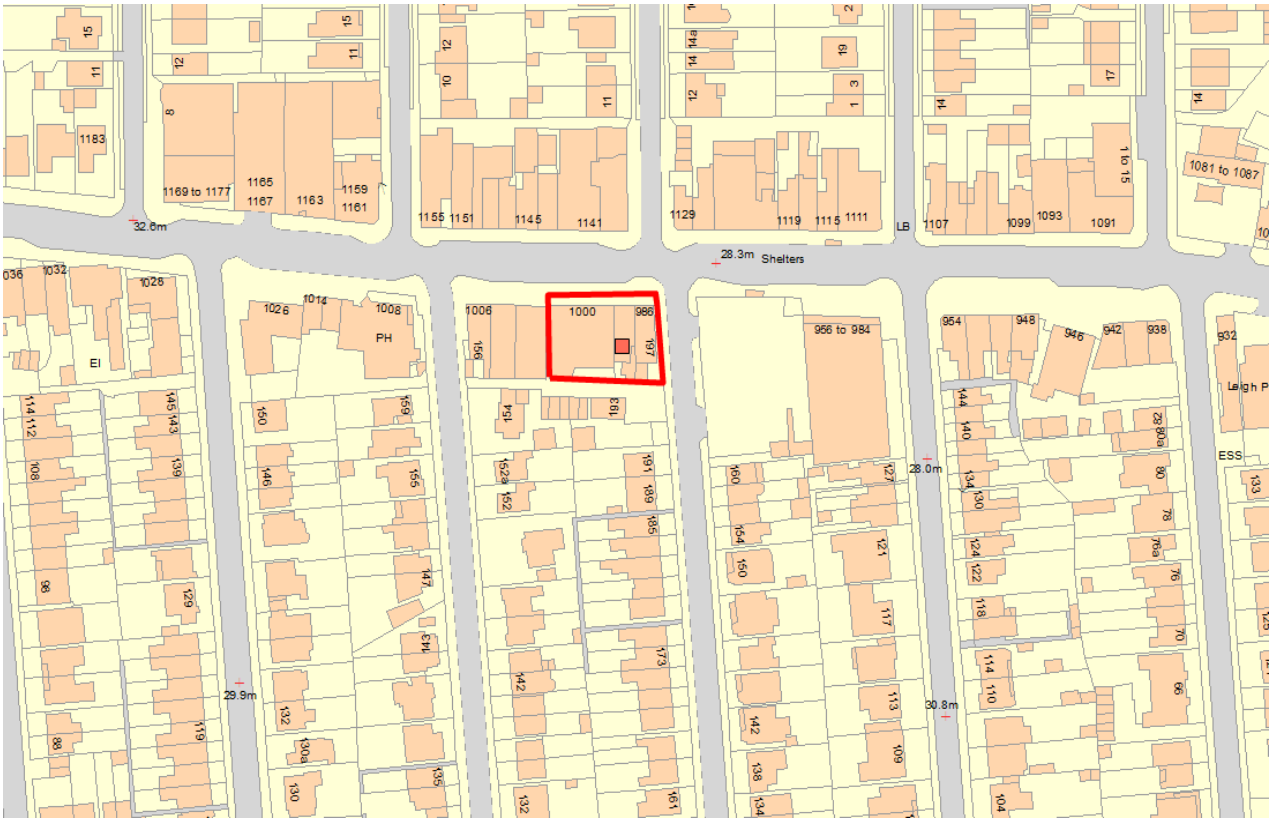


<b>Reference:</b>	19/01103/OUTM	
<b>Application Type:</b>	Outline Application	
<b>Ward:</b>	Leigh	
<b>Proposal:</b>	Demolish existing building, erect part 3/ part 4 storey building comprising of 14 self-contained flats, 2 commercial units at ground floor, layout parking, refuse and cycle stores, install vehicular access onto Leighton Avenue (Outline Application)	
<b>Address:</b>	986-1000 London Road, Leigh-on-Sea, Essex SS9 3NE	
<b>Applicant:</b>	Ms Larman	
<b>Agent:</b>	SKArchitects	
<b>Consultation Expiry:</b>	23 <sup>rd</sup> September 2019	
<b>Expiry Date:</b>	13 <sup>th</sup> December 2019	
<b>Case Officer:</b>	Abbie Greenwood	
<b>Plan Nos:</b>	<b>448-PO1, 448-P02, 448-PO3, 448-P04, 448-PO5, 448-PO6, Design and Access Statement by SKArchitects, Contamination Report by Endeavour Drilling Reference J3868, Phase 1 Desk Study Report by Endeavour Drilling reference END19-007, Letter from SKArchitects stating commitment to 3 affordable housing units to be secured by S106, SUDs Statement by H J Structural Engineers reference MAS157</b>	
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>	



## 1 Site and Surroundings

- 1.1 The site is located at the junction of London Road and Leighton Avenue and is currently occupied by a 2 storey building which operates as a car sales business. The building is predominately open to the elements at ground floor running through to the external forecourt areas to provide maximum space for car sales. A small repairs / MOT garage also operates from within the building. The building itself is poor quality and the site does not make a positive contribution to the streetscene.
- 1.2 To the west the remainder of the street block is occupied by a single storey tyre fitting business and another smaller car showroom within a two storey building. To the rear is a small 1.5 storey industrial unit which is currently used by a removal company. This unit also has cars for sale on its forecourt which may be connected to the businesses on London Road.
- 1.3 Leighton Road to the south is a residential street comprising semi-detached and terraces dwellings of mixed but traditional designs. The properties are generally 2 storeys but there are a few bungalows also.
- 1.4 On the opposite corner to the east is the Iceland supermarket. The area closest to the application site is occupied by the car park serving this unit. The openness of the site from the east and the south means that it is very exposed in the streetscene.
- 1.5 Opposite the site on London Road are a mix of 2 and 3 storey buildings with commercial uses at ground floor. Many have residential uses on the upper floors. Further afield along London Road are some taller buildings of 4-6 storeys. Designs are mixed including both traditional and modern buildings.

1.6 London Road is a principle route through the Borough to the town centre and is the main bus corridor. It has a very mixed character along its length. Some sections are designated as retail frontages but there are no policy designations affecting the application site.

## **2 The Proposal**

2.1 The proposal seeks outline planning permission to demolish the existing buildings and erect a mixed use development comprising 2 A1 retail units of 66sqm and 61sqm and 14 self-contained flats comprising 1 x 1 bed, 4 x 2 bed and 6 x 3 bed market units and 1 x 1 bed, 1 x 2 bed and 1 x 3 bed affordable units. 15 parking spaces are proposed under the building along with areas for cycle and refuse storage.

2.2 The proposal is for outline planning permission only but with only landscaping reserved.

2.3 The proposed building is L shaped. It is 30.1m wide and 20m deep reducing to 15.1m on its internal elevation. The top (3<sup>rd</sup>) is set in from the main bulk of the building and measures 24.8m wide and 10.6m deep. The main bulk of the building has a consistent scale but the height varies slightly with the change in land levels ranging from 9.5m in the north west corner at the highest part of the site to 10.3m in the south east corner at the lowest part of the site. The reduced 3<sup>rd</sup> floor has a part pitched and part flat roof with a maximum height of 14.2m.

2.4 The building is proposed to be constructed of brick up to 2<sup>nd</sup> floor level. The top floor will be cladding. The roof is proposed as GRP. The scheme will have powder coated aluminium windows and doors.

2.5 Each unit has a balcony or roof terrace which vary between 1.2sqm and 10.8sqm. The top floor flats have terraces of 32.2sqm and 30.1sqm. There is one additional terrace on the roof which measures 50.6 sqm and is accessed from the communal area.

2.6 15 car parking spaces are proposed in an under croft to the rear of the building. This area also houses 2 cycle stores and a bin store.

2.7 The submitted information states that the opening hours of the proposed A1 retail units will be 9am to 6pm.

2.8 The application is supported by the following documents:

- Design and Access Statement by SKArchitects,
- Contamination Report by Endeavour Drilling Reference J3868,
- Phase 1 Desk Study Report by Endeavour Drilling reference END19-007,
- Letter from SKArchitects stating commitment to 3 affordable housing units to be secured by S106,
- SUDs Statement by H J Structural Engineers reference MAS157

2.9 No viability report has been submitted with the application.

## **3 Relevant Planning History**

3.1 No planning history.

## **4 Representation Summary**

## **Public Consultation**

4.1 19 neighbouring properties were consulted, a press notice published and a site notice displayed. 1 letters of representation have been received raising the following issues:

- .This area of Leigh is already over developed and the infrastructure cannot cope
- New flatted developments on London Road are threatening the businesses
- Concern over dust and access during construction and impact on local businesses

**Officer Comment 'These concerns are noted and they have been taken into account in the assessment of the application. However, other than those issues relating to the reason for refusal, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.'**

### **Highways Team**

4.2 No objections

### **Environmental Health**

4.3 No objections subject to conditions relating to construction hours, glazing specification, waste management and contamination.

### **Housing Team**

4.4 No objections subject to agreement of the affordable housing tenures.

### **Education**

4.5 All secondary schools within acceptable travel distance are oversubscribed. Contribution of £35,792.92 is therefore requested towards the cost of works at Chase High School (Phase 2) or any other similar project that seeks to address the increased demand for secondary places created as a consequence of this development.

### **SUDS Engineer**

4.6 An objection is raised on the grounds of insufficient information.

### **Anglian Water**

4.7 No objections.

### **London Southend Airport**

4.8 No objections.

### **Fire Service**

4.9 No objections

### **Leigh Town Council**

4.10 No objections.

## **5 Planning Policy Summary**

5.1 The National Planning Policy Framework (NPPF) (2019)

5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision)

5.3 Development Management Document (2015) Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM7 (Dwelling Mix), DM8 (Residential Standards), DM15 (Sustainable Transport Management)

5.4 Southend Design & Townscape Guide (2009)

5.5 Planning Obligations: A Guide to Section 106 and Developer Contributions (2015)

5.6 CIL Charging Schedule (2015)

## **6 Planning Considerations**

6.1 The main considerations in relation to this application are the principle of the development, design and impact on the streetscene, quality of accommodation for future occupiers, impact on residential amenity, traffic and transportation, sustainable construction and CIL.

## **7 Appraisal**

### **Principle of Development**

7.1 Amongst other policies to support sustainable development, the NPPF seeks to boost the supply of housing by delivering a wide choice of high quality homes. In relation to the efficient use of land Paragraph 122 states:

*122. Planning policies and decisions should support development that makes efficient use of land, taking into account:*

*a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*

*b) local market conditions and viability;*

*c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*

*d) the desirability of maintaining an area's prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*

*e) the importance of securing well-designed, attractive and healthy places.*

- 7.2 Policy KP2 of the Core Strategy states development must be achieved in ways which *“make the best use of previously developed land, ensuring that sites and buildings are put to best use”*. Policy CP4 requires that new development *“maximise the use of previously developed land, whilst recognising potential biodiversity value and promoting good, well-designed, quality mixed use developments”* and that this should be achieved by *“maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”*.
- 7.3 Policy KP3 requires the Council to *‘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.’*
- 7.4 Policy CP8 states that *‘Residential development proposals will be expected to contribute to local housing needs, including affordable and special needs provision, and the sustainable use of land and resources.’*
- 7.5 Policy CP8 of the Core Strategy recognises that a significant amount of additional housing will be achieved by intensification (making more effective use of land) and requires that development proposals contribute to local housing needs. It identifies that 80% of residential development shall be provided on previously developed land. For all scheme between 10 and 49 units CP8 requires that 20% be secured as affordable housing.
- 7.6 Policy DM3 of the Development Management Document states that *“the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity”*
- 7.7 Policy DM7 of the Development Management Document requires new housing development to meet the needs of the Borough in terms of the type and size of development proposed

## *Use*

- 7.8 The proposal is seeking a mixed use development comprising 2 small A1 retail units at ground floor and residential development above. The existing car sales use on the site will cease. The extent of commercial space at the site will change from 460 sqm to 127 sqm. This is a significant reduction in commercial space and the configuration of the units raises a question as to whether such small and narrow units would be viable, however, despite being located in a mixed use area, the site has no policy designations controlling use either in terms of employment or retail. It is therefore considered that the proposed change from car sales to a mix of retail (A1) and residential floorspace is compatible with the local policy context and the character of the area. The change of use of the site is therefore considered to be acceptable and the proposal is policy compliant in this regard.

## *Housing Mix and Affordable Housing Provision*

- 7.9 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.
- 7.10 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.
- 7.11 Policy CP8 seeks an affordable housing provision of 20% for residential proposals of between 10-49 dwellings.

7.12 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:

	No of bedrooms	1-bed	2-bed	3-bed
Affordable Housing	16%	43%	37%	4%
Market Housing	9%	22%	49%	20%

7.13 Where a proposal significantly deviates from this mix the reasons must be justified and demonstrated to the Council. 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.

7.14 The application form and letter from SKArbitects dated 6<sup>th</sup> August states that there will be 11 market housing apartments and 3 affordable housing apartments. The proposed mix is as follows:

Market Housing

11/14 units = 79%

1 x 1 bed unit (8%)

4 x 2 bed units (36%)

6 x 3 bed units (54%)

Affordable Housing

3/14 units = 21%

1 x 1 bed unit (33.3%)

1 x 2 bed unit (33.3%)

1 x 3 bed unit (33.3%)

7.15 The proposed affordable housing provision at 21% meets the requirements set out in Policy CP8. In relation to mix, whilst the proposal is not an exact match to the recommended mix as set out in policy DM7, the figures above show there to be a variety of sizes including a significant number of family units. This is considered to be a reasonable mix in this location.

7.16 All major schemes are required to submit a full viability assessment to demonstrate that the proposed development, including the provision and mix of market and affordable housing units and commercial units are viable. This provides assurance that the scheme is deliverable in the current market and that amendments to a Section 106 Agreement will not be sought in the future on the grounds of viability which could significantly impact on the overall merits of the proposal and the planning balance. No viability proposal has been submitted with this proposal. Therefore, whilst the stated contribution to affordable housing and the proposed mix would be policy compliant, the development has not demonstrated that the scheme would be viable.



7.17 Overall therefore, whilst the proposed use and mix of market and affordable housing provision are considered to be acceptable for this site, the proposal has failed to demonstrate that it would be viable and that the development, including the proposed mix and contribution to affordable housing and therefore no unilateral undertaking has been agreed. The proposal is therefore unacceptable and contrary to policy in this regard.

### **Design and Impact on the Character of the Area**

7.18 *Paragraph 124 of the NPPF states ‘ 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.’*

7.19 Policy DM1 of the Development Management Document states that “*all development should add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.*”

7.20 Policy DM3 part 2 of the Development Management Document states that “*all development on land that constitutes backland and 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; or*

*(ii) Conflict with the character and grain of the local area; or*

*(iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or*

*(iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”*

### *Scale and Form*

7.21 The proposal seeks to demolish the existing building and erect a part 3 storey part 4 storey mix used development. There is no objection in principle to the demolition of the existing building as it does not make a positive contribution to the streetscene. There is also no objection in principle to a larger building on this site but the scale of the proposed development needs to sit comfortably in the context of the site.

7.22 London Road is one of the longest roads in the Borough and its character varies significantly along its length. Whilst there are some larger developments further afield in this particular location the grain is finer and the scale is lower than other sections.

7.23 The site is located on a junction and surrounded by low scale development including 2 smaller single storey buildings and an open car park. The rest of the buildings in the immediate context of the site are generally 2 storey traditional style buildings. There is one 3 storey narrow fronted building opposite. This means that, at this time, the site is very exposed in the streetscene from many angles. Whilst this may change in the future as other buildings come forward for redevelopment, the current situation is a material consideration for this proposal.

It is important therefore that any scheme on this site achieves an appropriate transition between the proposal and the finer grain and scale of the surrounding buildings. This does not mean that a significantly larger development cannot be achieved, but that it needs to provide a positive response to context so that it sits comfortably in the existing streetscene.

- 7.24 The proposed development is comprised of two elements. The main brick base and the penthouse addition. The base section has a very simple form with a regular footprint and flat frontages. These are articulated with regular spacing of windows and balconies which add some interest but overall the form of this element of the building is that of a large 3 storey box. Whilst in isolation this form provides clean lines for the development and a simple well resolved shape, there is a concern that in this location the overall mass and bulk of the development would be at odds with the finer grain and scale of the surrounding development and the proposal would appear very dominant in the streetscene. The addition of a sizable penthouse floor further accentuates the scale of the development. This impact will be apparent from all sides given the significant exposure of the site. As such it is considered that the development, in its current form, would appear as an over scaled, dominant and incongruous addition in the streetscene.
- 7.25 It is noted that there are some other larger flatted blocks along London Road outside the immediate context of the site. Where these occur the newer flatted blocks are within clusters of larger development and generally articulated in such a way as to introduce a vertical rhythm to the frontage to break up the scale of the frontage and better reference the grain of the surrounding more traditional development and this helps to offset the overall bulk of the developments in the streetscene. The application proposal has sought to maintain a simple boxy form which is enlivened with fenestration.

Whilst this provides a structure to the elevation which adds interest it does little to break up the overall mass of the development. Overall, therefore, it is considered that the scale and bulk of the proposal would appear over dominant in this context and the proposal is therefore unacceptable and contrary to policy in this regard.

#### *Design Detail*

- 7.26 As with the overall form of the development the main body of the development is very simple in its detailing. The variation of balcony width adds some interest to the elevations but overall impression is one of order. This complements the simple form of the development. It is however, considered that the design detail breaks down at the corner where the lack of glazing does not sit comfortably with the feature corner balconies. As a result the most prominent corner of the development is somewhat weak in townscape terms. There is also a concern in regards to the extent of inactive frontage to the secondary elevations at ground floor which will be very visible in the streetscene.
- 7.27 The penthouse floor has a contrasting style and will be very prominent especially in longer views of the site. Its shape and materiality and significant areas of unbroken cladding appear to reference industrial architecture and there is a concern that this could look rather out of place in this context.

7.28 Landscaping is a reserved matter for later consideration but it is noted that the proposal shows 3 trees on the forecourt. Trees here would be welcome in principle however, no information has been provided as to whether these would be viable in this location and this close to the building. No other landscaping has been shown on the plans. Landscaping can often be used to good effect to soften the impact of new buildings and should be further considered in any revised proposal.

7.29 Overall therefore it is considered that the design of the proposal would be an over scaled and incongruous addition to the streetscene. This is unacceptable and the development is contrary to policy in this regard.

### **Standard of Accommodation for Future Occupiers**

7.30 Delivering high quality homes is a key objective of the NPPF.

7.31 Policy DM3 of the Development Management Document (i) states: proposals should be resisted where they “*Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents*”.

#### *Space Standards and Quality of Habitable Rooms.*

7.32 All new homes are required to meet the National Technical Housing Standards in terms of floorspace and bedroom sizes. The required size for a new flats are as follows:

- 1 bed 2 person = 50 sqm
- 2 bed 3 person = 61 sqm
- 3 bed 4 person = 74 sqm
- 3 bed 6 person = 95 sqm

And the minimum bedroom standards are:

- Master - minimum area 11.5 sqm, minimum width 2.75m
- Other doubles – minimum area 11.5 sqm, minimum width 2.55m
- Singles - minimum area 7.5 sqm and minimum width 2.15m

7.33 The flat and room sizes for the scheme are as follows:

Flat Number	Internal Area	Bed 1	Bed 2	Bed 3	Amenity
1 – 2b3p	65.8sqm	11.7sqm W=2.75m	8.9sqm W=2.15m		Balcony of 5.6 sqm
2 – 1b2p	50.3sqm	12.2sqm W=3.3m			2 balconies of 2.1sqm and 3.1sqm
3 – 3b4p	75.3sqm	14.8sqm W=3.1m	9.9sqm W=2.15m	7.6 sqm W=2.15m	3 balconies of 14.8sqm, 1.2sqm and 1.2sqm
4 – 2b3p	61.1 sqm	11.5 sqm W=3.1m	8.3 sqm W=2.15m		3 balconies of 2.1 sqm, 1.2sqm and 1.2 sqm
5 – 3b 4p	76.5sqm	12.8 sqm	7.6sqm	7.5sqm	2 balconies

		W=2.75m	W=2.15m	W=2.15m	of 3sm and 1.2sqm
6 – 3b4p	76.3sqm	11.8 sqm W=2.75m	9.7sqm W=2.15m	7.9sqm W=2.4m	3 balconies of 2.1 sqm, 1.2sqm and 1.2sqm
7– 2b3p	65.8sqm	11.7sqm W=2.75m	8.9sqm W=2.15m		Balcony of 5.6 sqm
8– 1b2p	50.3sqm	12.2sqm W=3.3m			2 balconies of 2.1sqm and 3.1sqm
9– 3b4p	75.3sqm	14.8sqm W=3.1m	9.9sqm W=2.15m	7.6 sqm W=2.15m	3 balconies of 14.8sqm, 1.2sqm and 1.2sqm
10– 2b3p	61.1 sqm	11.5 sqm W=3.1m	8.3 sqm W=2.15m		3 balconies of 2.1 sqm, 1.2sqm and 1.2 sqm
11– 3b 4p	76.5sqm	12.8 sqm W=2.75m	7.6sqm W=2.15m	7.5sqm W=2.15m	2 balconies of 3sm and 1.2sqm
12– 3b4p	76.3sqm	11.8 sqm W=2.75m	9.7sqm W=2.15m	7.9sqm W=2.4m	3 balconies of 2.1 sqm, 1.2sqm and 1.2sqm
13 – 3b6p	114.3sqm	17.2sqm W=4.2sqm	11.6sqm W=2.75sqm	11.6sqm W=2.75sqm	Terrace of 32.2sqm
14 – 2b3p	65sqm	11.5sqm W=3.3sqm	7.5sqm W=2.4m		Terrace of 31sqm

- 7.34 The table above demonstrates that all flats meet the required standards but are not generous as it is noted that in many cases the room and flat sizes are the minimum required. However, the standard is met and the proposal is acceptable and policy compliant in this regard.
- 7.35 It is also noted that all habitable rooms would benefit from good outlook and daylight. The proposal is therefore acceptable in these regards.

#### *M4(2) and M4(3) – Accessible Dwellings*

- 7.36 Policy DM8 and associated Policy Transition Statement require that all new dwelling meet building regulations M4 (2) – ‘accessible and adaptable dwellings’ and that 10% of new dwellings on major development sites to meet building regulation M4 (3) ‘wheelchair user dwellings’. This ensures that all new homes are flexible enough meet the changing needs of all generations. In this case this would require that 2 units were suitable for wheelchair users.

- 7.37 In relation to this the Design and Access Statement states '*Each proposed residential unit can provide adequately for people with disabilities and are fully accessible*' however there is no evidence to back this up. As noted above many of the flats are the minimum sizes to meet the technical housing standards so their suitability for all users and in particular wheelchair users remains to be demonstrated. It is also noted that although the building has lift access, there is no provision of disabled parking. It is therefore likely that the proposal will not be able to meet these standards.
- 7.38 The proposal has therefore failed to demonstrate that it can meet the accessibility requirements of Policy DM8 and is unacceptable and contrary to policy in this regard.

#### *Amenity Provision*

- 7.39 Development Management Policy DM8 Policy Table 5 states that '*Suitable space should be provided for private outdoor amenity, where feasible and appropriate to the scheme.*' The preamble to the policy comments that '*Private outdoor space is an important amenity asset and provides adults and children with external, secure recreational areas. It is considered that this space must be useable and functional to cater for the needs of the intended occupants. All new residential units will be expected to have direct access to an area of private amenity space. The type of amenity space will be dependent on the form of housing.....In the case of flats, balconies may take the place of a garden, although easily accessible semi-private communal areas will also be beneficial.*'
- 7.40 As noted above the mix of the development includes 5 x 2 bed and 7 x 3 bed units and there is therefore the potential for many children to live in the block. All of the apartments have access to balcony provision and there is a communal roof terrace of approximately 50sqm, however, it is noted that in many cases the balconies are very small. 8 of the balconies measure 1.2 sqm only and even though the unit may have access to 2 or 3 of these, it is questioned how useable these will be especially for family sized accommodation. It is noted that there is a communal roof terrace which is the size of a small family garden, but this is not directly accessible from the units except for 1. Therefore, whilst the proposal provides some form of amenity for each flat, many of the proposed balconies are not conducive to family amenity.

Where flats are generous in size the lack of easily accessible amenity provision can be balanced against the provision of spacious internal layouts, however in this case both the internal and external space is minimal. Whilst this may technically meet the policy requirements noted above, it is considered to be a negative aspect of the proposal and indicative of over development of the site.

- 7.41 Overall therefore, it is considered that the proposal has failed to demonstrate that it could meet the requirements for accessible and adaptable dwellings and in particular the requirement for wheelchair access and the proposal is unacceptable and contrary to policy in this regard. In all other regards the living accommodation is considered to be the minimum required to meet the policy requirements and this therefore does not contribute to the quality of the scheme generally.

## **Impact on Residential Amenity**

- 7.42 Policy DM1 of the Development Management Document states that development should, *“protect the amenity of the site, immediate neighbours and surrounding area, having regard for privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution and daylight and sunlight.”*

### *Impact on 1002-1006 London Road to the west*

- 7.43 Adjacent to the site to the west is a single storey tyre workshop and a two storey car sales showroom. The proposed development is built on the boundary on this side but there is a gap of 0.9m between the boundary and the neighbouring property. The development extends up to 9.7m high on this boundary for a depth of 15.1m. The neighbouring property extends the full depth of the site in this location some 20m. The development has no windows on the west elevation at the lower levels but the penthouse flat has significant outlook to the main living space and a sizeable balcony also to the west side. The window is set 3.8m and the terrace is 1.3m from the west boundary.
- 7.44 Although the proposal will dominate this neighbour in the streetscene it is considered that it will not have a detrimental impact on the amenities of the existing neighbour to the west in terms of light or outlook as the neighbour has no outlook to the east side. It is noted that the penthouse and terrace located in close proximity to the boundary may have an impact on the future development of the neighbouring site. Whilst this is unneighbourly, as it stands this relationship is not harmful. On balance it is considered that the impact on the amenities of this neighbour is considered to be acceptable and the proposal is policy compliant in this regard.

### *Impact 193 and 191 Leighton Avenue to the south*

- 7.45 The proposed development is set close to the south site boundary (0.5m-0.8m) for 12.8m after which it steps in 4.95m from this boundary for the remaining 17.2m of the building. The proposal is 10.3m high on this side close to the boundary. There are habitable room windows on both sections of the rear elevation at first and second floor level. There are also balconies on the rear elevation where it steps away from this boundary. At third floor is a communal roof terrace and the rear elevations and outlook for the penthouse units. The proposed roof terrace is set 2.4m in from the edge of the building on the south east side. The closest window to the boundary at this top level is 7.85m from the south boundary.
- 7.46 Directly to the south of the site is a small gabled building of 1.5 storeys and associated yard area which is currently used by a removal firm for storage purposes. This building has its main outlook and access to the east. There is a shared single track right of access for vehicles between this building and the application site. The separation distance between the proposal and this building is 5m.
- 7.47 Given that this neighbour has a commercial storage use and faces to the street to the east it is considered that the proposed increase in scale and outlook at the application site would not have a material impact on the amenities of this neighbour. The proposal is acceptable and policy compliant in this regard.

- 7.48 191 Leighton Avenue is the first residential property in Leighton Avenue. The rear garden boundary of this dwelling is located 12.6m from the closest section of the rear elevation, 15.1m from the rear edge of the proposed 3<sup>rd</sup> floor amenity roof terrace and 18.2m from the section of the rear elevation which is set away from the boundary. The property itself is set a further metre away from this boundary. 191 Leighton Avenue has 3 windows in its flank elevation facing the site, one at ground floor behind the boundary fence, a staircase window at first floor and a very small window in the gable. The commercial unit at 193 is situated between the proposal and 191.
- 7.49 Given the separation distances it is considered that the scale of the proposal will not result in a material loss of light or outlook for this property. In terms of privacy it is noted that there is no habitable rooms windows facing the application site which will be overlooked, however, it will be possible for the residents on the upper floors to look over the top of the adjacent storage building towards the private amenity area of 191. The separation distances to this garden area is 12.6m from the 2<sup>nd</sup> floor bedroom of the closest flat and 15.1m from the roof terrace. This is, on balance, considered to be just sufficient for this overlooking not to be considered as materially harmful although it is likely that these residents will be have the perception of being overlooked from the proposed development especially given the number of windows, balconies and terraces on its rear elevation. On balance it is considered that this relationship is acceptable and the proposal is policy compliant in this regard.
- 7.50 *Impact on 154 Oakleigh Park Drive to the south west*
- There is also another residential property to the south west of the site 154 Oakleigh Park Drive. The closest window to the amenity area of this dwelling would be 12.1m from the boundary however, it is noted that in this case this would be to the very end of the garden area of number 154. On balance, this relationship is also considered to be acceptable and the impact on the amenities of this neighbour is considered acceptable.
- 7.51 In relation to the proposed retail use, given the reasonable opening hours, the mixed character of the area and their location facing London Road there are no concerns that this use would give rise to unacceptable levels of noise and disturbance.
- 7.52 No other properties are materially affected by this proposal. To the front the relationship to the properties opposite is typical of other properties in this location and to the east is the open car park for Iceland.
- 7.53 Overall therefore it is considered that on balance, the proposal will have an acceptable impact on the amenities of neighbours and is policy compliant in this regard.

### **Traffic and Transportation Issues**

- 7.54 Policy DM15 states that each dwelling should be served by one off street parking space. 15 under croft parking spaces are proposed at ground floor to the rear of the building which will be accessed off a new vehicular crossover from Leighton Avenue. This meets the policy requirement in terms of parking for the residential units with 1 space spare. There is no requirement to provide parking for the retail units in this location given the sustainability of the site.

- 7.55 In terms of traffic generation the Design and Access Statement comments that the existing use on site generates more traffic movements than the proposed development. The Councils Highways Officer agrees with this and has not raised any objections in terms of impact on the surrounding road network. No information has been provided in relation to the servicing of the retail units, however, given their modest size and A1 use this is not considered to be significant issue.

#### *Refuse and Cycle Storage*

- 7.56 All new development is required to provide secure a convenient refuse/recycling storage and a secure and convenient cycle storage to serve the development. Where a mix of residential and commercial uses is proposed, separate refuse and cycle stores are required.
- 7.57 The plans for the undercroft parking area also show a bin store and 2 bike stores which are of a suitable size for the proposed residential dwellings. The proposal is therefore acceptable and policy compliant in this regard in relation to the residential units but it is noted that no provision for refuse or cycle parking has been made in relation to the commercial units. It is unclear how this could be achieved given the tight layout of the undercroft area and limited size of the retail units. The proposal is therefore acceptable and policy compliant in this regard in terms of the residential units but not acceptable and contrary to policy in terms of the commercial units.

#### *Construction Management Plan*

- 7.58 Given the location of the site on a main distributor route through the Borough it is considered that it would be prudent to require a construction management plan to be submitted for any redevelopment of this site so that the logistics and management of the construction process is fully considered to minimise the impact on the road network and neighbours. This can be controlled by a condition requiring the developer to submit a Construction Management Plan. A condition relating to hours of construction can also be imposed. Subject to these conditions, the proposal is considered to be acceptable and policy compliant in this regard.
- 7.59 Overall therefore, whilst the parking provision and access meets the requirements of DM15 and it is considered that the proposal would not give rise to unacceptable levels of traffic generation and has met the needs of the proposed residents in terms of refuse and cycle storage, the proposal has failed to provide for refuse and cycle storage for the retail units. The proposal is therefore unacceptable and contrary to policy in this regard.

.....



## **Sustainability**

- 7.60 Policy KP2 of the Core Strategy requires that *“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)*. Policy DM2 of the Development Management Document states that *“to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”*. This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.61 The Design and Access Statement comments that roof mounted photo-voltaic panels are proposed and these are shown on the roof plan however, no calculations have been provided to demonstrate that this meets the 10% requirement and no information has been given regarding water usage.
- 7.62 It is considered that, for a scheme of this magnitude, the requirement for renewable energy and restrictions on water usage could be controlled with conditions. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to conditions.

### *Drainage*

- 7.63 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.
- 7.64 The site is located in flood risk zone 1 (low risk). The SuDS Statement (Document Ref: MAS157, dated 30 January 2018), produced by HJ Structural Engineers and the Phase 1 Desk Study Report, produced by Endeavour Drilling (Document Ref: END19-007, January 2019) have been submitted in support of the outline planning application. In regards to these documents the Council's SUDs consultant comments that the submission does not include a drainage layout identifying the proposed location SUDs features, indicative pipework, discharge rates and flows and final discharge locations nor does it provide any evidence demonstrating that surface water runoff retention on site has been maximised for the 1 in 100 year plus 40% climate change storm event to achieve an overall discharge from the site as close as possible to greenfield runoff rate. Without this information it is not possible to assess whether the drainage proposals could meet the policy requirements and whether a suitable condition could be worded to require the more detailed information required for implementation.
- 7.65 The proposal has therefore failed to demonstrate that the surface water drainage scheme for the site would meet the policy requirements. The proposal is therefore unacceptable in this regard.

### *Contamination*

- 7.66 Phase 1 Desk Study Report, produced by Endeavour Drilling (Document Ref: END19-007, January 2019). This notes that the site has a history of motor repairs and sales and this gives rise to a moderate to low risk of contaminants associated with this type of use. It recommends that detailed ground investigations and chemical analysis should be undertaken to confirm or otherwise the findings of the desk study and identify any remedial works required are undertaken prior to construction of a new development on the site. If the proposal was otherwise found to be acceptable this Phase II survey and any associated remedial works can be required by condition. The proposal is therefore considered to be acceptable and policy compliant in this regard.

### **Planning Obligations**

- 7.67 Paragraph 56 of the NPPF states that 'Planning obligations must only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

- 7.68 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. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available*'.

- 7.69 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.*'

- 7.70 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.”*

- 7.71 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.*

- 7.72 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”
- 7.73 A development of this scale would require the provision of 20% affordable housing which equates to 3 units. A covering letter submitted with the application states that the developer is willing to provide 3 units of affordable housing. These will be comprised of 1 x 1 bed unit, 1 x 2 bed unit and 1 x 3 bed unit. Subject to the agreement of tenures, this would be policy compliant in terms of affordable housing provision, however, no viability information has been provided to demonstrate that this would be deliverable for the proposed scheme despite this information being requested a number of times. The Council’s Local List requirements make it clear that for all residential development which exceeds 10 units, a financial viability assessment is required.
- 7.74 The proposal is also required to make a financial contribution to secondary education in the Borough as the local secondary schools are at capacity. This has been calculated as £35,792.92 based on the proposed number and size of units. This contribution would usually be factored into the viability of the proposal and the subsequent S106 agreement.
- 7.75 The application has not been submitted with a viability assessment or any Heads of Terms and consequently no unilateral undertaking to provide affordable housing or an education contribution as required by policy KP3 has been agreed. The proposal is therefore unacceptable and the proposal is contrary to policy in this regard.

## Community Infrastructure Levy (CIL)

7.76 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. As this is an outline application, the CIL amount payable will be calculated on submission of a reserved matters application when the floorspace figures will be confirmed. Indicative CIL calculations for the submitted plans based on an internal area of 1386.7 sqm of Housing and 127sqm of commercial space (subject to confirmation) equate to a CIL charge of approximately £103315.76. Any existing floor area that is being retained/demolished that satisfies the 'in-use building' test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

## 8 Conclusion

### *The Planning Balance*

8.1 In all decisions the Council is required to weigh the harm against the public benefits of the proposal, the planning balance. In this case the public benefit of the proposal is the provision of 14 dwellings in a time of housing need.

### 5 Year Land Supply and Housing Delivery Test

8.2 The Government standard methodology for assessing housing needs for Southend indicates a provision of 909 – 1,176 dwellings per annum, a considerable uplift on previous housing targets as contained in the adopted Southend Core Strategy (2007).

8.3 The Government published a Housing Delivery Test (HDT) 2018 Measurement in February 2019 to ensure delivery of the new standard methodology. This requires the local planning authority to have delivered a certain percentage of their adopted housing target based on the last three years housing delivery. However, if housing policies are more than 5 years old the standard methodology applies. For Southend this indicates that it delivered 49% of the number of new homes required by the standard method between the financial years of 2015 - 2018.

8.4 The Housing Delivery Test requires that if the rate of delivery is:

- below 95% of the standard methodology housing requirement it must prepare an Action Plan;
- below 85% of the standard methodology housing requirement it must ensure a 20% Buffer on its 5 year housing supply;
- below 75% of the standard methodology housing requirement there is
- a presumption in favour of sustainable development, subject to the transitional arrangements set out in paragraph 215 of the NPPF (PPG ID: 042 68-042-20190722).
- Paragraph 215 of the NPPF states that the Housing Delivery Test will apply from the day following the publication of its results in November 2018. For the November 2018 results, this means where delivery was below 25% of housing required over the previous 3 years.

8.5 As Southend has delivered 49% of the total number of new homes required between the

financial years of 2015 – 2018, the presumption in favour of sustainable development does not currently apply, although it is required to publish an action plan and ensure a 20% buffer on the local planning authority's 5 year land supply.

- 8.6 Even if the development plan policies were found to be inconsistent with the framework the adverse impact from the development, given the limited number of new dwellings proposed it is considered that the degree of harm caused would not be significantly and demonstrably outweighed the benefits arising from the development.
- 8.7 Having taken all material planning considerations into account, it is found that the development is unacceptable and contrary to policy for a number of reasons:
- The size, mass, form and detailed design, would result in a bulky and intrusive addition to the streetscene which harms the character and appearance of the surroundings area,
  - the proposal has failed to demonstrate that the development is capable of complying with Building Regulations Part M4(2) and M4(3) and therefore that the dwellings would be accessible and adaptable for all,
  - the proposal has failed to include any provision for refuse and cycle storage in relation to the retail units,
  - the proposed sustainable drainage statement does not meet the minimum requirements for assessment and
  - the proposal does not include a formal undertaking to secure a suitable contribution towards affordable housing provision and education facilities in the Borough.
- 8.8 As noted above the harm caused is not outweighed by the public benefits of the scheme including the provision of housing. The proposal is therefore unacceptable and contrary to policy in the above regards.

## 9 Recommendation

### 9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 **The proposal, by reason its size, mass, form and detailed design, would result in a bulky and intrusive addition to the streetscene which harms the character and appearance of the site and wider surroundings area. This harm is not outweighed by any public benefits including the provision of housing. This is unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and polices DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).**
- 02 **As a major development 10% of the residential units are required to meet Building regulation standards M4(3) 'wheelchair user dwellings' with all other residential units required to meet the requirements of M4(2) 'accessible and adaptable dwellings'. The proposal has failed to demonstrate that it can be constructed to meet these requirements thus the development fails to prove that it will result in an accessible and adaptable dwellings suitable for all people and wheelchair users specifically.**  
**This is unacceptable and contrary to the National Planning Policy Framework (2019), Core Strategy (2007) policy KP2, Development Management Document**

**(2015) policy DM8 and the advice contained in the Southend Design and Townscape Guide (2009).**

- 03** The information submitted fails to demonstrate that the proposal would provide acceptable refuse, recycling and cycle storage facilities for the proposed A1 use within the development. It therefore cannot be concluded that the proposal would not be detrimental to the character and appearance of the site and the wider area. This is unacceptable and contrary to Core Strategy (2007) policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3, DM7 and DM15 and advice contained within the Southend Design and Townscape Guide (2009).
- 04** The Sustainable Urban Drainage Statement by HJ Structural Engineers reference MAS157 submitted with the application fails to meet the minimum requirements to allow the proper assessment of sustainable drainage proposed for the development. It has therefore not been demonstrated that the scheme can provide adequate drainage infrastructure. This is unacceptable and contrary to the National Planning Policy Framework (2019) and Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).
- 05** The application does not include a formal undertaking to secure a suitable contribution towards affordable housing provisions to meet demand for such housing in the area and no report to demonstrate that such contributions is viable has been submitted. A formal undertaking to secure a contribution to the delivery of educational facilities is also absent. In the absence of these undertakings the application is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2, KP3, CP4, CP6 and CP8 of the Core Strategy (2007) and Policy DM7 of the Development Management Document (2015).

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

#### **Informatives**

**01** Please note that the proposed development subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The amount of levy due will be calculated at the time a reserved matters application is submitted. Further information about CIL can be found on the Planning Portal

([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).