

Reference:	19/01924/FULM	
Ward:	St Laurence	
Proposal:	Demolish existing buildings and erect three storey block comprising of 12 self-contained flats and 8 two storey dwellinghouses, layout landscaping, amenity space and parking (Amended Proposal)	
Address:	277 Prince Avenue Southend-on-Sea Essex SS0 0JS	
Applicant:	Dove Jeffrey Homes and Estuary HA	
Agent:	Phase 2 Planning	
Consultation Expiry:	28 th November 2019	
Expiry Date:	23 rd January 2020	
Case Officer:	Abbie Greenwood	
Plan Nos:	200-P4, 200-P5, 201-P5, 202-P4, 203-P5, 204, 205, 206, 207, 6861-D-AIA-B	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The site is located at the northern end of Prince Close just off Prince Avenue near to Tesco's Superstore. The existing building on the site is a detached single storey 1970s style light industrial unit which was for many years occupied by Rotary Watches but is now vacant. The site is designated as an Employment Area in the Core Strategy and the Development Management Document.
- 1.2 Prince Close Industrial Estate is one of the Borough's designated employment areas. The application building is by far the largest property in the estate. There are four other smaller industrial buildings located to the west site of the site which are occupied by a property development firm's office, a recording studio and a gym. There is an area of vacant industrial land to the north west of the site. Otherwise the site is surrounded by residential properties. The A127 arterial road is located to the south of the site.
- 1.3 A footpath runs through the middle of the industrial estate on the west boundary of the site which connects the main road to the housing area to the north. The trees that line this route are protected by TPO 5/96 G1. There are also a number of other trees surrounding the building both within the site and in neighbouring gardens. Aside from these designations there are no other policy constraints applicable to the site.

2 The Proposal

- 2.1 This application seeks planning permission to demolish the existing industrial buildings and erect a three storey building comprising of 12 self-contained flats, 8 two storey dwellinghouses and to layout landscaping, amenity space and parking on the site.
- 2.2 The proposed flats are within a single flat roofed block which measures 25.5m wide, 14.2m deep and 9.1m high. This block contains 9 x 2 bed 4 person units and 3 x 2 bed 3 person units and is located at the northern end of the site.
- 2.3 The proposed houses are arranged as semi-detached pairs. Three pairs of a matching design are proposed along the eastern side of the site. These are two storeys with a gabled roof and measure 12.1m wide (per pair), 9.5m deep, 5.2m to the eaves and 8.5m to the ridge. A single additional pair of semi-detached houses is also proposed at the front of the site. These are a different but similar design to the other houses and measure 11.3m wide (for the pair), 9.6m deep, 5.1m to the eaves and 8.5m to the ridge. 7 of the houses are 3 bed 5 person units and one is a 2 bed 3 person property. All 20 of the units are proposed as affordable housing and are stated to be managed by Estuary Housing Association.
- 2.4 All the buildings are proposed to be constructed of yellow/buff face brickwork, with a darker brick tone for detailing. No detailed information has been provided regarding the other external materials or exact brick choices.
- 2.5 Other structures on the site include a communal bin and bike store for the flats and a car port structure for 3 of the houses which is located in the centre of the site behind the front pair of semis. Altogether 28 parking spaces are proposed for the dwellings and 7 additional parking spaces are proposed for visitors along the access route making 35 spaces in total. The houses all have private gardens ranging from 60 sqm

to 91 sqm. The flats have private balconies of 5 sqm and a rear communal amenity space of 400 sqm.

2.6 The application is supported by the following:

- Planning Statement (letter) by Phase 2 Planning ref C18154 dated 18.10.19
- Design and Access Statement reference eV2-19.10.2019
- Market Analysis Report by Savills
- Viability Report dated 24.10.19
- Letter from Homes England dated 24.09.19 confirming the grant offer and supporting the proposal
- A letter from Dove Jeffery Homes dated 24.10.19 confirming the scheme is deliverable and they will not be seeking to vary the S106.
- A financial Summary from Estuary Housing reference 2019/10/24 confirming the scheme is deliverable
- Emails from Keith Carter (Estuary Housing) dated 14.11.19 and 15.11.19 confirming the grant details and that all units can be secured as affordable housing in the legal agreement.
- Accommodation Schedule
- Phase I Desk Study by AF Howland Associates reference JAH/18.478/Phase I
- Contamination Findings Report by Groundsure reference GS-5707245
- Phase II Contamination Investigation Report AF Howland Associates reference JAH/18.478/Phase II
- Enviro Insight report by Groundsure reference GS-5707245
- Remediation Method Statement by AF Howland Associates reference JAH/18.478/RMS
- Transport Statement by Markides Associates dated 3.1.19
- Tree Survey, Arboricultural Impact Assessment and Tree Protection Plan by Haydens Arboricultural Consultants reference 6861revB
- Flood Risk Assessment and Drainage Strategy by Rossi Long Consulting reference RLC181340
- Drainage and Services Survey Plans
- Landscape and Ecology Management Plan by Wild Frontier Ecology Ltd
- Bat Survey reference PR1003
- Energy Statement by Fusion 13 version 1 dated 15.1.19

2.7 The application is an amended proposal following refusal of a similar scheme reference 19/00086/FULM. This scheme was refused for the following reasons:

01 The proposed development is wholly located within a designated employment area and the proposal fails to demonstrate that there is no long term or reasonable prospect of the site being used for B class uses and that the proposed use could not reasonably be located elsewhere in the area it serves. On this basis it is concluded that the use of the site as proposed would materially undermine the status of a designated employment area and the long term availability of employment generating development in the Borough. There are found to be no material planning considerations, or other public benefits including by reason of the modest number of additional dwellings proposed, to outweigh the harm caused by this conflict with development plan policy. This proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP1, KP2 and CP1 of the Core Strategy (2007) and policies DM3 and DM11 of the Development Management Document (2015).

02 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. 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).

A copy of the Committee Report is attached at Appendix 1.

- 2.8 In order to address these reasons for refusal the site has been put onto the market and a Market Analysis Report has been submitted. The amended scheme also proposes to secure all 20 units as affordable housing via the legal agreement so they are protected as such for the lifetime of the development. A letter of grant confirmation and support for the proposal has also been received from Homes England.

3 Relevant Planning History

- 3.1 19/00086/FULM - Demolish existing buildings and erect three storey block comprising of 12 self-contained flats and 8 two storey dwellinghouses, layout landscaping, amenity space and parking – refused
- 3.2 18/01803/FUL - Increased height of existing garage (partially retrospective). – granted

4 Representation Summary

Public Consultation

- 4.1 50 neighbours have been consulted on the application, a press notice has been published and a site notice displayed. No letters of response have been received.

Planning Policy

- 4.2 An objection is raised to the loss of employment land which is contrary to policy DM11.

Strategic Housing

- 4.3 No objections.

Transport and Highways

- 4.4 No objections subject to the provision of Travel Packs to each property.

Education

- 4.5 As the proposal is for 100% affordable housing secured by the S106 there is no requirement for an education contribution.

Environmental Health

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

Parks

- 4.7 The Hayden's Arboricultural (Arb) Impact Assessment and plan addresses adequately the initial issue of tree protection during development, however adherence to the recommendations of the report is essential to ensure the protection of the trees identified for retention. Para 6.2, the report states that:

'Subject to achieving planning permission, it is recommended that a detailed Arboricultural Method Statement and Tree Protection Plan should be provided. This will include the following: Ground protection measures, access facilitation pruning specification, project phasing and an extensive auditable monitoring schedule.'

A condition should be applied requiring the detailed Arboricultural Method Statement and Tree Protection Plan to be submitted and approved, prior to commencement.

Service route information was not available when the Arb report was submitted. This information must be available and included in the Arb Method Statement when it is submitted for approval.

Drainage Engineer

- 4.8 No objections subject to conditions attached to any consent if this application is approved by the LPA (conditions were specified in consultation response.)

Anglian Water

- 4.9 No objections

Police

- 4.10 No objections.

Fire Brigade

- 4.11 No objections.

- 4.12 This application was called to committee by Councillor Cowan and Councillor Flewitt.

5 Planning Policy Summary

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

- 5.2 The Southend-on-Sea Core Strategy (2007): Policies KP1 (Spatial Strategy) KP2 (Development Principles) CP1 (Employment Generating Development). CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance) CP6 (Community Infrastructure) CP7 (Sport, Recreation and Green Space)

- 5.3 The Southend-on-Sea Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon and Development and Efficient Use of Resources), DM3 (The Efficient and Effective Use of Land) DM10 (Employment Sectors) DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM11 (Employment Areas) Policy DM14 (Environmental Protection), DM15 (Sustainable Transport Management)
- 5.4 The Design and Townscape Guide (2009)
- 5.5 National Technical Housing Standards (2015)
- 5.6 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main issues for consideration include the principle of the loss of employment land in a designated employment area, housing mix including affordable housing, the design and its impact on the character of the area, the standard of accommodation for future occupiers, the impact on neighbours, traffic and parking implications, sustainability, potential contamination, trees and CIL and S106 contributions and whether the amended proposal overcomes the reasons for refusal of the previous application.

7 Appraisal

Principle of Development

- 7.1 Government guidance with regard to planning matters is set out in the National Planning Policy Framework (2019). The NPPF states that there are three dimensions to sustainable development. These are economic, social and environmental.
- 7.2 In relation to the economic strand of the definition of sustainable development, paragraph 3 of the NPPF states that the planning system will contribute to building a strong competitive economy by *'ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure'*.
- 7.3 Paragraph 11 of the NPPF states that *'decisions should apply a presumption in favour of sustainable development....For decision-taking this means:*
 - c) approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

- 7.4 Paragraph 15 states that planning should *'be genuinely plan-led'*. Paragraph 20 states *'Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:*
- a) *housing (including affordable housing), employment, retail, leisure and other commercial development;*'
- 7.5 Paragraph 120 of the NPPF states that *'Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:*
- a) *they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and*
- b) *in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.'*
- 7.6 Policy KP1 seeks sustainable development by focussing appropriate regeneration and growth towards Priority Urban Areas and the main industrial/employment areas.
- 7.7 Policy CP1 of the Core Strategy states that *'The Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas.'* and that *'Permission will not normally be granted for development proposals that involve the loss of existing employment land and premises unless it can be clearly demonstrated that the proposal will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area.'*

Loss of Employment Land

- 7.8 Prince Close Industrial Estate is identified as a designated Industrial / Business Estate in the Development Management Document. Policy DM11 of the Development Management Document seeks to protect Class B uses within the Borough's designated Employment Areas. In relation to this issue Section 2 of policy DM11 states:

'The Borough Council will support the retention, enhancement and development of Class B uses within the Employment Areas shown on the Policies Map and described in Policy Table 8. Proposals that fall outside of a Class B employment use will only be granted permission where:

2A the development proposal is a 'sui generis' use of a similar employment nature, which is compatible with and will not compromise the operating conditions of the Employment Area; or

2B. the development proposal is in conformity with a planning brief, or similar planning policy document, that has been adopted by the Borough Council for the concerned site, which sets out other appropriate uses; or

2C. it can be demonstrated to the Council's satisfaction that:

- i. *there is no long term or reasonable prospect of the site concerned being used for Class B purposes**, and
- ii. *the use is compatible with and will not compromise the operating conditions for other employment uses or the potential future use of neighbouring sites for employment uses; and*
- iii. *the alternative use cannot be reasonably located elsewhere within the area it serves**; and*
- iv. *the use will not give rise to unacceptable traffic generation, noise, odour or vehicle parking.*

2D. it can be shown that the development will be a complementary and supporting use, which is both subservient and ancillary to the principal employment uses and serves the day-time needs of the estate's working population and will not result in a material change to the Class B character and function of the area.

**This should include a minimum 2 year active marketing exercise where the vacant site / floorspace has been offered for sale or letting on the open market at a realistic price and that no reasonable offers have been refused. In exceptional cases related to site-specific circumstances, where the vacancy period has been less than two years, a robust market demand analysis which supplements any marketing and vacancy evidence may be considered acceptable. Appendix 4 sets out the information to be provided in relation to marketing and market demand.*

*** The Borough Council will make a judgement about the extent of the area based upon the site concerned and the proposed use.*

7.9 Appendix 4 of the Development Management Document set out the specific requirements that should be submitted in relation to the Marketing Assessment and Market Demand Analysis required by Policy DM11 above. In relation to changes of use for designated employment sites it states:

'PART A - Marketing

In instances where policies require marketing information to be submitted, the following details will be used to assess the acceptability, or otherwise, of the information submitted and any marketing undertaken.

Marketing evidence requires demonstration of an active marketing campaign for a continuous 2 year period, whilst the premises were vacant, which has shown to be unsuccessful.

Marketing must be through a commercial agent at a price that genuinely reflects the market value of the lawful use. It must be shown to the council's satisfaction that marketing has been unsuccessful for all relevant floorspace proposed to be lost through redevelopment or Change of Use.

Active marketing should include all of the following:

- 1. A visible advertisement board posted in a prominent location on site, including relevant contact information (subject to advertising consent, if required);*
- 2. Registration of property with at least one commercial property agent and continuously advertised on the agent's website;*
- 3. Property details and information available to enquirers on request;*
- 4. Property marketed at a reasonable price reflecting market conditions, including in*

relation to use, condition, quality and location of the premises/ site;

5. Property marketed for the appropriate use or uses as defined by the relevant planning policy.

Sufficient detailed information is required to be submitted alongside any planning application to demonstrate compliance with the above criteria. Additionally, information should be submitted regarding:

- i. the number and details of enquiries received;*
- ii. the number of viewings;*
- iii. the number, type, proposed uses and value of offers received;*
- iv. reasons for refusal of any offer received, and/or reasons why any offers fell through;*
- v. the asking price and/or rent that the site or property has been offered at, including a professional valuation from at least three agents to confirm that this is reasonable;*
- vi. the length of marketing period, including dates, and*
- vii. the length of the vacancy period.*

PART B – Market Demand Analysis

A detailed assessment of the current, and potential future, market demand for the site or premises in question should be provided. Market demand analysis submitted alongside, or where justified, in place of marketing evidence must set out clear and up-to-date information on matters including:

- i. Business floorspace available in other similar properties within the market area*
- ii. Rental levels achieved for these properties*
- iii. Independent commentary on the current and likely future demand for floorspace within the market area, based on the above factors and other relevant considerations (e.g. the latest Southend Employment Land Review and Survey of Key Employment Areas).*

To take account of changing economic circumstances consideration should be given to any likely changes in market conditions within a 3-5 year time horizon, which could impact on development viability.'

- 7.10 It is clear that criteria 2A, 2B and 2D do not apply in this case. The proposal therefore is assessed against criterion 2C.
- 7.11 Criterion 2Ci) requires that it be demonstrated that there is no long term or reasonable prospect of the site being used for class B purposes. As noted above this should be verified by evidence of a continuous 2 year marketing of the vacant premises showing there to be no demand for class B uses on the site.
- 7.12 The previous application was refused because it failed to demonstrate that there was no long term or reasonable prospect of the site being used for B class uses and that the proposed use could not reasonably be located elsewhere. On this basis it was found to undermine the status of the designated employment area and the long-term availability of employment generating development in the Borough.

- 7.13 In weighing up the planning balance of the previous application the conclusion was that overall, there were no material planning considerations or other public benefits of the proposal which would outweigh the harm caused by this conflict with the development plan.
- 7.14 In response to this the current application has sought to provide additional information in support of the marketing of the site though, a more robust Market Demand Analysis. The proposal is also seeking to make a case for exceptional circumstances on grounds that it provides significant public benefits in the form of additional, specifically affordable, housing.

Marketing of the Site and Market Demand Analysis

- 7.15 The previous application provided details on the soft marketing which had been undertaken by the site owner whilst the factory was still in operation and provided some information from local agents about the unsuitability of the site for continued industrial use primarily based on its limited accessibility and the poor quality of the building. This is set out in detail in the previous committee report for application reference 19/00086/FULM (see copy at Appendix 1) but was previously considered insufficient to meet the requirements of policy DM11 outlined above.
- 7.16 The building has since become vacant. The current submission confirms that it has been on the market since 15th August 2019 with two commercial agents and a proactive marketing campaign has been undertaken by both agents including internet advertising, signboards, mail shots and cold calling to potential clients who are looking for new properties or investment opportunities. Following this exercise a total of 23 enquiries were received in 4 months but no offers were made. The reasons given for the absence of offers are as follows:
- Poor location / building - 9
 - Not a suitable investment - 2
 - Looking for development site for alternative use - 9 (mainly residential)
 - Looking for short term let only - 1
 - Poor access for large vehicles - 4
 - Limited yard space for turning and storage - 2
- 7.17 In addition to the active marketing of the site the applicant has also undertaken a more rigorous Market Demand Analysis Assessment than was undertaken for the previously refused scheme. The purpose of this document is to assess the opportunities and constraints of the site and its viability for future employment use. The document particularly considered the following topics:
- Opportunities and constraints of the site;
 - a comparison with the alternative available business premises in the area;
 - an overview of the take up, supply and demand of industrial units in the wider area;
 - an analysis of the local and regional markets and projections for the demand of Class B uses the area and where growth is forecast;
 - an investigation into the emerging opportunities in the area.

- 7.18 In relation to the opportunities and constraints of the site the report reiterates many of the concerns raised previously and by prospective purchasers including the poor location which has no street frontage, a narrow restricted access, lack of yard space and is set within a residential area as well as the poor quality of the building. It concludes that the site is an impracticable location for an industrial operation and there are more suitable premises available on other employment sites in the area and details of these were provided.
- 7.19 The report also suggests through statistical analysis that there has been a dramatic fall in demand for smaller units in the south Essex area. In addition to identifying a number of other vacant units in the area the report also provides an overview of new industrial units which are coming on line including at the Airport Business Park, the new port at Thurrock and in Basildon where significant new industrial space is under construction targeting small to medium sized occupiers of a similar size to the proposal site. These will provide a range of modern industrial units in more accessible and desirable locations.
- 7.20 The report also includes information on other sites in the Borough where contending that a comparable level or less information/justification regarding loss of employment use was supplied and accepted by the Council. These include 425 Sutton Road and 10 Fairfax Drive, however, it is important to note that, unlike the application site, the cases listed are not located in designated employment areas. These cases have therefore been judged against a lower bar in terms of employment policy than applies to the application site.
- 7.21 The Planning Policy Section have reviewed the application and have made the following comments in regard to this issue:

It is noted that a recent application on the site (19/00086), which involved the loss of employment use and a proposed residential use, was refused on the grounds of the loss of employment land, lack of supporting evidence to justify this, and lack of affordable housing provision. The current application presents a scheme for 100% affordable housing. The issue in relation to the loss of the employment land remains however.

The supporting statement which seeks to justify the loss of employment use is dated August 2019. The building, it is stated, was vacated by the previous tenant following the expiration of their lease in June 2019.

[The policy] requires marketing information to be submitted, demonstrating an active marketing campaign for a continuous 2 year period whilst the premises were vacant. In exceptional circumstances, relating to site specific circumstances, DM11 outlines that a marketing exercise can be shorter than 2 years where a robust market demand analysis is supplied.

It is noted that one of the previous reasons for refusal is likely now to be overcome, given the provision of affordable housing on site, which is a positive improvement, and this will be taken into account in the decision making process and a balanced judgement made regarding the case for exceptional circumstances to apply to this site owing to the provision of 100% affordable housing, given that the criteria of DM11 have not been fully met.

The Council is in the early stages of bringing forward its new Local Plan, which will review employment areas and related policies in due course, with a duty to consider the future needs of the Borough, including growth in both residential and jobs provision. However, at this time the Development Management Document and Core Strategy provide the adopted policy framework.

Evidence base studies, such as the South Essex Economic Development Needs Assessment and the Southend Economic Land Availability Assessment, will be used to inform the Local Plan and do not alter the current policy approach as per the Development Management Document. The local plan will have a duty to meet the needs of the local area which will involve meeting significant job growth as well as housing need.

- 7.21 The South Essex Economic Development Needs Assessment (EDNA) 2017 reviews the quality employment sites across the region. As part of this exercise the sites are categorised according to their quality and suitability for future employment use. The categories in order of suitability are:
1. Protect and Maintain
 2. Protect and Enhance
 3. Significant Intervention Required
 4. Monitor and Manage
- 7.22 The Prince Close employment area is highlighted as being ‘Monitor and Manage’ the commentary stating that it *‘should not necessarily be supported for continued employment use over time, dependent on retention of existing occupiers.’* (Table 33) and the commentary at paragraph 6.109 highlights that Prince Close is considered to be *‘of poor overall quality and is recommended to be monitored and managed. It is suggested that this site may not necessarily be the most appropriate for continued B class employment activity, however this is dependent on whether its existing occupiers remain on the site and underpin its continued employment activity.’*
- 7.23 Monitor and Manage is defined in the document as *‘sites which are poor quality and/or are not identified to be functioning adequately as employment sites, particularly based on poor stock condition and lack of investment, non B class uses evident on site, location in areas with poor accessibility and amenity levels, and/or location in a context not supporting of employment activity. This categorisation is not intended to suggest a release from employment land designation or that the site does not meet the needs of occupiers. Instead it is intended to identify the weakest offer which may, over the long term, face challenges in terms of retaining existing or attracting new occupiers due to their limitations.....Each decision would need to be taken on a case by case basis’*
- 7.24 Prince Close Industrial Estate is one of only 4 industrial estates which are in this lowest category the others being Grainger Road, Terminal Close and Prittlebrook but it is noted that unlike Prince Close both Terminal Close and Grainger Road are identified as Employment Growth Areas in Development Management Document Policy Table 8 and have been identified in the EDNA as *‘having the potential for additional B class floorspace supply through regeneration of the existing site’* (para 6.94).

This report also states that Terminal Close should be *'monitored and managed as it could be more appropriate for non-employment uses, although there could also be potential to provide support for the provision of flexible workspace for SMEs'* (small and medium enterprises)(para 6.100) whereas the commentary on Prince Close states that that *'this site may not necessarily be the most appropriate for continued B class employment activity, however this is dependent on whether its existing occupiers remain on the site and underpin its continued employment activity.'* (para 6.109).

7.25 The Southend Employment Land Availability Assessment (ELAA) 2018 also reiterates this conclusion where the recommendation for Prince Close Industrial Estate is again to *'monitor and manage pending potential release'*. At paragraphs 5.17-5.18 of this document it comments that *'it is recommended that the Council monitors the occupation of the site and considers it for potential release unless there is a continued requirement for manufacturing uses and the retention of existing occupiers'*.

7.26 It is clear from these studies that Prince Close Industrial Estate as a whole is considered to be less important than to the majority of the other designated employment areas in the Borough and its suitability for future retention as a viable employment area is questioned. However, at this time it remains a designated employment site and the proposal is still required to meet criterion 2C above. Although a case has been made in the Market Demand Analysis Report that an industrial use is no longer viable and an alternative use would be more suitable, with only 3 months marketing evidence to support this it is considered that the policy requirement has not been met. The acceptability of the proposal will now depend on whether the public benefits of the proposal are sufficient to outweigh this identified harm and a balanced judgement will need to be made as to whether this constitutes exceptional circumstances justifying approval. This is discussed at the end of this section.

Housing Mix and Affordable Housing Provision

7.27 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.

7.28 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.

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

7.30 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	4-bed
Affordable Housing	16%	43%	37%	4%
Market Housing	9%	22%	49%	20%

7.31 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.

7.32 The Planning Statement for the current proposal confirms that the whole development will be delivered for an affordable housing provider and all the units will be secured as affordable housing within the S106 legal agreement.

7.33 The proposed housing mix and tenure is as follows:

Tenure	2-bed	3-bed	Total
Affordable Rent	8 units (40%)		8 (40%)
Social Rent	4 units (20%)		4 (20%)
Shared Ownership	1 unit (5%)	7 units (35%)	8 (40%)
Total Number of Units	13 units (65%)	7 units (35%)	20 (100%)

7.34 The previously refused application proposed 2 x affordable rented and 2 x shared ownership units to be secured by a S106 agreement, plus 16 additional non-secured shared ownership units. This was considered to be a policy compliant position in relation to the provision of affordable housing but was not judged represent a public benefit outweighing the conflict with employment policy because only 4 units were guaranteed as affordable housing in perpetuity.

7.35 The current scheme is proposing 100% secured affordable housing and an enhanced mix including 60% rented units. This significantly exceeds the policy requirement in this regard.

- 7.36 In terms of tenure it is noted that, with 60% of the affordable units being either affordable rent or social rent and the remaining 40% shared ownership, the proposal is exactly policy compliant with Policy DM7 in terms of the tenure split for affordable housing however, rather than providing only the 3 rented units needed to comply with the policy, 12 secured rented units are proposed. This is a positive aspect of the scheme and a significant public benefit.
- 7.37 In relation to housing mix the scheme is providing a mix of 2 bed (65%) and 3 bed (35%) units but there are a range of 3 bed sizes and the proposal includes both flats and houses. This should provide for a mix of accommodation including family sized units. Given the relatively small size of the site and its constrained location, the provision of only 2 and 3 bed units is considered to be reasonable. The Councils Strategic Housing Team note that there is a large demand for 2 and 3 bed affordable units and have no objection to the proposed mix. The proposal is therefore considered to significantly exceed that required to meet policies CP8 and DM7 in terms of affordable housing provision.

The case for exceptional circumstances on the grounds of public benefits

- 7.38 As noted above, although the marketing evidence in the amended proposal has been strengthened, it is considered that the proposal has not managed to demonstrate full compliance with Policy DM11. The proposal is therefore also seeking to make a case for an exception to requirements of Policy DM11 on the grounds the proposal would provide significant public benefits in terms of the provision of affordable housing.
- 7.39 The previously refused application also proposed 100% affordable housing but with only a policy compliant 20% of units secured in the legal agreement meaning that there was no guarantee that the remaining units would remain as affordable housing in perpetuity. The application is based on all 20 units (100%) being secured as affordable housing in the legal agreement ensuring that they will all remain as such in perpetuity. They are also proposing that 60% of the units will be either affordable or social rented units which are the most sought after affordable units. This arrangement has also been confirmed with Homes England who are grant funding the proposal. The developer and the affordable housing provider have also confirmed in writing that this scheme is deliverable that they will not seek to vary the S106 in the future.
- 7.40 The agent suggests that this guarantee of 100% affordable housing including 60% rented units goes significantly above and beyond the policy requirement for the provision of affordable housing as set out in Policy CP8 and that this should be considered as a considerable public benefit such that it should justify an exception to the loss of employment policy in this particular case.
- 7.41 Overall and on balance it is considered that the specific circumstances of the site, in terms of its location and access constraints, together with the conclusions of the Market Demand Analysis and taking into account the results of the independent studies of the Borough's employment areas carry some weight but do not in themselves evidence a case for an exception to employment policy. However it is considered, on balance, that the public benefits of providing 100% secured affordable housing units, including 60% rented units, carries material weight and can be considered sufficient to justify a departure from policy DM11 in this case.

Therefore, subject to securing the proposed affordable housing in a legal agreement, the previous reason for refusal in relation to the change of use from employment land to residential is overcome and the principle of the development can, in this instance, be considered acceptable.

7.42 The detailed considerations of the application are set out below.

Design and Impact on the Character of the Area

7.43 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.*'

7.44 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.*"

7.45 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."*

7.46 The existing building has no design merit and consistent with the basis of the previous decision on the earlier 2019 application there is no objection to its loss in the streetscene or impact on the wider surrounding area.

7.47 The proposal seeks to erect a number of residential buildings on the site including a 2 storey block of flats and 4 pairs of semi-detached houses. The flats are sited to the northern end of the site adjacent to a similar scaled flatted block to the north. The houses are arranged on the eastern side of the site and to the front. Each have their own amenity area to the rear. Parking is principally located to the rear in front of the flatted block. The layout also includes soft landscaping which will soften the development and help to offset the visual impact of the parking court to the rear. The design of the proposal is the same as the previously refused scheme except that privacy screens are now proposed for the rear balcony of the flats. No objections were previously raised to the layout of the site which sits comfortably with the grain of the wider area and this element of the proposal remains acceptable.

7.48 As with the previously refused scheme the proposed buildings are of a modest scale which draws reference from the surrounding residential uses. The flats to the rear are 3 storeys with a flat roof which is the same form as the adjacent block to the north of the site. The houses are of a domestic scale and are also similar to the surrounding area. There is therefore no objection to the scale or quantum of development on the site.

7.49 The buildings themselves are brick with well-proportioned windows and feature detailing. The elevations are satisfactorily balanced with clearly defined entrances and added brick detailing to add interest and provide a sense of place. The addition of privacy screens to the rear elevation of the flatted block has had no material bearing on the design of the scheme and this remains acceptable. The incidental buildings including the bin/cycle store and car port are more utilitarian in their design but utilise matching materials and will not be dominant in the wider context. These remain unchanged. Overall therefore, as with the previous proposal, the design of the buildings is considered to be acceptable and the scheme is policy compliant in respect of design and character matters.

Standard of Accommodation for Future Occupiers

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

7.51 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*”.

7.52 Policy DM8 and the associated housing transition statement requires all new housing to meet the nationally described space standards. It also requires the units to be accessible and adaptable for all.

Space Standards

7.53 Nationally Described Space Standards (NDSS) require the following areas in terms of floorspace and bedroom sizes.

- 2 bed 3 person flat - minimum 61 sqm
- 2 bed 3 person house – minimum 70 sqm
- 2 bed 4 person flat - minimum 70 sqm
- 3 bed 5 person house - minimum 93 sqm
- Master bedroom - minimum area 11.5 sqm, minimum width 2.75m
- Other double bedrooms – minimum area 11.5 sqm, minimum width 2.55m
- Single bedrooms - minimum area 7.5 sqm and minimum width 2.15m

7.54 As with the previously refused proposal all the units meet these standards.

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

7.55 Policy DM8 requires that 10% of dwellings in all major housing developments to be wheelchair compatible (Building Regulations M4(3) standard) and all other units to be adaptable for all (Building Regulations M4(2) standard).

- 7.56 As with the basis of the previously refused proposal the submitted information confirms that 2 of the units (10%) are wheelchair compatible and the remaining units would meet the M4(2) standard. This is therefore acceptable and policy compliant.

Daylight, Sunlight and Outlook from Habitable Rooms

- 7.57 The plans show that all habitable rooms would benefit from acceptable levels of daylight and sunlight. Where the habitable rooms look out over the parking area, a landscaped buffer has been provided to soften the visual impact of the vehicles. The daylight, sunlight and outlook of habitable rooms is therefore considered to be acceptable and policy compliant.

Amenity Provision

- 7.58 All the dwellings have access to private amenity space. The houses have their own private gardens to the rear which range between 60 sqm and 91 sqm. This is considered reasonable for family accommodation. The flats each have a private balcony or ground floor sitting out terrace and they also have access to a communal amenity area of 400 sqm. This is considered to satisfactorily to serve the number of flats proposed. The amenity provision for the site is therefore considered to be acceptable.

Noise and disturbance from rest of the industrial estate

- 7.59 The site constitutes one half of a small industrial estate. It is therefore necessary to consider the potential impact of the neighbouring industrial uses on the future occupiers of the proposed housing. The site at present contains a number of small scale uses including offices, a gym and recording studio and an area of vacant open land. The Councils Environmental Health Officer has no concerns with this juxtaposition of uses subject to the use of appropriate conditions. The proposal is acceptable and policy compliant in this regard.

- 7.60 Overall, as with the basis of the previously refused scheme, the amended scheme provides an acceptable quality of accommodation for future occupiers and is policy compliant in this regard.

Impact on Residential Amenity

- 7.61 Policy DM1 of the Development Management Document states that development should “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.”

- 7.62 Policy DM3 of the Development Management Document seeks to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight.

Impact on neighbour to the north 14-25 Purley Way

- 7.63 The proposed flatted block to the northern end of the site is 11.2m from the boundary with 14-25 Purley Way, the adjacent flatted block, and 19.4m from the flank of this neighbour. The proposal has habitable room windows facing onto this neighbour. 14-25 Purley Way is, however, orientated east to west therefore has only high level non habitable room windows facing the site. Consistent with the basis of the decision on the previous proposal, it is considered that the separation distances and orientation of the proposed building will ensure that the proposal will not have a detrimental impact on the amenity of flats to the north.

Impact on houses to the east 56-66 Denton Avenue

- 7.64 To the east the site bounds onto the rear gardens of 56-66 Denton Avenue which are two storey houses. At the northern end of the site the flatted block is 2.75m from the eastern boundary with 62-64 Denton Avenue, but there is a separation distance of over 29m to those dwellings themselves. There are 6 windows on the eastern elevation of this flatted block but the plans show them to be secondary windows only which will be obscure and fixed shut. The proposed flatted block is 9.1m tall. There are 2 balconies proposed to the northern elevation. The amended design shows privacy screens have now been proposed on the eastern sides of these balconies to shield views to the east.
- 7.65 The existing industrial building on this site is much closer to this shared boundary but is single storey only. The change in height between this and the proposed flatted block will be evident from the neighbouring gardens, however, it is noted that there is a considerable separation distance between the proposed flats and those dwellings (over 29m). The views from the balconies will be restricted by the proposed privacy screens but there may be an element of perceived overlooking from the proposed obscure windows on the east elevation. These are proposed to provide light to the units and to help to break the massing of the flank elevation which would otherwise be blank and rather oppressive. It is also noted that this relationship is not dissimilar to that between the flatted block to the north (14-25 Purley Way) and the houses on Denton Avenue which have a 30m separation distance and which have habitable windows facing the east boundary 7.5m away. On balance and given the significant separation distance between the buildings, in this instance and consistent with the basis of the decision made on the earlier proposal, this relationship can be considered reasonable in an urban context and the proposal would not result in a materially harmful impact on the amenities of these neighbours.
- 7.66 At the southern end of site the houses are set 9m off the shared boundary with 56-60 Denton Avenue and there is a separation distance of at least 28m to the nearest dwelling itself. The proposed houses have habitable room windows at first floor facing east. In this section of Denton Avenue, the existing houses are set at an angle so do not directly face onto the application site. This is an unusual relationship but it will noticeably reduce the opportunity for direct overlooking between the properties. On balance and consistent with the basis of the previous decision, it is considered that this is an acceptable relationship and the proposal would not have a detrimental impact on the amenity of these neighbours.

Impact on houses to the south 259-273 Prince Avenue

- 7.67 The proposed southernmost house would be set 3.4m from the southern boundary and 28.2m from the rear elevations of the properties in Prince Avenue. One landing window is proposed in the southern flank of plot 03. The boundary between the site and the properties in Prince Avenue is lined with large trees.
- 7.68 The separation distance between the houses here is similar to that achieved between the proposal and existing properties to the east and north however, the impact here is further reduced by the tree cover and the absence of habitable windows. Consistent with the basis of the previous decision, it is considered that the impact on the amenities of the properties in Prince Avenue is acceptable.

Impact on neighbours to the west - other employment uses within Prince Close

- 7.69 The nearest building, plot 01 is 1.6m from the western boundary and over 25m from the nearest permanent industrial building to the west. There are some porta cabin offices around 20m from plot 01. A public footpath bisects the industrial estate between the site and these neighbours. The public footpath is lined by mature trees some of which are covered by a tree preservation order. At the northern end of the site, the proposed flatted block is 5.4m from the west boundary. On the other side of the footpath here is an open land which is being used to store wrecked cars. Consistent with the basis of the previous decision, it is considered that the nature and scale of the proposal would not have a detrimental impact on the amenities of these neighbours.
- 7.70 In relation to the inter relationships of the proposed dwellings themselves, the layout and separation distances proposed are such that the proposal will not result in unreasonable overlooking, loss of light or appear over bearing to the neighbouring properties within the site.
- 7.71 Overall therefore, on balance, it is considered that the proposal would be acceptable and policy compliant in its impact on neighbour amenity. This is the same conclusion as was reached on the previous proposal.

Traffic and Transportation

- 7.72 Policy DM15 of the Development Management Document requires all development to meet the off-street parking standards which for residential development outside the central area is expressed as a minimum standard of 2 parking spaces for houses and 1 space for flats. There is no minimum requirement for visitor parking. The policy requirement for the development is therefore 28.
- 7.73 As with the previously refused proposal, the submitted plans show that 35 parking spaces are proposed within the application site, 28 for occupiers of the proposed development and 7 visitor spaces. The plans show these to be convenient to the properties. The proposed number of parking spaces therefore exceeds the minimum policy requirement but is not so excessive in ratio as to materially harm the Council's objectives for sustainable transport. The proposal is therefore acceptable and policy compliant in this regard.

7.74 No changes are proposed to the site access arrangement from Prince Avenue. The layout includes a size 3 turning head and tracking has been provided to demonstrate it will satisfactorily accommodate a refuse vehicle. In relation to traffic movement the Transport Statement includes TRICS data analysis which shows there to be a reduction of predicted traffic movements in relation to the existing use on the site. The Council's Highways Officer has not raised any objections in relation to parking, highways or traffic impact of the proposal.

Cycle Storage, Refuse and Recycling

7.75 The cycle storage for the development is policy compliant and this is considered to be acceptable. The Council's Waste Management Guide for Developers recommends that flatted schemes of 15-21 units provide a minimum of 2 x 1100 litre bins for refuse and 3 x 1100 litre bins for recycling and at least 1 x 140 litre food waste bin. It does not seem that the proposed refuse store will be able to accommodate this level of bin storage. In these instances the Waste Management Guide recommends that the development will require an enlarged store or a recycling and waste management strategy should be sought. The plans show that there would be scope to increase the size of this store or to utilise the cycle storage for bins and provide a separate cycle store in the amenity area. These details and a Recycling and Waste Management Strategy can be agreed by condition.

7.76 Subject to these conditions, the parking, traffic and highways implications of the development are found to be acceptable and policy compliant.

Sustainability

Energy and Water

7.77 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.

7.78 The Energy statement comments that 12,176.9 kW of energy will be provided by PV panels on the roof of the flatted block and this equates to 10% of the energy needs of the whole site. This would be policy compliant and can be secured by a condition. No information has been provided regarding water efficiency but this too can be secured by condition. Subject to such conditions the proposal is acceptable and policy compliant in the above regards.

Sustainable Drainage SuDS

7.79 A drainage strategy has been submitted for the site. This confirms that the site has a low risk of surface water flooding and limited potential for ground water flooding. The drainage plan for the site includes permeable surfacing and an underground attenuation tank which will provide sufficient storage and controlled water release for larger storm events including climate change allowances.

The Council's drainage engineer has not objected to the proposed SUDs scheme but has requested further information in relation to flow calculation and future management. These details can be secured via a condition.

Preserved Trees and Ecology

- 7.80 The Council seeks to protect trees which make a positive contribution to the amenity of the area from the impact of new development.
- 7.81 The proposal site contains a number of existing trees and there are other established trees around the site including some which are protected by a TPO adjacent to the public footpath on the western edge. An arboricultural report has been submitted with the proposal. This proposes the removal of some trees within the site at the northern end, some pruning works to trees outside the site and some works within the root protection area. The arboricultural statement comments that the largest tree to be removed is required because it is in poor health and this would be necessary even if the development were not proposed. Otherwise the works are required to facilitate the development. In relation to tree protection measures the report proposes:
- a temporary protective barrier to protect the canopies of the trees and
 - methods for the demolition of the existing building and removal of the existing hard surfacing within the root protection areas (RPAs)
 - a commitment that new services will be outside the RPAs
 - a method for construction of new hardsurfaces within the RPAs
- 7.82 The report concludes that, if planning permission is granted, a more detailed arboricultural method statement and tree protection plan which includes details of ground protection measure, access facilitation, pruning specification, project phasing and monitoring be agreed with the Council to ensure the trees are protected during demolition and construction.
- 7.83 The Council's Arboricultural Officer has not raised any objections to the proposed works but agrees that a more detailed method statement and protection details should be agreed prior to demolition works. This can be secured by condition.
- 7.84 An Ecology report has been submitted with the application. This comments that, aside from the trees, the site does not have any existing ecology features of note. It proposes a number of enhancements to improve the ecology of the site including:
- The use of native hedgerows where possible
 - Native species for all tree planting
 - Managed grassland for the northern amenity space
 - 5 bird boxes across the site
 - 2 bat boxes across the site
 - 5 invertebrate boxes
 - Ground level gaps in the boundaries to enable the movement of small mammals
 - A 5 year management plan

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7.92 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.”*

7.93 In relation to affordable housing provision Core Strategy policy CP8 states:

.... 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.

7.94 The policy compliant provision of affordable housing for a site of 20 units is 20% which equates to 4 units. The application documents state that the proposal will deliver all units for Estuary Housing Association, a registered provider, with the help of a grant from Homes England. In the previously refused scheme 4 of these units were proposed to be secured in perpetuity as affordable housing within the legal agreement. This was considered to meet the policy requirements of CP8. The current scheme proposes to secure all 20 units (100%) as affordable units in the legal agreement. This significantly exceeds the policy requirement of 20% but, as noted above, this additional public benefit is required to justify an on balance exception to Policy DM11 which relates to the loss of employment land.

7.95 The previously refused scheme required a contribution to secondary education to be secured via the legal agreement. Based on the details of this amended proposal the Education Team have confirmed that, as the proposal is 100% affordable housing, the proposal would be exempt from an education contribution so this is now removed from the heads of terms.

7.96 The Council’s Highways Officer has requested that Travel Packs be provided to new residents.

- 7.97 The S106 contribution Heads of Terms can therefore summarised as:
- Affordable housing including 8 x affordable rent (8 x 2 bed units) , 4 x social rent 4 (4 x 2 bed units) and 8 x shared ownership (1 x 2 bed and 7 x 3 bed units)
 - Residential Travel Packs – to be agreed prior to occupation
- 7.98 A legal agreement has been drafted on this basis.
- 7.99 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.
- 7.100 The contributions noted above are considered to satisfy the tests set out in the CIL Regulations 2010 in relation to a scheme of this scale. Subject to prior completion of the legal agreement the proposal is considered to be acceptable and policy compliant in respect of developer contributions.

Community Infrastructure Levy (CIL)

Charging Schedule (2015).

- 7.101 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 2492.36 sqm, which may equate to a CIL charge of approximately £60966.96 (subject to confirmation). 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. Since all of the development would be for affordable housing the applicant can apply for an exemption.

8 Conclusion

- 8.1 As submitted the application conflicts with Policy DM11 in relation to the loss of employment land and this is a negative aspect of the proposal and weighs against the scheme, however, given the specific circumstances of the site in relation to the quality of the existing employment provision together with the proposal to provide 100% secured affordable housing at a policy compliant tenure, which significantly exceeds the policy requirements, it is considered that, in this instance and on balance, the significant public benefits of the proposal are enough to outweigh the harm caused in relation to the loss of employment land. It is therefore considered that the proposal has overcome the previous reason for refusal in this regard. In all other matters the proposal is considered to be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, the street scene and the locality more widely. The highways impacts of the proposal are acceptable. This application is therefore recommended for approval subject to conditions and subject to the agreement of the S106 legal agreement.

9 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:

- Affordable housing including 8 x affordable rent (8 x 2 bed units) , 4 x social rent 4 (4 x 2 bed units) and 8 x shared ownership (1 x 2 bed and 7 x 3 bed units)**
- Residential Travel Packs – to be agreed prior to occupation**

(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: 200-P4, 201-P5, 202-P4, 203-P5, 204, 205, 206, 207, 6861-D-AIA-B

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 other than demolition and construction up to ground floor slab level shall take place until product details of the materials to be used on all the external elevations, including roof, walls including brick patterning, fascia and soffits, windows and doors, balconies, bays and entrance porches, car port and refuse store have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details before it is brought into use.

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

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;
- iii. hard surfacing materials including for the vehicular areas and amenity areas;
- iv. details of the number, size and location of the trees, shrubs and plants to be planted together with a planting specification

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.

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 and unless 35 car parking spaces, of which not less than 3 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 the details shown on drawing 200-P5, together with properly constructed vehicular access to the adjoining highway, in full accordance with the approved plans. The parking spaces shall be permanently retained thereafter solely for the parking of occupiers of and visitors to the development.

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

06 The development shall not be occupied until and unless the store containing 12 secure, covered cycle parking spaces and the refuse and recycling store to serve the flatted development as shown on drawings 202P4 and 203P5 have been provided at the site in full accordance with the approved plans and made available for use for the occupiers of the residential flats hereby approved. The approved scheme shall be permanently retained for the storage of cycles and waste and recycling thereafter.

Reason: To ensure that adequate refuse and recycling storage cycle parking is provided and retained to serve the development in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policies DM8 and DM15 of the Development Management Document (2015).

07 The east facing first and second floor windows on the flatted block hereby approved shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and permanently fixed shut and unopenable, except for any top hung light which shall be a minimum of 1.7 metres above internal floor level before occupation of the dwellings served by those windows and shall be retained as such in perpetuity. 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. Prior to the occupation of the flats the privacy screens as detailed on drawing references 203P5 and 202P4 shall be installed in accordance with details on those drawings and shall thereafter be and retained in perpetuity

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) policy CP4, Development Management Document (2015) policy DM1, and advice contained within the Design and Townscape Guide (2009).

08 A scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources shall be submitted to, agreed in writing by the Local Planning Authority and implemented in full in accordance with the approved details prior to the first occupation of the dwellings hereby approved. This provision shall be made for the lifetime of the development.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) policy KP2 and CP4, Development Management Document (2015) policy DM2 and the Southend Design and Townscape Guide(2009).

09 Prior to occupation of the dwellings hereby approved, appropriate water efficient design measures as set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to not more than 105 litres per person per day (lpd) (110 lpd when including external water consumption), to include measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting shall be implemented for the development and thereafter retained in perpetuity.

Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and advice contained within the Southend Design and Townscape Guide (2009).

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% (2) of the units hereby approved comply with building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 18 units 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 (2019), Core Strategy (2007) Policy KP2, Development Management Document (2015) Policy DM2 and the Design and Townscape Guide (2009).

11 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 remediation measures as set out in the Remediation Method Statement for 277 Prince Avenue reference JAH/18.478/RMS dated 8.4.19 and drawing reference 18.478/RMS/02 have been carried out in full and the site remediated in accordance with those approved measures. 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 first occupation of the premises (whichever comes first). 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 the suspected contamination has been submitted to and agreed in writing with the Local Planning Authority. The dwellings shall not be occupied until any further contaminated land mitigation has been completed in full and a validation report confirming the completion of the remediation has been submitted to the local planning authority and approved in writing.

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).

12 Prior to commencement of development other than demolition, 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 shall 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.
- b. Provide calculations to demonstrate the hydraulic performance of the entire proposed SuDS system, including the pipe network, for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change.
- c. Provide an updated drainage layout plan to include pipe diameters and gradients, manhole cover and invert levels and volume of storage to be provided by all SuDS features on the site in accordance with the submitted calculations. Engineering plans to be provided for each of the SuDS and critical drainage elements, including the flow control features.
- d. Provide information regarding the management of health and safety risks in relation to the feature design.
- e. Provide a system valuation (including capital costs, operation and

maintenance costs, and cost contributions) and a demonstration of long term economic viability.

f. Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.

g. Provide evidence of consent from Anglian Water to discharge at the proposed rate and connection point.

h. Provide a site specific management and maintenance plan for the site to include all elements of the proposed SuDS.

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 Policy DM2 of the Development Management Document (2015).

13 Notwithstanding the Tree Survey, Arboricultural Assessment, Preliminary Arboricultural Method Statement and Tree Protection Plan by Hayden's Arboricultural Consultants Ltd reference 6861 dated 11.1.19 submitted with the application, prior to the commencement of the development a suitably detailed arboricultural method statement and tree protection plan which provides full details of protection measures including ground protection measures, pruning details including access facilitation, details of the services in relation to the trees, project phasing and monitoring shall be submitted to and approved in writing by the local planning authority. Throughout its implementation and completion the approved development shall then be undertaken in full accordance with the approved details.

Reason: A pre commencement condition is justified to ensure the trees on and close to the site are adequately protected during building works in the interests of visual amenity and in accordance with Core Strategy (2007) policies KP2 and CP4, Development Management Document (2015) policy DM1 and advice contained within the Southend Design and Townscape Guide (2009).

14 The development shall be carried out in full accordance with ecology enhancement measures as detailed in Section 2 of the submitted Landscape and Ecology Management Plan by Wild Frontier Ecology dated January 2019.

Reason: To ensure that the development does not have an adverse impact on the biodiversity of the environment in accordance with the wildlife Act, National Planning Policy Framework (2019) and Development Management Document (2015) Policy DM3.

15 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place until and unless a noise report has been submitted and agreed in writing by the local planning authority to demonstrate that the internal noise levels for all habitable rooms will meet the standards set out in BS 8233:2014 (Internal Noise Levels). The development shall then be undertaken and completed in accordance with the agreed details within that report before it is occupied.

Reason: In order to protect the amenities of the occupiers of the dwellings

hereby approved from unacceptable traffic noise from in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

16 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order or Act of Parliament revoking and re-enacting that Order with or without modification, no development shall be carried out at the development hereby approved specified within Schedule 2, Part 1, Classes A, B, D, E and F of the Town and Country Planning (General Permitted Development) Order 2015 without the receipt of express planning permission in writing from the Local Planning Authority.

Reason: To enable the Local Planning Authority to regulate and control development in the interest of the amenity of neighbouring properties and to safeguard the character of the area in accordance the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM1 and the Southend Design and Townscape Guide (2009).

17 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) a method statement regarding the management of surface water runoff arising during the construction phase of the project.**
- viii) measures to mitigate noise impacts.**

Reason: In the interests the amenities of neighbouring occupiers and to ensure a satisfactory standard of highway safety to Policies CP3 and CP4 of the Core Strategy (2007) and Policies DM1 and DM15 of the Development Management Document (2015).

18 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 the amenities of neighbouring occupiers pursuant to Policy CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

In the event that the planning obligation referred to in part (a) above has not

been completed by 23rd January 2020 (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 same grounds application reference 19/00086/FULM was refused planning permission.

- (c) 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.

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.