

<b>Reference:</b>	18/00241/UNAU_B	
<b>Ward:</b>	St Lawrence	
<b>Breaches of Control</b>	Without planning permission, the conversion of a single dwelling to 3 self-contained flats	
<b>Address:</b>	47 Prince Avenue, Westcliff on Sea, Essex. SS2 6RL	
<b>Case Opened:</b>	30 <sup>th</sup> July 2018	
<b>Case Officer:</b>	Steve Jones	
<b>Recommendation:</b>	<b>AUTHORISE ENFORCEMENT ACTION</b>	



## **1 Site and Surroundings**

- 1.1 The site contains a semi-detached dwelling on the north-east side of Prince Avenue. It is a two-storey building with rear-dormer roofspace accommodation. Originally built as a single dwelling it has undergone an unauthorised conversion to 3 self-contained flats. A side garage has been incorporated into the living accommodation. The building is finished externally in painted render and red roof tiles, with upvc windows.
- 1.2 There is a dropped kerb and single-width vehicular crossing from Prince Avenue. The front boundary wall has been removed. The frontage is largely block-paved. The site has a relatively large rear garden.
- 1.3 The site is situated within a residential area of similarly-scaled dwellings. It is not specifically identified on the policies map of the Development Management Document. The site is within Flood Zone 1.

## **2 Lawful Planning Use**

- 2.1 The lawful planning use is as a single family dwelling house within Class C3 of the Town and Country Planning Use Classes Order 1987 (as amended)

## **3 Relevant Planning History**

- 3.1 20/00212/FUL: Convert dwelling into two self-contained flats (Amended Proposal). Refused
- 3.2 19/01096/FUL: Convert dwelling into two self-contained flats. Refused.
- 3.3 18/01862/FUL: Convert dwellinghouse into 3 self-contained flats and alter front elevation (Retrospective). Refused.
- 3.4 04/00254/FUL: Alter hipped roof to form half hip and erect roof extension to rear. Approved.

## **4. Background**

- 4.1 In July 2018 a complaint was received that unauthorised building works were taking place at this site.
- 4.2 On 8<sup>th</sup> August 2018 Enforcement Staff attended the site where the owner was also present. The owner explained to Enforcement Staff that the house had been converted into 3 self-contained flats. As the flats were all rented and secured it was not possible at that time for staff to gain access to them.
- 4.3 The same day a formal letter was sent to the owner advising the unauthorised conversion amounted to a breach of planning control and that the owner should convert the property back to a single dwelling or submit a retrospective planning application seeking to retain the 3 flats.

- 4.4 On 8<sup>th</sup> October 2018 a retrospective planning application (Ref 18/01862/FUL) was received to 'Convert dwellinghouse into 3 self-contained flats and alter front elevation'. This application was subsequently refused. A copy of the Officers Report is at Appendix 'A'
- 4.5 In June 2019, following further contact with the property owner and their architects a second planning application was received (Ref 19/01096/FUL) to 'Convert dwelling into two self-contained flats'. This application was subsequently refused. A copy of the Officers Report is at Appendix 'B'
- 4.6 In September 2019 Enforcement Staff were advised that the property owner was considering an appeal against the last refusal of planning permission.
- 4.7 In November 2019 Enforcement Staff were informed by the architect that an appeal had been lodged. This subsequently transpired not to be the case.
- 4.8 In February 2020 following further contact with the property owner and their architects a third planning application was received (Ref 20/00212/FUL) to 'Convert dwelling into two self-contained flats (Amended Proposal)'. This application was subsequently refused. A copy of the Officers Report is at Appendix 'C'

## **5 Appraisal and Policy Considerations:**

- 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 (Environment & Urban Renaissance) and CP8 (Dwelling provision)
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type) DM8 (Residential standards) and DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 Vehicle Crossing Policy & Application Guidance (2014)
- 5.6 The key issues relating to this enforcement case are the principle of the development, design and impact on the character of the area, amenities of neighbouring occupiers, living conditions of future occupiers, car parking arrangements/transport considerations.

## **6 Harm caused by the identified breaches:**

- 6.1 Policy DM1 of the Development Management Document advocates the need for good quality design that contributes positively to the creation of successful places. All developments should respect the character of the site, its local context and surroundings in terms of its architectural approach, height, scale, form and proportions.

- 6.2 While the unauthorised conversion to 3 flats provides additional smaller dwellings, the conversion also involves the loss of a larger single family dwelling, a residential resource the type of which is identified by Policy CP8 of the Core Strategy and Policy DM7 of the Development Management Document as being of value to the borough. For this reason and consistent with the basis of the refused retrospective 2018 application for planning permission (18/01862/FUL), the unauthorised development as three flats is unacceptable in principle.
- 6.3 As found in the decision made on the refused retrospective application for three flats, two of the 3 flats currently in the building fall short of the adopted internal space standards and in one of those flats access to the amenity space, shower room and kitchen is only available through the bedroom. The third flat does have sufficient floor space but no access to external amenity space.
- 6.4 There is no secure cycle or bin storage provided contrary to Policy DM8. According to the Southend-on-Sea Design and Townscape Guide refuse storage and recycling should not be visible from the street scene and as such, it should be located either internally or to the rear of the property, to minimise the adverse visual impact. Due to the narrow sideway and lack of access to the rear garden by the top floor flat there is no obvious scope for provision within the front curtilage.
- 6.5 It has been found through the refusal of the 2018 retrospective planning application that the accommodation offers a poor standard of amenity for current and future occupiers. Any positive aspects of the layout, such as good outlook and daylight, are outweighed to a considerable degree by the negative elements described above. The current flat layouts are unacceptable and contrary to the objectives of the above-noted policies in this regard.
- 6.6 Policy DM15 of the Development Management Document states that developments of flats should have at least one off-street car parking space per flat. Three parking spaces can be provided within the front garden area. This quantity meets the Council's minimum residential parking standards under Policy DM15.
- 6.7 Policies CP3 and DM15 seek to improve road safety, quality of life and equality of access for all. The Council's Vehicle Crossing Policy and Application Guidance is a material consideration. The proposals show access directly from the classified road with no opportunity for vehicles to enter, turn, and leave in a forward gear. This conflicts with the Crossing Policy and is harmful to road safety.
- 6.8 In summary the unauthorised development has caused the loss of a valuable residential resource in the form of a larger family dwelling. The flats created through conversion provide an unsatisfactory standard of accommodation for future occupiers. The unauthorised development is also harmful to highway safety. These areas of harm are not outweighed by the provision of additional dwellings which would represent a very limited and in any event deficient contribution to the Borough's housing stock.
- 6.9 The external alteration to the front elevation facilitating the change of use has been found, on its own merits, not to materially harm the character and appearance of the building or the visual amenities of the site and surroundings. That aspect of the breach is on balance acceptable and policy compliant.

6.10 Given the nature and harmful impacts of the breaches of planning control described in the paragraphs above and the owner's failure to secure planning permission to retain the existing 3 unauthorised flats or any other scheme creating flats, or to otherwise regularise the unauthorised development, it is considered to be necessary and proportionate for an enforcement notice to be served.

## **7 Recommendation**

- 7.1 Members are recommended to AUTHORISE ENFORCEMENT ACTION to;
- a) Cease the unauthorised use of the building as 3 self-contained flats.
  - b) Remove from site all materials resulting from compliance with a) above
- 7.2 The authorised enforcement action to include (if/as necessary) the service of an Enforcement Notice under Section 172 of the Act and the pursuance of proceedings whether by prosecution or injunction to secure compliance with the requirements of the Enforcement Notice.
- 7.3 When serving an Enforcement Notice the local planning authority must ensure a reasonable time for compliance. In this case a compliance period of 4 months is considered reasonable for the cessation of use as 3 self-contained flats.
- 7.4 Taking enforcement action in this case may amount to an interference with the owners' and/or occupiers' Human Rights. However, it is necessary for the local planning authority to balance the rights of the owners and/or occupiers against its legitimate aims to regulate and control land within its area. In this particular case it is considered reasonable, expedient, and proportionate and in the public interest to pursue enforcement action on the grounds set out in the formal recommendation.

## Appendix A – Officers Report 18/01862/FUL

<b>Reference:</b>	18/01862/FUL
<b>Ward:</b>	St Laurence
<b>Proposal:</b>	Convert dwellinghouse into 3 self-contained flats and alter front elevation (Retrospective)
<b>Address:</b>	47 Prince Avenue Southend-On-Sea
<b>Applicant:</b>	Mr Hon Shu Pang
<b>Agent:</b>	A9 Architecture
<b>Consultation Expiry:</b>	06.12.2018
<b>Expiry Date:</b>	07.01.2019
<b>Case Officer:</b>	Robert Lilburn
<b>Plan Nos:</b>	1196 00 Location Plan, 1196 01 Block Plan, 1196 03 Existing Floor Plan, 1196 04 Existing Plans, 1196 05 Existing Elevations, 1196 06 Proposed Ground and First Floor Plans, 1196 07 Proposed Second Floor and Roof Plans, 1196 08 Proposed Elevations
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

### 1 The Proposal

- 1.1 Planning permission is sought retrospectively for the subdivision of the dwelling to 3no. flats. A frontage car parking area for three cars is proposed to be laid out. Part of the front boundary wall has been demolished in likely anticipation of this work.
- 1.2 The proposed living accommodation is for three, one-bedroom, self-contained flats with their own shower or bath rooms. A separate bathroom and storage area is retained at the second floor.
- 1.3 The schedule of accommodation is shown as follows:
  - Flat 1: 36.7sqm total flat floor area, 10.7sqm bedroom floor area (single person flat).
  - Flat 2: 23sqm total flat floor area, 12.6sqm living room floor area (this room would potentially be a bedroom of sufficient size for two persons; no bedroom is indicated and it would appear therefore this is intended as a bedsit type of arrangement).
  - Flat 3: 50sqm total flat floor area at first floor, 12.6sqm bedroom floor area (two person flat).

- 1.4 The two ground floor flats are shown to have independent external access to the rear garden.
- 1.5 A bathroom and storage room is retained above Flat 3 and does not appear to be distinct from Flat 3 which also has its own large bathroom.
- 1.6 Three off-street car parking spaces are shown on the submitted proposed layout plan, providing one parking space per dwelling.
- 1.7 The application has been submitted following a planning enforcement investigation.

## **2 Site and Surroundings**

- 2.1 The submitted plans show the former 'existing' layout as a one-bedroom dwelling with two living rooms, a sitting room, a dining room, a study and two bathrooms. It is not clear whether the plans have been mis-labelled, however, it follows that the building is capable of use as a family dwelling.
- 2.2 The application site is a gable-fronted semi-detached dwelling on Prince Avenue. It is finished externally in painted render and red roof tiles, with upvc windows.
- 2.3 A side garage has been converted to living accommodation.
- 2.4 There is a dropped kerb and single-width vehicular crossing from Prince Avenue. The site has a relatively large rear garden.
- 2.5 The site is situated within a residential area. The site is not situated within a conservation area nor does it affect the setting of heritage assets.

## **3 Planning Considerations**

- 3.1 The main planning considerations in this case are: the principle of development, design and impact on the character of the area, amenities of neighbouring occupiers, living conditions of future occupiers, car parking arrangements/transport considerations and CIL.

## **4 Appraisal**

### **Principle of Development**

**National Planning Policy Framework (2018), Policies KP1, KP2, CP3, CP4 and CP8 of the Core Strategy (2007), Policies DM1, DM3, DM7, DM8 and DM15 of the Development Management Document (2015) and guidance contained within the Design and Townscape Guide (2009)**

- 4.1 Government guidance contained within the National Planning Policy Framework (NPPF) encourages effective use of land (para.8) in particular previously developed land (para.117).

- 4.2 Policy KP1 of the Core Strategy seeks sustainable development. Policy KP2 requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood.
- 4.3 Policy CP4 requires that new development be of appropriate design and have a satisfactory relationship with surrounding development. Policy CP8 requires that development proposals contribute to local housing needs. It identifies housing targets for the Southend borough, and seeks to protect the supply of valuable residential resources including the stock of large single family dwellings.
- 4.4 Policy DM1 seeks design quality that adds to the overall quality of an area and respects the character of a site and its local context. Policy DM3 seeks 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. The Design and Townscape Guide seeks to promote a high quality of design in new developments.
- 4.5 Policy DM7 states that the Council will look favourably upon the provision of family size housing on smaller sites. Through Policy DM8 the Council seeks appropriate flexibility and dimensions within the internal accommodation to meet the changing needs of residents.
- 4.6 Policy CP3 of the Core Strategy seeks to maintain highway safety for all users. Policy DM15 states that development will be allowed where there is, or it can be demonstrated, that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.
- 4.7 As part of its Strategic Housing Land Availability Assessment (SHLAA) 2017 update, the Council has published information on its potential housing supply (5 year supply of housing plus an additional 5% buffer as required by the NPPF). This demonstrates that the Council has an 8 year housing land supply against its adopted targets and therefore, meets the requirements of the NPPF in terms of housing delivery. Thus the authority is able to meet its housing needs targets without recourse to allowing development which would otherwise be unacceptable.
- 4.8 The site is located within the built-up area and in reasonable proximity to services and transport links. This is a relatively sustainable location for development which conforms reasonably to the prevailing land use around it.
- 4.9 While it provides additional smaller dwellings, the proposal also involves the loss of a larger single family dwelling, a residential resource the type of which is identified by Policy CP8 of the Core Strategy and Policy DM7 of the Development Management Document as being of value to the borough. For this reason the development is unacceptable in principle.

## Design and Impact on the Character of the Area

### **National Planning Policy Framework (2018), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and guidance contained within the Design and Townscape Guide (2009)**

- 4.10 The National Planning Policy Framework requires new development to respond positively to its surroundings.
- 4.11 Paragraph 127 of the NPPF states that local planning authorities should aim to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 4.12 Paragraph 130 of the NPPF states that *“permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”*.
- 4.13 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 4.14 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”* and that *“proposed development [should] make a positive contribution to the local area”*.
- 4.15 No external alterations are proposed, with the exception of the installation of a narrow door at each end of the single storey side projection, and the laying out of car parking on the front garden. The car parking would be facilitated by the removal of a low boundary wall, and of a small number of shrubs. These works have already been carried out with the exception of additional hardstanding and dropped kerb. The front garden is already predominantly hard standing.
- 4.16 It is considered that the proposed parking arrangements would be a negative aspect of the scheme from a design and appearance point of view. The frontage would be dominated by hard standing and car parking with no relief from soft landscaping. However many of the dwellings nearby have carried out similar alterations and subject to some additional soft landscaping which could be secured though a condition, it is considered that this aspect of the scheme would not justify refusal from a design and appearance point of view.
- 4.17 The side doors at the west end of the building are a small domestic feature and have no material impact on the character and appearance of the building.
- 4.18 The development does not materially harm the character and appearance of the building or the visual amenities of the site and surroundings, and is on balance acceptable and policy-compliant in this regard.

## Impact on Residential Amenity

**National Planning Policy Framework (2018), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009)**

- 4.19 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 4.20 Policy CP4 of the Core Strategy seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 4.21 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”.
- 4.22 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”* and that *“extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties”*.
- 4.23 The proposal has potentially led to more comings and goings in proximity to the living accommodation at the neighbouring houses on either side. The gardens are relatively wide, and the road outside at Prince Avenue is subject to heavy traffic. In light of the modest increase in car parking entailed in the proposal, it is considered that the impact of additional parking and associated comings and goings will not be readily discernible to neighbouring occupiers.
- 4.24 The intensification of the use of the site results in more people being at the property and this might cause some limited additional noise disturbance in general, in particular to occupiers of the adjoining dwellings. The manner of subdivision separates Flat 1 from the party wall. The density of accommodation proposed is not likely to cause a material disamenity to neighbouring occupiers as a result of the number of people present.
- 4.25 Sound transmission is a matter for building regulations and environmental health legislation and in this instance it is considered that the potential for any increased disturbance is unlikely to cause sufficient harm to the amenities of nearby occupiers to an extent that would justify the refusal of the application on those grounds.
- 4.26 It is considered that the development as shown on the submitted plans is consistent with Policies DM1 and DM3 of the Development Management Document and Policy CP4 of the Core Strategy by maintaining the amenities of the neighbouring occupiers to a reasonable degree, and is therefore acceptable in this regard.

## **Living Conditions for Future Occupiers**

### **National Planning Policy Framework (2018), Development Management Document (2015) Policies DM3 and DM8, the National Technical Housing Standards 2015 and the Design and Townscape Guide (2009)**

- 4.27 Paragraph 127 of the National Planning Policy Framework states that planning policies and decisions should *“create place that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”*. It is considered that most weight should be given to the Technical Housing Standards that have been published by the government which are set out as per the below table:
- Minimum property sizes for a 1 bedroom 1 person unit of 37sqm (where shower unit incorporated) and 39sqm (where bath unit incorporated).
  - Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5sqm for a single bedroom with a minimum width of 2.15m; and 11.5sqm for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.
- 4.28 Weight should also be given to the content of policy DM8 which states the following standards in addition to the national standards.
- Amenity: Suitable space should be provided for a washing machine and for drying clothes, as well as private outdoor amenity, where feasible and appropriate to the scheme.
  - Storage: Suitable, safe cycle storage with convenient access to the street frontage. Suitable space should be provided for and recycling bins within the home. Refuse stores should be located to limit the nuisance caused by noise and smells.
- 4.29 The floor area of Flat 1 falls slightly short of the adopted space standard by some 0.3sqm. It appears to benefit from good outlook and daylight levels, and the bedroom is well sized for a single person. Access to the amenity space, shower room and kitchen however, is only available through the bedroom. This is a negative aspect of the layout of Flat 1.
- 4.30 The floor area of Flat 2 as shown falls far short of the adopted space standard. A living room is demarcated but no bedroom. This indicates a bedsit type of layout. Access to external amenity space is available. However this benefit does not outweigh the disamenity of inadequate internal space in this case.
- 4.31 The floor area of Flat 3 as shown meets the adopted space standard of 50sqm. It benefits from good outlook and daylight levels. There is no access to the external amenity space, however.

- 4.32 It is not clear what the purposes of the second floor bathroom and store are, given the large bathroom already available within Flat 3 at first floor. This is a negative aspect of the scheme as it would appear likely to be converted to a second bedroom, a result of which the development would fall short of the adopted space standard by a considerable margin, which would be 70sqm for 2 bed, 3 person, two-floor unit.
- 4.33 The proposals do not include provision for external refuse storage or secure cycle storage. A narrow door has been formed in the front elevation of the building, which the submitted plans indicate leads along a long passageway to the rear garden. The passageway is some 0.5m in width. The threshold is raised some 0.1m above ground level. This arrangement is considered not satisfactory from the point of view of facilitating external bin storage or secure cycle storage in the rear garden. This is a further negative aspect of the submitted proposals.
- 4.34 Part M4(2) of the Building Regulations adopted by the National Technical Housing Standards 1st October 2015 requires the need to provide adaptable and accessible dwellings. No details have been supplied to demonstrate that the flats are accessible and adaptable for all. However, given the fact that the parameters of the conversion are fixed to a degree, it is considered that, in this particular instance, the proposal should not be required to accord with those standards.
- 4.35 It is considered that the accommodation offers a poor standard of amenity for future occupiers. Any positive aspects of the layout, such as good outlook and daylight, are outweighed to a considerable degree by the negative elements described above. The proposals are unacceptable and contrary to the objectives of the above-noted policies in this regard.

#### **Traffic and Transport Issues**

#### **National Planning Policy Framework (2018), Policies KP2 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Document (2015) and guidance contained within the Design and Townscape Guide (2009)**

- 4.36 Policy DM15 of the Development Management Document states that developments of flats should have at least one off-street car parking space per flat. Three parking spaces are shown to be provided within the front garden area. This quantity meets the Council's residential parking standards under Policy DM15.
- 4.37 Policies CP3 and DM15 seek to improve road safety, quality of life and equality of access for all. The Council's Vehicle Crossing Policy and Application Guidance is a material consideration. The proposals show access directly from the classified road with no opportunity for vehicles to enter, turn, and leave in a forward gear. This would conflict with the Crossing Policy and is considered harmful to road safety.
- 4.38 The proposals are unacceptable and contrary to the objectives of the above-noted policies in this regard.

## **Community Infrastructure Levy**

### **CIL Charging Schedule 2015**

- 4.39 This application is CIL liable. If planning permission is granted, a CIL charge may be payable. If an appeal is lodged and allowed the development will be CIL liable. Any revised application may also be CIL liable.

## **5 Conclusion**

- 5.1 Having taken all material planning considerations into account, it is found that the development would lead to the loss of a valuable residential resource in the form of a larger family dwelling. The proposal also provides an unsatisfactory standard of accommodation for future occupiers. The development would be harmful to highway safety. Any positive aspects of the proposal, for example by maintaining the visual amenities of the area, do not outweigh the materially harmful aspects of the development.

## **6 Planning Policy Summary**

- 6.1 The National Planning Policy Framework (2018)
- 6.2 Core Strategy 2007: KP1 (Spatial Strategy) KP2 (Development Principles) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance) and CP8 (Dwelling provision).
- 6.3 Development Management Document 2015: DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type) DM8 (Residential standards) and DM15 (Sustainable Transport Management)
- 6.4 Design & Townscape Guide (2009)
- 6.5 Vehicle Crossing Policy & Application Guidance (2014)
- 6.6 CIL Charging Schedule 2015

## **7 Representation Summary**

### **Highways**

- 7.1 Prince Avenue is a classified road therefore to meet the vehicle crossover guidance vehicle are required to enter and leave in a forward gear. An internal area of 8m x 8m is needed for this manoeuvre. The parking layout shown in the application does not meet this criterion. Therefore a highway objection is raised.

### **Public Consultation**

- 7.2 8 neighbours were notified of the proposal and a site notice was posted. No letters of representation have been received. However it is noted that the application was submitted following a planning enforcement investigation resulting from a complaint.

## **8 Relevant Planning History**

- 8.1 04/00254/FUL: Alter hipped roof to form half hip and erect roof extension to rear. Approved.

## **9 Recommendation**

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

- 01. The development involves the loss of a larger single family dwelling, reducing the stock of this valuable and limited residential resource for which there is a demonstrable need within the borough. This is unacceptable and contrary to the National Planning Policy Framework (2018), and Policies KP2 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM7 of the Development Management Document (2015).**
- 02. The development, by reason of the poor design, and the cramped and contrived layout of the flats, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**
- 03. The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).**

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

## **10 Informatives**

- 10.1 **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 might also be CIL liable.**

## Appendix B – Officer Report 19/01096/FUL

<b>Reference:</b>	<b>19/01096/FUL</b>
<b>Application Type:</b>	<b>Full Application</b>
<b>Ward:</b>	<b>St Laurence</b>
<b>Proposal:</b>	<b>Convert dwelling into two self-contained flats</b>
<b>Address:</b>	<b>47 Prince Avenue, Southend-On-Sea, Essex</b>
<b>Applicant:</b>	<b>Mr Hon Shu Pang</b>
<b>Agent:</b>	<b>A9 Architecture</b>
<b>Consultation Expiry:</b>	<b>18th July 2019</b>
<b>Expiry Date:</b>	<b>7th August 2019</b>
<b>Case Officer:</b>	<b>Robert Lilburn</b>
<b>Plan Nos:</b>	<b>1196 00, 1196 01, 1196 03, 1196 04 rev D, 1196 05 rev D, 1196 06 rev D, 1196 07 rev D, 1196 08 rev D, 1196 09 rev D</b>
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

### **1 Site and Surroundings**

- 1.1 The application site contains a gable-fronted semi-detached dwelling on Prince Avenue. It is a two-storey building with rear-dormer roofspace accommodation. A side garage has been converted to living accommodation. The building is finished externally in painted render and red roof tiles, with upvc windows.
- 1.2 There is a dropped kerb and single-width vehicular crossing from Prince Avenue. The front boundary wall has been removed. The frontage is largely block-paved. The site has a relatively large rear garden.
- 1.3 The site is situated within a residential area of similarly-scaled dwellings. It is not specifically identified on the policies map of the Development Management Document. The site is within Flood Zone 1.
- 1.4 The submitted plans show the 'existing' layout as three flats. This arrangement appears to be unauthorised.

### **2 The Proposal**

- 2.1 Planning permission is sought to convert the dwelling house into two self-contained flats. The submitted details show that the proposed accommodation would comprise at ground floor a one-bedroom, two-person flat measuring some 66sqm gross internal

area (GIA) with a bedroom of some 17sqm floor area. However there are other rooms which may be used as bedrooms. At the upper floors it would provide a three-bedroom first and second floor maisonette which would notionally accommodate four persons. It would measure some 76.5sqm GIA, with a first floor bedroom of some 12.6sqm floor area, and two second-floor bedrooms of some 6.5sqm floor area each.

- 2.2 Outdoor amenity space would be accessible directly to occupiers of the ground floor flat in the rear garden. It is not clear whether the upper flat would have access to the rear garden. The submitted plans show that a doorway at the front of building leads through a narrow passageway of some 0.6m width to the rear garden, independently of the internal accommodation.
- 2.3 Three off-street car parking spaces are shown on the submitted proposed layout plan occupying the paved frontage and accessed across both the established vehicular access and the footpath.
- 2.4 No details of cycle or bin storage have been shown. No external alterations are shown as part of the development.
- 2.5 The application has been submitted following a planning enforcement investigation. It follows an earlier refusal of planning permission. Application 18/01862/FUL was refused for the following reasons:
  04. The development involves the loss of a larger single family dwelling, reducing the stock of this valuable and limited residential resource for which there is a demonstrable need within the borough. This is unacceptable and contrary to the National Planning Policy Framework (2018), and Policies KP2 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM7 of the Development Management Document (2015).
  05. The development, by reason of the poor design, and the cramped and contrived layout of the flats, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).
  06. The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).
- 2.6 The principal differences between the current application and the refused application 18/01862/FUL are as follows:
  - Two smaller proposed ground floor flats would be amalgamated to form one larger flat;

- The upper floors maisonette would be altered from a proposed one-bedroom, two-person flat with two bathrooms and a large store to a notional three-bedroom, four person flat.

2.7 Since the application 18/01862/FUL was determined, the revised National Planning Policy Framework (2019) came into force, replacing a previous version of the NPPF. It is considered that the contents of the revised NPPF do not materially alter the assessment of the impacts of the proposal.

### **3 Relevant Planning History**

18/01862/FUL: Convert dwellinghouse into 3 self-contained flats and alter front elevation (Retrospective). Refused.

04/00254/FUL: Alter hipped roof to form half hip and erect roof extension to rear. Approved.

### **4 Representation Summary**

#### **4.1 Public Consultation**

8 neighbouring properties were notified and a site notice was posted. No letters of representation have been received.

#### **4.2 Environmental Health**

No objection.

### **5 Planning Policy Summary**

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

5.2 Core Strategy 2007: KP1 (Spatial Strategy) KP2 (Development Principles) CP3 (Transport and Accessibility) CP4 (Environment & Urban Renaissance) and CP8 (Dwelling provision)

5.3 Development Management Document 2015: DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type) DM8 (Residential standards) and DM15 (Sustainable Transport Management)

5.4 Design & Townscape Guide (2009)

5.5 Vehicle Crossing Policy & Application Guidance (2014)

5.6 CIL Charging Schedule 2015

### **6 Planning Considerations**

6.1 The main considerations in relation to this application are the principle of development, design and impact on the character of the area, amenities of neighbouring occupiers, living conditions of future occupiers, car parking arrangements/transport considerations CIL and whether the application has overcome the earlier reasons for refusal.

### **7 Appraisal**

## **Principle of Development**

- 7.1 The NPPF states at paragraph 11 that it presumes in favour of sustainable development. Sustainable development is defined at paragraph 8 of the NPPF in economic, social and environmental terms.
- 7.2 Policy KP1 of the Core Strategy seeks sustainable development. Policy KP2 requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood.
- 7.3 Policy CP4 requires that new development maintains and enhances the amenities, appeal and character of residential areas, securing and has a satisfactory relationship with surrounding development. Policy CP8 requires that development proposals contribute to local housing needs, and identifies housing targets for the Southend borough, and seeks to protect the supply of valuable residential resources including the stock of large single family dwellings.
- 7.4 Policy DM1 seeks design quality that adds to the overall quality of an area and respects the character of a site and its local context. Policy DM3 seeks to support development that optimises the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification.
- 7.5 Policy DM7 states that the Council will look favourably upon the provision of family size housing on smaller sites. Through Policy DM8 the Council seeks appropriate flexibility and dimensions within the internal accommodation to meet the changing needs of residents.
- 7.6 Policy CP3 seeks to maintain highway safety and accessibility. Policy DM15 states that development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.
- 7.7 The site is sustainably located in a reasonably accessible location. The proposal would add to the supply of housing within the urban area, re-using previously developed land. The proposal would lead to the loss of larger, family-sized accommodation. However it would provide additional smaller dwellings.
- 7.8 Para.80 of the Guide states that proposed accommodation mixes should reflect the local character. Larger, single family dwellings are a characteristic at this location and a feature of the street. Although there are flats in the area, they are not a prevailing feature.
- 7.9 The acceptability of the proposal is dependent on the detailed impacts which are considered below.

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

- 7.10 Paragraph 127 of the NPPF states that local planning authorities should aim to ensure that developments are sympathetic to local character and history, including the

surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

- 7.11 Paragraph 130 of the NPPF states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.
- 7.12 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.13 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” and that “proposed development [should] make a positive contribution to the local area”.
- 7.14 No external alterations are proposed, with the exception of the installation of a narrow door at each end of the single storey side projection, which has already been carried out. Car parking for three cars would be laid out on the front garden, facilitated by the recent removal of a low boundary wall, and of a small number of shrubs. The front garden is already predominantly hard standing.
- 7.15 It is considered that the proposed parking arrangements would be a negative aspect of the scheme from a design and appearance point of view. The frontage would be dominated by hard standing and car parking with no relief from soft landscaping. However many of the dwellings nearby have carried out similar alterations and subject to some additional soft landscaping which could be secured though a condition, it is considered that this aspect of the scheme would not justify refusal from a design and appearance point of view.
- 7.16 The side doors at the west end of the building are a small domestic feature and have no material impact on the character and appearance of the building.
- 7.17 The development does not materially harm the character and appearance of the building or the visual amenities of the site and surroundings, and is on balance acceptable and policy-compliant in this regard.

### **Impact on Residential Amenity**

- 7.18 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.19 Policy CP4 of the Core Strategy seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 7.20 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”.

- 7.21 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” and that “extensions must respect the amenity of neighbouring buildings and ensure not to adversely affect light, outlook or privacy of the habitable rooms in adjacent properties”.
- 7.22 The proposal would lead to more comings and goings in proximity to the living accommodation at the neighbouring houses on either side, compared to the established situation as a single dwelling. The gardens are relatively wide, and the road outside at Prince Avenue is subject to heavy traffic. In light of the modest increase in car parking entailed in the proposal, it is considered that the impact of additional parking and associated comings and goings would not be materially harmful to neighbouring occupiers.
- 7.23 The intensification of the use of the site would result in more people being at the property and this might cause some limited additional noise disturbance in general, in particular to occupiers of the adjoining dwellings. The density of accommodation proposed is not likely to cause a material disamenity to neighbouring occupiers as a result of the number of people present.
- 7.24 Sound transmission is a matter for building regulations and environmental health legislation and in this instance it is considered that the potential for any increased disturbance is unlikely to cause sufficient harm to the amenities of nearby occupiers to an extent that would justify the refusal of the application on those grounds.
- 7.25 It is considered that the development as shown on the submitted plans is consistent with Policies DM1 and DM3 of the Development Management Document and Policy CP4 of the Core Strategy by maintaining the amenities of the neighbouring occupiers to a reasonable degree, and is therefore acceptable in this regard.

### **Living Conditions for Future Occupiers**

- 7.26 At para.127 the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Due regard may be had for Housing Technical Standards.
- 7.27 Policy DM1 of the Development Management Document requires that developments provide an internal and external layout that takes account of all potential users. Policy DM8 states that the internal environment of all new dwellings must be high quality and flexible to meet the changing needs of residents.
- 7.28 Further to this, from the 1st October 2015 the National Housing Standards have been adopted and state that the following internal floor space is required to ensure the development is in line with planning requirements:
- One bed, two person dwelling (one storey): 50sqm;
  - Two bed, three person dwelling (one storey): 61sqm;
  - Two bed, four person dwelling (one storey): 70sqm;
  - Three bed, four person dwelling (2 storeys): 84sqm;
  - Three bed, five person dwelling (2 storeys): 93sqm.
- 7.29 The proposed floor area and bedroom size at ground floor would exceed the minimum

standard considerably, for a one-bed two-person dwelling. However the layout would be contrived and inappropriate, whereby access to the bedroom would be made via a kitchen, study and dressing room. The dressing room would measure some 10.5sqm in floor area and could potentially be used as a second bedroom. This may also be the case for the study. Should they be used in this way the floor space would be inadequate.

- 7.30 The upper floor maisonette would fall considerably short in GIA of the standard required by the Technical Housing Standards. These set out that a single bedroom must measure at least 7.5sqm in floor area and 2.5m in width. The two second floor bedrooms would fall significantly short of the minimum room sizes; measuring 5.2sqm and 6.4sqm respectively. The former bedroom would measure 1.8m in width and benefit only from roof lights; the latter would measure 2.4m in width although would benefit from a rear dormer window. Taken in the round this is unacceptable.
- 7.31 Policy DM8 of the Development Management Document states that all new dwellings must make provision for usable private outdoor amenity space for the enjoyment of intended occupiers. The Council's Design and Townscape Guide states that "Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development". The quantity and quality of outdoor amenity space would be satisfactory in meeting the domestic and recreational needs of occupiers.
- 7.32 Policy DM8 of the Development Management Document states that all new dwellings should meet the Lifetime Homes Standards, which from the 1st of October 2015 have been substituted by Building Regulation M4(2).
- 7.33 Part M4(2) of the Building Regulations adopted by the National Technical Housing Standards 1st October 2015 requires the need to provide adaptable and accessible dwellings. No details have been supplied to demonstrate that the dwellings would be accessible and adaptable for all. As noted above the proposal is a contrived arrangement, and this would be a negative feature from an accessibility viewpoint. However, given the fact that the parameters of a conversion are fixed to a degree, it is considered that the proposal should not be required to accord with those standards.
- 7.34 Policy DM8 specifies amenity standards including cycle storage and refuse storage. According to the Southend-on-Sea Design and Townscape Guide refuse storage and recycling should not be visible from the street scene and as such, it should be located either internally to the development or to the rear of the property, to minimise the adverse visual impact.
- 7.35 No details have been submitted in relation to refuse storage and collection. Given the site constraints this is a matter of concern as there is no obvious scope for provision within the front curtilage as shown on the site layout plan. Access through the external side door is some 0.6m in width. The lack of suitable provision would be a disamenity to occupiers and potentially the surrounding area.
- 7.36 Cycle storage has not been shown on the submitted plans. Given the site constraints this is also a matter of concern as there is no obvious scope for provision within the front curtilage as shown and the side access would appear to be too narrow.
- 7.37 The proposal would provide a cramped and inappropriate living environment with a poor

standard of amenity for future occupiers, given the configuration and size of the dwellings and the lack of opportunity for appropriate secure cycle and refuse storage, which could otherwise be secured through a condition. The harm arising would not be outweighed by the benefit of providing an additional dwelling. The revised scheme has not overcome the earlier reason for refusal in this respect, is unacceptable and contrary to policy.

### **Traffic and Transportation Issues**

- 7.38 Policy DM15 of the Development Management Document states that developments of flats should have at least one off-street car parking space per flat. Three parking spaces are shown to be provided within the front garden area. This quantity would exceed the Council's residential parking standards under Policy DM15.
- 7.39 Policies CP3 and DM15 seek to improve road safety, quality of life and equality of access for all. The Council's Vehicle Crossing Policy and Application Guidance is a material consideration. The proposals show access directly from the classified road with no opportunity for vehicles to enter, turn, and leave in a forward gear. This would conflict with the Crossing Policy and is considered harmful to road safety.
- 7.40 It is noted also that the proposed off-street car parking would require access across the footpath, separately to the existing standard crossing in situ at the west end of the site.
- 7.41 The proposals have failed to address the earlier reason for refusal in this respect and are unacceptable and contrary to the objectives of the above-noted policies in this regard.

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

- 7.42 This application is CIL liable. If planning permission is granted, a CIL charge may be 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 development would lead to the loss of a valuable residential resource in the form of a larger family dwelling. It would however provide smaller dwellings. The proposal provides an unsatisfactory standard of accommodation for future occupiers, however. The development would be harmful to highway safety. The provision of an additional dwelling would not outweigh the materially harmful aspects of the development. The revised scheme has not overcome the earlier reasons for refusal.

## **9 Recommendation**

### **REFUSE PLANNING PERMISSION for the following reason(s):**

- 01. The development, by reason of the poor design, and the cramped and contrived layout of the flats, together with a lack of secure cycle storage and refuse storage, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning**

**Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).**

- 02. The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).**

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

## **10 Informative**

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

**Delegated Report**

<b>Reference:</b>	<b>20/00212/FUL</b>
<b>Application Type:</b>	<b>Full Application</b>
<b>Ward:</b>	<b>St Laurence</b>
<b>Proposal:</b>	<b>Convert dwelling into two self-contained flats (Amended Proposal)</b>
<b>Address:</b>	<b>47 Prince Avenue, Southend-On-Sea, Essex</b>
<b>Applicant:</b>	<b>Hon Shu Pang</b>
<b>Agent:</b>	<b>A9 Architecture</b>
<b>Consultation Expiry:</b>	<b>13th March 2020</b>
<b>Expiry Date:</b>	<b>6th May 2020</b>
<b>Case Officer:</b>	<b>Robert Lilburn</b>
<b>Plan Nos:</b>	<b>1196 00, 1196 01, 1196 03E, 1196 04E, 1196 05E, 1196 06F, 1196 07E, 1196 08E, 1196 09E</b>
<b>Recommendation:</b>	<b>REFUSE PLANNING PERMISSION</b>

## **1 Site and Surroundings**

- 1.1 The application site contains a gable-fronted semi-detached dwelling on Prince Avenue. It is a two-storey building with rear-dormer roofspace accommodation. A side garage has been converted to living accommodation. The building is finished externally in painted render and red roof tiles, with upvc windows.
- 1.2 There is a dropped kerb and single-width vehicular crossing from Prince Avenue. The front boundary wall has been removed. The frontage is largely block-paved. The site has a relatively large rear garden.
- 1.3 The site is situated within a residential area of similarly-scaled dwellings. It is not specifically identified on the policies map of the Development Management Document. The site is within Flood Zone 1.
- 1.4 The submitted plans show the 'existing' layout as three flats. This arrangement is considered to be unauthorised.

## **2 The Proposal**

- 2.1 Planning permission is sought to convert the dwelling house into two self-contained

flats. The submitted details show that the proposed accommodation would comprise at ground floor a one-bedroom, two-person flat measuring some 66sqm gross internal area (GIA) with a bedroom of some 17sqm floor area. The submitted plans show that there would be a living room of some 13.5sqm, a 5.5sqm dressing room and two unidentified rooms of some 5sqm each.

- 2.2 At the upper floor the development would provide a three-bedroom first and second floor maisonette which would notionally accommodate four persons. It would measure some 76.5sqm GIA, with a first floor bedroom of some 12.6sqm floor area, and two second-floor bedrooms of below 6.5sqm floor area each.
- 2.3 Outdoor amenity space would be accessible directly to occupiers of the ground floor flat in the rear garden. It is not clear whether the upper flat would have access to the rear garden; but it would not be directly accessible. The submitted plans show that a doorway at the front of building leads through a narrow passageway of some 0.6m width to the rear garden, independently of the internal accommodation.
- 2.4 Three off-street car parking spaces are shown on the submitted proposed layout plan occupying the paved frontage and accessed across both the established vehicular access and the footpath.
- 2.5 No details of cycle storage have been shown. A bin storage area is shown adjacent to the front door of the building. No external alterations are shown as part of the development, with the exception of the installation of a narrow door at each end of the single storey side projection, which has already been carried out.
- 2.6 The application has been submitted following a planning enforcement investigation. It follows two earlier refusals of planning permission. The most recent application 19/01096/FUL refused for the following reasons:

03. The development, by reason of the poor design, and the cramped and contrived layout of the flats, together with a lack of secure cycle storage and refuse storage, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

04. The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

- 2.7 An earlier application, 18/01862/FUL, to 'Convert dwellinghouse into 3 self-contained flats and alter front elevation (Retrospective)' was refused for the following reasons:

07. The development involves the loss of a larger single family dwelling, reducing the stock of this valuable and limited residential resource for which there is a demonstrable need within the borough. This is unacceptable and contrary to the National Planning Policy Framework (2018), and Policies KP2 and CP8 of the Southend-on-Sea Core Strategy (2007) and Policy DM7 of the Development Management Document (2015).

08. The development, by reason of the poor design, and the cramped and contrived layout of the flats, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

09. The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2018), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

2.8

The principal differences between the current application and the refused application 19/01096/FUL are as follows:

- The ground floor Flat 1 would have a through-door removed, resulting in access through the flat taking place outside;
  - The room labelled dressing room would be partitioned to create two smaller rooms, labelled dressing room, and not labelled.
- 2.9

The principal differences between the current application and the refused application 18/01862/FUL are as follows:

- Two smaller proposed ground floor flats would be amalgamated to form one larger flat;
  - The upper floors maisonette would be altered from a proposed one-bedroom, two-person flat with two bathrooms and a large store to a notional three-bedroom, four person flat.
- 2.10

2.11 Since the application 18/01862/FUL was determined, the revised National Planning Policy Framework (2019) came into force, replacing a previous version of the NPPF. It is considered that the contents of the revised NPPF do not materially alter the assessment of the impacts of the proposal.

It is noted that the submitted application form describes the existing use one residential unit. This appears to reflect the established use of the building. The submitted plans show the existing use an arrangement of three flats which appears to be unauthorised.

### **3 Relevant Planning History**

- 3.1 19/01096/FUL: Convert dwelling into two self-contained flats. Refused.
- 3.2 18/01862/FUL: Convert dwellinghouse into 3 self-contained flats and alter front elevation (Retrospective). Refused.
- 3.3 04/00254/FUL: Alter hipped roof to form half hip and erect roof extension to rear. Approved.

### **4 Representation Summary**

#### **4.1 Public Consultation**

7 neighbouring properties were notified and a site notice was posted. No letters of representation have been received.

#### **4.2 Environmental Health**

No objection.

#### **4.3 Highways Team**

There is a highway objection to this proposal. The applicant has not shown an extension to the existing crossover to allow vehicles to access the site. It is not considered that policy-compliant off street car parking can be provided. The dropped kerb vehicular access for 3 vehicles as shown would not be acceptable under the Council's Vehicle Crossing Policy & Application Guidance (2014). Vehicles will not be able to enter manoeuvre and leave in a forward gear which is also a requirement as Prince Avenue is a classified road.

#### **4.4 Parks**

Tree protection measures recommended. [**officer comment:** the proposal would not materially alter the existing arrangement of hardstanding and tree and shrub growth at the site].

### **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 (Environment & Urban Renaissance) and CP8 (Dwelling provision)
- 5.3 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (The Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type) DM8 (Residential standards) and DM15 (Sustainable Transport Management)
- 5.4 Design & Townscape Guide (2009)
- 5.5 Vehicle Crossing Policy & Application Guidance (2014)
- 5.6 CIL Charging Schedule (2015)

## **6 Planning Considerations**

- 6.1 The main considerations in relation to this application are the principle of development, design and impact on the character of the area, amenities of neighbouring occupiers, living conditions of future occupiers, car parking arrangements/transport considerations CIL and whether the application has overcome the earlier reasons for refusal.

## **7 Appraisal**

### **Principle of Development**

- 7.1 Policy KP1 of the Core Strategy seeks sustainable development. Policy KP2 requires that new development contributes to economic, social, physical and environmental regeneration in a sustainable way through securing improvements to the urban environment through quality design, and respecting the character and scale of the existing neighbourhood.
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- 7.6 The site is sustainably located in a reasonably accessible location. The proposal would add to the supply of housing within the urban area, re-using previously developed land. The proposal would lead to the loss of larger, family-sized accommodation. However it would provide additional smaller dwellings.
- 7.7 Para.80 of the Guide states that proposed accommodation mixes should reflect the local character. Larger, single family dwellings are a characteristic at this location and a feature of the street. Although there are flats in the area, they are not a prevailing feature.
- 7.8 The acceptability of the proposal is dependent on the detailed impacts which are considered below.

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

- 7.9 Paragraph 127 of the NPPF states that local planning authorities should aim to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
- 7.10 Paragraph 130 of the NPPF states that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.
- 7.11 The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy and also in Policies DM1 and DM3 of the Development Management Document. These policies seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.12 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” and that “proposed development [should] make a positive contribution to the local area”.
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- 7.14 It is considered that the proposed parking arrangements would be a negative aspect of the scheme from a design and appearance point of view. The frontage would be dominated by hard standing and car parking with no relief from soft landscaping. However many of the dwellings nearby have carried out similar alterations and subject to some additional soft landscaping which could be secured though a condition, it is considered that this aspect of the scheme would not justify refusal from a design and appearance point of view.
- 7.15 The side doors at the west end of the building are a small domestic feature and have no material impact on the character and appearance of the building.
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## **Impact on Residential Amenity**

- 7.17 Paragraphs 124 and 127 of the National Planning Policy Framework seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.18 Policy CP4 of the Core Strategy seeks to maintain and enhance the amenities, appeal and character of residential areas.
- 7.19 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that protects the

amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”.

- 7.20 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*”.
- 7.21 The proposal would lead to more comings and goings in proximity to the living accommodation at the neighbouring houses on either side, compared to the established situation as a single dwelling. The gardens are relatively wide, and the road outside at Prince Avenue is subject to heavy traffic. In light of the modest increase in car parking entailed in the proposal, it is considered that the impact of additional parking and associated comings and goings would not be materially harmful to neighbouring occupiers.
- 7.22 The intensification of the use of the site would result in more people being at the property and this might cause some limited additional noise disturbance in general, in particular to occupiers of the adjoining dwellings. The density of accommodation proposed is not likely to cause material harm to neighbouring occupiers as a result of the number of people present.
- 7.23 Sound transmission is a matter for building regulations and environmental health legislation and in this instance it is considered that the potential for any increased disturbance is unlikely to cause sufficient harm to the amenities of nearby occupiers to an extent that would justify the refusal of the application on those grounds.
- 7.24 It is considered that the development as shown on the submitted plans is consistent with Policies DM1 and DM3 of the Development Management Document and Policy CP4 of the Core Strategy by maintaining the amenities of the neighbouring occupiers to a reasonable degree, and is therefore acceptable in this regard.

### **Living Conditions for Future Occupiers**

- 7.25 At para.127 the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Due regard may be had for Housing Technical Standards.
- 7.26 Policy DM1 of the Development Management Document requires that developments provide an internal and external layout that takes account of all potential users. Policy DM8 states that the internal environment of all new dwellings must be high quality and flexible to meet the changing needs of residents.
- 7.27 Further to this, from the 1st October 2015 the National Housing Standards have been adopted and state that the following internal floor space is required to ensure the development is in line with planning requirements:
- |                                 |                       |
|---------------------------------|-----------------------|
| - dwelling (one storey): 50sqm; | One bed, two person   |
| - dwelling (one storey): 61sqm; | Two bed, three person |
| -                               | Two bed, four person  |

- 7.28 dwelling (one storey): 70sqm; Three bed, four person  
 - dwelling (2 storeys): 84sqm;  
 - dwelling (2 storeys): 93sqm. Three bed, five person

7.29 The proposed floor area and bedroom size at ground floor would exceed the minimum standard considerably, for a one-bed two-person dwelling. However the layout would be contrived and inappropriate, whereby for example access to the bedroom would be made via a kitchen and a shower room and toilet is accessed directly from the kitchen. The layout and provision of a sequence of small rooms is a strong negative aspect of the proposal.

7.30 The upper floor maisonette would fall considerably short in GIA of the standard required by the Technical Housing Standards. These set out that a single bedroom must measure at least 7.5sqm in floor area and 2.5m in width. The two second floor bedrooms would fall significantly short of the minimum room sizes; measuring 6.2sqm and 6.4sqm respectively. The former bedroom would measure 1.8m in width and benefit only from roof lights; the latter would measure 2.4m in width although would benefit from a rear dormer window. Taken in the round this is unacceptable.

7.31 Policy DM8 of the Development Management Document states that all new dwellings must make provision for usable private outdoor amenity space for the enjoyment of intended occupiers. The Council's Design and Townscape Guide states that "*Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development*". The quantity and quality of outdoor amenity space would be satisfactory in meeting the domestic and recreational needs of occupiers, although the relative inaccessibility of the rear garden to occupiers of the upper floor flat is strong negative feature.

7.32 Policy DM8 of the Development Management Document states that all new dwellings should meet the Lifetime Homes Standards, which from the 1st of October 2015 have been substituted by Building Regulation M4(2).

7.33 Part M4(2) of the Building Regulations adopted by the National Technical Housing Standards 1st October 2015 requires the need to provide adaptable and accessible dwellings. No details have been supplied to demonstrate that the dwellings would be accessible and adaptable for all. As noted above the proposal is a contrived arrangement, and this would be a negative feature from an accessibility viewpoint. However, given the fact that the parameters of a conversion are fixed to a degree, it is considered that the proposal should not be required to accord with those standards.

7.34 Policy DM8 specifies amenity standards including cycle storage and refuse storage. According to the Southend-on-Sea Design and Townscape Guide refuse storage and recycling should not be visible from the street scene and as such, it should be located either internally to the development or to the rear of the property, to minimise the adverse visual impact.

7.35 The submitted plans show bin storage adjacent to the front door of the building, underneath the canopy. The limited space would affect the practicality of providing an enclosed, covered bin store (or siting wheeled bins as indicated), and of entering and leaving the building. Its siting next to the front door of the adjoining dwelling where it

could cause a disamenity to occupiers is a strong negative feature, as its siting potentially evident within the street scene.

- 7.36 Cycle storage has not been shown on the submitted plans. Given the site constraints this is also a matter of concern as there is no obvious scope for provision within the front curtilage as shown and the side access would appear to be too narrow to access the rear of the building with a bicycle.

The proposal would provide a cramped and inappropriate living environment with a poor standard of amenity for future occupiers, given the configuration and size of the flats and the lack of opportunity for appropriate secure cycle and refuse storage, which could otherwise be secured through a condition. The harm arising would not be outweighed by the benefit of providing an additional dwelling. The revised scheme has not overcome the earlier reason for refusal in this respect, is unacceptable and contrary to policy.

### **Traffic and Transportation Issues**

- 7.37 Policy DM15 of the Development Management Document states that developments of flats should have at least one off-street car parking space per flat. Three parking spaces are shown to be provided within the front garden area. This quantity would exceed the Council's residential parking standards under Policy DM15.
- 7.38 Policies CP3 and DM15 seek to improve road safety, quality of life and equality of access for all. The Council's Vehicle Crossing Policy and Application Guidance is a material consideration. The proposals show access directly from the classified road with no opportunity for vehicles to enter, turn, and leave in a forward gear. This would conflict with the Crossing Policy and is considered harmful to road safety.
- 7.39 It is noted also that the proposed off-street car parking would require access across the footpath, separately to the existing standard crossing in situ at the west end of the site.
- 7.40 The proposals have failed to address the earlier reason for refusal in this respect and are unacceptable and contrary to the objectives of the above-noted policies in this regard.

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

- 7.41 CIL Regulation 6 states that a change of use of any building that is currently used as a single dwelling (Class C3) to use as two or more separate dwellings (Class C3), should not be treated as development.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is found that the development would lead to the loss of a valuable residential resource in the form of a larger family dwelling. It would however provide smaller dwellings. The proposal provides an unsatisfactory standard of accommodation for future occupiers. The development would be harmful to highway safety. The provision of an additional dwelling would not outweigh the materially harmful aspects of the development. The revised scheme has not overcome the earlier reasons for refusal.

## **9 Recommendation**

### **REFUSE PLANNING PERMISSION for the following reason(s):**

**01.**

The development, by reason of the poor design and the cramped and contrived layout of the flats, together with a lack of secure cycle storage and an appropriate solution for refuse storage, would provide an inadequate standard of accommodation and level of amenity for their future occupiers. The proposal is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1, DM3 and DM8 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

**02.**

The development is accessed from a classified road and does not provide adequate space for vehicles to enter and leave the site in a forward gear. This is contrary to the Council's Vehicle Crossing Policy and Application Guidance, and is found harmful to highway safety. The development is therefore unacceptable and contrary to the National Planning Policy Framework (2019), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

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

## **10 Informatives:**

**The development is not CIL liable and no charge would be payable.**