

Reference:	19/02134/FUL	
Application Type:	Full Application	
Ward:	Shoeburyness	
Proposal:	Erect 5 two storey dwellinghouses and a single block of 3 self contained flats incorporating lift at former Coal Yard with associated parking, amenity area, cycle and refuse storage (Amended Proposal)	
Address:	Rear Of 1, Shoebury Avenue, Shoeburyness	
Applicant:	Mr A Thorpe and Mr H Hyde	
Agent:	Mr Paul Seager of APS Design Associates Ltd	
Consultation Expiry:	24th January 2020	
Expiry Date:	10th February 2020	
Case Officer:	Spyros Mouratidis	
Plan Nos:	2889 01 A, 2889 02, 2889 03 A, 2889 04, 2889 05 A, 2889 06, 2889 07, 2889 08, 2889 09	
Recommendation:	REFUSE PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 The application site is located in a backland position, to the rear of dwellings on Shoebury Avenue, Friars Street and Wakering Avenue. The site is currently being used as a coal yard with a number of buildings and structures on the site, including brick and fence enclosures, garages and containers. There is also open storage taking place on the site.
- 1.2 To the immediate south are two-storey terraced houses that back onto the site. Further south, on the southern side of Shoebury Avenue are dwellinghouses and commercial units; many of which appear unoccupied. To the immediate west of the site is the Archway Bungalow, Shoebury Avenue, which is a single dwelling in a backland position. To the immediate north of the site are mainly terraced two-storey dwellings on Friars Street, which back on to the site. To the immediate east of the site are two-storey, mainly semi-detached houses in Wakering Avenue that back on to the site.
- 1.3 The wider area is generally residential in character, with commercial uses to the southern side of Shoebury Avenue. The site is not located within an area specifically allocated for employment purposes or with any other designation in terms of planning policy.

2 The Proposal

- 2.1 Planning permission is sought to demolish the existing brick enclosures, garages and industrial structures on the site and to erect five (5no.) dwellinghouses and a block of three (3no.) self-contained flats. This application has been submitted following the refusal of planning application 19/01497/FUL (the "Second 2019 Application"). Details of the reasons for refusal of this application are given in the planning history section of this report and the officer's report is appended as Appendix 1. No amendments of any kind, except for a correction of the site plan, have been made to the proposed scheme since the refused Second 2019 Application. Furthermore, the circumstances of the site and the planning policy context remain unaltered since the previous refusal.
- 2.2 The proposed houses constitute a staggered row of two-storey, two-bedroom terraced dwellings. The block of flats comprises a two-storey building with space in the roof. The block would have one flat on each level, with two (2no.) two-bed flats at ground and first floor levels and one (1no.) one-bed flat within the roofspace. The proposed terraced block of houses would have a maximum overall width of approximately 23m, with each dwelling having a depth of some 9.7m and a maximum height of some 7.6m. The proposed block of flats would have a maximum width of some 8.1m, a maximum depth of approximately 14.3m and has a maximum height of some 9m. The development would be finished in render and composite cladding, plain grey concrete roof tiles, uPVC windows and composite doors.
- 2.3 The proposal will utilise the existing access from Shoebury Avenue. The area where the existing garage block fronting Shoebury Avenue is located would be used to provide six (6) parking spaces. Three (3) additional spaces would be provided within the accessway. In total, nine (9) parking spaces will be provided across the site. Each house will be provided with a private rear garden area with front garden areas and a pedestrian path and pedestrian access to the front. The flats will be provided with a communal rear garden. A communal cycle store is proposed to the rear of the site with a refuse store proposed towards the front of the access road into the site.

The garden areas proposed range from some 41.8m² to some 90.8m². The communal garden area for the flats measures some 114.1m². The application is accompanied by a planning, design and access statement and a geo-environmental Phase I desk study and Phase II site investigation report.

- 2.4 The Second 2019 Application was an amended proposal following the refusal of planning application 19/00718/FUL (the "First 2019 Application"). Details of the reasons for refusal of that application are given in the planning history section of this report and the officer's report is appended as Appendix 2. The scheme refused under the First 2019 Application was amended for the Second 2019 Application and is repeated in the current submission in the following ways:

Block of flats

- Addition of a lift to the rear of the building.
- Maximum depth previously was 11.9m currently is 14.3m.
- Maximum height previously was 8.1m now is 9m.
- Amenity space provision previously was 93.3m² now is 114.1m².
- Amended internal layout for first and loft flats.
- Ground floor flat provides four bed spaces instead of three.

Terraced houses

- No changes

3 Relevant Planning History

- 3.1 17/01495/FULM – Erect building comprising 14 self-contained flats with layout parking and erect fence, railings and electric gate – Refused [08.02.2018].
- 3.2 18/00697/FUL – Erect 9 two storey dwellinghouses comprising of two terraced blocks to former coal yard with cycle/bin storage and layout associated parking – Withdrawn [27.06.2018].
- 3.3 19/00718/FUL - Erect 5 two storey dwellinghouses and a block of 3 self contained flats at former Coal Yard with associated parking, amenity area, cycle and refuse storage (Amended Proposal) – Refused [11.06.2019].
- 3.4 The First 2019 Application was refused for the reasons stated in section 10 of the officer's report (see Appendix 2). In summary the reasons for refusal of the 2019 Application were:
1. Cramped nature, overdevelopment, domination of hardsurfaces and car parking and contrived and incongruous nature of the scheme would harm the character and appearance of the site and the surrounding area.
 2. Material overlooking and loss of privacy, dominance and a material sense of enclosure to the detriment of the residential amenity of nearby occupiers.
 3. It was not demonstrated that the proposal would be appropriately accessible and adaptable in line with building regulation M4 (2).

- 3.5 A summary of the concerns raised for the withdrawn scheme submitted in 2018 is included at paragraph 2.8 of the officer's report for the 2019 Application. The reasons for refusal of the application submitted in 2017 are stated at paragraph 2.9 of the officer's report for the 2019 Application.
- 3.6 19/01497/FUL - Erect 5 two storey dwellinghouses and a single block of 3 self contained flats incorporating lift at former Coal Yard with associated parking, amenity area, cycle and refuse storage (Amended Proposal) – Refused [28.10.2019]
- 3.7 The Second 2019 Application was refused for the reasons stated in section 9 of the officer's report (see Appendix 1). In summary the reasons for refusal of the Second 2019 Application were:
1. Cramped nature, overdevelopment, domination of hardsurfaces and car parking and contrived and incongruous nature of the scheme would harm the character and appearance of the site and the surrounding area.
 2. Material overlooking and loss of privacy, dominance and a material sense of enclosure to the detriment of the residential amenity of nearby occupiers.
 3. Failure to comply with the Nationally Described Space Standards, substandard living conditions for future occupiers.

4 Representation Summary

- 4.1 The application has been called in for consideration by the Development Control Committee by Councillor Wakefield.

Public Consultation

- 4.2 Forty-seven (47) neighbouring properties were consulted and a site notice was displayed. Seven (7) representations objecting to the application have been received and are summarised as follows:
- There are no changes, inaccurate submission by applicant.
 - Impact on parking and highway safety from additional parking need and vehicle movements.
 - Inadequate parking provision on site.
 - Amenity concerns in relation to overlooking, overshadowing and loss of sunlight, sense of enclosure and creation of an overbearing environment on neighbouring properties.
 - Disturbance from future occupiers' movements.
 - Disturbance from construction works.
 - Overdevelopment of the site. No general objection to the development on the coal yard but the extent of the development is excessive.
 - Unsympathetic design and choice of materials. Out of character from Victorian two-storey properties.
 - Contaminated ground.
 - Loss of existing trees.
 - Loss of view.
 - Loss of alleyway linking Shoebury Avenue with Friars Street.
 - Social housing in an area of privately owned properties.

- 4.3 The comments have been taken into consideration and those relevant to planning matters are discussed in the relevant sections of the report. Other than the reasons stated in section 9 of this report the objecting points raised by the representations are not found to represent material reasons for recommending refusal of the planning application.

Environmental Health

- 4.4 No objections subject to conditions.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance) and CP8 (Dwelling Provision).
- 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM14 (Environmental Protection) and DM15 (Sustainable Transport Management).
- 5.5 Design & Townscape Guide (2009)
- 5.6 Technical Housing Standards Policy Transition Statement (2015)
- 5.7 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.8 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application include the principle of the development, design and impact on the street scene, residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water sustainability, refuse and recycling storage and CIL. The planning history of the site is a material consideration which carries significant weight in the determination of this application due to the circumstances on site and the planning policy context not having changed in any material regard since the determination of the refused 2019 applications.

7 Appraisal

Principle of Development

Loss of employment and provision of housing

- 7.1 Paragraph 117 of the NPPF states: “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions.” Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high quality homes. Paragraph 121 of the NPPF states: “Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework.”
- 7.2 Core Strategy policy KP1 seeks to promote the role of Shoeburyness as a place to live and work; to secure an additional 1500 jobs and provide for 1400 additional dwellings. Policy KP2 of the Core Strategy states that all new development should: “make the best use of previously developed land, ensuring that sites and buildings are put to best use”. Policy CP4 of the Core Strategy requires development proposals to: “maximise the use of previously developed land [...] and promote good, well-designed, quality, mixed use development.” Similarly Policy DM3 of the Development Management Document states that: “The Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner”.
- 7.3 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the Borough. Similarly the Council’s Five Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the Borough. The HDT and 5YHLS carry some weight in favour of the principle of the development.
- 7.4 Policy CP1 of the Core Strategy states 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. Policy DM11 of the Development Management Document states that outside the employment areas, proposals for alternative uses on sites used (or last used) for employment purposes will only be permitted where it can be demonstrated that it will no longer be effective or viable to accommodate the continued use of the site for employment purposes or the use of the site employment purposes gives rise to unacceptable environmental problems. It will need to be demonstrated that an alternative use or mix of uses will give greater potential benefits to the community and environment than continued employment use.

- 7.5 Part C of Appendix 4 of the Development Management Document sets out the information to be provided as part of an appraisal to demonstrate the site is no longer viable for employment purposes which includes an analysis of the site identifying the advantages and limitations of the site to accommodate employment uses; for each limitation identified, justification should be provided as to why it cannot be overcome having regard to the introduction of alternative employment uses, general investment or improvements or through competitive rental levels. Marketing and market demand information may be used to support the appraisal. Comparisons with other employment sites or areas within the locality should discuss issues that are relevant to the site or premises.
- 7.6 Paragraph 4.3 of the submitted Planning, Access and Design Statement states that: "The principle of the loss of employment has been previously agreed". No justification for the loss of the employment use has been submitted with the current application or the Second 2019 Application. When the First 2019 Application was determined by the Local Planning Authority (the "LPA") it was considered that the principle of the loss of employment is acceptable on the basis of the analysis made at paragraphs 8.7 to 8.9 of the officer's report for that proposal (see Appendix 2). In summary, the findings were that the 2017 application (17/01495/FULM) was submitted with an appraisal for the employment site which supported that an employment use was no longer viable on site, that there are other employment areas in Shoebury, that there would be no material effect on employment numbers and that there would be environmental improvements in the area through decontamination of the land. It was also identified that there was no objection to the change of use when the 2017 application was determined. This analysis remains relevant and, consistent with the basis of the earlier decisions, renders the proposed loss of employment and provision of housing acceptable in principle in this instance.

Backland Development

- 7.7 The site is located within a residential area and constitutes previously developed land the development of which is supported by the NPPF. Policy KP2 of the Core Strategy requires that: "all new development contributes to economic, social, physical and environmental regeneration in a sustainable way". Policy DM3 of the Development Management Document promotes the use of land in a sustainable manner that responds positively to local context.
- 7.8 Policy DM3 paragraph (2) of the Development Management Document requires that all development on land that constitutes backland and infill development will be resisted where the proposals will:
- "(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."

- 7.9 Paragraph 193 of the Design and Townscape Guide (2009) states that: “Backland sites are defined to be landlocked areas between existing development, usually with a single and often narrow access onto an existing street. They encompass areas such as disused garage courts, vacant sites and other odd shaped areas left over between housing blocks which may offer an opportunity for redevelopment. Where acceptable in principle, such development can take advantage of access to local facilities and infrastructure, provide natural surveillance and generally lift an area which may be susceptible to crime and disorder.” Paragraph 194 states that “whether a backland site is suitable for development will be decided on a site by site basis.”
- 7.10 Paragraph 196 of the Design and Townscape Guide (2009) states “the site itself must be of a sufficient size and shape to accommodate practical internal space, usable amenity space and sufficient off street parking for the new occupants. Squeezing too much development into a small or awkward site will compromise the quality of life for the occupiers and the surrounding residents, and may be considered overdevelopment.”
- 7.11 When the First 2019 Application was determined by the LPA it was considered that the principle of the backland development is acceptable on the basis of the analysis made at paragraph 8.17 of the officer’s report (see Appendix 2). In summary, it was considered that the existing backland development of a bungalow to the west of the application site renders the principle of a backland development acceptable, subject to further considerations. This analysis remains relevant and, consistent with those earlier decisions, renders the proposed backland development acceptable in principle. As discussed in previous paragraphs, the overall principle of the proposed development is acceptable. Other material planning considerations are discussed in the following sections of this report.

Design and Impact on the Character of the Area

- 7.12 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that: “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”
- 7.13 Paragraph 124 of the NPPF states that: “The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.” 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.”

- 7.14 Policy KP2 of the Core Strategy states that new development should: “respect the character and scale of the existing neighbourhood where appropriate”. Policy CP4 of the Core Strategy requires that development proposals should: “maintain and enhance the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”.
- 7.15 The Design and Townscape Guide states that: “The successful integration of any new development is dependent upon the appropriate scale, height and massing in relation to the existing built fabric. Buildings that are over scaled will appear dominant [...] the easiest option is to draw reference from the surrounding buildings.”
- 7.16 When the First 2019 Application was determined by the LPA it was found that the scale of the proposed development was acceptable when considered in isolation. With the Second 2019 Application a scheme was proposed which would result in the block of flats being larger in scale by approximately 0.9m in height and up to 2.4m in depth. This larger scale was also found to be acceptable in isolation as discussed in paragraph 7.16 of the officer’s report (see Appendix 1).
- 7.17 Overall the decision for the First and Second 2019 Applications found that those proposals to be unacceptable in terms of impact on the character and appearance of the site and the area. The layout and cramped nature of the proposed developments was found to constitute overdevelopment of the site. It was also considered that those proposals would be dominated by hardsurfacing and car parking, resulting in a contrived and incongruous scheme. The relevant analysis can be found at paragraphs 8.23 to 8.29 of the officer’s report for the First 2019 Application (Appendix 2) and states:

“8.23 The area immediately surrounding the site is residential in nature, with mainly terraced and semi-detached dwellings backing on to the site.

8.24 In terms of scale, the proposed 2 storey terraced houses have a maximum height of some 7.6m. The proposed block of flats is 2.5 storeys in scale with a maximum height of some 8.1m. As such, the scale of the development is considered acceptable and would not be materially out of keeping with the surrounding area.

8.25 In terms of siting, the development constitutes a backland development with the dwellings having no street frontages; however, the development would be visible from Shoebury Avenue via the access and over the proposed parking area and adjoining gardens. In this respect, the development would appear cramped, with the row of dwellings located in reasonably close proximity to the flatted development and with relatively shallow rear gardens. This is clearly demonstrated within the 3D visual renders provided (drawing number 2889 07). The development is considered to represent an overdevelopment of the site and would be out of keeping with the existing grain of the area in this respect. The development would also be dominated by hardsurfacing, car parking spaces and parked vehicles when viewed from Shoebury Avenue which is a poor design feature.

The proposed parking area to replace the garages in Shoebury Avenue, whilst including some soft landscaping at the frontage, would have the appearance of a small hardsurfaced car park in the residential area which would be an incongruous feature that is materially at odds with the character and appearance of the surrounding area.

8.26 In terms of the design detailing and appearance, the proposed development constitutes a simple, contemporary row of terraced dwellings which would be acceptable in principle in this location. The proposed flats have the character of a detached dwelling. Concern is raised in respect of the materials proposed, which would be out of keeping in the area, however, subject to a condition requiring details and/or samples of the materials, should the application be otherwise considered acceptable, no objection is raised on this basis.

8.27 In terms of the landscaping proposed, compared to the previous schemes on this site, it is proposed to materially increase the level of soft landscaping. However, there are still parking spaces immediately at the end of the access road, parallel to the access road and within a small, but nevertheless visually prominent car park area accessed from Shoebury Avenue. The landscaping would provide some screening but would not mitigate the concerns raised in this respect. Whilst shown to be screened to some extent by soft landscaping concern is also raised that the refuse store proposed would be a prominent and incongruous feature in the area.

8.28 As such, whilst it is noted that the existing site and use is of a poor quality design and character, this does not justify the poor design hereby proposed. Whilst the scale of the development in terms of its height is acceptable, the development is cramped in its layout and relationship of built form to space and constitutes the overdevelopment in terms of the site. The car park area proposed would be an incongruous feature in the area which would not be sufficiently mitigated by the landscaping proposals.

8.29 The development is therefore of an unacceptable and contrary to policy in these regards and the application is recommended for refusal on this basis."

- 7.18 This analysis remains relevant and as such, consistent with the basis of the previous decision, the proposed development is unacceptable and contrary to policy for the same reasons considering that the current scheme has not been amended in any respect to address the previous reason for refusal associated with the above regards.

Standard of Accommodation and Living Conditions for Future Occupiers

- 7.19 Delivering high quality homes is a key objective of the NPPF. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents.

Space Standards

- 7.20 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes. The required overall sizes for residential units and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

	Area (m ²)	Bedroom 1	Bedroom 2	Storage area (m ²)
Standard for 1 bed 2 person (one storey)	50	11.5m ² Wmin=2.75m	N/A	1.5
Standard for 2 bed 3 person (one storeys)	61	11.5m ² Wmin=2.75m	7.5m ² Wmin=2.15m	2
Standard for 2 bed 3 person (two storeys)	70	11.5m ² Wmin=2.75m	7.5m ² Wmin=2.15m	2
Standard for 2 bed 4 person (one storeys)	70	11.5m ² Wmin=2.75m	11.5m ² Wmin=2.55m	2
Proposed Houses 1 - 4 2 bed 3 person	72.2	14.7m ² W = 3.2m	8.8m ² W=2.29m	1.2
Proposed House 5 2 bed 3 person	76.6	14.7m ² W = 3.2m	11.1m ² W=2.29m	1.2
Proposed Flat 1 2 bed 4 person	66.7	11.9m ² W = 2.9m	13.1m ² W=3m	2.3
Proposed Flat 2 2 bed 3 person	67.2	14.7m ² W = 2.75m	9.1m ² W=3m	2.1
Proposed Flat 3 1 bed 2 person	51.6	15.9m ² W = 3.8m	N/A	2.2

7.21 The table shows that the proposed houses would fail to provide the minimum storage space required by the NDSS. However, when the First 2019 Application was determined by the LPA, this deficiency was not considered, in the round, to be detrimental to the living conditions of future occupiers. The proposed bedrooms exceed the minimum standard required. Proposed Flat 1 would be less than the minimum required overall size. Similarly to the consideration for the Second 2019 Application (see paragraph 7.20 of Appendix 1), it is considered that the failure to meet the minimum overall size would be detrimental to the living conditions of future occupiers of the proposed development and is unacceptable when considered in the round.

Daylight, Sunlight and Outlook from Habitable Rooms

7.22 All habitable rooms would have acceptable outlook and benefit from acceptable levels of daylight and sunlight. These arrangements are considered acceptable and policy compliant in this regard. This was also found acceptable during the consideration of the First and Second 2019 Applications.

Interlooking

7.23 When the First and Second 2019 Applications were determined it was found that the proposed residential units would have an acceptable relationship in terms of overlooking. The relevant comments are at paragraphs 7.22 of Appendix 1 and 8.34 of Appendix 2. These comments remain relevant. With the current application the relationship between the proposed properties remains the same and is acceptable on balance.

M4 (2) – Accessibility

- 7.24 The scheme submitted with the First 2019 Application was not considered to be appropriately accessible and adaptable for all members of the community as it did not include step free access for the upper floor flats of the proposed block. The relevant findings are reported at paragraphs 8.37 to 8.39 of the officer's report at Appendix 2. These findings remain relevant for the ground floor flat and the houses. The scheme submitted with the Second 2019 Application was amended in order to include a lift for the upper floor flats. This directly addressed the previous reason for refusal as all proposed units would be appropriately accessible and adaptable in line with relevant policy requirements. The relevant comment can be found at paragraph 7.23 of the Officer's report in Appendix 1. As there are no changes between the Second 2019 Application and the current application, these comments remain relevant and that arrangement is acceptable.

Amenity Provision

- 7.25 Paragraph 8.35 of the officer's report for the First 2019 Application discusses the provision of amenity space:

"8.35 Each house is to be provided with a private rear garden measuring between 41.8sqm and 90.8sqm which is considered adequate to meet the needs of the occupiers of 2 bedroom, 3 person dwellinghouses. The proposed flats would be provided with a communal garden area of some 93.3sqm which is considered acceptable and adequate to meet the needs of the future occupiers."

- 7.26 These findings remain relevant. The provision of amenity space was increased for the Second 2019 Application. Given that there are no changes from the previous application the proposed development remains acceptable in this regard.

Noise and disturbance

- 7.27 The application site is located in the vicinity of industrial units and the rail line. Nevertheless, the site is located to the rear of existing houses and any noise would be significantly reduced from the physical obstacles by the time it reaches the site. Furthermore, the Council's Environmental Health team has raised no concerns about noise issues. It is stated within the supporting statement that an electronic gate would be installed but this is not shown on the submitted plans. Installation of such apparatus could have noise implications. However, details of such installation could be requested with a condition if the proposal were otherwise to be found acceptable.
- 7.28 Overall it is considered that the proposal, by reason of its failure to comply with the NDSS would result in substandard accommodation for future occupiers and as such it would be detrimental to their living conditions. The proposal is therefore unacceptable and contrary to relevant policies in these regards.

Impact on Residential Amenity

- 7.29 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: "having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."

- 7.30 Paragraph 195 of the Design and Townscape Guide (2009) states: “Where backland development is acceptable in principle, one of the key considerations in the design process must be protecting the privacy of adjoining residents. This means that new backland development should not give rise to any overlooking (or realistically perceived overlooking) of neighbouring properties or their private gardens.”
- 7.31 The First 2019 Application was found to be unacceptable in terms of impact on the amenity of neighbouring occupiers. Paragraphs 8.50 to 8.57 discuss this issue and, in summary, it was found that whilst the terrace had been moved further forward within the site seeking to address the reasons of refusal of the application 17/01495/FULM, this did not overcome the identified harm arising from the first floor rear windows of the houses 1 to 4 causing detrimental overlooking and loss of privacy to Archway Bungalow. Moreover, it was found that Proposed House 1 and the block of flats would create an unacceptable sense of enclosure and would have an overbearing relationship with the neighbouring properties on Shoebury Avenue and Wakering Avenue. The proposal for the Second 2019 Application failed to overcome the identified material and demonstrable harm that would arise from the proposal. To the contrary, as discussed at paragraph 7.29 of the Officer’s report (see Appendix 1), it was found that the proposed development would result in an increased bulk of building form on site with the increased size of the block of flats. Given that there are no changes since the previous refusal, these findings remain relevant. Overall, the proposed development remains unacceptable and contrary to policy in the above regards.

Traffic and Transportation Issues

- 7.32 Policy DM15 of the Development Management Document states: “Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner”. The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards.
- 7.33 Outside of the central area, for a dwellinghouse of more than two bedrooms, a minimum of two off-street parking spaces should be available while for apartments the minimum requirement is one space per unit. One cycle storage space per unit is also a policy requirement. The current proposal would provide the same amount of car parking and cycle storage for the same level of accommodation as the proposals submitted with the First and Second 2019 Applications. Paragraphs 7.30 to 7.32 (see Appendix 1) and 8.43 to 8.45 (see Appendix 2) of officers’ reports discuss the car parking provision and cycle storage provision. These findings remain relevant as no changes have been made to the current scheme in these regards. The Highways team previously did not raise any objections. The proposal remains acceptable and policy compliant in the above regards.
- 7.34 During the course of the Second 2019 Application the Fire Authority was consulted and raised an objection on the basis that there is no turning space within the site for fire brigade vehicles, the location of the site is more than 20m away from the edge of the public highway and part of the proposal would be more than 45m away from the area where a fire brigade vehicle could reverse to. These comments remain relevant for the current scheme.

Whilst this would be a serious shortcoming of the proposal, access to emergency services is dealt under the relevant part of the Building Regulations. Considering that this issue was not a reason for refusal of the First or Second 2019 Applications and that it can be dealt under a different legislative regime, this matter cannot reasonably form a reason for refusal for the current application.

Refuse and Recycling Storage

- 7.35 The proposed location and provision of refuse and recycling storage is the same as for the First and Second 2019 Applications. Paragraphs 7.33 (see Appendix 1), 8.36 and 8.46 (see Appendix 2) of the officers' reports discuss this matter and the findings remain relevant. Whilst the proposed arrangements are not ideal, the First and Second 2019 Applications were not refused on the basis of this issue. It is considered that a condition could address the concerns raised previously if the application were to be acceptable in other regards. Hence, the current proposal, subject to conditions, is acceptable and policy compliant in this regard.

Energy and Water Sustainability

- 7.36 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.

- 7.37 No information has been provided regarding proposed renewable energy to demonstrate how the proposal meets the 10% policy requirement. However, it is considered that the requirement for renewable energy and restrictions on water usage could be controlled with conditions provided any such externally mounted technologies respect the character and appearance of the area if the proposal were otherwise found to be acceptable. This aspect of the proposal is therefore considered to be acceptable and policy compliant in this regard, subject to conditions. This was also the finding of both the First and Second 2019 Applications as stated in paragraphs 7.35 (see Appendix 1) and 8.59 to 8.60 (see Appendix 2) of the officers' reports.

Land contamination

- 7.38 Paragraph 170 of the NPPF stipulates that planning decisions should contribute to and enhance the natural and local environment by, among others, remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate. Paragraph 178 of the NPPF requires that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination and after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.

7.39 Policy DM14 of the Development Management Document states that: "Development on or near land that is known to be contaminated or which may be affected by contamination will only be permitted where:

- (i) An appropriate Contaminated Land Assessment has been carried out as part of the application to identify any risks to human health, the natural environment or water quality; and
- (ii) Where contamination is found which would pose an unacceptable risk to people's health, the natural environment or water quality, the Council will impose a condition, if appropriate, to ensure the applicant undertake appropriate remedial measures to ensure that the site is suitable for the proposed use and that the development can safely proceed.
- (iii) Remediation works will be carried out before the commencement of any new development.

7.40 Paragraph 8.41 of the officer's report for the First 2019 Application (see Appendix 2) found that the submitted reports confirm that de-contamination of the land is required and the proposed removal of contaminated land would be an environmental benefit. As per the relevant planning policy requirements any de-contamination of the land would need to be carried out and verified prior to the commencement of the development which would be ensured with appropriately worded conditions if the development were otherwise found to be acceptable. Subject to such conditions, the proposal is acceptable and policy compliant in the above regards.

Community Infrastructure Levy (CIL)

7.41 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 subsequently allowed, the CIL liability will be applied. Any revised application may also be CIL liable.

Other matters

7.42 When the assessment of the application as submitted was at an advanced stage of assessment and preparation for the committee was being finalised, amended plans were proposed for submission by the applicant. The prospective amended plans were accompanied by an amended Design and Access Statement and an email dated 14 January 2020 which highlighted the potential amendments. These amendments were stated in the email to be:

1. *It is now noted that a number of windows, particularly on the block of flats, are now obscure glazed.*
2. *The Juliette balcony at first floor on the eastern side has been removed and is now obscure glazed.*
3. *The ground floor flat, which was previously a 4-person unit, is now a 3-person unit.*
4. *Any reference to electronic gates is now omitted.*
5. *Most importantly of all, the previous application stated that the wall to the north and east elevation would be reduced to 2.4m. This has now been revisited and the intention is to retain the wall (which varies in different heights) repair it and render. This would mean that the properties directly adjacent on the other side would not be affected as they are butted up against the wall.*

But more importantly this would help in providing better privacy to the neighbouring properties.

- 7.43 It should be noted that not all of the above points have been shown on the prospective amended plans. For example, there is no amended ground floor plan to demonstrate point 3 or site plan to demonstrate point 5. Moreover, there are discrepancies and inconsistencies between the prospective plans or the information provided in the email, including the information about which windows would be proposed to be with obscured glazing or the location of the Juliet balcony. Nevertheless, the omission of demonstration of these potential amendments and the identified inconsistencies between the plans have not prejudiced the ability to assess whether they would be likely to overcome the identified harm.
- 7.44 With regard to the proposed obscured glazed windows and the replacement of a Juliet balcony with an obscured window (points 1 and 2 above), these would not address the identified materially harmful overlooking which is caused by the first floor rear windows of the proposed houses. Furthermore, the potential obscured glazed windows would in any event have been required to be obscured and non-opening with a planning condition if the application were otherwise found to be acceptable.
- 7.45 In relation to the potential change of the ground floor flat from a four-person unit to a three-person unit (point 3), this may potentially address one of the main concerns about the scheme. However, at this stage no plans have been submitted to demonstrate how this is proposed to be achieved.

Considering point 4 and the omission of any reference to electronic gates, this aspect of the proposed development was not considered to be a major issue and could have been addressed with a planning condition if the Local Planning Authority were to grant planning permission for the scheme.

- 7.46 Considering the proposed retention of the existing wall on site (point 5) it is noted that the wall to be retained has been shown on the proposed 3D visualisations to be the wall located at the north boundary of the site, to the rear of the properties facing Friars Street. The retention of this wall would not alter the materially harmful overlooking, the overbearing effect or sense of enclosure which has been identified as a material consideration for the refusal of the application when previous decisions were made. Overall, it is considered that the prospective amendments as submitted would not overcome any of the previous reasons for refusal and would not materially alter the findings in the previous sections of this report.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, including the previously refused applications 19/01497/FUL and 19/00718/FUL which carry significant weight, it is found that the proposed development does not constitute sustainable development, is unacceptable and is contrary to local and national planning policies. The proposed development is of an unacceptable design that would appear cramped and would constitute overdevelopment of the site resulting in material harm to the character and appearance of the area. The proposed scheme would be excessively dominated by hardsurfacing and parked vehicles exacerbating the identified harm to the character and appearance of the area.

- 8.2 The development would also result in material harm to the residential amenity of the occupiers of the adjoining dwellings in terms of overlooking, loss of privacy, dominance and sense of enclosure. In addition, the proposed development fails to satisfy the Nationally Described Space Standards with regard to the size of flat 1. The benefits of the proposal, including the modest provision of additional dwellings, do not outweigh the significant and material harm identified. The application is, therefore, recommended for refusal.

9 Recommendation

9.1 REFUSE PLANNING PERMISSION for the following reasons:

- 01 **The proposal, by reason of its overall layout and cramped nature constitutes overdevelopment of the site and would be dominated by hardsurfacing and car parking, resulting in a contrived and incongruous scheme that would cause material harm to the character and appearance of the site and the surrounding area. This is unacceptable and contrary to National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).**
- 02 **The siting, size and design of the proposed development is such that the development would result in material overlooking and loss of privacy, dominance and a material sense of enclosure to the material detriment of the amenities of the occupiers of neighbouring dwellings in Shoebury Avenue and Wakering Avenue. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).**
- 03 **The proposed development, by reason of its failure to comply with the Nationally Described Space Standards would provide substandard living conditions for the future occupiers of Proposed Flat 1 to the detriment of their amenity. This is unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM8 (as amended by the Technical Housing Standards Policy Transition Statement (2015)) of the Development Management Document (2015) and the advice contained within the Design and Townscape Guide (2009).**

Informatives:

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