

Appendix 1 – Officer’s report for application reference 19/01497/FUL**Delegated Report**

Reference:	19/01497/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 September 2019
Expiry Date:	28th October 2019
Case Officer:	Spyros Mouratidis
Plan Nos:	2889 01, 2889 02, 2889 03, 2889 04. 2889 05, 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. During the site visit it was indicated that the existing wall located on the northern boundary of the site would be retained but this has not accurately been shown on submitted plans. 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 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.
- 2.2 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.
- 2.3 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 in depth 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. 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 This application is an amended proposal following the refusal of planning application 19/00718/FUL (the “2019 Application”). Details of the reasons for refusal of this application are given on the planning history section of this report and the officer’s report for the application is appended to this report as Appendix 1. The scheme refused under the 2019 Application has been amended 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 2019 Application was refused for the reasons stated in section 10 of the officer's report (Appendix 1). 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.

4 Representation Summary

Public Consultation

- 4.1 Forty-five (45) neighbouring properties were consulted and a site notice has been displayed. Eight (8) representations objecting the application have been received and are summarised as follows:
- 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.

- 4.2 Where relevant to planning matters the comments have been taken into consideration and the matters raised are discussed in the relevant sections of the report.

Anglian Water

- 4.3 No comment.

Fire Authority

- 4.4 Object – The access road to the site is in excess of 20m without turning facilities.

Highways

- 4.5 No objections.

Environmental Health

- 4.6 No objections subject to conditions.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance) and CP8 (Dwelling Provision).
- 5.3 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).
- 5.4 Design & Townscape Guide (2009)
- 5.5 Technical Housing Standards Policy Transition Statement (2015)
- 5.6 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.7 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.

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 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.
- 7.4 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.
- 7.5 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.

When the 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 (Appendix 1). This analysis remains relevant and renders the proposed loss of employment and provision of housing acceptable in principle.

Backland Development

- 7.6 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.
- 7.7 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.”
- 7.8 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.”
- 7.9 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.”
- 7.10 When the 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 (Appendix 1). This analysis remains relevant and renders the proposed backland development acceptable in principle.
- 7.11 As discussed in previous paragraphs, the overall principle of the proposed development is unacceptable. 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 2019 Application was determined by the LPA it was found that the scale of the proposed development was acceptable. With the current application a scheme is proposed which would result in the block of flats being larger in scale. As already stated in previous sections of the report, the building would be approximately 0.9m higher and up to 2.4m deeper. It is not considered that these changes would render the scale of the proposed block of flat unacceptable.
- 7.17 Overall the decision for the 2019 Application stated that the proposal was unacceptable in terms of impact on the character and appearance of the site and the area. The layout and cramped nature of the proposed development was found to constitute overdevelopment of the site. It was also considered that the proposal 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 (Appendix 1). This analysis remains relevant and as such the proposed development is unacceptable and contrary to policy for the same reasons considering that the current scheme has not been amended sufficiently to address the previous reason for refusal associated with the above regards.

Standard of Accommodation and Living Conditions for Future Occupiers

7.18 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

7.19 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

7.20 The table shows that the proposed houses would fail to provide the minimum storage space required by the NDSS. However, when the 2019 Application was determined by the LPA, this deficiency was not considered detrimental to the living conditions of future occupiers. The proposed bedrooms exceed the minimum standard required. The proposed Flat 1 would be less than the minimum required overall size. This was not a concern during the consideration of the 2019 Application because Flat 1 was proposed to be a 2 bed 3 person unit. The failure to meet the minimum overall size would be detrimental to the living condition of future occupiers of the proposed development.

Daylight, Sunlight and Outlook from Habitable Rooms

7.21 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 during the consideration of the 2019 Application.

Interlocking

- 7.22 When the 2019 Application was determined it was found that the proposed residential units would have an acceptable relationship in terms of overlooking. The relevant comments are at paragraph 8.34 of the officer's report (Appendix 1). These comments remain relevant. With the current application the proposal has not been changed in this regard and the relationship between the proposed properties remains the same.

M4 (2) – Accessibility

- 7.23 The scheme submitted with the 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. These findings remain relevant for the ground floor flat and the houses. The currently submitted scheme has been amended in order to include a lift for the upper floor flats. This directly addresses the previous reason for refusal as all proposed units would be appropriately accessible and adaptable in line with relevant policy requirements.

Amenity Provision

- 7.24 Paragraph 8.34 of the officer's report for the 2019 Application discusses the provision of amenity space. These findings remain relevant. The provision of amenity space has been increased and as such the proposed development remains acceptable in this regard.

Noise and disturbance

- 7.25 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 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 would have been requested with a condition if the proposal were otherwise to be found acceptable.
- 7.26 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

- 7.27 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."
- 7.28 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.”

- 7.29 The 2019 Application was found 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 was 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 and that 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 current proposal has failed to address the identified material and demonstrable harm that would arise. To the contrary the proposed development would result in an increased bulk of building form on site with the increased size of the block of flats. Overall, the proposed development remains unacceptable and contrary to policy in the above regards.

Traffic and Transportation Issues

- 7.30 Policy DM15 of the Development Management Document requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards. 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.
- 7.31 The current proposal would provide the same amount of car parking and cycle storage for the same level of accommodation as the proposal submitted with the 2019 Application. Paragraphs 8.43 and 8.44 of officer's report discuss the car parking provision and paragraph 8.45 reports on the findings for the cycle storage provision. These findings remain relevant as no changes have been made to the current scheme in these regards. The Highways team raised no objections. The proposal remains acceptable and policy compliant in the above regards.
- 7.32 During the course of the current 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. Whilst this is 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 2019 Application and that it can be dealt under a different regime, this matter cannot reasonably form a reason for refusal for the current application.

Refuse and Recycling Storage

- 7.33 The proposed location and provision of refuse and recycling storage is the same as for the 2019 Application. Paragraphs 8.36 and 8.46 of the officer's report discuss this matter and the findings remain relevant. Whilst the proposed arrangements are not ideal, the 2019 Application was 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

- 7.34 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.
- 7.35 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 the 2019 Application as stated in paragraphs 8.59 to 8.60 of the officer’s report (Appendix 1).

Land contamination

- 7.36 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.
- 7.37 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.
- 7.38 Paragraph 8.41 of the officer’s report for the 2019 Application 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)

7.39 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 may also be CIL liable.

8 Conclusion

8.1 Having taken all material planning considerations into account, it is found that the proposed development does not constitute sustainable development, is unacceptable and is contrary to local and national planning policies. The application is, therefore, recommended for refusal. 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. 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. The revised scheme has failed to overcome the previous reasons for refusal of the 2019 Application in these regards.

8.2 In addition, the proposed development fails to satisfy the NDSS 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. Given that the application is recommended for refusal, the Applicant's consent to impose pre-commencement condition has not been sought.

9 Recommendation

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

01 **The proposal, by reason of its overall layout and cramped nature constitutes the overdevelopment of the site and would be dominated by hardsurfacing and car parking, resulting in a contrived and incongruous scheme that would result in 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 the site 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).**

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

Informatives:

- 1 Please note that this application would be 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 would also be CIL liable.**

Case Officer Signature.....	Date.....
Senior Officer Signature.....	Date.....
Delegated Authority	
Signature.....	Date.....