

Reference:	19/02289/FUL	
Application Type:	Full Application	
Ward:	West Leigh	
Proposal:	Erect 4no two storey semi-detached dwelling houses with associated landscaping and amenities, layout parking to front and form vehicular accesses on to Underwood Square (Amended Proposal)	
Address:	Haydon House 10 Underwood Square Leigh-On-Sea Essex SS9 3PB	
Applicant:	Mr G Newton	
Agent:	Steven Kearney of SKArchitects	
Consultation Expiry:	27 th February 2020	
Expiry Date:	9 th March 2020	
Case Officer:	Abbie Greenwood	
Plan Nos:	385-P700, 385-P701, 385-P702, 385-P703A, 385-P704, GBU 2113, Design and Access Statement, Bat and Badger Survey by Essex Mammals Survey dated November 2019, Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019, 1874-02-P1 (Tree Retention and Protection Plan)	
Recommendation:	GRANT PLANNING PERMISSION	



1 Site and Surroundings

- 1.1 Underwood Square is a purpose built urban square consisting of an informal green space surrounded and enclosed by detached and semi-detached houses. The houses are of different ages and designs and do not form a cohesive streetscene. The character of the square is derived primarily from the arrangement of the houses enclosing the open space and the presence of many mature trees, including a significant number of street trees and a number of mature oak trees on the rear (west) boundary of the application site and in neighbouring gardens.
- 1.2 The site was formerly occupied by a single detached house which was demolished in 2017. The plot is of a significant size taking up almost the entire west side of the square. There is only one other property on the west side of the square to the north of the application site (number 11). This is a modest detached house of traditional design. For the purposes of this application the plot of the former Haydon House has been split into two. The current application for 2 x semi-detached pairs relates to the northern 3/4 of the site only. The rest of the site to the south has been subject to two separate applications to erect one detached house which were recently refused planning permission under references 19/01446/FUL and 19/02143/FUL.
- 1.3 The opposite side of the square contains 5 houses which are arranged as 2 pairs of semi-detached houses and one detached property. The houses to the north side are more varied in their design and form. The south side contains the junction and is enclosed by the flank elevations of properties in Lime Avenue.
- 1.4 There are slight changes in levels north to south across the wider site as the land slopes down to Prittlebrook a short distance to the north. The surrounding area is residential in character mainly consisting of two storey houses, most of which are semi-detached. To the rear of the site is Belfairs School playing fields and Belfairs Woods beyond.
- 1.5 The central square is designated as protected green space. The large oak trees on the western boundary of the site are protected by Tree Preservation Order 4/72. There are no other policy or heritage designations in the vicinity of the site.

2 The Proposal

- 2.1 The proposal, the site edge red for which includes an area of highway in front of the site, seeks to build 4 x 2 storey semi-detached houses two of which have accommodation in the roof space. The two sets of semis are different but of complementary designs. The southern pair are the larger houses. These are 4 bed 7 person units which include accommodation within the roofspace. Each dwelling measures 5.4m wide by 13.7m deep with an eaves height of 6m and a ridge height of 9.7m. The smaller pair are 3 bed 5 person units which each have a width of 5.4m, a depth of 13.3m, an eaves height of 5.6m and a ridge height of 9m.
- 2.2 The proposal will be constructed of brick and render with either feature waney edged burnt larch or straight cut black painted timber cladding, clay peg tiles and powder coated aluminium windows.
- 2.3 Two off street parking spaces are proposed on the frontage for each dwelling accessed by 4 new crossovers onto Underwood Square. Amenity areas are proposed to the rear of each property. There is currently 1 crossover for the site adjacent to number 11.
- 2.4 The application is supported by a Design and Access Statement, an Arboricultural assessment and a bat and badger survey.
- 2.5 This is an amended application following the refusal of a similar application in 2019 reference 19/01749/FUL which also sought to erect 4 two storey semi-detached dwelling houses, layout parking to front and form vehicular accesses on to Underwood Square. That application was solely refused for the following reason:

01 The proposed development, by reason of its poorly designed and contrived forecourt parking layout, and in particular the extent of hardstanding proposed and lack of space for soft landscaping, would have a detrimental impact on the character and appearance of the site and the wider streetscene. This is 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).

- 2.6 In order to address this reason for refusal the design of the forecourt parking area and the landscaping to the front of the site has been amended. The parking spaces for the proposed houses now better relate to the properties which they serve and additional landscaping has been proposed on the frontage, including tree planting on the pavement to the front of the site, to provide additional softening for the development in the streetscene. The design, scale and placement of the houses themselves remain unchanged from the previously refused application as these aspects of the proposal did not relate to the reason for refusal.

- 2.7 An application for the smaller plot at the southern end of the site, reference 19/02143/FUL, which sought to erect a single 5 bed house in this location, was recently refused by this committee for the following reason:

01 The proposal by reason of its scale, design, and position would be materially harmful to the character and appearance of the streetscene and wider surroundings. This would be unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

- 2.8 The basis of that reason for refusal has limited relevance in the determination of the current application because, as noted above, no objections were raised in the previously refused application for the current site in relation to the scale, design or position of the proposed houses in themselves or in relation to the wider streetscene. That basis of decision carries significant weight in the determination of the current proposal.

3 Relevant Planning History

- 3.1 19/02143/FUL - Erect No.1 5 bedroom detached dwellinghouse, layout parking to front with associated crossover onto Underwood Square (Amended Proposal) – refused
- 3.2 19/01749/FUL - Erect 4no two storey semi-detached dwelling houses, layout parking to front and form vehicular accesses on to Underwood Square – refused
- 3.3 19/01446/FUL - Erect two storey detached dwelling house, layout parking to front and form vehicular access on to Underwood Square – refused.
- 3.4 18/02308/FUL – Erect chalet at northern end of the site, layout parking to front and form vehicular access onto Underwood Square – refused
- 3.5 18/01674/TPO – Prune 4 oak trees at site (works to trees covered by a tree preservation order) – granted.
- 3.6 18/01063/FUL- Erect three dwellinghouses, layout parking to front and form vehicular accesses on to Underwood Square (Amended Proposal) – granted
- 3.7 17/01361/TPO - Crown lift, prune and removal of deadwood to various oak trees (works to trees covered by a tree preservation order) – granted
- 3.8 17/00396/DEM – Demolish existing dwellinghouse (Application for Prior Approval for Demolition) – Prior Approval Granted
- 3.9 17/00234/FUL - Demolish existing dwelling house and erect 4no two storey dwelling houses, form vehicular accesses on to Underwood Square – refused and dismissed at appeal. A copy of the appeal decision can be found at Appendix 1.
- 3.10 16/01866/TPO - Crown reduction by 4-5m to five Oak Trees (Works covered by a Tree Preservation Order) - refused.

4 Representation Summary

Public Consultation

4.1 25 neighbouring properties were consulted and a site notice displayed. Neighbours were consulted three times during the process of the application due to a revised landscaping plan and because of a correction to the ownership certificate. 23 letters of representation have been received from 13 households and a petition of 60 signatures from the Friends of Underwood Square raising the following issues:

- Over development of the land
- Over bearing and dominant
- Over intensification
- The development will have a cramped appearance
- Impact on grain, character, appearance and streetscene
- Impact on open space and existing grassed areas
- Not enough landscaping to the frontage
- The guidance discourages parallel parking
- The development is at odds with local character
- Too tall and too large
- The increase in density of the site overall is too great
- Lack of parking
- The proposal is contrary to 'Government Parking Standards Policy Annex A- - Creating Places - achieving quality in residential developments [in Northern Ireland] 2000
- The proposal is contrary to 1994 Local Plan Policies [now superseded]
- A detailed assessment of long term parking and traffic issues should be prepared
- How would the proposal prevent the whole frontage becoming hardsurfaced over time - concern that the new owners could remove the proposed landscaping
- Congestion and traffic concerns
- Impact on street parking - is likely to result in parking on the grassed area
- Visual impact of parking
- There will be additional demand for on street parking in an area of stress
- Impact on sewers and drains
- Restricted access for refuse and emergency vehicles
- Impact on wildlife and environment
- Landscaped frontages are a characteristic of the square and the area was originally designed to have planting to the road and no pavement – the pavement should be removed to provide a planting area and additional space for on street parking
- Loss of on street parking - 4 spaces would be lost
- The proposal for planting on the footway would restrict on street parking as the vehicles need to park with their wheels on the pavement to maintain access
- The parking layout is unworkable
- The proposed pavement trees are just a token gesture and will restrict the on street parking
- Impact on trees – works have been undertaken recently with no tree protection
- Outlook onto parking areas is poor
- The drawings are inaccurate
- Concerns relating to surface water flooding

- The developer has not sought to engage with residents
- The previously approved scheme is more acceptable
- Construction management will be an issue
- The wildlife survey is incorrect – a Phase 1 Habitat Survey is required
- The previous reason for refusal has not been addressed
- The badger survey should use camera traps and should be carried out when badgers are more active
- The area should be developed as a comprehensive site not piecemeal
- Geothermal pumps will conflict with trees and are inappropriate
- The refusal of the 5th house needs to be considered in relation to potential over development of this site
- Impact on fire hydrant
- The level of development and hardstanding is not comparable to the other side of the square
- The northern side of the square has always had shrubbery and no pavement
- No space for tradesmen and carers to park which may force them onto the grassed area
- 4 houses would be more acceptable.

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

Leigh Town Council

4.2 Object to the proposal on the following grounds:

- Design, bulk, mass size out of keeping with the area
- Visual impact of parking on the frontage
- Failure to provide information in relation to sewerage

Highways Team

4.3 No objections

Environmental Health

4.4 No objections subject to conditions

Parks

4.5 No objections to proposed pavement planting which is considered feasible.

No objection to the impact on existing trees subject to conditions relating to tree protection measures and construction mitigation.

No objection to proposed planting species which should contribute to the biodiversity of the area.

Natural England

- 4.6 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

Essex Badger Protection Group

- 4.7 The Essex Badger Protection Group object to the proposal because their records indicate that the badger sett in this area may be more active than the submitted Bat and Badger Survey suggests. On this basis they recommend that camera traps are installed to confirm whether the holes are in use or are dormant as claimed by the submitted Badger report. It is acknowledged that the proposed tree protection measures will provide a safe area for badgers to the western side of the site during construction.
- 4.8 The application was called to committee by Councillors Walker and Hooper

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Core Strategy (2007) Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP3 (Transport and Accessibility), CP4 (The Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision)
- 5.3 Development Management Document (2015) Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM7 (Dwelling Mix), DM8 (Residential Standards), DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 National Design Guide (2019)
- 5.6 Vehicle Crossing Policy & Application Guidance (2014)
- 5.7 CIL Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, design and impact on the streetscene, traffic and transportation, impact on residential amenity, sustainable construction, quality of accommodation for future occupiers, ecology, impact on trees and CIL and whether the proposal has overcome the previous reason for refusal for application reference 19/01749/FUL relating to the design of the forecourt parking area and landscaping.

7 Appraisal

Principle of Development

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

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

a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
b) local market conditions and viability;

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

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

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

7.2 Policy KP2 of the Core Strategy states development must be achieved in ways which “make the best use of previously developed land, ensuring that sites and buildings are put to best use”. Policy CP4 requires that new development “maximise the use of previously developed land, whilst recognising potential biodiversity value and promoting good, well-designed, quality mixed use developments” and that this should be achieved by “maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development”.

7.3 Policy CP8 of the Core Strategy recognises that a significant amount of additional housing will be achieved by intensification (making more effective use of land) and requires that development proposals contribute to local housing needs. It identifies that 80% of residential development shall be provided on previously developed land.

7.4 Policy DM3 of the Development Management Document states that “the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity”

7.5 Policy DM7 of the Development Management Document requires new housing development to meet the needs of the Borough in terms of the type and size of development proposed

- 7.6 The site is in a residential area which comprises mainly family housing. There is therefore no objection in principle to family sized houses in this location for which there is an identified need in the Borough. The principle of residential development did not form a reason for refusal of the refused 2017 application or dismissal of the subsequent appeal. The principle was accepted in the appraisal in the approval given for 18/01063/FUL and did not form a reason for refusal of the recently refused application 19/01749/FUL.
- 7.7 The wider site previously accommodated a single 4 bedroom detached dwellinghouse. This application proposes 4 semi-detached houses on a site which comprises some $\frac{3}{4}$ of the site. The principle of providing a more intensive use of the wider site needs to be weighed against the NPPF paragraph 122 above which requires Councils to make efficient use of land. The density and scale of development is discussed in more detail below. The principle of residential development on this site is therefore acceptable.

Design and Impact on the Character of the Area

- 7.8 *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.’*
- 7.9 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.*”
- 7.10 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.”*
- 7.11 The proposal seeks to erect 2 pairs of semi-detached houses. This amended application follows a previous refusal for the same site area and width as reference 19/01749/FUL. As noted above that application was refused because it was considered that the design of the forecourt area was contrived, as the parking for plot 3 was in front of plot 4, and because the scheme lacked sufficient soft landscaping to mitigate its impact and to integrate into the wider streetscene. In order to address this a number of amendments have been made to the design of the forecourt area.

- 7.12 Firstly the parking layout has been amended so that the parking spaces for each of the proposed properties is either directly in front of or to the side of the dwelling it serves. This arrangement has resulted in one additional crossover being proposed making a total of 4 crossovers for 4 units. Overall the proposed arrangement is more logical in its placement of parking spaces and is no longer considered to be contrived in its design. This is an improvement over the previously refused application.
- 7.13 The site layout in front of the proposed houses has also been amended to provide more soft landscaping. This includes a narrow planting bed directly in front of each property, wider dividing hedges between each of the properties, a planted front boundary hedge to plots 1 and 4, a full planted garden to the front of plot 4 as well as a sizeable planted bed to the northern side of plot 4. Overall the area given over to soft planting on the frontage as a whole has increased from 23 sqm, in the refused scheme, to 55 sqm. The proposal also includes the planting of 3 new street trees in the pavement to the front of the site. The Councils Tree Officer has confirmed that these would be feasible in this location and that the species are suitable. Full landscaping details have been provided for the frontage area to provide certainty to the planting which is proposed here. The landscaping scheme includes a variety of plant species to enhance the biodiversity of the site and permeable resin bonded gravel to the parking areas. A full tree planting specification has also been submitted for the pavement trees.
- 7.14 Overall on balance it is considered that the amended forecourt design and details of soft planting are a significant improvement and have overcome the previous reason for refusal in regard to the previously contrived parking layout and lack of soft landscaping at the site.
- 7.15 A number of concerns have been expressed by third parties that the proposed frontage planting would be removed by future occupiers to make way for additional parking areas and this would harm the amenity of the area. It is considered that in this case, it would be reasonable to remove permitted development rights in relation to the installation of hard surfaces (Class F) so that any changes to the forecourt areas require express planning permission. This would ensure that appropriate level of soft planting on the frontages.
- 7.16 In relation to the design and form of the proposed houses themselves, as noted above, this aspect of the proposal remains unchanged from the previous application. No objections were previously raised to the design, scale or siting of the new houses or their relationship to the character of the wider area. This element of the proposal therefore remains acceptable. A full appraisal of this aspect of the proposal can be found in the committee report for the previously refused application reference 19/01749/FUL a copy of which can be found at Appendix 2.
- 7.17 The amended proposal is therefore considered to have overcome the previous reason for refusal and on balance is acceptable and policy compliant in respect of design and character matters subject to conditions.

Standard of Accommodation for Future Occupiers

- 7.18 Delivering high quality homes is a key objective of the NPPF.
- 7.19 Policy DM3 of the Development Management Document (i) states: proposals should be resisted where they *“Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents”*.

Space Standards and Quality of Habitable Rooms.

- 7.20 All new homes are required to meet the National Technical Housing Standards in terms of floorspace and bedroom sizes. The proposed houses were assessed against the National Technical Housing Standards in the previous application reference 19/01749/FUL and found to be acceptable. The houses are the same design and layout as the previous application. The proposal therefore remains acceptable in this regard.

Privacy and outlook

- 7.21 In relation to privacy and outlook the parking layout has been amended and this has implications for the privacy and outlook for the proposed houses. Previously a concern was raised in relation to the location of the parking to plot 3 in front of the front window of plot 4. This was seen as a negative aspect of the proposal although it did not constitute a reason for refusal in its own right as the properties were new builds not existing dwellings. The amended parking layout has addressed this concern and this is to the benefit of the proposal. The proposal is therefore considered to be acceptable and policy compliant in this regard.

M4(2) – Accessibility

- 7.22 Development Management Policy DM8 requires all new homes to be accessible for all and to meet the standards set out in Building Regulations M4(2) - Accessible and Adaptable Dwellings. This ensures that all new homes are flexible enough meet the changing needs of all generations. The Design and Access Statement makes a commitment to providing accessible and adaptable homes. This requirement could also be secured by a condition requiring full compliance with M4(2).

Amenity Provision

- 7.23 Each proposed property has a garden area of at least 145 sqm to its rear. This is considered to comfortably meet the needs of a family dwelling.
- 7.24 Overall it is considered that the proposal will provide a good standard of accommodation for future occupiers and is acceptable and policy compliant in this regard.

Impact on Residential Amenity

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

- 7.26 The proposal only has one existing neighbour number 11 Underwood Square to the north. The northern most property has a depth of 13.1m at two storeys on this side. It has an eaves height of 5.6m and a ridge height of 9m. It is set 2.8m from the boundary with this property and 4.9m from the flank elevation of this neighbour. The proposed northern most house would extend 2m past the rear elevation of this neighbour. To the south the site faces onto the remainder of the development site which is currently vacant. The southernmost property would be set 1.2m from this boundary and has one small bathroom window at first floor facing this site. To the west the site backs onto playing fields associated with Belfairs High School and to the east is the public space of Underwood Square.
- 7.27 The impact on neighbouring properties was fully assessed in the previous application reference 19/01749/FUL and, on balance, the proposal was found to have an acceptable impact on neighbour amenity subject to conditions requiring obscure glazing to all the side windows above ground floor level and a condition requiring a construction management plan to be agreed. The houses are the same design, scale, layout and siting as the previous application. The proposal therefore remains acceptable in this regard subject to these conditions. A full appraisal of this aspect of the proposal can be found in the committee report for the previously refused application reference 19/01749/FUL at Appendix 2.

Traffic and Transportation Issues

- 7.28 Policy DM15 states that dwellings of this size should be served by at least two off street parking spaces. The proposed parking arrangement will include the formation of 4 new vehicle crossovers and 8 parking spaces on the front of the site. This meets the policy requirements and the Council's Highways Officer has not raised any objections in this regard.
- 7.29 The formation of additional crossovers will inevitably result in the loss of some on street parking to the front of the site but this will be the case for any development on this site and no objections have been raised by the Councils Highway Officer in relation to this issue nor did it constitute a reason for refusal previously. Most other properties on the square have their own crossover and forecourt parking area. Taking into account the benefits of new housing in this location, which needs to be afforded weight in the planning balance, no objection is raised to the proposed parking arrangements and the proposal is policy compliant in this regard.
- 7.30 The submitted plans do not show details of refuse or cycle storage however, as large dwelling houses with large gardens it is considered that there is sufficient scope for these to be provided to the rear of the properties. The proposal is therefore acceptable and policy compliant in these regards.

Construction Management Plan

- 7.31 A number of concerns have been raised by third parties in regard to construction management including the burning of waste, access for construction vehicles and impact on access to neighbouring properties. Whilst a construction management plan would not normally be sought for this scale of development, in these particular circumstances, given the proximity of the large street trees to the pavement edge and the potential for damage by construction traffic without a clear access plan, it is considered that it would be prudent to require a construction management plan to be submitted so that routes and access and other issues can be fully considered. This can be controlled by a condition requiring the developer to submit a Construction Management Plan. A condition relating to hours of construction can also be imposed. Subject to these conditions, the proposal is considered to be acceptable and policy compliant in these regards.

Impact on Trees

- 7.32 The mature oak trees along the western boundary of the site are protected by a tree preservation order ref TPO 4/72. There is also a significant street tree close which is located some 4m to the south east corner of the site. The large trees in this area are a key feature and important to local character.
- 7.33 An Arboricultural Statement has been submitted with the application. The report confirms that the southernmost crossover will be within the root protection area of the large street tree T10.
- 7.34 The tree report has assessed the impact of the proposal on the street tree to the south east of the site. The report confirms that the proposed driveway, which will be shared by the southernmost plot of the current application and the vacant plot to the south (outside the scope of this application) will encroach onto the root protection area but that this encroachment will be below the recommended maximum 20% coverage for new surfaces. To mitigate the impact of this encroachment it is proposed that the parking surface be constructed above the existing ground levels using no-dig methodology which involves laying a permeable cellular surface on top of the existing ground levels. The new crossover and driveway will be ramped up to this level. It is also recommended that the installation of this surface is supervised by a suitably qualified arboriculturalist and a structural engineer. Full design details for this element of the proposal and levels for the proposed surfacing and the wider site could be controlled by condition.
- 7.35 The report confirms that the proposal will not impact on the preserved oak trees to the rear boundary.
- 7.36 In relation to tree protection during construction the report includes a plan of protective fencing to delineate the construction exclusion zone. Given the nature of the site proposed layout it is not possible for root protection areas for the street tree to be contained within the fenced exclusion zone it is proposed to install temporary ground protection in the form of steel sheets or scaffold boards laid across the affected area.

- 7.37 The report includes a Method Statement for all these mitigation and protection measures. The Arboricultural Statement submitted with the application concludes that, subject to the specified mitigation measures, the development will not cause material harm to this tree. The Council's Arboricultural Officer has reviewed the tree report and recommended mitigation and protection measures and has provided the following comments:

'With regard to T10, Liquidambar. In my opinion it is likely a large proportion of the root system could be located within the development site, due to the hard surface of the road and public footpath. These areas being less hospitable to root growth than the development site, which if I recall correctly was largely laid to lawn. The proposal for the cellular confinement system for parking spaces is acceptable as long as it is achievable with the existing undisturbed soil levels. At present the parking bays cover 9.9% of the RPA which is within the 20% maximum recommended within BS5837. It would appear the proposed cross over from the road is just inside the RPA of T10 so the impact of this would be minimal. The location of all services will need to be provided as would a detailed method statement for the installation of the cellular confinement system. All works, site supervision and tree protection should be carried out as detailed in the Arboricultural Report by Owen Allpress ref 1874 dated 24th October 2019. Also subsequent site monitoring reports should be made available.'

- 7.38 In considering the acceptability of the southern crossover it is noted that the same arrangement was proposed in the recently refused proposal which would have shared the crossover and drive access with the southernmost property of the current application. This scheme was refused but not because of the impact on this tree which was found to be acceptable subject to tree protection conditions. This remains the case for the current proposal and carries material weight in the determination of the current proposal. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to tree protection conditions.

Ecology

- 7.39 Core Strategy policy KP2 and Development Management Policy DM2 require development to respect, conserve and enhance biodiversity. The site itself has no ecological designation however it is known to be a habitat for wildlife including badgers and foxes and falls within the zone of influence for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) .
- 7.40 The applicant has provided a Bat and Badger Survey carried out by Intext Properties Limited dated November 2019. This comments that no evidence of bats were found in the recent survey, however, the trees could provide a sheltered foraging area. The survey also comments that a badger path, a snuffle hole and gaps under the fence were observed but that there was no new evidence of badgers using the existing holes on site since the previous surveys in 2018 and 2017. To allow badgers to continue to move through the site the report recommends that the existing gaps under the fences be retained.

- 7.41 The Essex Badger Protection Group has indicated that their records suggest that the badger sett in this area may be more active than the submitted Bat and Badger Survey suggests. On this basis they recommend that a further more detailed wildlife study is carried out. However it is noted that the proposed tree protection fencing will effectively cordon off nearly half the site to the depth of the largest tree canopy and this will also serve to protect badgers on the site during construction. There would still be a requirement to provide full details of mitigation measures to protect badgers on and crossing the site following completion of the development but this could be required via condition. The applicant will also require a licence prior to commencement of any works.
- 7.42 Natural England have highlighted that the site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.
- 7.43 Any new residential development at this site has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. Any CIL contribution for this site, were the proposal approved, would include a contribution towards mitigation measures at a local wildlife site. Subject to this mitigation it is considered that the requirements of the habitat regulations are fully met by the proposal.
- 7.44 Overall therefore the ecological implications of the site can be considered acceptable and policy compliant subject to the appropriate conditions and CIL contributions.

Sustainability

- 7.45 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.
- 7.46 The Design and Access Statement comments that roof mounted photo-voltaic panels are proposed but these are not shown on the plans and no calculations have been provided to demonstrate that this meets the 10% requirement. No information has been given regarding water usage.
- 7.47 It is considered that, for a scheme of this magnitude, the requirement for renewable energy and restrictions on water usage could be controlled with conditions. The proposal will need to take account of shading from the surrounding trees. The proposal is therefore considered to be acceptable and policy compliant in this regard subject to conditions.

Drainage

- 7.48 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 7.49 The site is located in flood risk zone 1 (low risk). No specific information has been provided regarding drainage. A condition can be imposed to ensure the proposed development mitigates against surface water runoff. The proposal is therefore considered to be acceptable and policy compliant in this regard, subject to that condition.

Permitted Development

- 7.50 Given the proximity of the development to large trees and tree roots, some of which are for preserved trees and the potential impact on neighbouring properties, it is considered appropriate in this case that permitted development rights should be controlled by condition so that the implications of any extension on the trees and neighbours can be fully assessed if extensions are proposed in the future. As noted above, it is considered that permitted development in relation to the creation of hard surfacing should also be controlled to control and potential loss of landscaping to the front which is considered to be an important aspect of local character.

Community Infrastructure Levy (CIL)

- 7.51 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed development includes a gross internal area of 582 sqm, which may equate to a CIL charge of approximately £ 42709.85 (subject to confirmation).

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, and attaching significant weight to the basis of the previous planning application and planning appeal decisions relevant to the site, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance on balance. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, street scene and the locality more widely. There would be no materially adverse traffic, parking, highways or ecology impacts caused by the proposed development. This amended application has overcome the sole parking based reason for refusal in relation to the previous application reference 19/01749/FUL. This application is therefore recommended for approval subject to conditions.

9 Recommendation

9.1 GRANT PLANNING PERMISSION subject to the following conditions:

01 The development hereby permitted shall begin not later than three years of the date of this decision

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990

02 The development hereby permitted shall be carried out in accordance with the following approved plans 385-P700, 385-P701, 385-P702, 385-P703A, 385-P704, GBU 2113

Reason: To ensure that the development is carried out in accordance with the Development Plan.

03 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place until product details of the materials to be used on all the external elevations, including walls, gable, roof, fascia and soffits, windows and doors, dormer windows, canopy, chimney, boundary walls and fences, driveway including parking area have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details before it is brought into use.

Reason: To safeguard the visual amenities of the area, in accordance with the National Planning Policy Framework (2019) Core Strategy (2007) policy KP2 and CP4, Development Management Document (2015) Policy DM1 and advice contained within the Southend Design and Townscape Guide (2009).

04 The first floor windows in the north and south elevations of the approved dwellings shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut up to a height of not less than 1.7m above first floor level before the occupation of the dwellings hereby approved and shall be retained as such in perpetuity. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

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

05 The hard and soft landscaping and boundary treatments at the site shall be carried out in full accordance with the proposed landscaping scheme including street tree planting as shown on plans ref 385-P703A and GBU 2113 prior to occupation of the dwellings hereby approved. Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority

Reason: In the interests of visual amenity of the area and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policy DM1 of the Development Management Document (2015) and Policy CP4 of the Core Strategy (2007)

06 No drainage infrastructure associated with this development shall be undertaken until details of the design implementation; maintenance and management of a scheme for surface water drainage works (incorporating Sustainable Urban Drainage (SuDs) Principles) have been submitted to and approved by the local planning authority. The approved scheme shall be implemented, in accordance with the approved details before the development is occupied or brought into use and shall be maintained as such thereafter in perpetuity.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with the National Planning Policy Framework (2019), Policy KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015)

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

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

08 The eight car parking spaces and the associated vehicular accesses for the spaces to access the public highway, shown on approved plan 385-P703A shall be provided and made available for use at the site prior to the first occupation of the dwellings hereby approved. The car parking spaces and the associated vehicular accesses to and from the public highway shall thereafter be permanently retained solely for the parking of vehicles and the accessing of the car parking spaces in connection with the occupiers of the dwellings hereby approved and their visitors.

Reason: To ensure that satisfactory off-street car parking is provided in the interests of residential amenity and highways efficiency and safety, in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM15 and the Southend Design and Townscape Guide (2009).

09 The tree and tree root protection measures as set out in Section 4 of the submitted Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019 and associated tree protection plan reference 1874-02-P1 in relation to the trees identified as T1-T10 in this statement shall be implemented in full prior to commencement of the development and be retained throughout the construction phase of the development. The mitigation measures in relation to construction within the root protection areas of the trees denoted as T8, T9 and T10 in the Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019 shall also be implemented in full during the construction works, including supervision of works by a qualified arboriculturalist. Implementation of the development shall be undertaken only in full accordance with British Standard 3998 and British Standard 5837.

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

10 Prior to the commencement of the development the following information shall be submitted to and approved in writing by the local planning authority:

- i. Full details of the proposed tree works to trees T8 and T9 as identified in the submitted Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019.**
- ii. Full design and construction details of the cellular confinement installation for the forecourt parking area including information on levels and the crossover referred to in the Arboricultural Impact Assessment by Owen Allpress reference 1874 dated 24th October 2019**

The development shall then only be carried out in accordance with the approved details and shall be completed in accordance with the approved details before the development is first occupied. Implementation of the development shall be undertaken only in full accordance with British Standard 3998 and British Standard 5837.

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

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

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

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

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

13 The development hereby approved shall be carried out in a manner to ensure the dwellinghouses comply with building regulation M4 (2) 'accessible and adaptable dwellings' before they are occupied.

Reason: To ensure the residential units hereby approved provides a high quality and flexible internal layout to meet the changing needs of residents in accordance with National Planning Policy Framework (2019), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM8 and the advice contained in the Southend Design and Townscape Guide (2009).

14 Prior to the commencement of development, a full Phase 1 Habitat Survey of this site including a more in depth survey of badger activity and camera traps surveys, a scheme of any relevant biodiversity or wildlife mitigation measures to be implemented in association with the development and a timescale for their implementation shall be submitted to and approved in writing by the local planning authority. Any mitigation measures set out in the agreed report shall be implemented and completed in full in accordance with the agreed timetable.

Reason: A pre commencement condition is justified to ensure any protected species and habitats utilising the site are adequately protected during building works in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) policy KP2, Development Management Document (2015) policy DM2.

15 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to in full throughout the construction period. The Statement shall provide, amongst other things, for:

- i) the parking of vehicles of site operatives and visitors**
- ii) loading and unloading of plant and materials**
- iii) storage of plant and materials used in constructing the development**
- iv) measures to control the emission of dust and dirt during construction**
- v) a scheme for recycling/disposing of waste resulting from demolition and construction works that does not allow for the burning of waste on site.**
- vi) a detailed timetable for the supervision of works by a qualified arboriculturalist.**
- vii) noise mitigation measures to be used during construction.**

Reason: A pre commencement condition is justified in the interests of visual amenity and the amenities of neighbours pursuant to Policy CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

16 Construction Hours for the development hereby approved shall be restricted to 8am – 6pm Monday to Friday, 8am - 1pm Saturday and not at all on Sundays or Bank Holidays.

Reason: In the interests of visual amenity and the amenities of neighbours and to ensure a satisfactory standard of landscaping pursuant to Policy CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

17 Notwithstanding the details submitted and otherwise hereby approved, no development shall be undertaken unless and until full details of the existing and proposed levels to include the proposed dwellings, forecourts and landscaped areas relative to the adjoining land and any other changes proposed in the existing levels of the site have been submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented and completed only in accordance with the approved details.

Reason: A pre commencement condition is required to safeguard the visual amenities of the site and wider area as set out in Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice contained within the Southend Design and Townscape Guide (2009).

Informatives:

01 Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development it is imperative that you contact S106andCILAdministration@southend.gov.uk to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended).

02 You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council may seek to recover the cost of repairing public highways and footpaths from any party responsible for damaging them. This includes damage carried out when implementing a planning permission or other works to buildings or land. Please take care when carrying out works on or near the public highways and footpaths in the Borough.

03 The applicant is reminded that they are required to adhere to the Conservation (Natural Habitats &c.) (Amendment) Regulations 2007 and the Wildlife and Countryside Act (1981) in relation to development works close to protected species including badgers and bats. A Protected Species Licence may be required.

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.