and address this concern the design of the proposal and in particular the scale of the northern rear wing has been reduced from 10 storeys (34.2m) to 8 storeys (26.4m) rising to 9 storeys (30m). The car park podium has been cut back in the north west corner against Baryta House and the storey heights including the height of the plinth have also been reduced. The separation distances remain the same and are noted above.

4.88 An updated Daylight and Sunlight study has been carried out on the amended proposal. The scheme has been assessed in various scenarios including a comparison to the existing conditions of the existing open site, a comparison of the difference to the impact from the Portcullis House building which formerly occupied the site, and a comparison with a 'mirror/reflection of Baryta House' which has been set 12m off the shared boundary. (In cases where there is no existing building, a mirror of the neighbouring building set at an appropriate separation distance is commonly used as a guide to what would reasonably be expected in terms of character and streetscene.) The results of these comparisons in terms of failures against the BRE guidelines can be summarised as follows:

	Daylight Indicators		Sunlight Indicator
	>30% loss in VSC	>30% loss in NSL	>30% loss in APSH
Proposal vs open site	74/ 152 or 49%	35/137 or 25%	4/137 or 3%
Proposal vs previous Portcullis House	35/152 or 23%	32/137 or 20%	4/137 or 3%
Proposal vs mirror of Baryta House + 12m offset to boundary	4/152 or 3%	11/137 or 8%	0/137 or 0%

- 4.89 The report also assesses the change in impact over the previously refused scheme. This confirms that 148/152 (97%) of windows in the south façade of Baryta House will experience an improvement in VSC as compared with the previously refused scheme. It also highlights that the majority of windows on the ground and first floors, 16 in total, which were and are the most affected by the proposed development, will receive a greater than 20% improvement in VSC than the previously refused proposal. Only 4 of 152 windows (2.6%), will not see any benefit from the amendments proposed because they are located under the overhang to Baryta House or on the corner with the front elevation facing Victoria Avenue. The report confirms that no windows have a worse VSC impact.
- 4.90 Similarly, the results of the 'No Skyline Test' show that 43 out of 137 rooms will also experience an improvement of greater than 20% as compared to the previously refused scheme. It also confirms that, as with the previous scheme, according to BRE Guidelines, the proposal does not prevent an unacceptable level of sunlight reaching the residents of Baryta House. The study considers the reduction in impact on daylight as compared to the previously refused scheme to be significant and the impact acceptable in this urban context.
- 4.91 The results of this study show that when compared to the existing situation (the open site) the scheme would still give rise to significant number of failures in relation to VSC, a lesser level of failures in relation to NSL and have very little impact on sunlight. However the level of failures significantly drops off when compared to the previous Portcullis House building or the mirror scheme. The report also demonstrates that there has been a significant improvement when compared to the previously refused scheme. It is expected that, for a scheme of this magnitude, there will always be a degree of failure against the BRE guidelines which are not mandatory. Indeed the Daylight and Sunlight Report comments that *'were a scheme to be designed to fully adhere to the BRE guidelines it would be a low rise building with a triangular shape and form alien to the streetscene.'* In support of the proposal the Daylight and Sunlight Consultant has also provided a list of similar proposals for large buildings in urban streetscapes in other locations outside the Borough where a similar degree of loss was found to be acceptable.



- 4.92 It is acknowledged that a low rise building would not fit comfortably in the streetscene and would not achieve the regeneration benefits of the site. Indeed the BRE guidelines themselves comment that *'in an area with modern high rise buildings a higher degree of obstruction may be unavoidable in new developments are to match the height and proportions of existing buildings'* It is therefore necessary to determine if this level of impact is acceptable.
- 4.93 In making this assessment all factors needs to be weighed up and a balanced judgement needs to be made. This includes the level of impact, the existing site conditions, what type of development would best fit with the character of the area and be expected in this location and any other public benefits of the scheme.
- 4.94 It is noted that Baryta House currently enjoys an open aspect to the south where it faces onto a large surface car park. The rooms within Baryta House which face the development site therefore currently enjoy unusually high levels of daylight and sunlight as compared to other blocks in Victoria Avenue. To maintain this high level of light is considered to be unrealistic. It is also considered that in townscape terms and to assist with the repair of the streetscene, the wider regeneration of the area and the provision of housing, a key Government objective, a building of a similar scale to the surrounding developments should be sought in this location. It is also noted that, contrary to the previous application, at the time of writing no objections have been received from Baryta House in relation to the impact on daylight and sunlight.
- 4.95 The Councils Environmental Health Service met with the Daylight Consultant to discuss how amendments could reduce the impact on Baryta House and has reviewed the amended scheme and Daylight and Sunlight Report. He considers that, whilst the level of failures is still relatively significant, there has also been a noticeable improvement over the previously refused scheme. Having worked on similar schemes in other areas he considers that, in this case, the characteristics of the site and the public benefits of the proposal in terms of regeneration and the provision of housing, can, on balance, be considered to justify the level of failures proposed.
- 4.96 Overall therefore, it is considered that the regeneration and public benefits of the proposal, on balance, justify the impact on the daylight and sunlight to residents of Baryta House and the amended proposal has overcome the reason for refusal 01. The proposal is therefore acceptable and policy compliant in this regard.

#### *Overlooking, Daylight and Sunlight Impact on Catherine Lodge*

- 4.97 The next nearest residential properties are Catherine Lodge to the west of the site on the west side of Baxter Avenue. Catherine Lodge is 74m from the rear of the proposal and 101m from the closest habitable room window. The submitted Daylight and Sunlight Assessment concludes that there would be a very minimal impact on the residents of Catherine Lodge and the separation distances are considered to be sufficient to ensure that the proposal will not have a detrimental impact on the amenities of residents of Catherine Lodge.

- 4.98 The Council's Environmental Health Officer agrees that the impact on the Daylight and Sunlight to rooms within Catherine Lodge will be minimal and can be considered acceptable.

*Impact on other neighbouring buildings*

- 4.99 No other residential properties are materially affected by the proposal. The remaining buildings around the site are commercial including Alexandra House to the south which is 8.7m to the boundary and 43m to the main building and Cumberland House to the west which is 15.6m from the rear elevation.
- 4.100 The nature of the development and the separation distances are such that it is considered that the proposal would not have a detrimental impact on the amenities of the adjacent commercial buildings.

*Noise*

- 4.101 As noted above a noise assessment was submitted with the application but did not consider the potential noise from the A3/A4 uses which could form part of the development as the proposal is seeking classes A1/A2/A3 or A4 for the ground floor units. This aspect of the proposal has the potential to impact on neighbouring residents in particular those within Baryta House closest to the front of the site.
- 4.102 The site is within a town centre location where mixed uses are expected and the proposed uses are acceptable in principle. It is therefore considered that this aspect of the proposal could be controlled by planning conditions requiring an additional noise assessment to be undertaken and any recommended mitigation measures implemented in relation to the fit out of the commercial units. It is also considered that noise from any outside dining proposed in future could be also controlled by conditions relating to hours of use. Subject to these conditions, this aspect of the proposal is considered to be acceptable and policy compliant.
- 4.103 A Planning condition is also needed to require the submission of a construction management plan and to enable the Council to control the impact on neighbours arising from construction noise and other associated environmental considerations.
- 4.104 Overall, therefore, it is considered that the amended proposal has overcome the previous reason for refusal relating to the impact on the daylight of residents in Baryta House. All other impacts on the surrounding neighbours have also been found to be reasonable and the proposal is acceptable and policy compliant in this regard.

**Traffic and Transportation**

**National Planning Policy Framework (2018), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) Policy CP3, Policy DM15 of the Southend-on-Sea Development Management Document (2015), Policy PA8 of the SCAAP (2018) and the Design and Townscape Guide (2009)**

- 4.105 Policy CP3 of the Core Strategy seeks to widen travel choice and improve road safety. Policy DM15 states that *'Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.'*
- 4.106 In relation to parking, Policy DM15 of the Development Management Document states that one off-street parking space should be provided for each dwelling however it notes that *'Residential vehicle parking standards may be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/ or where the rigid application of these standards would have a clear detrimental impact on local character and context.'*
- 4.107 In relation to parking for new commercial development in the town centre Policy DM15 seeks a maximum of 1 space per 18sqm for A1 food retail, a maximum of 1 space per 35sqm for A1 non-food retail, a maximum of 1 space per 30sqm for A2 uses and a maximum of 1 space per 6sqm for A3 or A4 uses.
- 4.108 Policy PA8 requires new development in this section of Victoria Avenue to fully integrate with the surrounding area through the provision of pedestrian and cycling routes, to improve access and linkages.
- 4.109 Policy DM15 requires new residential flats to provide a minimum of 1 secure cycle space per unit. Additional cycle spaces are required to serve the commercial units.
- 4.110 Policy DM15 requires all major developments to accommodate servicing and emergency vehicle access.

#### Access

- 4.111 It is noted that there are a full range of facilities, amenities and services including a variety of public transport modes within walking distance of the site. It is therefore recognised as being in a very sustainable location.
- 4.112 The proposal site is accessed from the Victoria Avenue service road which runs parallel to the main carriageway. The existing car park has two points of entry with single width crossovers. It is proposed that the positioning of these be amended to serve the development. Two accesses to the car park are proposed. Both will be two way. The northern access is set within the site. The southern access is ramped and runs under the second floor amenity terraces. Two laybys are proposed on the street at the front of the site to enable servicing of the building including the commercial units and emergency access.
- 4.113 The Council's Highways Officer has no objections to the proposed accesses and loading arrangements subject to the developer paying for the amendment of the service road to provide the loading bays and for the alteration of the traffic regulation order. This would need to be secured through the S106 agreement.

### *Traffic generation*

- 4.114 A Transport Assessment has been submitted with the application. This considers the traffic impacts arising from the proposal as compared with the existing situation. This report comments that the TRICS analysis has revealed that the proposed development is likely to lead to a decrease in vehicle movements on the local road network as compared to the existing use as a car park and it therefore concludes that the proposal would not have a material impact on the highways network. The Council's Highways Officer agrees with this conclusion.

### *Car Parking*

- 4.115 The proposed development provides parking for 174 vehicles including both 2 spaces for the commercial units and 22 disabled parking spaces, which equates to 0.8 spaces per unit. This falls below the 1:1 parking standards. In justifying the case for reduced parking provision the Transport Assessment comments that the central area has a much lower car ownership with 48.6% of households not owning a car at all as compared to 27.3% for the Borough as a whole and a significantly lower ownership of cars overall. On this basis it has calculated that the parking requirement for the development should be 0.67 per unit. A greater provision of 0.8 cars per unit is proposed. On this evidence and given the very sustainable location of the site close to Victoria Station and the bus interchange and the parking restrictions in force in the surrounding area it is considered that a reduction from 1:1 parking to 0.8 is justified. The Council's Highways Officer has no objection to this element of the proposal, however, he comments that the provision of a Travel Plan and Travel Packs for future occupiers should be secured via a S106 agreement to provide information and incentives to occupiers to use public transport. These should also include information on car clubs, electric vehicle charging and cycle hire.
- 4.116 The Car Park Management Plan states that the proposal will also include electric charging points although no numbers are given and these are not identified on the plan. The inclusion of electric charging points is in line with policy PA8 and is welcomed. It is considered that the number and location could be agreed by condition if the development was found to be acceptable in all other regards.

### *Cycle Parking*

- 4.117 Space for 217 cycles, 1 per residential unit, is proposed at ground floor within the building in two locations. The plans show these locations to be convenient and secure for users. This element of the proposal is therefore considered to be acceptable and policy compliant. No cycle parking is proposed for the commercial units however it is considered that there would be scope for additional cycle stands to be located on or within the vicinity of the site and the developer has indicated that they are willing to provide this. This could be secured by condition if the development was found to be acceptable in all other regards.

### *Servicing/ refuse*

- 4.118 Residential refuse storage is provided at two locations within the ground floor of the front block at either end of the development with access to the street for collection. The Council's Waste Management Officer has no objections to the proposed residential waste provision which is in accordance with Council guidelines.
- 4.119 A Waste Management Plan has been submitted. This contains information in relation to refuse management including storage and collection. This has been reviewed by the Council's Waste Management Section and Veolia and found to be acceptable. The implementation of this strategy can be secured via a condition.
- 4.120 It will also be necessary to ensure that the proposed service bays are suitable and available to accommodate a fully laden refuse freighter. It is considered that this can be achieved as part of the highways works and using the proposed amendments to the traffic regulation order to control use of the loading bay. These items would be covered in a S106 agreement.

#### *Pedestrian linkages*

- 4.121 The development has made provision for a new public pedestrian link along the northern edge of the site. This has the potential to link up with a similar provision in any future development to the west of the site improving the east west permeability of the area. This is in line with the policy aspirations for this area and is welcomed. The landscaping plan provides some indicative detailing in respect to the landscaping of this area. Full details of this including planting, paving, lighting and boundaries could be agreed by condition.

#### *Construction*

- 4.122 Given the scale and location of the development it will be necessary for a construction management plan to be submitted to ensure that the free flow of traffic is not disrupted and to control dust and nuisance during construction. This can be required by a pre commencement condition.
- 4.123 Having regard to the applicant's detailed application and the information supplied with their Transport Assessment and other supporting documents, it is considered that overall the proposal will not have a detrimental impact on the local highway network. Therefore no highway objections are raised. The applicant will be required to enter into the appropriate highway agreement to carry out all work on the public highway. A financial sum associated with any Traffic Regulation Order deemed necessary in association with the highway works which would involve carriageway /footpath re-alignment, the creation of new site access and loading bays and physical measures and road markings can be covered by a Section 106 agreement.
- 4.124 Overall therefore the traffic and highways implications, including car parking, is acceptable and policy compliant in this regard.

## Sustainable Construction

### **National Planning Policy Framework (2018), Policy KP2 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM2 of the Southend-on-Sea Development Management Document (2015) and the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.125 Policy KP2 of the Core Strategy states that *“All development proposals should demonstrate how they will maximise the use of renewable and recycled energy, water and other resources. This applies during both construction and the subsequent operation of the development. At least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources), such as those set out in Design and Townscape Guide”*.
- 4.126 The submitted proposals are supported by an Energy Statement which states that it is the intention to install 65025kwh of photovoltaic arrays on the roof to provide renewable energy for the development. The strategy has also applied a ‘be lean’ and ‘be clean’ approach to the build which is stated to reduce the overall demand for energy and therefore the renewable energy requirement will be reduced. The report concludes that the renewables will provide a 16.58% reduction in energy demand for the development. This is acceptable and policy compliant and its implementation can be secured by condition.
- 4.127 The site is located in Flood Risk Zone 1 (low risk). Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 4.128 A Drainage Strategy has been submitted with the application. This concludes that the soil conditions at present, which include compacted hardcore and London clay, are such that infiltration is unviable therefore it is proposed to utilise the existing surface water connections to the public sewer located in Victoria Avenue. Anglian Water has previously confirmed that this sewer has capacity for this scale of development at the restricted discharge rate proposed. In order to ensure a restricted discharge in times of high rainfall, attenuation measures including underground geocellular storage tanks are proposed beneath the undercroft parking area. The drainage strategy also states that the floor levels of the building will be set at 150mm higher than the car park level to prevent flood water entering the building. The Council’s Drainage Engineer is supportive of this approach but considers that further details need to be submitted in relation to infiltration testing, the location of manholes, how 1 in 100 year event exceedance flows will be managed and future management and maintenance. It is considered that these requirements can be secured via a condition.
- 4.129 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. This can be secured by condition.

4.130 In summary, subject to imposition of conditions the sustainable construction implications would be acceptable and policy compliant.

### **Other matters**

#### *Archaeology*

4.131 The Archaeology desk top study submitted in support of the application concludes that the site has a low theoretical archaeological potential and does not identify any need for additional mitigation measures. The Council's Archaeology Curator agrees with this recommendation.

#### *Landscaping, Biodiversity and Nature Conservation*

4.132 The NPPF states that the planning system should contribute to and enhance the natural environment including protecting biodiversity. Planning decisions must therefore prevent unacceptable harm to biodiversity and impose adequate mitigation measures where appropriate. The site itself has no ecological designation.

#### *Landscaping*

4.133 An indicative landscaping scheme has been submitted with the proposal which includes 6 areas of roof/podium gardens, landscaping to the front and north side of the site, climbing plants against the edges of the car park podium to provide additional softening and 2 brown roofs to the front of the site. The proposal has also made a commitment to additional landscaping in the public realm close to the site as part of the S106 contributions. Full details of planting have not been provided at this stage, but the indicative landscaping scheme appears to be well designed and appropriate to the scale of development proposed and should achieve a good balance of soft and hard landscaping as well as making a positive contribution to the amenity and biodiversity of the site. Full details of the landscaping scheme including landscape design features, planting specifications and a 5 year management plan can be secured via condition. The landscaping proposals are therefore considered acceptable and policy compliant in this regard.

#### *Biodiversity and Nature Conservation*

4.134 An ecologist's Phase 1 habitat survey has been carried out in support of the application. The site is not subject of any statutory ecological designations. On the basis of field observations the ecological report concludes that the site is of low nature conservation importance. It recommends that there are opportunities to increase the biodiversity of the site in terms of its landscaping.

- 4.135 Natural England have commented that the site is located within the Zone of Influence for the emerging Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy. They comment that without mitigation, new residential development in this area and of this scale is likely to have a significant effect on the sensitive interest features of these coastal European designated sites through increased recreational pressure when considered in combination with other plans and projects. As such Natural England advises that a Habitats Regulations Assessment to secure any necessary mitigation should be undertaken.
- 4.136 An Appropriate Assessment Habitat Regulations Assessment has been submitted. This report concludes that the development at Victoria Avenue is fully compliant with the UK and EU law and the development will not cause any net loss of existing habitat that supports biodiversity. It confirms that enhancements to boost biodiversity will be included within the landscaping scheme. It also notes that there are limited opportunities for mitigation measures within the site itself. The report recognises that the development may generate some local recreational or visitor pressure on European sites, but this will be compensated by the payment so it therefore suggests that the solution is to negotiate a suitable amount of money which can go towards protection, management and education regarding the EU sites within the Borough. This payment will be used to provide new habitat or restore degraded habitat for the benefit of the qualifying species or go towards the management of the nature reserves to cancel out any potential impact as a result of this development. The Council has suggested a contribution of £50 per unit. This has been agreed by the agent and can be secured via the S106 agreement.
- 4.137 Given the findings of the appropriate assessment report submitted and subject to a planning obligation requiring a payment towards biodiversity mitigation, management, protection and education to compensate for any impact resulting from increased recreation or visitor pressure from the development on European Protected sites, the development is acceptable and policy compliant in this regard.

#### *Contaminated Land*

- 4.138 The site has been in use as a commercial car park so a Phase 1 Contamination Desk Study and Preliminary Risk Assessment has been undertaken in support of the application to consider the potential for contamination on site. This assessment concludes the site has been assessed as having a moderate risk of contamination arising from possible made ground following the demolition of the previous building; fuel spills associated with the car park use and electrical substation and associated contaminants. The report recommendations advise that further soil testing and gas monitoring is warranted.
- 4.139 It is considered that conditions could be imposed to require the recommendations in the report to be undertaken including further soil testing and any associated remediation of the land prior to the commencement of development. This aspect of the proposal is therefore considered to be acceptable subject to this pre commencement condition.



## Planning Obligations

**The National Planning Policy Framework (2018) and Planning Practice Guidance (NPPG), Southend Core Strategy (2007), policies KP3, CP7 and CP8; Development Management Document (2015) policy DM7 and A Guide to Section 106 & Developer Contributions (2015)**

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

- (a) Necessary to make the development acceptable in planning terms;*
- (b) Directly related to the development; and*
- (c) Fairly and reasonably related in scale and kind to the development.*

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

4.142 The National Planning Practice Guide makes it clear that *‘Where local planning authorities are requiring affordable housing obligations or traffic style contributions to infrastructure, they should be flexible in their requirements...On individual schemes applicants should submit evidence on scheme viability where obligations are under consideration.*

4.143 Core Strategy Policy KP3 requires that:

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

*2. Enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed.*

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

4.144 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.*

- 4.145 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”
- 4.146 A development of this scale would require the provision of 30% affordable housing as Policy CP8 of the Core Strategy states that the Council will ‘*enter into negotiations with developers to ensure that...all residential proposed of 50 dwellings or 2 hectares or more make an affordable housing or key worker provision of not less than 30% of the total number of units on the site.*’ As such the development would require the provision of 65 affordable units to meet that proportion.
- 4.147 The developer is proposing a reduced affordable housing provision on viability grounds. 22 units of intermediate affordable housing (14 x 1 bed, 8 x 2 bed) are proposed which equates to 10% of the total units. As discussed in paragraph 4.30 above the independent viability appraisal recommends that this level of affordable housing is accepted, however it also recommends that a review mechanism be included in the S106 agreement to enable another appraisal of the viability to be undertaken at an agreed point during the construction of the development to determine if the viability of the project has improved and whether an additional contribution to affordable housing should be sought. The principle of this has been agreed with the agent. The detailed content and structure can be formally captured within the S106 Legal Agreement.
- 4.148 The Education Team has confirmed that a contribution of £145,432.29 would be required for Chase High School expansion to mitigate the impact of this development. This has been agreed in principle with the agent.
- 4.149 It is considered that the requirement to include the provision of a pedestrian link from the site to Baxter Avenue and other public realm works in the vicinity of the site could be satisfactorily controlled through the S106 agreement were the proposal otherwise acceptable.
- 4.150 The S106 agreement would also secure the costs of amending the Traffic Regulation Orders to the front of the site, the provision of travel packs and travel plan monitoring and to secure a payment towards the mitigation of the development on European nature sites.
- 4.151 The S106 contributions can therefore summarised as:
- 22 units of affordable housing (14 x 1 bed and 8 x 2 bed) all of which constitute shared ownership and an affordable housing review mechanism.
  - £145,432.29 contribution towards secondary education
  - Costs associated with any Traffic Regulation Order deemed necessary in

association with the highway works and costs associated with providing loading bays.

- The provision of Travel Packs for residents and commercial operators and Travel Plan Monitoring.
- £10,850 towards biodiversity mitigation, management, protection or education.
- Costs associated with public realm works on the highway to the front of the site, including the provision of visitor cycle racks within the highway and securing public access to the northern side of the site.

4.152 The above addresses the specific mitigation for the proposed development for matters not addressed within the Regulation 123 Infrastructure List covered by the CIL payment.

4.153 The contributions noted above are considered to meet the tests set out in the CIL Regulations 2010. Without these contributions the development could not be considered acceptable. A draft S106 agreement is currently being prepared but at the time of report preparation has not been formally agreed or completed. The recommendation of this report seeks committee approval subject to the completion of this agreement.

### **Community Infrastructure Levy**

4.154 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 proposed development includes a gross internal area of approximately 24541.48 sqm, which may equate to a CIL charge of approximately £587304.29 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the "in-use building" test, as set out in CIL Regulation 40, may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount. Since part of the development would be for affordable housing the applicant can apply for an exemption for those areas.

## **5.0 Conclusion**

5.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle and mix of units is found to be acceptable taking into account the history of the site and current housing need. The proposal would provide adequate amenities for future occupiers and the character and appearance of the application site, the street scene and the locality more widely. The biodiversity and highways impacts of the proposal are considered to be acceptable and the scheme includes appropriate planning obligations.

5.2 In relation to the impact on neighbours, which previously constituted a reason for refusal, it is noted that the amended proposal has significantly reduced this impact such that the public benefits of the scheme can now be considered to justify the impact of the proposal on neighbour amenity and the proposal has overcome the reasons for refusal of the original scheme.

It is therefore recommended that Members grant planning permission subject to conditions and the completion of a Section 106 legal agreement.

## **6.0 Planning Policy Summary**

- 6.1 National Planning Policy Framework (2018) : Achieving sustainable development,
- 6.2 Core Strategy (2007) Policies- Key Policies, KP1 (Spatial Strategy); KP2 (Development Principles); KP3 (Implementation and Resources); CP1 (Employment Generating Development); CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility); CP4 (The Environment and Urban Renaissance); CP6 (Community Infrastructure); CP8 (Dwelling Provision).
- 6.3 Development Management Document (2015) Policies: Policy DM1 – Design Quality; Policy DM2 – Low Carbon Development and Efficient Use of Resources; Policy DM3 – Efficient and Effective Use of Land; Policy DM4 – Tall and Large Buildings, Policy DM5 – Historic Environment; Policy DM7 – Dwelling Mix, Size and Type; Policy DM8 – Residential Standards; DM10 – Employment Sectors; Policy DM11 – Employment Areas; Policy DM15 – Sustainable Transport Management.
- 6.4 Southend and Central Area Action Plan (SCAAP) (2018). Policies PA8, DS2 and DS3.
- 6.5 The Southend Design & Townscape Guide (2009).
- 6.6 CIL Charging Schedule (2015), Regulation 123 List
- 6.7 National Housing Technical Standards (2015)

## **7.0 Representation Summary**

### **Airport Director**

- 7.1 Our calculations show that, at the given position and height, the proposal will have no effect upon our operations. We therefore have no safeguarding objections.

The following informative recommended:

*'If you require a crane or piling rig to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with the Airport Authority. Any crane applications should be directed to [sam.petrie@southendairport.com](mailto:sam.petrie@southendairport.com) / 01702 538521.'*

### **Traffic and Highways**

- 7.2 217 dwellings are proposed for the development, 174 residential parking spaces have been provided which include 22 accessible parking spaces. 217 secure cycle spaces have been provided. 2 external commercial parking spaces are also provided.

Residential / Commercial car parking spaces located on the ground and first floor are accessed directly from Victoria Avenue Service Road as will the secure cycle parking. The applicant will be required to enter into the appropriate highway agreement. Entrance to the parking areas will have a height restriction of 2.6m to allow for larger vehicles and the car park layout has been designed to ensure the vehicles can manoeuvre effectively. Electric charging points will also be provided.

Commercial servicing will be undertaken from a dual loading and parking bay to the front of the site. Loading will be restricted to ensure that the operational movements do not impact on the public highway or impact on refuse collection. The applicant will be required to fund the traffic regulation order for the conversion of the existing bays. Refuse access doors should not open out over the public highway.

The site is located with the central area of the town and is in a highway sustainable location with good access to public transport links in close proximity. Rail, Bus and Cycle routes are all readily available. Local amenities are also with a short walking distance from the site.

Travel Packs should be conditioned and are to include free travel tickets for bus and rail, free sign up to Motionhub.org which is the car club and bike hire scheme in Southend and to include some free hours for the car club vehicles and hire bikes.

The applicant is also encouraged to provide car club vehicles that the residents can hire. The car club company that Southend Council use is Ecar, which is part of the Motionhub scheme. There are a number of car club vehicles around the town that the development can use and market as part of their Travel Packs and Travel Plan.

The applicant has also provided a travel plan within the application. The applicant will be required to carry out effective monitoring of the travel plan provided. This should be conditioned and agreed with the Travel Engagement Manager.

The applicant has provided a comprehensive Transport Assessment and has used TRCIS analysis and Census information to inform the impact of the development on the public highway. The Transport Assessment has also taken into considered the existing use of the site which currently is a 162 vehicle car park. The Transport Assessment has demonstrated that the proposal will not have a detrimental impact on the public highway and surrounding areas.

The applicant will be required to provide a construction phase plan for the construction phase of the development to ensure that the public highway and the free flow of traffic is not disrupted. This should be conditioned.

Having reviewed the application there are no highway objections to the proposal.

## **Waste Management**

- 7.3 The Council Waste Team and Veolia have reviewed the proposal and consider that there is access for the bin vehicles to pull up on Victoria Avenue (as indicated by the Service Vehicle Zones in Fig 3.2 and 3.1) to stop to empty the 45 eurobins. The access to the bins stores is therefore acceptable. It will however be important to ensure that there is unimpeded access on collection day and the ability for the vehicles to be stationary for quite some time for that volume of bins to be emptied.

It would also be beneficial to have an understanding about how the developer could assist Veolia with promoting and encouraging recycling once residents start to move in.

**[Officer Comment: The lack of a dedicated commercial bin store is noted but it is considered that there is space for this to be accommodated at ground floor and that details of this could be secure via a condition. It is also considered that, if the development were otherwise found to be acceptable, a condition could be imposed to require the submission of a waste management plan to cover the points raised above.]**

### **Environmental Health**

#### 7.4 *Contamination*

Phase 1 Site Investigation & Preliminary Risk Assessment Report No. CON001-VICT-055 of November 1, 2017 has been reviewed and is summarised as follows:

1. The report stated that the site is currently used as a car park following the demolition of previous building on the site.
2. The investigation has identified a number of potential sources of contamination; plausible pathways and likely receptors on the site; therefore pollutant linkages exist.
3. In order to make the site suitable for the proposed development, I recommend that the following conditions be attached to any planning permission.

#### Recommended Conditions

- A. Instructive investigation (Phase II Site Investigation) must be undertaken in order to quantify the risks identified by the Phase 1 investigation. The investigation must be undertaken in accordance with the scope of work outlined in the Phase 1 report. The Phase II report must be submitted to the LPA for approval
- B. Where the risk assessment identifies any unacceptable risk or risks, a detailed remediation strategy to deal with land contamination and /or pollution of controlled waters affecting the site shall be submitted and approved by the LPA. No works, other than investigative works, shall be carried out on the site prior to receipt of written approval of the remediation strategy by the LPA.
- C. A validation report for the site remediation shall be submitted to, and agreed in writing by the LPA before completion of the development or occupation of the premises (whichever comes first).

- D. If, during the development, land contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further works shall be carried out until a method statement detailing a scheme for dealing with suspect contamination has been submitted to and agreed in writing with the Local Planning Authority

Reason: To ensure that land contamination can be dealt with adequately prior to the use of the site hereby approved by the Local Planning Authority.

#### Recommended Informatives

1. 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.

#### *Noise implications*

The Environmental Noise Assessment by Stansted Environmental Services dated 15/11/2018 and additional information dated 14/11/2018 – Plant Noise Assessment has been considered. The report recommends a specification of Rw 32 + Ctr and Dnew +Ctr 32 for Ventilation and a glazing specification of 10mm/6-16mm/6mm of Rw 32 to all habitable facades to meet BS 8233:2014 internal noise levels so as mitigate the impact of external noise. Subject to these recommendations the contents of the report is satisfactory for planning permission to be considered.

An additional noise impact report may be required depending on the future use of the retail units. Details of this should be conditioned.

#### *Daylight and Sunlight Implications*

##### Sunlight

A review of the results shows that the impact on Baryta House in terms of sunlight is minimal.

##### Daylight

Following the previous refusal a meeting was held with the agent to discuss the daylight impact in more details. The scheme has now been amended to reduce the impact on Baryta House. Southend Council applies the BRE guidelines in reviewing this application. The submitted daylight report shows that there is still impact on Baryta House in terms of daylight (VSC & NSL). Daylight still does not meet BRE guidelines on the 1st Floor of Baryta House with up to 40% loss. However, the proposed scheme is an improvement when compared to the refused scheme (18/00978/FULM). It is also noted that the occupants of Baryta House currently enjoy a direct view over the car park which is a temporary arrangement and gives rise to unrealistically high levels of daylight at this time.

It is also noted that the owner of Baryta House has not objected to the revised scheme to date, the Council has only one objection from a Baryta House resident which is mainly to do with future construction noise which will be covered by planning conditions and other legislation. (An informative under COPA 1974 (Sec 61) is recommended in respect of this issue.)

There are no comparable developments in Southend with similar daylight considerations to this but the agent has provided examples of other schemes where a similar impact on daylight has been considered acceptable. EH has reviewed these and in particular 225 City Road, London which is a tall building in a similar streetscape situation on a vacant site. In this case it was considered that a loss of up to 40% of daylight was partly due to the vacant site, that the response to townscape was reasonable in scale terms and the other substantial public benefits of the scheme including the regeneration of the area and housing provision were taken into consideration. These same issues are relevant to the current proposal. EH therefore considers that planning permission can be considered acceptable in this instance.

*Recommended conditions and informatives*

- Construction hours restricted to 8am – 6pm Monday to Friday, 8am -1pm Saturday and not at all on Sundays or Bank Holidays.
- During any construction and demolition, no burning of waste material on site. **[Officer Comment: This is controlled by separate legislation.]**
- The impact of the A3/A4 use on the proposed residential units in terms of noise/odour nuisance from the extract system needs to be conditioned.
- This site will require a COPA 1974 (Sec 61) Agreement with SBC before construction can begin.
- Recommendations in noise impact report to be implemented

**Strategic Housing**

7.5 *Affordable Housing Provision*

Unit Summary

	Flats			
	1 Bed	2 Bed	3 Bed	Total
<b>Scheme</b>	55	149	13	217
<b>Proposed AH</b>	14	8		22
<b>Required AH</b>	25	26	15	66

Core Strategy Policy CP8 provides the guidance on the affordable housing threshold for residential developments. This is summarised below:

- 10 to 49 units or 0.3 to 1.99 hectares = 20%,
- 50+ units or 2+ hectares = 30%

The application states that it would only provide 10% affordable housing contribution therefore this development does not comply with this requirement.



### *Affordable Housing Dwelling Mix*

In terms of dwelling mix the Strategic Housing Team will take into consideration Policy DM7 which outlines the Council's affordable dwellings mix. Furthermore, the current housing need as evidenced by the Council's Housing Register data is also taken into consideration when assessing proposed dwelling mixes.

With the aforementioned in mind the following represents the Strategic Housing Teams preferred dwelling mix:

	<b>AH required</b>		<b>Proposed</b>	
	<b>%</b>	<b>No</b>	<b>%</b>	<b>No</b>
1 bedroom	39	25	64	14
2 bedroom	39	26	36	8
3 bedroom	23	15		0
Total		66		22

### *Affordable Housing Tenure*

As indicated in Development Management Document Policy DM7 we would request tenure mix of 60:40 in regards to the affordable housing provision (60% rented, 40% intermediate housing). The application sets out the below tenure mix for the affordable housing.

<b>AH Units:</b>	<b>Exact</b>	<b>Rounded</b>	<b>AH Proposed</b>
Total	65.1	66	22
AR (60%)	39.06	40	0
SO (40%)	26.04	26	22

This application doesn't therefore comply with the requirement to provide an appropriate tenure mix for the affordable housing contribution (see viability re comments on tenure).

### *Affordable Housing: Scheme Design*

Registered Providers often prefer separate cores or floors for different tenures for management and service charge reasons. There appears to be the opportunity to provide the affordable housing element in this manner (isolate tenures by floors).

We recommend that the applicant contacts Registered Providers urgently to determine both their interest in the units and how the current design may be affected by their requirements. The Council is mindful that affordable housing should not be designed out of schemes.

Each affordable housing unit must meet their respective size standard as outlined in the "technical housing standards – nationally described space standard"

## *Viability*

At the time of writing the Council is currently undertaking a viability review. Whilst we have not had sight of this report, we anticipate the review to accept the applicant's position in light of the previous viability for the 228 unit scheme.

With the aforementioned in mind, the Strategic Housing Team is minded to accept the offer of 10% affordable housing subject to the completion of the viability review.

Weston Homes affordable housing offer (10%) is comprised of 100% shared ownership dwellings. There has been a significant number of shared ownership dwellings in this area over the last eighteen months, some of which remain on the market. Furthermore the Council has a substantial need for affordable rented dwellings (particularly 1 and 2 bedroom) as evidenced by the Housing Register composition (see appendix).

However it is our preference to see Affordable Rented dwellings. To this end we have asked for the viability consultant to assess the impact of 100% affordable rented tenure on viability, and to understand how much affordable rented could be provided whilst maintaining a comparable viability position.

**[Officer comment: The viability review has concluded that the scheme is unviable and it recommends that the offer of 10% shared ownership affordable units (22) be accepted. As requested the review considered the impact of replacing these with affordable rented units and found that this would equate to only 6 units (2.76%). It is considered that this is considerably less than the proposed number of shared ownership units and it is unlikely that an affordable housing provider would want to take on this few units in a scheme of this scale.]**

*Updated housing comments have been received following receipt of viability review which state:*

[Following review of the viability appraisal] The Strategic Housing Team is minded to accept the offer of 10% affordable housing in light of viability position which has been supported via the Council appointed viability review.

## **Natural England**

- 7.6 It has been identified that this development site falls within the 'Zone of Influence' (Zol) of one or more of the European designated sites scoped into the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).

As you will be aware, the Essex Coast RAMS is a large-scale strategic project which involves a number of Essex authorities, including Southend-on-Sea Borough Council, working together to mitigate the recreational impacts that may occur on the interest features of the coastal European designated sites in Essex as a result of new residential development within reach of them; the European designated sites scoped into the RAMS are notified for features which are considered sensitive to increased levels of recreation (e.g. walking, dog walking, water sports etc.) which can negatively impact on their condition (e.g. through disturbance birds, trampling of vegetation, erosion of habitats from boat wash etc.).

For further information on these sites, please see the Conservation Objectives and Information Sheets on Ramsar Wetlands which explain how each site should be restored and/or maintained.

In the context of your duty as competent authority under the provisions of the Habitats Regulations 2 , it is therefore anticipated that, without mitigation, new residential development in this location is 'likely to have a significant effect' on one or more European designated sites, through increased recreational pressure, either when considered 'alone' or 'in combination' with other plans and projects.

We therefore advise that you consider whether this proposal falls within scope of the Essex Coast RAMS. Where it does, you must undertake a Habitats Regulations Assessment (HRA) (Stage 2: Appropriate Assessment) to secure any necessary recreational disturbance mitigation and record this decision within your planning documentation. We have previously provided you with a suggested HRA Record template and associated guidance to help with this process where recreational disturbance to European sites is the sole HRA issue as appears to be the case in this instance (our ref: 244199, dated 16 th August 2018, template and guidance shown within APPENDIX 1 of this letter); the use of this template is not mandatory but we provided it in an attempt to streamline the process and make it as straightforward and consistent as possible for the authorities involved in the RAMS.

Having reviewed the planning documents for this application, it appears that you have not yet undertaken an HRA (Stage 2: Appropriate Assessment) to consider this issue. We therefore advise that you do so now using our suggested template and that you should not grant permission until such time as the HRA has been carried out and the conclusions confirmed in line with the our guidance. Please note that we will only provide further comment on your authority's HRA once completed and not a 'shadow' HRA provided by the applicant.

We note that this application includes a shadow HRA report (authored by Ecology Solutions and dated November 2018) that includes reference to our recent interim advice (our ref 244199, dated 16th August 2018). We anticipate the completion of your own assessment of the issues as Competent Authority (template Appropriate Assessment record previously provided with interim advice) and remind you that it is the Local Planning Authority, as Competent Authority, that has the duty to ensure that the proposed mitigation is sufficient, appropriate and proportionate.

Developments of this scale should include provision of well-designed open space/green infrastructure, proportionate to its scale. Such provisions can help minimise any predicted increase in recreational pressure to the European sites by containing the majority of recreation within and around the development site boundary away from European sites

We advise that the Suitable Accessible Natural Green Space (SANGS) guidance can be helpful in designing this; it should be noted that this document is specific to the SANGS creation for the Thames Basin Heaths, although the broad principles are more widely applicable. As a minimum, we advise that such provisions should include:

- High-quality, informal, semi-natural areas

- Circular dog walking routes of 2.7 km within the site and/or with links to surrounding public rights of way (PRoW)
- Dedicated 'dogs-off-lead' areas
- Signage/information leaflets to householders to promote these areas for recreation
- Dog waste bins
- A commitment to the long term maintenance and management of these provisions

However, the unique draw of the above European sites means that, even when well-designed, 'on-site' provisions are unlikely to fully mitigate impacts when all residential development within reach of the coast is considered together 'in combination'. We therefore advise that consideration of 'off-site' measures (i.e. in and around the relevant European designated site(s)) is also required as part of the mitigation package for predicted recreational disturbance impacts in these cases.

As such, in the interim period before the RAMS is adopted, a financial contribution should also be agreed with and collected from the developer, prior to commencement, on the basis that it can be used to fund strategic 'off site' measures (i.e. in and around the relevant European designated site(s)). These measures should be targeted towards increasing the relevant European site(s) resilience to recreational pressure and be in line with aspirations of the emerging RAMS. As an example in this interim period, this could include funding towards existing wardening schemes at the relevant European designated site(s). A suitable delivery mechanism for the measures must be agreed to secure them and ensure they are implemented from the first occupation of dwellings.

**[Officer Comment: A HRA (Stage 2: Appropriate Assessment) has been undertaken and it is considered that the impacts of the development on the Essex Coast RAM can be mitigated by ensuring that the landscaping of the site has regard for improving biodiversity and by securing an offsite contribution to biodiversity mitigation, management, protection and/or education of the Essex Coast RAM. These will be achieved by planning conditions and the S106 agreement.]**

## **Education**

- 7.7 This application falls within the shared catchment area for Barons Court/Milton Hall Primary Schools and Chase High School. These schools have very limited places in all year groups. Primary places are available at an alternative primary school within DfE acceptable travel distance. All secondary schools within acceptable travel distance are oversubscribed. An expansion programme is currently underway within all the non-selective secondary schools in Southend and any further developments within the area, even flats, will add to this oversubscription. A contribution towards the expansion of Chase High Secondary School of £145,432.29 is therefore requested.

## **Archaeology (Southend Museum)**

- 7.8 The report is reasonable and covers all the issues necessary. It is very thorough and considers all of the HER data that the Council and Essex County Council

possess. The fine spots may indicate previous human occupation from the Palaeolithic period, but are not significant to warrant excavations. No further action is necessary.

### **Drainage Engineer**

- 7.9 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 small area towards the south of the site boundary which is identified at low risk (between 0.1% and 1% AEP) of surface water flooding. The site is not located in a Critical Drainage Area as defined in the Southend-on-Sea Surface Water Management Plan (SWMP, 2015). The British Geological Survey (BGS) susceptibility to groundwater flooding dataset indicates the site is located in an area of very low susceptibility to groundwater flooding. 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 1km to the south of the site.

Infiltration - Information provided within the SuDS Assessment Report indicates that the site is underlain by London Clay. No further information provided in relation to the superficial soils. The report states that a site-specific ground investigation is to be undertaken. Details regarding the potential for ground instability or deterioration of groundwater quality as a result of infiltration have not been provided.

Drainage Plan - A drainage layout plan (Drawing No.WH189/18/15.02), provided in Appendix C of the SuDS Drainage Assessment Report, includes details of the pipe sizes and gradients and invert and cover levels for the flow control manhole. A manhole schedule has been provided with details of the invert levels and depths for the remaining manholes. The drainage layout plan indicates the provision of 180m<sup>3</sup> of attenuation (geocellular tank-west 36m<sup>3</sup> geocellular tank-east 45m<sup>3</sup>, and the geocellular tank-south 99m<sup>3</sup>). However, the proposed volume does not account for the reservoir void (0.95) which is shown in the MicroDrainage Calculation sheet provided in Appendix C of the SuDS Drainage Assessment Report. If the reservoir void is accounted for, the total attenuation provided by the geocellular units would be 171m<sup>3</sup>. Furthermore, the invert levels in the MicroDrainage calculations sheet show the invert level of the geocellular tanks to be 26.500m which does not correspond to the invert levels (26.835m) indicated on the drainage layout plan. The drainage scheme proposes a connection the existing sewer network where runoff from the site is to be attenuated and discharged at 1.2 l/s to the public surface water sewer on Victoria Avenue. However, the drainage layout plan (Drawing No. WH189/18/15.02) also show a connection from the ACO Channel drain to Manhole S10 which is the outfall manhole connection to the existing sewer network. It should be noted that Manhole S10 is downstream of the flow control device indicated to be located at Manhole S9; therefore the discharge to the existing sewer network would be greater than 1.2 l/s. Applicant to confirm the invert level of the geocellular units and update the drainage layout plan and supporting calculations accordingly. Applicant to provide supporting calculations to verify the discharge rate from the ACO Channel drain to the outfall manhole S10.

Suds Design Statement - Section 2.2.11 of the SuDS Drainage Assessment

Report state Brown Roofs will be integrated into the drainage proposals.

However, no explanation was provided on how the Brown Roof design satisfies SuDS techniques in terms of water quality. It should also be noted that no information in relation to the attenuation provided by the Brown Roof was provided. The Drainage Design Checklist quotes that “that drainage proposal will remain private throughout the lifetime of the development. Maintenance costs will be covered by the service charges levied on the residents by the development management company as outlined in the SuDS Management plan. The setting out and levels plan (Drawing No.Wh189/18/15.01) provided in Appendix D of the SuDS Drainage Assessment Report shows the exceedance flow route onto Victoria Avenue (Service Road) . It is stated in Section 2.2.9 of the SuDS Drainage Assessment Report that the car park area can accommodate runoff generated from a 1 in 100 year plus 40% climate change allowance event before an overflow onto the access road would be experienced. The finished floor levels (FFLs) for the stores and commercial units on the ground floor are shown on the setting out and levels plan to be above the proposed levels within the car park. However, the FFL of the Electric Intake Room and Pump Room are shown to be the same as the adjacent car park area. Applicant to provide:

- Clarification of the invert levels of the Hydro-brake flow control device and geocellular units and update the supporting MicroDrainage calculations accordingly.
- Clarification on the attenuation provided by the proposed Brown Roof along with supporting calculations.
- Clarification on the proposed mitigation measures to prevent exceedance flood water from the car park area affecting the utility areas which have their proposed finished floor levels at the same level as the car park.

In response to queries raised in regard to how surface water will be handled during construction the Drainage Design Checklist states that “A Method Statement detailing how surface water arising during construction is dealt with will be supplied by our nominated contractor prior to construction starting. It is envisaged that surfaced will be contained within the site and utilise the existing outfall”.

SuDS Management Plan – This has been provided and states that access for the geocellular units will be provided via an access chamber located on each end of the tanks. Further, the rainwater pipes will be fitted with an access plate “located just above ground/floor level” to enable lateral pipes to be cleaned. It is also mentioned that the inspection chamber and flow control manhole covers will be freely accessible to maintenance workers. This is satisfactory.

Conclusion -

We do not object to this planning application subject to conditions being attached to any consent if this application is approved by the LPA. Prior to commencement of construction, in accordance with the SuDS Drainage Assessment (Document Ref: WH189 Revision C ,Victoria Avenue, November 2018) detailed design of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- a. Provide an assessment of suitability for infiltration, accounting for the

presence of constraints on infiltration SuDS, drainage potential, and the potential for ground instability or contamination as a result of infiltration. The applicant needs to include evidence that infiltration testing has been undertaken for the site and that they are compliant with BRE365 guidance. If infiltration is found to be viable an updated drainage strategy should be submitted along with information in relation to the potential for ground instability or deterioration in groundwater quality as a result of infiltration.

- b. Provide MicroDrainage calculations to demonstrate the hydraulic performance of the entire network, including the proposed pipe network, for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus 40% climate change, demonstrating that the maximum overall discharge from the site will be limited to greenfield runoff rate.
- c. Provide an updated drainage layout plan indicating the dimensions and storage volumes for all features, pipe sizes and gradients, manhole cover and invert levels, proposed discharge rates, flow controls and final discharge connection in accordance with the submitted calculations. Engineering plans should be provided for each of the SuDS and critical drainage elements, including the flow control features.
- d. Provide information on the provision of drainage for large storm events, including protection for SuDS systems. This should include clarification on the proposed mitigation measures to prevent exceedance flood water from the car park area affecting the utility areas which have their proposed finished flood levels at the same level as the car park.
- e. Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.
- f. Provide evidence of consent from Anglian Water to discharge at the proposed rate and connection point.
- g. Provide a site specific maintenance plan.

**[Officer Comment: it is considered that the required additional SuDS information including a management plan can be secured by condition as suggested by the Councils Drainage Consultant.]**

#### **Essex Police Architectural Liaison and Community Safety officer**

- 7.10 Essex Police has made the developer aware of the designing out crime comments which have been raised by Essex Police.

#### **National Grid**

- 7.11 Searches have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified.

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

**[Officer Comment: The developer is advised of this requirement in an informative.]**

## 8.0 Public Consultation

8.1 A site notice was displayed on 28<sup>th</sup> November 2018, a press notice published on 23<sup>rd</sup> November 2018 and 172 neighbours were individually notified. 1 letter of representation has been received which raises the following concerns:

- Concern over noise arising from construction of the development
- Concern over lack of GP practices to serve the development
- Concern over lack of parking for visitors as a result of the proposal

**[Officer Comment These concerns are noted and they have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.]**

## 9.0 Relevant Planning History

18/00978/FULM - Erect part 14/part 15 storey building comprising 228 flats with balconies to all elevations, roof terraces at second, tenth and eleventh floors to rear, form commercial units (Use Classes A1, A2, A3 and A4) at ground floor, layout 183 parking spaces at ground and first floor, install vehicular accesses on to Victoria Avenue, form loading bays, alterations to highway, public realm alterations and associated landscaping – refused

9.1 18/01205/FUL - Use site as a temporary car park – granted

9.2 13/00060/FUL - Application for variation of condition 01 to extend the time period to 01/02/2015 of planning permission 12/00322/FUL granted on 07/06/2012 for use of the site as a temporary car park following demolition – granted

9.3 12/00322/FUL - Use site as temporary car park following demolition – granted

9.4 11/01553/DEM - Demolish Portcullis House (Application for Prior Approval for Demolition) – granted

## 10 Recommendation

(a) **Members are recommended to GRANT PLANNING PERMISSION subject to completion of a PLANNING AGREEMENT UNDER SECTION 106 of the Town and Country Planning Act 1990 (as amended) and all appropriate legislation to secure the following:**

- **22 units of affordable housing (14 x 1 bed and 8 x 2 bed) all of which constitute shared ownership and an affordable housing review mechanism.**
- **£145,432.29 contribution towards secondary education**
- **Costs associated with any Traffic Regulation Order deemed necessary in association with the highway works and costs associated with providing loading bays.**
- **The provision of Travel Packs for residents and commercial operators and Travel Plan Monitoring.**
- **£10,850 towards biodiversity mitigation, management, protection or**



education.

- Costs associated with public realm works on the highway to the front of the site, including the provision of visitor cycle racks within the highway and securing public access to the northern side of the site.

(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 solely out in accordance with the approved plans: AA7218-2000-RevA, AA7218-2001-RevA, AA7218-2010-RevA, AA7218-2011-RevA, AA7218-2100-RevA, AA7218-2101-RevB, AA7218-2102-RevB, AA7218-2103-RevB, AA7218-2104-RevA, AA7218-2105-RevA, AA7218-2106-RevA, AA7218-2107-RevA, AA7218-2108-RevA, AA7218-2109-RevA, AA7218-2110-RevB, AA7218-2111-RevB, AA7218-2112-RevB, AA7218-2113-RevB, AA7218-2114-RevB, AA7218-2115-RevA, AA7218-2200-RevA, AA7218-2201-RevA, AA7218-2210-RevA, AA7218-2211-RevA, AA7218-2220-RevA, AA7218-2221-RevA, AA7218-2222-RevA, AA7218-2223-RevA, AA7218-2224-RevA, AA7218-2225-RevA, AA7218-2226-RevA, AA7218-2240-RevA, AA7218-2241-RevA, AA7218-2242-RevA, AA7218-2243-RevA, AA7218-2300-RevA, AA7218-2301-RevA, AA7218-2302-RevA, AA7218-2304-RevA, AA7218-2305-RevA, AA7218-2306-RevA, AA7218-2307-RevA, AA7218-2320-RevA, AA7218-2340-RevA, AA7218-2341-RevA, AA7218-2342-RevA, AA7218-2343-RevA, AA7218-2345-RevA, AA7218-2346-RevA, AA7218-2347-RevA, AA7218-2348-RevA, AA7218-2349-RevA, AA7218-2350-RevA, AA7218-2351-RevA, AA7218-2552, AA7218-2353, AA7218-2360-RevA, WH189/18/15.02 (Surface Water Drainage Strategy), 2785-SK-08-RevC, 21110se-01

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, no construction works above the ground floor slab level shall take place until product details and samples of the materials to be used in the construction of the external elevations of the building hereby permitted, including roofs, cladding, balconies, balustrades, windows and doors and shopfronts have been submitted to and approved in writing by the local planning authority. The development shall be finished in the approved facing brickwork Red: Freshfield Lane- Selected Light, Grey/Brown: Weinberger - Pagus Grey and Black: Weinberger - Graphite Black or any other brick details subsequently submitted to and approved in writing by the local planning authority. The development shall be carried out and completed only in full accordance with the approved details.

**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 submitted and otherwise hereby approved, no construction works other than demolition above slab level shall take place until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the local planning authority. The approved hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development, unless otherwise agreed in writing by the local planning authority. The details submitted shall include, but not limited to:-**

- i proposed finished site levels or contours;**
- ii. means of enclosure, of the site including any gates or boundary fencing including to the roof top terrace areas;**
- iii. other vehicle and pedestrian access and circulation areas;**
- iv. hard surfacing materials;**
- v. minor artefacts and structures (e.g. furniture, loggia, bollards, play equipment, refuse or other storage units, signs, lighting, etc.);**
- vi. details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification**
- vii. details of measures to enhance biodiversity within the site as recommended in the submitted ecology report;**
- viii. details of the proposed green wall to the car park elevations and the proposed brown and green roofs including cross sections and planting details as appropriate**
- ix. landscaping management plan to be implemented for a minimum of 5 years**
- x. location and design of visitor cycle parking**

**Any trees or 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. The proposed landscape strategy shall include the ecology recommendations as set out in Section 7 of the Ecological Assessment by Ecology Solutions reference 7742.EcoAs.dv3 dated April 2018.**

**Reason: To safeguard character and appearance of surrounding area 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).**

- 05** The development shall not be occupied until 172 car parking spaces, of which 22 shall be for disabled users, have been provided at the site and made available for use solely for occupiers of the residential units hereby approved and their visitors all in accordance with drawings AA7218-2100RevA and AA7218-2101RevA together with properly constructed vehicular accesses to the adjoining highway, all in accordance with the approved plans. The parking spaces shall be permanently retained thereafter 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 CP3 of the Core Strategy (2007) and Policy DM15 of the Council's Development Management Document (2015).

- 06** Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition above slab level shall take place until full detailed design drawings of the entrance and shopfront bays, window reveals, balconies and Juliette balconies, brick and stone work detailing and shopfronts including approach to signage at appropriate scales as appropriate shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out and in accordance with the approved details before it is brought into use.

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

- 07** The development shall not be occupied until the 218 secure, covered cycle parking spaces to serve the development as shown on drawing AA7218-2100RevA have been provided at the site and made available for use in full accordance with the approved plans by occupiers of the residential units hereby approved and their visitors. The approved scheme shall be permanently retained thereafter.

**Reason:** To ensure that adequate cycle parking is provided and retained to serve the development in accordance with Policies CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

- 08** No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to in full throughout the construction period. The Statement shall provide, amongst other things, for:

- i) the parking of vehicles of site operatives and visitors**
- ii) loading and unloading of plant and materials**
- iii) storage of plant and materials used in constructing the development**
- iv) the erection and maintenance of security hoarding**
- v) measures to control the emission of dust and dirt during construction**

- vi) a scheme for recycling/disposing of waste resulting from demolition and construction works that does not allow for the burning of waste on site.
- vii) Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.

**Reason:** In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policy CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015).

- 09** Prior to the occupation of the development the 65025kwh array of photovoltaic panels as shown on drawings reference AA7218-2115RevA and AA7218-2114RevA and detailed in the Energy and Sustainability Report by Stansted Environmental Services reference ENV001-VICT-055 shall be installed at the site and be operational and shall be permanently retained thereafter.

**Reason:** In the interests of providing sustainable development in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM2.

- 10** Before any of the residential units hereby approved are first occupied or brought into use, the development hereby approved shall be carried out in a manner to ensure that 10% (22) of the flats hereby approved comply with building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 195 flats comply with building regulation standards part M4(2) 'accessible and adaptable dwellings upon occupation.

**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 (2018), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the Design and Townscape Guide (2009).

- 11** Prior to occupation of the development 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 first 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 (2018) Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the Design and Townscape Guide (2009).**

- 12 Notwithstanding the details shown in the plans submitted and otherwise hereby approved, the development hereby granted consent shall not be occupied or brought into use unless and until plans are submitted to the Local Planning Authority and approved in writing which clearly specify all the windows and other openings in the development that are to be permanently glazed with obscured glass and fixed shut or provided with only a fanlight (or other similar) opening and the manner and design in which these windows and openings are to be implemented. The development hereby permitted shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use and shall be permanently retained as such thereafter. The windows included within such agreed scheme shall be glazed in obscure glass which is at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority. Top hung lights agreed within such scheme shall be a minimum of 1.7 metres above internal floor level. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4. The windows shall be retained in accordance with the agreed details in perpetuity thereafter.**

**Reason: To avoid overlooking and the resultant loss of privacy of the adjoining residential properties, in accordance with the National Planning Policy Framework (2018), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policy DM1 and advice contained within the Design and Townscape Guide (2009).**

- 13 With the exception of below ground investigation work and removal of the previous structures on site, no development shall take place until and unless the following details have been submitted and approved in writing by the local planning authority.**

- A. An instructive investigation (Phase II Site Investigation) must be undertaken in order to quantify the risks identified by the Phase 1 Site Investigation. The investigation must be undertaken in accordance with the scope of work outlined in the Phase 1 Desk Study and Preliminary Risk Assessment 27 Victoria Avenue by Stansted Environmental Service Ltd reference CON001-VICT-055. The Phase II report must be submitted to the Local planning authority for approval. The assessment must be undertaken by a competent person in accordance with British Standards 10175:2011 (Investigation of potentially contaminated sites – Code of Practice) and the Environment Agency/DEFRA ‘Model Procedures for the Management of Land Contamination.**

- B. Where the Phase II Investigation Report identifies any unacceptable risk or risks, a detailed Site Remediation Strategy to deal with land contamination and /or pollution of controlled waters affecting the site shall be submitted and approved by the local planning authority. With the exception of below ground investigation work and removal of the previous structures on site, no development shall take place until and unless this Site Remediation Strategy has been approved in writing by the local planning authority.**
- C. The site shall be remediated in accordance with the approved Site Remediation Strategy before the construction of the development hereby approved begins. A Validation Report for the Site Remediation Strategy shall be submitted to, and agreed in writing by the local planning authority before completion of the development or occupation of the premises (whichever comes first).**
- D. If, during the development, land contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further works shall be carried out until a method statement detailing a scheme for dealing with suspect contamination has been submitted to and agreed in writing with the Local Planning Authority**

**Reason: To ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).**

- 14 All the noise mitigation measures outlined in the Environmental Noise Assessment Report No. ENV1-VICT-055 of 15<sup>th</sup> November 2018 to protect future residents of the building from the impact of vehicular noise along Victoria Avenue and the surrounding area including the railway activity must be implemented in their entirety prior to occupation of any of the residential units hereby approved to achieve an internal noise level of no greater than 30dB and the approved measures implemented shall be maintained in perpetuity.**

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

- 15 The development shall be undertaken and thereafter managed in perpetuity in strict accordance with the approved Car Park Management Strategy by Weston Homes dated November 2018 and the Recycling / Waste Management Strategy dated November 2018 or any other car park management and waste strategy that has been previously submitted to and approved in writing by the local planning authority.**

**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).

- 16** No extraction or ventilation equipment for the proposed non-residential uses hereby approved 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 Standards BS4142 the noise rating level arising from all plant and extraction/ventilation equipment shall be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

**Reason:** 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).

- 17** The rating level of noise for internal activities (including amplified and unamplified music and human voices) at the site shall be at least 10dB(A) below the background noise level to ensure inaudibility in the nearest noise sensitive premises. If noise modelling software is used to calculate the likely levels or impact of the noise then any actual measurement taken such as LA90 must be taken in accordance with BS7445. The assessment shall be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics.

**Reason:** To protect the amenities of the occupiers from undue noise and disturbance in order to protect their amenities in accordance with Core Strategy (2007) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the Development Management Document (2015) and Design and Townscape Guide (2009).

**18** Prior to commencement of construction of the development hereby approved, in accordance with the SuDS Drainage Assessment (Document Ref: WH189 Revision C ,Victoria Avenue, November 2018) detailed design of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- a. Provide an assessment of suitability for infiltration, accounting for the presence of constraints on infiltration SuDS, drainage potential, and the potential for ground instability or contamination as a result of infiltration. The applicant needs to include evidence that infiltration testing has been undertaken for the site and that they are compliant with BRE365 guidance. If infiltration is found to be viable an updated drainage strategy should be submitted along with information in relation to the potential for ground instability or deterioration in groundwater quality as a result of infiltration.
- b. Provide MicroDrainage calculations to demonstrate the hydraulic performance of the entire network, including the proposed pipe network, for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus 40% climate change, demonstrating that the maximum overall discharge from the site will be limited to greenfield runoff rate.
- c. Provide an updated drainage layout plan indicating the dimensions and storage volumes for all features, pipe sizes and gradients, manhole cover and invert levels, proposed discharge rates, flow controls and final discharge connection in accordance with the submitted calculations. Engineering plans should be provided for each of the SuDS and critical drainage elements, including the flow control features.
- d. Provide information on the provision of drainage for large storm events, including protection for SuDS systems. This should include clarification on the proposed mitigation measures to prevent exceedance flood water from the car park area affecting the utility areas which have their proposed finished flood levels at the same level as the car park.
- e. Provide evidence of consent from Anglian Water to discharge at the proposed rate and connection point.
- f. Provide a site specific maintenance plan.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with Policy KP2 and CP4 of the Core Strategy 2007 and area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

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



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

- 20 Prior to occupation of the development hereby approved details of the number and location of electric car charging points to be installed in the car park shall be submitted to and approved in writing by the local planning authority. The agreed details shall then be implemented in full accordance with the details approved under this condition before the residential units hereby approved are occupied and be maintained as such in perpetuity thereafter.**

**Reason: In the interests of providing sustainable transport choices in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM2.**

- 21 The non-residential units hereby approved shall not be open for customers outside the following hours: - 0700 hours to 2200 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).**

- 22 Details of the external lighting to be installed in the development hereby approved shall be submitted to and approved in writing by the local planning authority before any part of the development is first occupied or brought into use. Development shall be carried out in accordance with those approved details before the development is occupied or brought into use.**

**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).**

- 23 Notwithstanding the provisions of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any revocation, amendment or adaptation of this legislation of for the time being may be in force, the commercial floorspace hereby approved shall be used only for purposes falling within Classes A1, A2, A3, or A4 of the Town and Country Planning (Use Classes) Order 1987 as amended (or any statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force).**

**Reason: In order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character and amenities of the area in accordance with Policies CP1, KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM11 and DM3 of the Development Management Document (2015).**

- 24 There shall be no use of the frontage for outdoor seating or dining in relation to the commercial units between the hours of 22:30 and 08:30 each day.**

**Reason: In order to protect the amenities of occupiers of the development and surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (207) and Policies DM1 and DM3 of the Development Management Document (2015).**

- 25 The development shall not be occupied until the commercial and residential refuse stores that serve the development as shown on drawing AA7218-2100RevA have been provided at the site in full accordance with the approved plans and made available for use by occupiers of the residential and commercial units hereby approved. The approved scheme shall be permanently retained for the storage of waste and recycling thereafter.**

**Reason: To ensure that adequate refuse and recycling storage is provided and retained to serve the development in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM8 and DM15 of the Development Management Document (2015).**

- 26 The development shall not be occupied until details of the 3 secure, covered cycle parking spaces to serve the commercial element of the development hereby approved have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with those approved details before the development is occupied or brought into use. The approved scheme shall be permanently retained for cycle storage thereafter.**

**Reason: To ensure that adequate cycle parking is provided and retained to serve the commercial development in accordance with Policies CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).**

- 27 Notwithstanding the provisions of the Town and Country Planning Advertisement Regulations (2007) and the Town and Country Planning General Permitted Development Order (2015) as amended or any orders or acts revoking or amending these orders, the existing shopfront windows in the building shall remain clear glazed and shall not be obscured (including through advertisements, vinyls or any other structures, operations or internal or external works) without the receipt of the prior written consent of the Local Planning Authority.**

**Reason: To maintain the vitality and viability of the town centre and to safeguard the character and appearance of the development in accordance with policies KP2 and CP4 of the Core Strategy (2007), Policy PA8 of the Southend Central Area Action Plan (2018) and Policy DM1 of the Development Management Document (2015).**

**28 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the building hereby approved:**

**A. The installation of any structures or apparatus for purposes relating to telecommunications on any part the roof of the buildings hereby approved, including any structures or development otherwise permitted under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any equivalent Order amending, revoking or re-enacting that Order**

**Reason: To ensure that the development does not impact adversely on the townscape and character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).**

**(c) In the event that the planning obligation referred to in part (a) above has not been completed by 21<sup>st</sup> February 2019 (or an extension of this time as may be agreed by the Director of Planning and Transport or Group Manager Planning & Building Control), the Director of Planning and Transport or Group Manager of Planning and Building Control be authorised to refuse planning permission for the application on the grounds that the development would not provide for affordable housing, highway works, travel packs, biodiversity mitigation or education provision and that as such the proposal would be unacceptable and contrary to Policies KP2, KP3, CP3, CP6 and CP8 of the Core Strategy (2007) and Policies DM1, DM3, DM7 and DM15 of the Development Management Document (2015).**

**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.**

## **Informatives**

**01 Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). A Community Infrastructure Levy (CIL) Liability Notice will be issued as soon as practicable following this decision notice. This contains details including the chargeable amount, when this is payable and when and how exemption or relief on the charge can be sought. You are advised that a CIL Commencement Notice (CIL Form 6) must be received by the Council at least one day before commencement of development. Receipt of this notice will be acknowledged by the Council. Please ensure that you have received both a CIL Liability Notice and acknowledgement of your CIL Commencement Notice before development is commenced. Most claims for CIL relief or exemption must be sought from and approved by the Council prior to commencement of the development. Charges and surcharges may apply, and exemption or relief could be withdrawn if you fail to meet statutory requirements relating to CIL. Further details on CIL matters can be found on the Council's website at [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil).**

**02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the borough.**

**03 The applicant is advised that if a crane or piling rig is required to construct the proposed development, this will need to be safeguarded by the Airport Authority independent of this permission. Please note that this may be restricted in height and may also require full coordination with the Airport Authority dependant on location. Any crane applications should be directed to [sam.petrie@southendairport.com](mailto:sam.petrie@southendairport.com) / 01702 538521.**

**04 Due to the nature of the site with residential dwellings nearby this site will require a COPA 1974 (Sec 61) Agreement with Southend Borough Council before Construction can begin. Please contact the Regulatory Services Group on 01702 215005.**

**05 This permission is governed by a legal agreement between the applicant and the Borough Council under Section 106 of the Town and Country Planning Act 1990. The agreement relates to a financial contribution towards affordable housing, secondary education and biodiversity mitigation, management protection and education.**

**06 The works to existing highway will require a Section 278 agreement or Highways Licence.**

**07 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.**

**08 The applicant is advised that due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Cadent Plant Protection Team on [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) or Tel 0800688588 before any works are carried out to ensure the apparatus is not affected by any of the proposed works.**

**09 The applicant is advised that separate advertisement consent is likely to be required for any signage for the development. This must be obtained prior to installation of the signage.**