

<b>Reference:</b>	19/00086/FULM	
<b>Ward:</b>	St Laurence	
<b>Proposal:</b>	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	
<b>Address:</b>	277 Prince Avenue Westcliff-On-Sea Essex SS0 0JS	
<b>Applicant:</b>	Dove Jeffrey Homes Planning Service	
<b>Agent:</b>	Phase 2 Planning	
<b>Consultation Expiry:</b>	28 <sup>th</sup> March 2019	
<b>Expiry Date:</b>	3 <sup>rd</sup> May 2019	
<b>Case Officer:</b>	Abbie Greenwood	
<b>Plan Nos:</b>	200-P4, 201-P4, 202-P3, 203-P3, 204, 205, 206, 207, 6861-D-AIA rev B	
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>	



## **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 is currently occupied by Rotary Watches although it is understood that they plan to vacate the premises in June. The site is designated as an Employment Area in the Core Strategy and 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 of the site which are occupied by property development offices, 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 site on the western 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 the 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 to 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, 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, 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.
- 2.4 All the buildings are proposed to be constructed of yellow/buff face brickwork, with a darker brick tone for detailing. No information has been provided regarding other external materials.
- 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 60sqm to 91 sqm. The flats have private balconies of 5 sqm and a communal amenity space of 400 sqm.

2.6 The application is supported by the following:

- Design and Access Statement
- Planning Statement
- Transport Statement
- Bat Survey
- Services and Unities Report
- Phase 1 Contamination Desk Study
- Tree Survey and Arboricultural Report
- Accommodation Schedule
- Landscape and Ecology Management Plan
- Energy Statement
- Flood Risk Assessment
- Temporary Traffic Management Plan

### 3 Relevant Planning History

3.1 There is no planning history for this site.

### 4 Representation Summary

#### Public Consultation

4.1 A site notice was posted and 50 neighbours have been individually notified of the application. 1 response has been received stating that they have submitted concerns to the ward Councillors although no details have been provided.

#### Planning Policy

4.2 The site at Prince Close as defined by the planning application 19/00086/FULM is located wholly on land designated as an employment area as per the Development Management Policies Map 2015. The Development Management Document sets out the Council's policy position regarding employment areas, and is applicable in this case, see Policy DM11.

With regards to the loss of employment use, the applicant gives three examples of sites where lesser information was provided. It is important to note that, unlike the site in question, none of these sites (411-419 Sutton Road, 1307 London Road and 522 Prince Avenue respectively) are in a designated employment area. The site at Prince Close is in a designated employment area and as such more rigorous tests apply as set out in the adopted development plan for the Borough.

The proposal is for the change of use from B class use to C3 class residential resulting in the loss of an existing employment use on an existing designated employment area. Policy DM11.2 seeks to support the retention, enhancement and development of Class B uses within the Employment Areas. Where a proposal falls outside of Class B use, the policy sets out the conditions which must be met for a non-class B use to be considered, and are relevant to this application, in particular DM11.2.C which includes 4 criteria, *all* of which should be demonstrated to the Council's satisfaction. These are set out below in full:

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

Development Control Report

- 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; or*

*\* 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.*

As noted above Appendix 4 Parts A and B, are also applicable in this case. Part A requires marketing information to be submitted, demonstrating an active marketing campaign for a continuous 2 year period whilst the premises were vacant. Marketing information is provided however, as it states, the site was not vacant at the time. Appendix 4 part A sets out a number of criteria which should be addressed in any marketing analysis, and there may be scope for further information to be provided to satisfy this requirement.

In exceptional circumstances, DM11 outlines that a marketing exercise can be shorter than 2 years where a robust market demand analysis is supplied. The market demand analysis supplied, dated 11.03.19, considers the requirements set out in Appendix 4 parts A & B, however, the main part of the report refers to matters in relation to the limitations of the existing building.

The evidence provided to meet the requirements of policy DM11 part 2 is not sufficient for the reasons set out above. It is crucial for the Council to maintain the robustness of policy DM11 and to seek that it is applied in a consistent manner, as such, the requirement that sound evidence is supplied to satisfy the requirements of the policy must be fulfilled.

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 survey of key employment areas 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.

## Strategic Housing

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

- 10 to 49 units = 20%,
- 50+ units = 30%

The applicants planning statement has proposed that 4 units of affordable housing be delivered through the S106 agreement in line with the requirement set out above. Additionally, it is understood that the remainder (16) of the units are proposed to be delivered as shared ownership dwellings, however these would not be secure through the S106 agreement.

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

The Strategic Housing Team is supportive of the proposed dwelling mix.

### *Affordable Housing: Tenure*

The proposal has highlighted the preference for 2 affordable rented and 2 shared ownership units secured by S106.

A policy compliant tenure mix is as follows:

	No.
AH Units:	4
AR (60%)	2
SO (40%)	2

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

The Strategic Housing Team is supportive of the proposal which consists of 4 units of affordable housing, with 2 Shared Ownership and 2 Affordable Rented secured by S106.

The affordable dwellings should consist of: 3 x 2 bedroom dwellings and 1 x 3 bedroom dwelling.

## **Transport and Highways**

- 4.4 A total of 35 car parking spaces including 7 visitor spaces have been provided for the development which is considered acceptable. The site is accessed via an existing road way, the site layout ensures that vehicles can manoeuvre efficiently with the road space, vehicle tracking has been provided to demonstrate the refuse freighters can enter and leave in a forward gear.

Consideration has been given to the previous use of the site which had the potential to generate a large number of vehicle movements. The applicant has provided census data demonstrating car ownership in the Southend Area as well as TRICS data analysis to support the reduction in vehicle movements as a result of the proposal in the surrounding area.

Given the above information and that contained within the application there are no highway objections to this proposal

The applicant should provide travel packs for each dwelling.

## **Education**

- 4.5 This application falls within the primary catchment area for Prince Avenue Primary School and The Eastwood Academy Secondary School. Primary places are available. All secondary schools within acceptable travel distance are oversubscribed. An expansion programme is currently underway within all the non-selective secondary schools in Southend and any further developments within the area will add to this oversubscription. A contribution towards the Secondary expansion of Southchurch High School of £41,067.67 is therefore requested.

## **Environmental Health**

- 4.6 *Contaminated land*

The entire site has been identified as accommodating, or having accommodated, a potentially contaminating process. In recognition of this, the applicant has prepared and submitted a Phase 1 Desk Study Report Ref: JAH/18.478/Phase1 dated 14<sup>th</sup> January 2019 with their application. The recommendations contained within Paragraph 11 of that report must be enacted and it is recommended, therefore, that, notwithstanding completion of the Phase 1 stage and for the avoidance of doubt, the following contaminated land condition be attached to any consent that may be granted. In view of the proximity of residential accommodation to the application site, it is further recommended that the following noise control condition be attached.

- C15A – Contaminated land.

### *Noise and Disturbance*

There appears to be 3 No. commercial/industrial sites on the opposite (west) side of the access road to the application site.

The southern-most plot is currently occupied by the offices of a construction company whilst the adjacent plot (to the north) accommodates a fitness centre. Despite the very close proximity of residential property to those sites, no complaints regarding the activities conducted thereon have ever been received by my Section which isn't surprising in view of the low potential for nuisance arising from those uses. Any statutory nuisance which may occur from activities on those sites in the future could be controlled by the service of formal Notice(s).

The third, most northerly area, comprises a compound which has been used for a short while for the reception and holding of recovered vehicles. As far as I am aware, and from my own observations, no breaking or dismantling of vehicles was undertaken on that site. I did receive a complaint regarding spill from the security lighting and noise from late night delivery of recovered/crash damaged vehicles, but contact with the operating company secured an undertaking that those issues would be addressed as soon as maybe. I was informed by the company that they only intended to use the site for a limited period (6 months was, I think, mentioned). I'm aware that your enforcement officers have been investigating possible infringement of consent for that use of the land, though the site is now entirely vacant with the security lighting removed. Any planning application which may be forthcoming with regard to that site would be subject to recommendations that appropriate conditions be attached to any consent that may be granted for the control and mitigation of any potential nuisance.

Therefore I have no observations to make regarding the likely impact of nuisance on the occupiers of the proposed dwellings on the application site from the uses to which those areas are currently being put.

#### *Additional suggested conditions*

- C11A – 7:30 to 18:00 weekdays, 8:00 to 13:00 Saturdays and at no time on Sundays or public holidays.
- No burning of any waste materials shall take place on the application site at any time throughout the entire demolition and construction processes. **[Officer Note: this is controllable under separate legislation.]**
- The removal and disposal of any materials comprising or containing asbestos on the application site shall be carried out in accordance with the provisions of the Control of Asbestos Regulations 2012. **[Officer Note: this is controllable under separate legislation.]**

#### *Recommended informative conditions*

Notwithstanding the above, the following informative should be attached to any consent that may be granted:~

- 'The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and construction noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Environmental Health Officer for more advice on 01702 215810 or at Regulatory Services, P.O. Box 5558, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend-on-Sea, SS2 6ZQ'.

## **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**

### *Assets Affected*

- 4.9 Anglian Water has assets close to or crossing this site or there are assets subject to an adoption agreement. Therefore the site layout should take this into account and accommodate those assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost under Section 185 of the Water Industry Act 1991. or, in the case of apparatus under an adoption agreement, liaise with the owners of the apparatus. It should be noted that the diversion works should normally be completed before development can commence.

### *Wastewater Treatment*

The foul drainage from this development is in the catchment of Southend Water Recycling Centre that will have available capacity for these flows

### *Used Water Network*

The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advice them of the most suitable point of connection.

(1) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) INFORMATIVE - Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) INFORMATIVE - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) INFORMATIVE - Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) INFORMATIVE: The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

#### *Surface Water Disposal*

The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option. Building Regulations (part H) on Drainage and Waste Disposal for England includes a surface water drainage hierarchy, with infiltration on site as the preferred disposal option, followed by discharge to watercourse and then connection to a sewer. The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Insufficient evidence has been provided to show that the surface water hierarchy has been followed as stipulated in Building Regulations Part H. This encompasses the trial pit logs from the infiltration tests and the investigations in to discharging to a watercourse. If these methods are deemed to be unfeasible for the site, we require confirmation of the intended manhole connection point and discharge rate proposed before a connection to the public surface water sewer is permitted. We would therefore recommend that the applicant needs to consult with Anglian Water and the Environment Agency. We request that the agreed strategy is reflected in the planning approval

#### *Suggested Planning Conditions*

Anglian Water would therefore recommend the following planning condition if the Local Planning Authority is mindful to grant planning approval.

#### Surface Water Disposal (Section 4)

No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

REASON To prevent environmental and amenity problems arising from flooding.

**[Officer Comment: This could be combined with the SUDs condition if the application were otherwise found to be acceptable. An informative could also be added to notify the applicant to contact Anglian Water in respect of the existing assets which must be respected or diverted]**

## **Police**

- 4.10 Essex Police pursuant to the National Planning Policy Framework and Southend's Core Strategy, creating safe and accessible places, by employing Crime Prevention through Environmental Design (CPTED), Southend on Sea Development plan 2.7 identifies Secured by Design as the preferred enabler. There has been no pre-application consultation, with the applicant or their representatives, as recommended. The Design and Access statement (DAS) makes no reference to physical security. Furthermore, Essex Police would also like to draw attention to the brick detailing feature. The examples given in the DAS could be used as climbing aids thereby facilitating unauthorised access. As such, Essex Police would like to invite the developers to contact us with a view to discussing CPTED.
- 4.11 This application was called to committee by Councillor Flewitt.

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (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), DM3 (The Efficient and Effective Use of Land) DM10 (Employment Sectors) DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM11 (Employment Areas) 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.

## 7 Appraisal

### Principle of Development

**National Planning Policy Framework (NPPF) (2019), Policies KP1, KP2 and CP1, CP4, CP6, CP7 and CP8 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3, DM7, DM8, DM10, DM11 and DM15 of the Southend-on-Sea Development Management Document (2015)**

- 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 states that the Borough Council will support the retention, enhancement and development of Class B uses within the Borough's designated Employment Areas. In relation to this 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 In seeking to justify the loss of employment land the agent has highlighted comments made in the Employment Land Review 2010. This document was prepared on behalf of the Council to assess the future of Employment Land and to inform the preparation of the Development Management Document and other policy documents. In relation to Prince Close Industrial Estate the Employment Land Review 2010 recognises that the site has good strategic access to the A127, public transport and the airport but identifies a number of constraints which could affect its long term future including:

- Small size of overall estate
- General outdated B2 units, poor quality of premises
- Surrounded on 3 sides by residential properties which may lead to nuisance complaints
- Potential conflicts arising from shared access with neighbouring residential properties

7.11 The estate is summarised as:

*“Prince Close is a small employment site located off the A127 near Thanet Grange. It is of low quality with a problematic access and poor relationship with surrounding residential uses. Whilst still occupied the site is no longer considered suitable for future employment uses. Once vacant, the site is likely to be difficult to let and will therefore be targeted for alternative uses. It is recommended that the Council should continue to monitor the site and consider it for release unless market demand requires its retention for manufacturing purposes.”*

7.12 The Employment Land Review recommends that the site should be monitored to assess demand and that consideration should be given to releasing this industrial estate from the employment designation. Recent surveys of the site confirm that there is only 1 vacant unit although it is noted that the planning statement accompanying this application states that the application building will become vacant in the summer. This is the largest building on the site by some margin.

7.13 All the employment areas are under review as part of the new Local Plan process and their future designations will be determined during the course of this process. Nevertheless, at this time Prince Close Industrial Estate remains a designated employment site under the current local planning policy documents. It is therefore protected from changes to other non-industrial uses under policies CP1 and DM11. In this context, any proposal for non-industrial uses on this site is required to demonstrate that it conforms with one of the four criteria 2A-2D in policy DM11 above. The proposed development falls outside Criteria 2A, 2B and 2D as it relates to a use falling within Use Class C3 which is not ancillary to, supportive of or similar to an employment use that falls within Class B and the site is not supported by an adopted planning brief. Criterion C is therefore the only possible applicable exception under policy DM11. In this situation, the policy states that all the four criteria within part 2C must be met. These criteria are examined below.

7.14 Criteria 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 submitting evidence of a continuous 2 year marketing of the vacant premises showing there to be no demand for the site for B uses on the site.

7.15 In relation to this requirement the agent confirms that the site is not vacant and therefore the required 2 years of marketing information where the vacant site / floorspace has been offered for sale or letting cannot be provided in this instance. However, in September 2014 the existing business gave notice of their intention to vacate the premises at the end of their lease in June 2019 citing the unsuitability of the existing building as a key factor in this decision. The site has therefore been subjected to a marketing campaign for periods during this time whilst the building remains occupied. Based on information supplied with, the application marketing undertaken can be summarised as follows:

- Discussions were held with 4 local commercial agents who all expressed concerns about the quality of the building.
- Discussions were also undertaken with the Southend Development Corporation and Southend Airport who also expressed concern over the quality of building and availability of more modern premises in the area.

- Soft Marketing was undertaken by the site owner between October 2014 and August 2016 during which time over 50 potential purchases from the commercial, residential and healthcare and general property investment sectors were shown round the building although the building was not officially put on the open market.
- In April 2015 Lambert Smith Hampton were appointed to undertake pre application discussions with the Council over the potential change of use to residential.
- In 2016 an option sale agreement (a sale subject to contract) was entered into with Fewhirst Properties who immediately placed the site on the open market with Ayers and Cruik although this did not result in a sale. A photo of the for sale board from this time has been provided along with an email from Ayers and Cruik to the applicant dated 18.11.16 notifying them of this 'new instruction'. It is not known how long the sale board was displayed. The applicant has stated that it was marketed by this agent for a year after which the sale contract was terminated because no buyer was found.

7.16 When comparing this information with the requirements of Appendix 4A there are deficiencies in the following areas

- The property is not vacant and has not been vacant to date. Therefore any marketing carried out has been undertaken whilst the building was occupied. The requirement is '*active marketing campaign for a continuous 2 year period, whilst the premises were vacant*'
- Although the building was 'soft marketed' for 3 years from 2014-2017 by the owner approaching a wide range of property developers, (not just commercial/industrial developers) there is no evidence that it was continuously on the open market for this time including being advertised on an agents website and via a sale board.
- There is a photo of a sale board at the site and evidence of website marketing from Ayes and Cruiks in 2016 but no information has been provided as to how long the premises was advertised in this way. No information has been provided in relation to enquires via Ayres and Cruiks from 2016-2017.
- No information has been provided in relation to the price at any time and no independent property valuations have been provided - Appendix 4 requires marketing to be '*through a commercial agent at a price that genuinely reflects the market value of the lawful use*' and '*a professional valuation from at least three agents to confirm that this is reasonable*'

7.17 The submitted marketing information therefore does not meet all the criteria set out in Appendix 4 A. As noted above, Policy DM11 states that '*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.*' If the whole site were being secured for affordable housing through the legal agreement then this might go some way to justifying exceptional circumstances but in this case the affordable units that are being put forward for the S106 agreement do not exceed the policy requirement for a market site.

The agent comments that this is due to funding restrictions but nevertheless, based on the mechanisms available to secure affordable housing within the scope of the proposal as submitted, this would not guarantee a 100% affordable scheme at the site and as such cannot be considered to provide exceptional circumstances. No further comment has been provided on any other exceptional circumstances which should be applied in this case. The agent has, however, commissioned a Market Demand Analysis from a commercial agent which makes the following comments in relation to the site:

- The narrow access preventing use by articulated sized delivery vehicles
- The internal divisions of the building is a constraint to potential users requiring a more open plan arrangement and general lack of useable floor spaces
- High rates compared to usable floor space
- The lack of space for loading and unloading within the building
- Limited height of the eaves and ridge restricting installation of adequate loading and unloading facilities
- General poor quality of building including age, condition and external appearance
- Concern over potential neighbour complaints in relation to noise and air pollution

7.18 In relation to alternative premises the report comments that the locality is served by a number of commercial and industrial areas providing a range of more modern B1/B8 premises in a range of sizes and they have provided examples of 3 other premises available to rent (not purchase) in Temple Farm and St Laurence Industrial Estates. They also comment that new modern employment floorspace will become available at the Airport Business Park in future years.

7.19 In relation to the potential demolition and redevelopment of the site with a more modern industrial unit the agent comments that this is likely to be unviable because of the constraints over access and the availability of more sustainable and accessible industrial locations elsewhere in the Borough. However no detail is provided in this regard.

7.20 The commercial agent also makes the following comments in relation to the future of the market: *'while there has been a downturn in enquires due to uncertainties surrounding Brexit, demand for modern industrial floorspace remains positive within the borough generally, however as noted above the property does not provide modern industrial accommodation. Consequently there would be no demand for a property of this nature'* The report goes on to state *"It is unclear how the marketplace and economy will be affected generally post Brexit however we consider than neither a positive or negative economy post Brexit would improve the possibilities of acquiring an end user for the property. Development plans for future industrial floorspace in and around Southend London Airport are also likely to further exacerbate the problem and highlight the properties constraints in comparison to newer, more modern industrial accommodation"*.

7.21 The applicant has also submitted information in relation to other approved sites in the Borough where they contend that a comparable level of, if not less, information/justification regarding loss of employment use was supplied. The applicant refers to these sites as follows:

- 411-419 Sutton Road, application reference 14\_02043\_FULM. Marketed vacant from 6th May 2014. Date of planning application 18.12.14. Marketing period 7 months. The site was allocated for employment use in the Local Plan and identified as a regeneration priority containing buildings beyond their economic life cycle that detracted from the quality of the street scene. Application type open marketing housing but for an Registered Provider (RP) provider. The same as Prince Avenue excepting the whole site was secured via a S106 as affordable housing as the RP agreed this with Homes England.
- 1307 London Road, application reference 16\_01\_0780\_FULM. Period of marketing unclear but the building was 50% occupied when the planning application was submitted (23.09.16). Although the site was without any designation within the Development Plan, it was in use as a vehicular repairs, sales and storage and subject to policy DM11 that sought to protect existing employment generating uses from redevelopment for non-employment uses. Application type open marketing housing.
- 522 Prince Avenue, application reference 15\_02100\_FULM. Marketed from 10th August 2014. Marketed vacant from November 2014. Date of the planning application 14.12.15. Marketing period 13 months vacant. The site was last in employment use but not within any designated employment area and subject to Policy that sought to protect existing employment generating uses from redevelopment for non-employment uses. Application type open market housing.

7.22 The Council's Strategic Planning Policy Team have reviewed this information, including the case for exceptional circumstances, against the policy requirements. The full policy response is noted in paragraph 4.2 above but the key comments are as follows:

*'In exceptional circumstances, DM11 outlines that a marketing exercise can be shorter than 2 years where a robust market demand analysis is supplied. The market demand analysis supplied, dated 11.03.19, considers the requirements set out in Appendix 4 parts A & B, however, the main part of the report refers to matters in relation to the limitations of the existing building. The evidence provided to meet the requirements of policy DM11 part 2 is not sufficient for the reasons set out above. It is crucial for the Council to maintain the robustness of policy DM11 and that it is applied in a consistent manner, as such, the requirement that sound evidence is supplied to satisfy the requirements of the policy must be fulfilled.'*

7.23 In relation to the comparable sites they comment that:

*'With regards to the loss of employment use, the applicant gives three examples of sites where lesser information was provided. It is important to note that, unlike the site in question, none of these sites (411-419 Sutton Road, 1307 London Road and 522 Prince Avenue respectively) are in a designated employment area. The site at Prince Close is in a designated employment area and as such more rigorous tests apply as set out in the adopted development plan for the Borough.'*

7.24 The need for housing is also recognised however, it is also necessary to bear in mind that the Borough also has a strong need to maintain land for jobs. It is the purpose of the policy documents to ensure that the supply of land for housing and jobs is balanced and meets the needs of the Borough. In relation to this issue the Policy Team comment that:

*'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 survey of key employment areas will be used to inform the local plan and do not affect 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.'*

7.25 Therefore, whilst it is considered that criteria 2Cii and 2Civ could potentially be met, and will be assessed in more detail below, the applicant has not demonstrated that there is no long term reasonable prospect of the site to continue to be used for Class B purposes. So criterion 2Ci of policy DM 11 has not been met. Nor has any evidence been provided as to why this proposal could not reasonably be located on another site which is not designated as an employment use so criterion 2Ciii has not been met. In addition whilst some information has been provided in relation to the limitations of the existing premises and on the availability of alternative industrial accommodation, the proposal has not demonstrated why exceptional circumstances should be applied in this case and therefore why the building should not be advertised and tested on the open market for an alternative industrial user following the departure of the existing tenant. Overall therefore it is considered that the proposal does not meet the criteria which would justify the loss of the existing B1 use and the proposal is therefore unacceptable and contrary to policy in this regard.

#### *Housing Mix and Affordable Housing Provision*

7.26 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.

7.27 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.

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

7.29 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%

7.30 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 but it is not possible for all the units to be secured as affordable housing within the legal agreement for funding reasons. Therefore only those units put forward to be secured by the S106 can be considered in this appraisal against policies CP8 and DM7.

7.33 The proposed housing mix and tenure is as follows:

No of bedrooms and tenure	2-bed	3-bed	Total
Number and Proportion of dwellings secured by the S106	3 units 15% of total scheme, 75% of total Secured AH provision 1 x affordable rent and 2 x shared ownership	1 unit 5% of total scheme, 25 % of total secured AH provision 1 x Affordable rent	4 (20%)
Remaining dwellings	6 Units 30% of total scheme, 37.5% of non-secured AH provision	10 Unit 50% of total provision, 62.5% of non-secured AH provision	16 (80%)
Total Number of Units	9 units (45%)	11 units (55%)	20

- 7.34 The scheme has been amended during the course of the application to increase the number of affordable housing units that can be secured via the S106 from 3 to 4 to provide a policy compliant scheme. The tenure of these units is also considered to be acceptable and the proposal is therefore policy compliant in this regard.
- 7.35 In relation to housing mix the scheme is only providing a mix of 2 and 3 bed 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 2 and 3 bed units only is therefore considered to be reasonable. The mix of the private housing is close to that required by the policy if it is grouped into small and large units (1/2 bed vs 3/4 bed). The mix for the affordable housing is skewed towards the smaller units however overall the numbers are low so it is considered that this will not have a significant impact. 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 acceptable and policy compliant both in terms of the secured affordable housing provision and the housing mix on balance.
- 7.36 In summary, the principle of the proposal is unacceptable and conflicts with policy due to the loss of employment land. The detailed elements of the scheme are considered in turn below.

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

#### **National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policy DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 7.37 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.*’
- 7.38 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.*”
- 7.39 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.”*

- 7.40 The existing building has no design merit and there is no objection to its loss in the streetscene or impact on the wider surrounding area.
- 7.41 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. Overall it is considered that the layout of the site is satisfactorily considered and sits comfortably with the grain of the wider area in this respect.
- 7.42 The proposal is 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.
- 7.43 The buildings themselves are brick with satisfactorily 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 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. Overall the design of the buildings is considered to be acceptable and the scheme is policy compliant in this regard.

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

**National Planning Policy Framework (2019), Core Strategy (2007) Policies KP1, KP2 and CP4; Development Management Document (2015) policies DM1, DM3, DM8, The National Technical Housing Standards DCLG (2015) and advice contained within the Design and Townscape Guide (2009)**

- 7.44 Delivering high quality homes is a key objective of the NPPF.
- 7.45 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”*.
- 7.46 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*

7.47 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

7.48 All the units meet these standards.

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

7.49 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).

7.50 The submitted information confirms that 2 of the units (10%) are wheelchair compatible and the remaining would meet the M4(2) standard. This is therefore acceptable and policy compliant.

*Daylight, Sunlight and Outlook from Habitable Rooms*

7.51 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 cars. The daylight, sunlight and outlook of habitable rooms is therefore considered to be acceptable and policy compliant.

*Amenity Provision*

7.52 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 be sufficient 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*

7.53 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 comprises 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. The proposal is therefore acceptable and policy compliant in this regard.

- 7.54 Overall the scheme provides an acceptable quality of accommodation for future occupiers and is policy compliant in this regard.

### **Impact on Residential Amenity**

**National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 7.55 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.”
- 7.56 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*

- 7.57 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 is, however, orientated east to west therefore has only high level non habitable room windows facing the site. 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*

- 7.58 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.
- 7.59 The previous building on this site was much closer to this shared boundary but was 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). There may be an element of perceived overlooking from the proposed obscure windows but they help to break the massing of the flank elevation which would otherwise be 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, it is considered that, in this instance 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.

- 7.60 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 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*

- 7.61 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.
- 7.62 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. It is therefore 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*

- 7.63 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. It is considered that the nature and scale of the proposal would not have a detrimental impact on the amenities of these neighbours.
- 7.64 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.
- 7.65 Overall therefore, on balance, it is considered that the proposal would be acceptable and policy compliant in the above regards.

## Traffic and Transportation

**National Planning Policy Framework (2019), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 7.66 Policy DM15 of the Development Management Document requires all development to meet the off-street parking standards. For residential development outside the central area the standard is 2 parking spaces for the houses and 1 space for the flat. There is no minimum requirement for visitor parking. The policy requirement for the development is therefore 28.
- 7.67 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.
- 7.68 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 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*

- 7.69 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 could be agreed by condition if the proposal was otherwise found to be acceptable.
- 7.70 Subject to these conditions, the parking, traffic and highways implications of the development are found to be acceptable and policy compliant.

## Sustainability

**National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policy DM2 of the Southend Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

## *Energy and Water*

- 7.71 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.
- 7.72 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 a policy compliant and can be secured by a condition if the proposal were otherwise found to be acceptable. No information has been provided regarding water efficiency but it is considered that this could be secured by condition if the proposal was otherwise found to be acceptable. Subject to such conditions the proposal is therefore acceptable and policy compliant in this regard.

## *Sustainable Drainage SuDS*

- 7.73 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. It is considered that these details could be secure via a condition if the proposal is otherwise found to be acceptable.

## *Preserved Trees and Ecology*

- 7.74 The Council seeks to protect trees which make a positive contribution to the amenity of the area from the impact of new development.
- 7.75 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

- 7.76 The report concludes that a more detailed arboricultural method statement and tree protection plan be agreed with the Council to ensure the trees are protected during demolition and construction.
- 7.77 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.
- 7.78 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

A bat survey has also been undertaken but this concludes that there has been no evidence of bats roosting at the site.

- 7.79 The suggested ecology enhancement measures will improve the ecology of the site and are welcomed. If the proposal were otherwise found to be acceptable these measures could be secured via a condition.

#### *Contamination*

- 7.80 The site has been in industrial use for many years. A Phase 1 Desk Study report has been submitted with the application. This report concludes that there was previously a clothing factory on the site before it was used by Rotary Watches (watch servicing and materials supplier including the supply and painting of watch display cabinets). They consider that there is a low to moderate risk of contaminants on the site in relation to the shallow soils and a very low risk of groundwater and nearby surface water contamination. The report recommends that further investigation works should be undertaken to confirm the situation.

#### **Planning Obligations**

**The National Planning Policy Framework (2019) and Planning Practice Guidance (NPPG), Southend Core Strategy (2007), policies KP3, CP7 and CP8; Development Management Document (2015) policy DM7 and A Guide to Section 106 & Developer Contributions (2015)**

7.81 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.

7.82 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.’

7.83 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.’

7.84 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.”*

7.85 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.*

- 7.86 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”
- 7.87 A development of this scale would require the provision of 20% affordable housing which equates to 4 units. The developer has agreed to provide 4 units of affordable housing. These will be comprised of 1 x 3 bed affordable rent unit, 1 x 2 bed affordable rent unit and 2 x 2 bed shared ownership units. This is acceptable and policy compliant.
- 7.88 The Education Team has confirmed that a contribution of £41,067.67 would be required for St Thomas More Academy expansion to mitigate the impact of this development. This has been agreed in principle with the agent and as has Travel Packs for the new occupiers.
- 7.89 The S106 contributions can therefore summarised as:
- Affordable housing including 2 x affordable rent and 2 x shared ownership (comprising a mix of 3 x 2 bed and 1 x 3 bed) – to be made ready for occupation prior to 35% of Market Housing Units being occupied; to be transferred to a Registered Provider prior to 40% of Market Housing Units being occupied
  - A contribution of £41,068 towards the secondary school expansion of Southchurch High School – to be paid prior to commencement
  - Residential Travel Packs – to be agreed prior to occupation
- 7.90 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.
- 7.91 The contributions noted above are considered to meet the tests set out in the CIL Regulations 2010. Without these contributions the development could not be considered acceptable. In the absence of a completed enforceable agreement to secure these contributions the application is found to be unacceptable and a reason for refusal in this respect has been recommended.

### **Community Infrastructure Levy (CIL)**

#### **Charging Schedule (2015).**

- 7.92 It is understood from the submitted information that the scheme has been submitted in partnership with an affordable housing provider and will be 100% affordable units however only the policy compliant 20% will be secured by the S106 agreement. This application is CIL liable. If the application had been recommended for approval, a CIL charge would have been payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application would also be CIL liable.

## 8 Conclusion

- 8.1 Whilst the detail of the proposal, including housing mix and tenure, design and impact on the wider area, standard of accommodation for future occupiers, impact on neighbours, traffic and transportation impact, sustainability, ecology and impact on tree are all found to be acceptable on their individual merits, the proposed development is wholly located within a designated employment area. It is found that the proposal has failed 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 of sufficient weight to outweigh the harm caused by this conflict with development plan policy nor do the identified public benefits, notably the modest additional provision of housing units for the Borough, outweigh the harm caused to the strategic provision of employment land and related jobs for the Borough. This proposal is therefore unacceptable and contrary to the National planning Policy Framework, Policies KP1, KP2 and CP1 of the Core Strategy ( 2007) and policies DM3 and DM11 of the Development Management Document (2015).
- 8.2 No legal agreement has been completed to date to secure appropriate contributions for affordable housing and secondary education facilities for residents and this is also unacceptable. The scheme therefore fails to provide affordable housing to meet local needs and fails to mitigate the resulting pressure on local education infrastructure.
- 8.3 The benefits of the proposal do not outweigh the significant and material harm identified and the application is therefore recommended for refusal.

## 9 Recommendation

**Members are recommended to REFUSE PLANNING PERMISSION 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).**

**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 and is also willing to provide pre-application advice in respect of any future application for a revised development, should the applicant wish to exercise this option in accordance with the Council's pre-application advice service.**

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