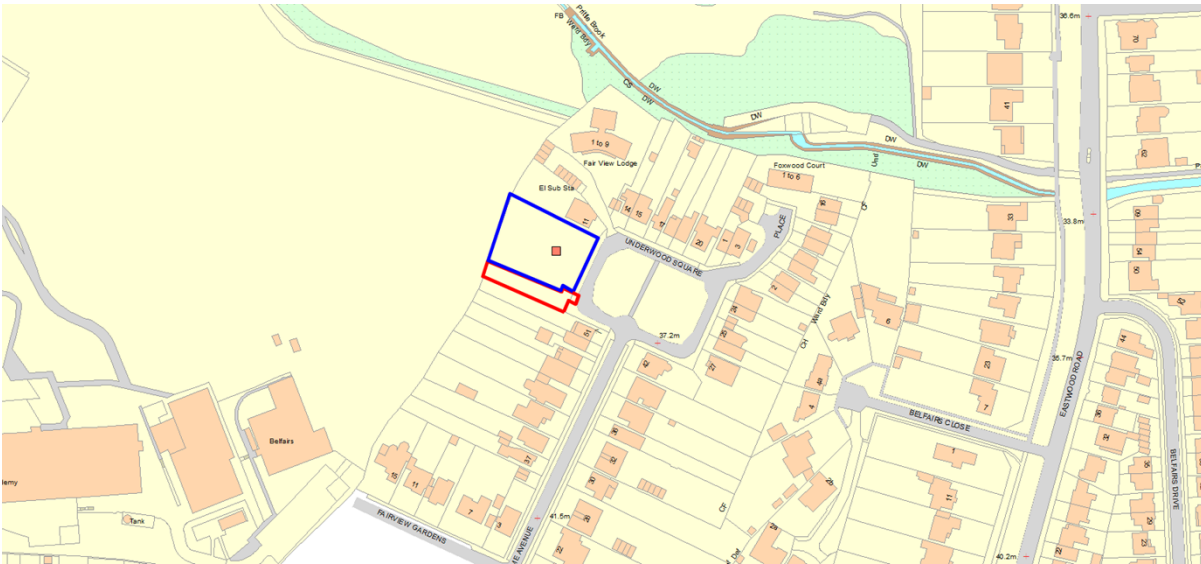


Reference:	20/01309/FUL
Application Type:	Full Application
Ward:	West Leigh
Proposal:	Erect No.1 5 bedroom detached dwellinghouse, layout parking to front with associated crossover onto Underwood Square (Amended Proposal)
Address:	Development Land, Underwood Square, Leigh-On-Sea
Applicant:	Mr G Newton
Agent:	Steven Kearney of SKArchitects
Consultation Expiry:	7th October 2020
Expiry Date:	5 th November 2020
Case Officer:	Abbie Greenwood
Plan Nos:	<p>385-P800A, 385-P801, 385-P802, 385-P804 (Proposed Levels), 385-P805 (Proposed Site Layout During Construction), 385-P803 (Proposed Habitat Measures)</p> <p>Supporting Documents</p> <p>Planning, Design and Access Statement by SKArchitects ref 385-06-16 dated July 2020, Arboricultural Impact Assessment and Method Statement by Owen Allpress reference 1971 Rev-02 dated 20/09/20 and associated tree protection plan reference 1974-02-P1 dated 20/09/20, Ground Protection Plan reference 1953-02-P1 dated 21/09/20, Cellular Confinement Plan reference 1953-02-P2 dated 25/05/20 and Tree Works Plan reference 1935-02-P3 dated 25/05/20, Preliminary Ecological Appraisal by The Ecology Consultancy version 3.0 dated 21/09/20, Construction Method Statement by SKArchitects reference 385-08-16 Rev A</p>
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 wider application site (number 11). This is a detached house of traditional design. For the purposes of this application the plot of the former Haydon House has been split into two sections. The current application for 1 detached house relates to the southern quarter of the site only. The rest of the site is subject to a separate application for 2 pairs of semi-detached houses which is pending consideration reference 20/001342/FUL. This application is an adaption of the previous approval on this part of the site reference 19/02289/FUL, which was for a similar proposal of 2 pairs of semi-detached houses.
- 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. The two oaks to the southern side of the site within the garden of 51 Lime Avenue and the liquidambar tree on the pavement close to the south east corner of the site are protected by Tree Preservation Order 1/20. There are no other policy or heritage designations in the vicinity of the site.

2 The Proposal

- 2.1 The proposal seeks to build a 2 storey detached house with accommodation in the roof space. The house will have five double bedrooms and measures 7m wide, 13.1m deep at two storeys and has a further 3.6m single storey conservatory to the rear. The property will be 10.7m tall with an eaves height of 6m and a maximum height of 10.9m including the chimney. 3 triangular dormers are proposed to the roof, two on the north flank and one on the south, which each measure 3.6m wide, 2.1m tall and 1.7m deep. The property has an internal area of 233 sqm.
- 2.2 The proposal will be constructed of brick and render with feature burnt larch timber cladding, clay roof tiles and powder coated aluminium windows.
- 2.3 Two off street parking spaces are proposed to the frontage accessed by a new crossover to Underwood Square. An amenity area of 196.3 sqm is proposed to the rear.
- 2.4 This is an amended proposal following an application in 2019 reference 19/01446/FUL which was refused in relation to design (cramped appearance in the streetscene), impact on the amenities of 51 Lime Avenue and due to an out of date ecology survey. This application was subsequently dismissed at appeal where the inspector upheld the reason for refusal relating to ecology but raised no objection to the development in relation to design or the living conditions of number 51 Lime Avenue. The appeal decision reference APP/D1590/W/19/3243372 is appended to this report as appendix 1.
- 2.5 In order to address the inspectors concerns a revised Ecological Report has been submitted with this application. It is also noted that the red line boundary has been amended to include the crossover, an updated arboricultural impact assessment, a construction management plan and levels drawings have also been submitted to avoid the requirement for any pre commencement conditions at the site.
- 2.6 In all other aspects, including design and scale, dimensions and siting, the proposal remains the same as the previously refused scheme under reference 19/01446/FUL.
- 2.7 There is another pending application on the site to the immediate north of this application site reference 20/01342/FUL which seeks to erect 4 semi-detached houses with single storey rear projections. This is also an amended application following an approval for a similar scheme but without the rear projections in 2019 (reference 19/02289/FUL). The semi-detached houses do not form part of this application. The amended proposal for that site will be considered on its individual merits under a separate pending application which will be presented at committee. The proposal in this case too must be judged in relative isolation and on its individual merits, which include the planning history.

3 Relevant Planning History

- 3.1 20/01324/FUL - Erect 2No. two storey semi-detached dwellings and 2No. two and a half storey semi-detached dwellings, layout boundary planting and landscaping to front and layout parking spaces to front with associated vehicle accesses on to Underwood Square (Amended Proposal) – pending consideration
- 3.2 19/02143/FUL - Erect No.1 5 bedroom detached dwellinghouse, layout parking to front with associated crossover onto Underwood Square (Amended Proposal) – refused and dismissed at appeal
- 3.3 19/02289/FUL – 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) – planning permission granted.
- 3.4 19/01446/FUL - Erect two storey detached dwelling house, layout parking to front and form vehicular access on to Underwood Square – refused
- 3.5 19/01749/FUL – Erect 4no two storey detached dwelling houses, layout parking to front and form vehicular accesses onto Underwood Square - refused.
- 3.6 18/02308/FUL – Erect chalet at northern end of the site, layout parking to front and form vehicular access onto Underwood Square – refused
- 3.7 18/01674/TPO – Prune 4 oak trees at site (works to trees covered by a tree preservation order) – granted.
- 3.8 18/01063/FUL- Erect three dwellinghouses, layout parking to front and form vehicular accesses on to Underwood Square (Amended Proposal) – granted
- 3.9 17/01361/TPO - Crown lift, prune and removal of deadwood to various oak trees (works to trees covered by a tree preservation order) – granted
- 3.10 17/00396/DEM – Demolish existing dwellinghouse (Application for Prior Approval for Demolition) – Prior Approval Granted
- 3.11 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.
- 3.12 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 28 neighbouring properties were consulted and a site notice displayed. 6 letters of representation have been received raising the following summarised issues:

- The proposal is no different from the previous refusal
- The proposal is out of character with the streetscene including streetscene planting
- The proposal is over scaled and will dominate 51 Lime Avenue and the surrounding streetscene
- Cramped development
- The proposal is significantly taller than 51 Lime Avenue
- Over bearing relationship with 51 Lime Avenue
- Impact on residential amenity
- Impact on infrastructure and utilities
- Impact on surface water drainage
- Impact on wildlife and biodiversity - the updated ecological assessment is inadequate
- Concern over parking layout
- Loss of on street parking and impact on access for refuse vehicles which may result in parking encroaching onto the open space
- The proposal is closer to the boundary with 51 than the appeal scheme *[officer comment: the siting of this proposal is the same as the appeal scheme]*
- Impact on trees during construction and in the longer term
- The developer has failed to engage with the local residents
- Incorrect plans

The concerns raised are noted and they have been taken into account in the assessment of the proposal. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case.

Environmental Health

4.2 No objections subject to conditions relating to hours of construction and waste management.

Highways Team

4.3 No objections. The applicant should be informed of the need for highways licences.

Parks (Trees)

4.4 The Arboricultural Impact Assessment and Method Statement 1971 rev 01 cover all the relevant points regarding protection of the trees.

The pruning recommended to T8 and T9 is fairly minor.

All recommendations in the above must be followed to allow successful retention of the trees and arboricultural supervision as detailed within will be required.

The Construction Method Statement mentions parking, storage of materials etc. The applicant needs to ensure there is no conflict with root protection areas as defined in the Arboricultural Impact Assessment and they do not intend to use any root protection area for storage or parking.

Parks (Ecology)

- 4.5 If development is to commence 3 months after the badger survey has taken place then an additional survey will need to be undertaken (within 3 months of commencement) by a qualified ecologist to confirm that there is not an active sett on site. There are several methods to determine whether there is an active badger sett on site, and camera trap deployment is only one of them. The chosen method should be at the discretion of the ecologist. Mitigation measures suggested by The Ecology Consultancy should be adhered to. The mitigation measures listed in the response from the Essex Badger Protection group regarding activities during development should also be adhered to, with the exception of the necessity to use camera traps to confirm presence or absence of an active badger sett.

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 Councils 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 updated ecological assessment has been reviewed. There does appear to be a degree of doubt over the findings of the camera trap study. For example, the following statement is made in respect of TN8 *"If it is currently being used, it is likely that foxes have taken it over, however it is likely that the holes are simply not being regularly used by any animal at this current time"* This appears to at least acknowledge a possibility that the sett is occupied, even though the report speculates that this is by foxes and not badgers. If the Ecology Consultancy is happy with its camera trap survey, we would have expected to see a rather more definite statement as to occupancy, with reference to supporting field signs or the absence thereof.

Ultimately, the habitat survey states that *"Conclusions drawn from the camera monitoring of three of the five mammal holes on site (TN8), in relation to their use by badgers will need updating closer to the time of works commencing on site. Additionally, the two remaining mammal holes (TN3) should be monitored."* It is therefore apparent that the Ecology Consultancy considers further survey work to be justified before any development takes place which we would strongly recommend based on our existing knowledge of the site and the information presented to us. It must also be borne in mind that badgers can re-occupy setts very quickly and therefore even if the setts were inactive at the time of the survey, this may not be the case at the point development commences and may not even be the case now.

Badgers and their setts are fully protected in the UK by the Protection of Badgers Act 1992 and by Schedule 6 of the Wildlife and Countryside Act (as amended), and Section 40 of the Natural Environment and Rural Communities Act 2006 places a public duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. The presence of badgers is therefore of material consideration when it comes to planning applications.

Although the habitat survey does seek to argue that badgers are only using the Underwood Square site for foraging and commuting we believe that there remains sufficient doubt around this to warrant further survey work prior to any work taking place. Furthermore, given the accepted presence of badgers on the site, even if only on a transient basis, it is essential that there is a degree of mitigation employed in order to ensure they are protected from harm. We would therefore ask that any planning permission be strictly conditional on the following:

- A further badger survey, with additional camera trap deployment, to be carried out prior to any work commencing within 20 metres of either sett. This survey should not be undertaken any earlier than three months before such work takes place in order to minimise the risk of badgers re-occupying the setts prior to work commencing.
- All gates and gaps under fences to be retained to continue to facilitate the badgers movement across the site.
- All contractors should be fully briefed concerning the presence of badgers on site.
- Any trenches or deep pits that are to be left open overnight should be provided with a means of escape should a badger enter. This could simply be in the form of a roughened plank of wood in the trench as a ramp to the surface.
- Any trenches/pits should be inspected each morning before work commences to ensure no badgers have become trapped overnight. Should a badger be found then advice should be sought from a suitably qualified ecologist prior to work commencing for the day.
- The storage of topsoil or other 'soft' building materials within the site should be given careful consideration. Badgers will readily adopt such mounds as setts, which would then be afforded the same legal protection as established setts. So as to avoid the adoption of any mounds, they should be subject to daily inspections before work commences and ecological advice sought should any mammal holes be found.
- During the work, the storage of any chemicals should be contained in such a way that they cannot be accessed or knocked over by any roaming badgers.
- Open pipework with a diameter of more than 120mm should be properly covered at the end of the work day to prevent badgers entering and becoming trapped. Again, should a badger trap itself then advice should be sought from a suitably qualified ecologist prior to work commencing for the day.
- Litter on site should be cleared at the end of the working day or otherwise kept to a minimum.
- Security lighting should be kept to a minimum so as not to disturb the badgers on site.

[Officer Comment: These recommendations have been incorporated in the Ecological Appraisal Recommendations for the site and can therefore be required by condition.]

Essex Fire and Protection Service

- 4.8 No objections

Leigh Town Council

- 4.9 Object to the proposal due to its design, bulk, mass, size and siting resulting in an overbearing relationship with and an increased sense of visual enclosure and a loss of light and outlook at 51 Lime Avenue, which is out of keeping with and detrimental to the character and appearance of the application site and the area more widely.

Concerns are also raised with regard to foul sewage and that a number of trees will be lost

Committee Call In

- 4.10 The application was called to committee by Councillor Walker and Councillor 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 Technical Housing Standards – Nationally Described Space Standards (2015)
- 5.8 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 (Community Infrastructure Levy) and whether the proposal has overcome the inspectors concerns in relation to ecology. The Inspectors raised no concerns in relation to other issues including design, scale and impact on neighbours and these comments therefore carry significant weight in the determination of this application. The planning history, including the Inspector's decision is a material consideration in the determination of this application.

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. This conclusion is consistent with the recent planning appeal on this site. The principle of the development is therefore considered to be acceptable.

Design and Impact on the Character of the Area

- 7.7 *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.’*
- 7.8 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.”*
- 7.9 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.”*
- 7.10 The previous application which was for the same design and siting of dwelling on this site was refused because of concerns that *‘the scale, design, position and closeness to the sites southern boundary would create a cramped relationship with the setting of the dwelling at 51 Lime Avenue which would be materially harmful to the character and appearance of the streetscene and wider surroundings’* however this reason for refusal was not upheld at appeal. In relation to this issue the Inspector commented that:

‘17. Concerns have been raised regarding the potential cumulative effects of the appeal proposal and any development of the wider parcel of land. In addition, specific concerns have been raised regarding the potential relationship between the proposal, no. 51 and the dwellings that have been approved adjacent to the site under planning application reference 18/01063/FUL. I note that there is no objection to the principle of residential development and some development of the wider parcel of land seems likely. Notwithstanding this, I have been provided with the drawings for the approved scheme and I do not consider that the proposed dwelling would appear cramped between no. 51 and the approved dwellings.

18. I therefore conclude that the effects of the proposed development on the character and appearance of the area would be acceptable. In this respect, the proposal is compliant with policies KP2 and CP4 of the CS, policies DM1 and DM3 of the DMD, the Southend-on-Sea Supplementary Planning Document 1: Design and Townscape Guide (SPD) and the Framework, which require development to be respectful of and respond positively to the character of its surroundings.'

- 7.11 This decision and these comments carry significant weight in the determination of this application. The design scale and siting of the proposal remains unchanged from the previously refused application. It is therefore concluded that these aspects of the proposal are acceptable and the proposal is policy compliant in this regard.
- 7.12 The full appeal decision is appended to this report at appendix 1.

Standard of Accommodation for Future Occupiers

- 7.13 The design, layout and internal arrangement are unchanged from the previously refused application which concluded that the space standards, quality of habitable rooms, privacy and outlook for future occupiers, accessibility and amenity provision was acceptable. There have been no material policy changes since the determination of the previous application. This conclusion therefore remains unchanged and the current application is considered to be acceptable and policy compliant in relation to the standard of accommodation for future occupiers subject to a condition requiring the dwelling to meet M4(2) accessibility standards. A copy of the previous officer report is included at Appendix 2 in this respect.

Impact on Residential Amenity

- 7.14 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."*
- 7.15 The previous application for the same design and siting of dwelling on this site was refused because of concerns that *'the scale, design, position and closeness to the sites southern boundary would create an undue sense of enclosure for the rear garden of the adjoining dwelling 51 Lime Avenue thereby harming the amenity of its occupiers'* however this reason for refusal was not upheld at appeal. In relation to this issue the Inspector commented that:

'19. The proposed dwelling would run nearly parallel with the rear garden of 51 Lime Avenue; however, its nearest side wall would be set back from the boundary, with its ridge further away, which would reduce the impacts arising from its depth and height. In addition, no. 51 features a long rear garden and the proposed dwelling's front elevation would be offset from its rear elevation. I do not therefore consider that the proposed development would create an undue sense of enclosure to the rear of no. 51 and that an acceptable level of outlook would be retained.'

20. Interested parties have stated that overlooking of no. 51 would be an issue. As the proposed dwelling would be offset and set back from no. 51 and views from the front windows towards no. 51 would be angled, I do not consider that the impacts would be unacceptable. The windows proposed above first floor level facing the garden of no. 51 would provide for direct views; however, these impacts could be prevented by a condition to require the windows to be obscure glazed and non-opening.

21. It has been raised that the retention of the existing vegetation between the proposed dwelling and no. 51 would be unable to adequately mitigate against the effects of the development, as the vegetation may die outside of the owners' control. However, I do not consider that retention of the vegetation would be necessary in order to make the development acceptable in respect of living conditions.

22. I therefore conclude that the effects of the proposed development on the living conditions of no. 51, with particular regard to outlook, would be acceptable. In this regard, the proposal is compliant with policies KP2 and CP2 of the CS, policies DM1 and DM3 of the DPD, the SPD and the Framework, which seek to protect the living conditions of properties.'

- 7.16 These comments carry significant weight in the determination of this application. The design scale and siting of the proposal remains unchanged from the previously refused application. It must therefore be concluded that impact of the proposal on the amenities of the neighbours including 51 Lime Avenue and the site to the north are acceptable. The proposal is policy compliant in this regard subject to a condition requiring the windows above ground floor on both flank elevations to be obscure glazed and non-opening.
- 7.17 The full appeal decision is appended to this report at appendix 1.

Traffic and Transportation Issues

- 7.18 Policy DM15 states that dwellings of this size should be served by at least two off street parking spaces. Two off street parking spaces are proposed on the forecourt.
- 7.19 The proposed parking, refuse and cycle storage arrangement are unchanged from application reference 19/01446/FUL which was found to be satisfactory (the officers report for 19/01446/FUL is included in appendix 2). These elements of the proposal therefore remain acceptable and the proposal is policy compliant in these regards subject to a condition relating to the provision and retention of two parking spaces.

Construction Method Statement

- 7.20 A Construction Method Statement and associated plan showing the location of site parking/unloading, storage of materials and welfare facilities has been included with the application. The Councils Highways Officer and Environmental Health Officer have reviewed these documents and found them to be acceptable subject to the agreement of temporary highways licences. The applicant will be informed of this requirement in an informative. Subject to this, and a condition requiring the construction method statement to be adhered to, the proposal is considered acceptable and policy compliant in this regard.

Impact on Trees

- 7.21 The mature oak trees along the western boundary of the site are protected by a tree preservation order ref TPO 4/72. The significant street tree which is located some 4m to the south east corner of the site and two oak trees to the rear of 51 Lime Avenue are also preserved under TPO 1/2020. The large trees in this area are a key feature and important to local character.
- 7.22 An Arboricultural Impact Assessment and Method Statement has been submitted with the application. The report confirms that the proposed development is outside the root protection areas of the preserved oaks to the rear of the site but that it would be located marginally within the root protection area of the two semi mature oak trees in the garden of 51 Lime Avenue and the forecourt parking area and boundary to this property falls partly within the root protection area of the adjacent street tree to the front all of which are also covered by a tree preservation order. The report outlines the mitigation measures proposed to ensure that the proposal does not have a detrimental impact on these trees. The proposed measures follow the same approach that was previously found to be acceptable under application reference 19/01446/FUL but additional detail have been provided in respect of the installation of the proposed cellular confinement within the root protection area of T10. The report also include details of pruning works to crowns of T8 and T9 the preserved trees at 51 Lime Avenue which overhang the site boundary. The proposed pruning works are as follows:
- T8 - Crown lift northern side over site, removing a single limb at around 5m. Beyond this, reduce back northern face overhang by 1.0-1.5m, (to growth points) to achieve lift without larger limb removal.
 - T9 - Reduce back extent of upper crown overhang by 1.0m. No crown lifting estimated to be required given recorded crown base.
- 7.23 The Councils Arboricultural Officer has reviewed the updated information and considered that the proposed works are minor and the additional detail and method statement comprehensive and acceptable in terms of the impact on the canopies and roots of these trees.
- 7.24 The impact on trees was also considered in the recent appeal on this site. In relation to this issue the Inspector commented that:
- '16. I note that the proposed development would be adjacent to trees in the rear garden of no. 51 and in the highway to the front of the site. In addition, interested parties have indicated that the trees are protected by way of a tree preservation order. An arboricultural report was provided with the application which indicates that some work to the adjacent trees would be required. The Council's arboricultural officer had no objection to the application, indicating that the proposal's effect on the trees would be acceptable subject to the mitigation detailed in the report being undertaken, and I have no substantive evidence to suggest otherwise. In respect of character and appearance matters, I consider that the proposed dwelling's relationship with the trees would be acceptable.'*
- 7.25 The proposal is therefore considered to be acceptable and policy compliant in this regard subject to a condition requiring tree protection measures to be installed prior to commencement and the development to be constructed in full accordance with the proposed Arboricultural Impact Assessment and Method Statement.

Ecology

7.26 Core Strategy policy KP2 and Development Management Policy DM2 require development to respect, conserve and enhance ecology and biodiversity. The site itself has no ecological designation however it is known to be a habitat for wildlife including badgers, foxes and bats. It also 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).

7.27 The previous application on the site was refused because *'the out of date nature of the ecology survey has failed to demonstrate that the proposal would not harm ecology at the site.'* This reason for refusal was upheld but the Planning Inspector who commented that:

'10. Objections were raised in respect of both the application subject to this appeal, and 19/02143/FUL, due to the potential effects of the proposed development on badgers. Notably, the Essex Badger Protection Group has expressed concerns regarding both the original and updated versions of the survey and requested that further survey work be undertaken. The Council has suggested that, if the appeal is allowed, a condition is imposed to require a survey and a scheme for any necessary mitigation to be submitted for approval. The suggested condition makes specific reference to more in depth surveying of badger activity.'

11. The updated survey identifies features which indicate that badgers are present on site and nearby. Although it states that nearby badger setts appear inactive, analysis of the setts has only been informed by visual observations made during site visits. Standing advice by Natural England explains that sett entrances should be monitored over an extended period to establish activity and provides examples of the types of monitoring which should be undertaken, such as camera traps. However, such monitoring of the nearby setts has not been undertaken. I also note that the adjacent properties were not accessed when the survey was updated. Given the extent of features of badger activity on site and nearby, I consider that a period of surveying is necessary in order to establish the likely effects of the proposal on badgers.'

12. I am satisfied that the effects of the proposal on bats would be acceptable. In addition, I do not have any firm evidence which indicates that any other protected species would be harmed by the proposal.'

13. Circular 06/2005 2 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to badgers.'

14. I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on badgers or that survey work can be secured by a condition. Therefore, I conclude that the proposal fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development is contrary to policy KP2 of the Southend-on-Sea Core Strategy (CS), policy DM2 of the Southend-on-Sea Development Management Document (DMD) and the National Planning Policy Framework (the Framework), which seek to ensure that proposals conserve and enhance biodiversity.'

7.28 In order to address this reason for refusal an updated Ecological Assessment has been submitted with the application. This assessment included camera traps surveys the latest of which were carried out on 28th July 2020. The main findings of the survey are as follows:

- The site is not located within a designated nature conservation site.
- The site contains broadleaf trees which are considered to be valuable for wildlife including their connection to Belfairs Woods. The habitat is otherwise typical of the area and as such valuable at the site level only.
- Two trees on site have the potential to support roosting, commuting and foraging bats but no trees suitable for bat roosting are affected.
- The presence of badgers in the area has been previously confirmed however two camera trap surveys carried out for 19 and 21 days in July confirmed that their use of the site is considered to be restricted to commuting.
- The trees and scrub on site have the potential to support breeding birds. Where these features are affected they should be removed outside the breeding season or under the supervision of an ecologist.
- The mosaic of wood and rubble piles and grass could provide some suitability for reptiles however there is a low likelihood that reptiles are present on site.

7.29 The Assessment recommends the following mitigation measures to minimise the impact on the wildlife using the site:

- Artificial lighting is only directed where necessary for health and safety reasons. Lighting should not illuminate any potential roosting features or any linear commuting features such as the line of trees at the west of the site and adjacent trees to the north and south. Lighting should only be used for the period of time for which it is required and safety and/or security requirements, the site should be kept dark during peak bat activity periods (0 to 1.5 hours after sunset and 1.5 hours before sunrise).
- It is recommended that woodcrete bird boxes be installed on site. Bird boxes should be placed at least two metres above ground level, out of direct sunlight, and ideally facing west.
- All gates and gaps under fences be retained and badger gates added to new fences to continue to facilitate movement of mammals across site.
- Areas of wildflower meadows should be considered for the western side of the site.

7.30 A plan has been submitted showing the location of badger gates within the north and south boundaries and 2 bird boxes to the rear of the site.

- 7.31 The Essex Badger Group has reviewed this assessment and has made a number of recommendations which are set out in paragraph 4.7 above. These include measures to keep badgers safe during the construction process and that another camera trap survey should be undertaken within 3 months of commencement on site. The Council's Environmental Officer agrees with these recommendations including the need for a survey if commencement is delayed, however, they comment that there are a variety of options for how this could be achieved rather than just a camera survey.
- 7.32 The submitted Ecological report has been amended to include these recommendations. The amended proposal is therefore considered to have overcome the Inspectors concerns in relation to the ecology of the site and the proposal is acceptable and policy compliant in this regard subject to a condition requiring the recommended mitigation measures be implemented.

Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)

- 7.33 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. Any new residential development 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. The RAMS Supplementary Planning Document (SPD), which is proposed to be adopted by Full Council on 29th October 2020, requires that a tariff of £125.58 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. Subject to the confirmation of this payment, which can be secured via a S106 legal agreement or other suitable means, the proposal is considered to be acceptable and policy compliant in this regard.
- 7.34 Overall therefore the ecological implications of the site have addressed the concerns raised at the appeal and can be considered acceptable and policy compliant subject to the appropriate conditions and RAMS contributions which can be secured with a S106 legal agreement or other suitable means.

Sustainability and Drainage

- 7.35 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. 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.

- 7.36 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. 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

- 7.37 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.
- 7.38 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

- 7.39 Given the proximity of the development to neighbouring properties and finely balanced relationship with the grain and character of the area, it is considered appropriate in this case that permitted development rights should be controlled by condition so that the implications of future extensions or outbuildings on the character of the area and neighbours can be fully assessed. As noted above, it is also considered that permitted development in relation to the creation of hard surfacing should also be controlled to control any potential loss of landscaping to the front which is considered to be an important aspect of local character.

Community Infrastructure Levy (CIL)

- 7.40 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 234 sqm, which may equate to a CIL charge of approximately £ 18036.00 (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. 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 impacts caused by the proposed development.

This amended application has overcome the Inspectors concerns in relation the impact on the ecology of the site. This application is therefore recommended for approval subject to conditions.

9 Recommendation

9.1 Members are recommended to:

(a) DELEGATE to the Interim Director of Planning or Group Manager of Planning & Building Control to GRANT PLANNING PERMISSION subject to the following conditions and following the completion of a PLANNING AGREEMENT UNDER SECTION 106 of the Town and Country Planning Act 1990 (as amended) and any other appropriate legislation to secure the provision of

- a financial contribution of £125.58 (index linked) to mitigate the potential disturbance to European designated sites in accordance with the Essex Coast Recreational disturbance Avoidance Mitigation Strategy or the securing of this same payment by other suitable means.**

(b) The Interim Director of Planning or the Group Manager (Planning & Building Control) be authorised to determine the application upon completion of the above requirement, so long as planning permission when granted and, where it is used, the obligation when executed, accords with the details set out in the report submitted and the conditions listed below:

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-P800A, 385-P801, 385-P802, 385-P803, 385-P804

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

03 Prior to its occupation the materials for the external surfaces of the dwellings hereby approved shall be as set out on plan reference 385-P801 or any other details that have previously been submitted to and approved in writing by the local planning authority.

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 and second floor windows in the north and south elevations of the approved dwelling 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 that has been previously submitted to and agreed in writing by 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-P801 and 385-P802 prior to occupation of the dwelling hereby approved, or any other details that have previously been submitted to and approved in writing by the local planning authority. 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 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 and E 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 two car parking spaces and the associated vehicular access for the spaces to access the public highway, shown on approved plan 385-P801 shall be provided and made available for use at the site prior to the first occupation of the dwelling hereby approved. The car parking spaces and the associated vehicular access 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 dwelling 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 Sections 3 and 4 of the submitted Arboricultural Impact Assessment and Method Statement by Owen Allpress reference 1971 Rev-02 dated 20/09/20 and associated Tree Protection Plan reference 1974-02-P1 dated 20/09/20, Ground Protection Plan reference 1953-02-P1 dated 21/09/20, Cellular Confinement Plan reference 1953-02-P2 dated 25/05/20 and Tree Works Plan reference 1935-02-P3 dated 25/05/20 in relation to the trees identified as T1-T10 in this statement including the mitigation measures in relation to construction within the root protection areas of the trees denoted as T8, T9 and T10, shall be implemented in full prior to commencement of the development and be retained throughout the construction phase of the development. Implementation of the development shall be undertaken only in full accordance with British Standard 3998 and British Standard 5837 including supervision of works by a qualified arboriculturalist. The tree works to trees identified as T8 and T9 shall be restricted to that set out in Section 3.4 of the above report.

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 occupation of the dwelling 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).

11 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 dwelling 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).

12 The development hereby approved shall be carried out in a manner to ensure the dwellinghouse complies with building regulation M4 (2) 'accessible and adaptable dwellings' before it is occupied.

Reason: To ensure the residential unit 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).

13 The development hereby approved shall be carried out in full accordance with the recommendation set out in table 4.1 and Section 5 of the submitted Ecological Appraisal by The Ecology Consultancy version 3.0 dated 21.09.20 and plan reference 385-P803 showing proposed habitat measures.

Reason: A 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.

14 The construction management of the site shall be carried out in full accordance with the submitted Construction Method Statement by SKArchitects reference 385-08-16 Rev A and plan reference 385-P805 showing the proposed site layout plan during construction.

Reason: A 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).

15 Before it is occupied the finished levels at the site shall be as set out on plan reference 385-P804.

Reason: A 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).

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).

- (c) In the event that the planning obligation or other means of securing the financial contribution referred to in part (a) above has not been completed by 5th November 2020 or an extension of this time as may be agreed, the Interim Director of Planning or Group Manager Planning & Building Control be authorised to refuse planning permission for the application on the grounds that the development would not provide adequate mitigation for the potential disturbance to European designated site, contrary to National and Local planning policy.**

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.

04 The applicant is advised that the appropriate highways licences should be obtained prior to the commencement of the development.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission 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.