

Reference:	20/01324/FUL
Application Type:	Full Application
Ward:	West Leigh
Proposal:	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)
Address:	Development Land, Underwood Square, Leigh-On-Sea
Applicant:	Mr G Newton
Agent:	Steven Kearney of SKArchitects
Consultation Expiry:	30th September 2020
Expiry Date:	5 th November 2020
Case Officer:	Abbie Greenwood
Plan Nos:	385-P702A, 385-P704A, 385-P900A, 385-P901A, 385-P903A, 385-P905, 385-P906, 385-P907, 385-P908A, GBU 2113A, Planning, Design and Access Statement by SKArchitects reference 385-06-16, 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, Construction Method Statement Rev A by SKArchitects, Ecological Appraisal by The Ecology Consultancy version 3.0 dated 21.09.20, Email from agent dated 14.09.20 confirming materials
Recommendation:	GRANT PLANNING PERMISSION



1 Site and Surroundings

- 1.1 Underwood Square is a purpose built urban square consisting of an informal green space surrounded and enclosed by detached and semi-detached houses. The houses are of different ages and designs and do not form a cohesive streetscene. The character of the square is derived primarily from the arrangement of the houses enclosing the open space and the presence of many mature trees, including a significant number of street trees and a number of mature oak trees on the rear (west) boundary of the application site and in neighbouring gardens.
- 1.2 The site was formerly occupied by a single detached house which was demolished in 2017. The plot is of a significant size taking up almost the entire west side of the square. There is only one other property on the west side of the square to the north of the application site (number 11). This is a modest detached house of traditional design. For the purposes of this application the plot of the former Haydon House has been split into two. The current application for 2 x semi-detached pairs relates to the northern 3/4 of the site only. Planning permission has previously been granted under reference 19/02289/FUL for a similar development of 2 semi-detached pairs of houses on this site in 2019.
- 1.3 The rest of the site to the south has been subject to two separate applications to erect one detached house which were recently refused planning permission under references 19/01446/FUL and 19/02143/FUL. Application reference 19/02143/FUL was dismissed at appeal because of lack of information relating to the ecological assessment only. Another application is currently pending for this site reference 20/01309/FUL which is seeking to address the inspectors concerns.
- 1.4 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.

- 1.5 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.
- 1.6 The central square is designated as protected green space. The large oak trees on the western boundary of the site are protected by Tree Preservation Order 4/72. There are no other policy or heritage designations in the vicinity of the site.

2 The Proposal

- 2.1 The proposal, within the site edge red which includes an area of highway in front of the site, seeks to build 4 x 2 storey semi-detached houses two of which have accommodation in the roof space. The two sets of semis are different but of complementary designs. The southern pair are the larger houses. These are 4 bed 7 person units which include accommodation within the roofspace. Each dwelling measures 5.4m wide by 17.7m deep (including a 4m single storey rear projection) with an eaves height of 6m and a ridge height of 9.7m. The smaller pair are 3 bed 5 person units which each have a width of 5.4m, a depth of 16.3m (including a 3m single storey rear projection), an eaves height of 5.6m and a ridge height of 9m.
- 2.2 The designs are the same as the previously approved houses under reference 19/02289/FUL except for the following amendments

Southern larger houses

- A single storey, flat roofed rear projection has been added. This has a depth of 4m and a height of 3.2m
- A side window has been omitted at ground floor
- The internal layout at ground floor has been amended to swap the living and kitchen/ dining areas so that the living area is now at the front and the kitchen/dining area to the rear
- The side chimney has been re-sited from the rear of the property to the front.

Northern smaller houses

- A single storey, flat roofed rear projection has been added. This has a depth of 3m and a height of 3.2m
- A side window has been omitted at ground floor
- The internal layout at ground floor has been amended to swap the living and kitchen/ dining areas so that the living area is now at the front and the kitchen/dining area to the rear
- At first floor one internal bedroom door has been re-sited making a bedroom slightly larger
- The side chimney has been re-sited from the rear of the property to the front.

The red line boundary has also been amended to exclude a section of driveway shared with the adjacent site.

- 2.3 The proposals will be constructed of brick and render with either feature waney edged burnt larch or straight cut charred timber cladding, brown clay peg tiles and powder coated aluminium windows. These are the same materials as previously submitted for application reference 19/02289/FUL.
- 2.4 Two off street parking spaces are proposed on the frontage for each dwelling accessed by 4 new crossovers onto Underwood Square. It is noted that the red line boundary has been amended to exclude a section of shared driveway which provides access to the parking spaces at the southernmost house and the parking spaces proposed for the neighbouring site however as the adjacent site is within the control of the applicant, these spaces can still be accessed. Amenity areas are proposed to the rear of each property. There is currently 1 crossover for the site adjacent to number 11. This is the same arrangement as previously consented under application reference 19/02289/FUL.
- 2.5 The application is supported by a Planning, Design and Access Statement, an Arboricultural Impact Assessment and Method Statement, a Construction Method Statement and an Ecological Appraisal.
- 2.6 The committee report for the previous approval reference 19/02289/FUL is appended to this report as Appendix 1.
- 2.7 There is another pending application on the southern section of the site reference 20/01309/FUL which seeks to erect a single semi-detached house with single storey rear projections on the remainder of the development site. This is also an amended application following an refusal of a similar scheme in 2019 (reference 19/01446/FUL) Whilst that proposed scheme is useful in envisaging future possibilities for the site as a whole, the single detached house does not form part of this application. The amended proposal for this site will be considered on its individual merits. 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 of the site.

3 Relevant Planning History

- 3.1 20/01309/FUL - Erect No.1 5 bedroom detached dwellinghouse, layout parking to front with associated crossover onto Underwood Square (Amended Proposal) - pending consideration
- 3.2 20/00594/AMDT - Application to remove condition number 7 (removal of permitted development rights for the approved development) (Minor Material Amendment of planning permission 19/02289/FUL dated 04.03.20) – refused
- 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) – granted
- 3.4 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.

- 3.5 19/01749/FUL - Erect 4no two storey semi-detached dwelling houses, layout parking to front and form vehicular accesses on to Underwood Square – refused
- 3.6 19/01446/FUL - Erect two storey detached dwelling house, layout parking to front and form vehicular access on to Underwood Square – refused and dismissed at appeal.
- 3.7 18/02308/FUL – Erect chalet at northern end of the site, layout parking to front and form vehicular access onto Underwood Square – refused
- 3.8 18/01674/TPO – Prune 4 oak trees at site (works to trees covered by a tree preservation order) – granted.
- 3.9 18/01063/FUL- Erect three dwellinghouses, layout parking to front and form vehicular accesses on to Underwood Square (Amended Proposal) – granted
- 3.10 17/01361/TPO - Crown lift, prune and removal of deadwood to various oak trees (works to trees covered by a tree preservation order) – granted
- 3.11 17/00396/DEM – Demolish existing dwellinghouse (Application for Prior Approval for Demolition) – Prior Approval Granted
- 3.12 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.
- 3.13 16/01866/TPO - Crown reduction by 4-5m to five Oak Trees (Works covered by a Tree Preservation Order) - refused.

4 Representation Summary

Public Consultation

- 4.1 25 neighbouring properties were consulted and a site notice displayed. At the time of writing 5 letters of representation from 4 households have been received raising the following summarised issues:
 - Overdevelopment of the site.
 - Impact on grain and character of the street.
 - Cramped setting to frontage and in streetscene which is made worse by the separate application for another large house.
 - Over scaled in relation to the surrounding properties.
 - Density and scale of development inappropriate.
 - Visual impact of hardstanding to frontage.
 - Loss of on street parking and access.
 - Impact on central green space.
 - Lack of infrastructure to support scale of development.
 - Constrained access to the site.
 - Lack of affordable housing.
 - Impact on quality of life and local amenity.
 - Impact on wildlife including badgers, biodiversity and protected trees.
 - Parking arrangement is unworkable and out of character.
 - Impact on visitor parking on the square and access for refuse vehicles - may

force parking onto the open space.

- Concern over incremental additions in subsequent applications.
- PD rights were removed for previous approval and should be removed again if this is approved.

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

- 4.3 No objections.

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 Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation.

Essex Badger Protection Group

- 4.7 The 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 Rescue Service

4.8 No objections

Committee Call In

4.9 The application was called to committee by Councillor Walker.

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). The previous consent on this site reference 19/02289/FUL is a material planning consideration and can be considered to have significant weight.

7 Appraisal

Principle of Development

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

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

- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) local market conditions and viability;*
- c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) the importance of securing well-designed, attractive and healthy places.*

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

- 7.3 Policy CP8 of the Core Strategy recognises that a significant amount of additional housing will be achieved by intensification (making more effective use of land) and requires that development proposals contribute to local housing needs. It identifies that 80% of residential development shall be provided on previously developed land.
- 7.4 Policy DM3 of the Development Management Document states that *“the Council will seek to support development that is well designed and that seeks to optimise the use of land in a sustainable manner that responds positively to local context and does not lead to over-intensification, which would result in undue stress on local services, and infrastructure, including transport capacity”*.
- 7.5 Policy DM7 of the Development Management Document requires new housing development to meet the needs of the Borough in terms of the type and size of development proposed.
- 7.6 The site is in a residential area which comprises mainly family housing. There is therefore no objection in principle to family sized houses in this location for which there is an identified need in the Borough. The principle of 4 houses on this site was weighed against the NPPF paragraph 122 above which requires Councils to make efficient use of land and accepted in the recent approval for this site in 2019 reference 19/02289/FUL.
- 7.7 The principle of 4 residential units on this site is therefore considered to be acceptable.

Design and Impact on the Character of the Area

- 7.8 *Paragraph 124 of the NPPF states ‘The creation of high quality buildings and places are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.’*
- 7.9 Policy DM1 of the Development Management Document states that *“all development should add to the overall quality of the area and respect the character of the site, its local context and surroundings in terms of its architectural approach, height, size, scale, form, massing, density, layout, proportions, materials, townscape and/or landscape setting, use, and detailed design features.”*
- 7.10 Policy DM3 part 2 of the Development Management Document states that *“all development on land that constitutes backland and infill development will be considered on a site-by-site basis. Development within these locations will be resisted where the proposals:*
- (i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or*
 - (ii) Conflict with the character and grain of the local area; or*
 - (iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or*
 - (iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”*

- 7.11 The proposed house designs are very similar to that recently approved under application reference 19/02289/FUL. The main changes to the external design of the proposed houses are the inclusion of a single storey rear projection for each property, fenestration alterations and the re siting of the feature chimneys. All other aspects of the external design and site layout remain the same as previously approved. A detailed appraisal of the overall design and impact on the character of the area can be found in the previous report for application reference 19/02289/FUL which is attached in Appendix 1.
- 7.12 The proposed single storey additions are relatively modest in scale and sit comfortably with the scale of the proposed dwellings. They have a simple flat roofed form but are proposed to be clad in matching materials to ensure a positive integration with the design of the proposed dwellings. These additions are located to the rear and will not be visible from the street. The design of these additions is therefore considered to be acceptable.
- 7.13 There is also no objection to the proposal to move the feature side chimneys from the rear end of the side elevations more towards the front. This will give them greater prominence in the streetscene and add greater articulation to the street frontage.
- 7.14 In all other respects, including the design of the landscaping for the frontage parking area and additional street tree planting, the proposal remains the same as that previously approved under application reference 19/02289/FUL.
- 7.15 The design of the proposed houses therefore remains acceptable and the proposal is policy compliant in respect of design and character matters subject to conditions.

Standard of Accommodation for Future Occupiers

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

Space Standards and Quality of Habitable Rooms.

- 7.18 All new homes are required to meet the National Technical Housing Standards in terms of floorspace and bedroom sizes. The proposed houses were assessed against the National Technical Housing Standards in the previous application reference 19/02289/FUL and found to be acceptable. The proposed layout of the houses has been amended to include a larger ground floor area and one of the bedrooms is also slightly larger. No additional bedrooms are proposed. The proposal therefore meets the required standards and remains acceptable in this regard.

Light, Privacy and Outlook

- 7.19 As with the previously approved application, the proposal is considered to be acceptable in terms of light, privacy and outlook for habitable rooms.

M4(2) – Accessibility

- 7.20 The Planning, Design and Access Statement makes a commitment to providing accessible and adaptable homes. This requirement can be secured by a condition requiring full compliance with M4(2). The proposal is therefore acceptable and policy compliant in this regard.

Amenity Provision

- 7.21 Each proposed property has a garden area of at least 113 sqm to its rear. This is a slight reduction over the previously approved scheme due to the inclusion of single storey rear extensions, however, it is still considered to comfortably meet the needs of a family dwelling.
- 7.22 Overall it is considered that the proposal will provide a good standard of accommodation for future occupiers and is acceptable and policy compliant in this regard.

Impact on Residential Amenity

- 7.23 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.”*
- 7.24 The proposal only has one existing neighbour number 11 Underwood Square to the north. The northern most dwelling proposed on the site has a depth of 13.1m at two storeys on this side. It has an eaves height of 5.6m and a ridge height of 9m. It is set 2.8m from the boundary with this property and 4.9m from the flank elevation of this neighbour. The proposed northern most house would extend 2m past the rear elevation of this neighbour at two storeys. This is the same arrangement and design as for the extant application under reference 19/02289/FUL which was considered to be acceptable subject to the upper floor side windows being obscure glazed. This remains acceptable in the current proposal subject to a similar condition.
- 7.25 A single storey flat roofed addition is now proposed to the rear of this northernmost house. This is set in from the side building line and has a depth of 3m and a height of 3.2m. This would extend some 5.1m past the rear building line of the neighbour at ground floor. It is set 3.4m from the shared boundary and 5.2m from the neighbouring property. The submitted plan shows that a notional 45 degree line from the rear corner of the neighbour would not be breached by the proposed addition. Given the separation distances between the proposed single storey element and the neighbour, it is considered that this aspect of the proposal would also have an acceptable impact on the amenities of the occupiers of number 11 Underwood Square. The impact on the amenities of this neighbour is therefore considered to be acceptable and policy compliant.
- 7.26 To the south the site faces onto the remainder of the development site which is currently vacant. The southernmost property would be set 1.2m from this boundary and has one small bathroom window at first floor facing this site. To the west the site backs onto playing fields associated with Belfairs High School and to the east is the public space of Underwood Square. It is noted that there is no approval for the adjacent site, however, an application for a detached house is pending consideration under reference 20/01309/FUL.

As this has yet to be determined it can only be afforded limited weight however, it is the same design as the previously refused scheme which was dismissed on appeal for reasons related to ecological impact only (Application reference 19/01446/FUL and appeal reference APP/D1590/W/19/3243372). It noted that the proposed single storey addition would only extend some 1.1m past the rear building line of this proposal which is set some 1.3m from the shared boundary. It is therefore considered that, subject to a condition requiring obscure glazing to the upper floor side windows, the proposal would have an acceptable impact on the site to the south.

- 7.27 No other properties are materially affected by this proposal. The proposal is therefore acceptable and policy compliant in its impact on neighbour amenity.

Traffic and Transportation Issues

- 7.28 Policy DM15 states that dwellings of this size should be served by at least two off street parking spaces. The proposed parking arrangement will include the formation of 4 new vehicle crossovers and 8 parking spaces on the front of the site. The layout of the parking is the same as that previously approved under application reference 19/02289/FUL. As noted above the access to the parking spaces for the southernmost house is across the neighbouring site however this is also within the control of the applicant so this arrangement can be considered acceptable. This meets the policy requirements and the Council's Highways Officer has not raised any objections in this regard.
- 7.29 The submitted plans do not show details of refuse or cycle storage however, as large dwellinghouses with large gardens it is considered that there is sufficient scope for these to be provided to the rear of the properties. The proposal is therefore acceptable and policy compliant in these regards.

Construction Method Statement

- 7.30 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

- 7.31 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.
- 7.32 An Arboricultural Impact Assessment and Method Statement has been submitted with the application. The report confirms that the proposal development is outside the root protection areas of the preserved oaks to the rear of the site but the southernmost crossover will be marginally within the root protection area of the large street tree T10.

A cellular surface is proposed in this location to mitigate the impact of the crossover on the tree roots. This same arrangement was previously found to be acceptable under application reference 19/02289/FUL subject to a condition requiring full design and construction details of the cellular confinement installation for the forecourt parking area to be submitted and agreed prior to the commencement of the development.

- 7.33 The updated Arboricultural Impact Assessment and Method Statement include full details of tree protection for the site including a detailed method statement in relation to the installation of the proposed cellular confinement within the root protection area of T10. The report also include details of works to T8 and T9 the preserved trees at 51 Lime Avenue, however, as these fall outside of the site, the agent has confirmed that the pruning works in this report do not form part of this application and will be covered in the application for the neighbouring site which has the same arboricultural report.
- 7.34 The Councils Arboricultural Officer has reviewed the updated information and considered that the additional detail and method statement is sufficient to meet the requirement of the previous condition and that no further details are required in relation to this issue subject to a condition requiring that the works are carried out in accordance with the submitted details.
- 7.35 The proposal is therefore considered to be acceptable and policy compliant in this regard subject to a condition requiring tree protection measures and the development to be constructed in full accordance with the proposed arboricultural method statement.

Ecology

- 7.36 Core Strategy policy KP2 and Development Management Policy DM2 require development to respect, conserve and enhance biodiversity. The site itself has no ecological designation however it is known to be a habitat for wildlife including badgers and foxes and falls within the zone of influence for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).
- 7.37 Ecology is a key issue for the wider development site. The recent appeal for the adjacent site to the south was dismissed because the Inspector considered that insufficient evidence had been submitted to demonstrate that the impacts on ecology at the site and specifically badgers, would be acceptable. The full appeal decision is included at Appendix 1 to the report for the adjacent site reference 20/01309/FUL (Appeal Reference APP/D1590/W/19/3243372). This decision relates to a site wide issue and is therefore a material consideration for this application as well as the other application pending determination on the adjacent site reference 20/01309/FUL.

7.38 In order to address this reason for refusal and the Inspector's concerns 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.

7.39 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 to continue to facilitate movement of mammals across site.
- Areas of wildflower meadows should be considered for the western side of the site.
- 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.

7.40 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 another camera trap survey should be undertaken within 3 months of commencement on site. The Councils Environmental Officer agrees with these recommendations including the need for another survey, however, they comment that there are a variety of options for how this could be achieved rather than just a camera survey.

- 7.41 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)

- 7.42 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 (£502.32 (index linked) in total). 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 by other suitable means, the proposal is considered to be acceptable and policy compliant in this regard.
- 7.43 Overall therefore the ecological implications of the site 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

- 7.44 Policy KP2 of the Core Strategy requires that *“at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources).* Policy DM2 of the Development Management Document states that *“to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”.* This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 7.45 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

- 7.46 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.
- 7.47 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

- 7.48 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)

- 7.49 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 619.2 sqm, which may equate to a CIL charge of approximately £47726.03 (subject to confirmation).

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, and attaching significant weight to the basis of the previous planning application and planning appeal decisions relevant to the site, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance on balance. The proposal would have an acceptable impact on the amenities of neighbouring occupiers and the character and appearance of the application site, street scene and the locality more widely. There would be no materially adverse traffic, parking, highways or ecology impacts caused by the proposed development. This 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 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 £502.32 (index linked) to mitigate the potential for 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 obligation, 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-P702A, 385-P704A, 385-P900A, 385-P901A, 385-P903A, 385-P905, 385-P906, 385-P907, 385-P908A, GBU 2113A

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

03 Before they are occupied the materials for the external surfaces of the dwellings hereby approved shall be as set out on plan reference 385-P704A and email from SKArchitects dated 14.09.20 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 windows in the north and south elevations of the approved dwellings shall only be glazed in obscure glass (the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and fixed shut up to a height of not less than 1.7m above first floor level before the occupation of the dwellings hereby approved and shall be retained as such in perpetuity. In the case of multiple or double glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

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

05 The hard and soft landscaping and boundary treatments at the site shall be carried out in full accordance with the proposed landscaping scheme including street tree planting as shown on plans ref 385-P903A and GBU 2113A prior to occupation of the dwellings 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 shall be maintained as such thereafter in perpetuity.

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

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

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

08 The eight car parking spaces and the associated vehicular accesses for the spaces to access the public highway, shown on approved plan 385-P903A shall be provided and made available for use at the site prior to the first occupation of the dwellings hereby approved. The car parking spaces and the associated vehicular accesses to and from the public highway shall thereafter be permanently retained solely for the parking of vehicles and the accessing of the car parking spaces in connection with the occupiers of the dwellings hereby approved and their visitors.

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

09 The tree and tree root protection measures as set out in Section 4 of the submitted Arboricultural Impact Assessment 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 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.

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

Reason: To minimise the environmental impact of the development through

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

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 dwellings hereby approved. This provision shall be made for the lifetime of the development.

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

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

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

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-P907 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-P908A 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 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).

16 The finished levels at the site shall be as set out on plan reference 385-P906 before the dwellings are occupied.

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).

17 No external lighting shall be installed on the rear elevations of the dwellings hereby approved other than in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

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

- (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.