

Reference:	20/01759/FULM
Application Type:	Full Application Major
Ward:	Leigh
Proposal:	Demolish existing retail unit and former car wash site and erect a 3-storey building with upper storey set-back comprising of 280sq.m commercial space at ground floor level and 15 self-contained flats (Class C3), ground floor parking court, refuse, cycling storage, lay out landscaping and install vehicular access onto Victor Drive
Address:	Car Wash 120 Broadway Leigh-On-Sea Essex SS9 1AA
Applicant:	Plaistow Broadway Filling Stations
Agent:	DAP Architecture Ltd
Consultation Expiry:	2 nd December 2020
Expiry Date:	4 th February 2021
Case Officer:	Abbie Greenwood
Plan Nos:	<p>15223se-01, 15223se-02, 001.01, 200.12, 201.07, 202.11, 203.11, 204.14, 205.08, 206.09, 210.02, 211.02</p> <p>Planning Statement by Phase II Planning reference C14100 dated September 2020</p> <p>Design and Access Statement by DAP Architecture reference DAPA.601.08 dated July 2020</p> <p>Transport Statement by Ardent Consulting reference V674-01 dated September 2020</p> <p>Recycling and Waste Management Plan dated November 2020</p> <p>Flood Risk Statement and SUDS Strategy by Ardent Consulting reference V674-02 dated September 2020</p> <p>Daylight, Sunlight and Overshadowing Report by Delva Patman Redler dated September 2020 reference SG/16153</p> <p>Heritage Impact Assessment by Heritage Collective reference 2549D dated September 2020</p>

	<p>Noise Impact Assessment by Cambridge Acoustics reference 1009.20 dated 10th September 2020</p> <p>Sustainability and Energy Report by DP Architecture Ltd reference 1047 dated August 2020</p> <p>BREEAM Assessment by NRG Consulting reference BREEAM/BDY/20160512-[ML]</p> <p>Geo-Environmental Assessment (Phase 1 Desk Study and Ground Investigation Report) by Jomas reference P9093J631v1.0 dated 08 July 2015</p> <p>Arboricultural Impact Assessment by Sharon Hosegood reference SHA207 dated August 2016</p> <p>Development Viability Assessment by Arebray Development Consultancy reference V1 dated September 2020</p> <p>Details of wider car parking stacker model S2.2(S2.2P) by Swiss-Park</p>
<p>Recommendation:</p>	<p>GRANT PLANNING PERMISSION</p>



Site and Surroundings

- 1.1 The site is located at the junction of Broadway, Victor Drive and Grand Drive. There is currently a two storey commercial building on the southern end of the site (class A1). Most of the site to the north is open land and was until recently used as a hand car wash (Class sui generis). This business has now moved to London Road and the site is vacant.
- 1.2 Opposite the site to the west is the Grand Hotel, a locally listed landmark building which is currently undergoing a conversion to a mixture of commercial units and flats. This building marks the eastern end of the Leigh Cliff Conservation area which also includes all the buildings in the Broadway to the west of the site. The southern end of the application site forms the terminating view out of the conservation area when viewed from Leigh Broadway looking east. In closer views it also forms part of the setting of The Grand including within a key view of The Grand Hotel from Grand Drive.
- 1.3 To the north, the site adjoins Grand View flats (136 Broadway). This is a modern design with a commercial unit to the ground floor and ranges from 3 to 5 storeys. This development was allowed on appeal following refusal on grounds of scale and design.
- 1.4 To the east, the site adjoins the more domestic streetscene of Victor Drive. The closest neighbour are numbers 5-7 which are traditional semi-detached houses of 2.5 storeys. To the south east in Grand Drive are a couple of large 1970s style residential blocks. These are set down the slope from the site and the other development in Broadway and as such their prominence in the main streetscene of the Broadway is reduced. They are not considered to be positive features in this location or representative of local character. They are of their time.
- 1.5 The site is located within the district centre of Leigh and within a designated secondary shopping frontage. The site lies within Flood Risk Zone 1 (low risk).

The Proposal

- 2.1 The application proposes to erect a mixed-use development varying between 3 and 4 storeys in height, totalling 15 units (7x1-bed (46.5%), 7x2-bed (46.5%) and 1x3-bed (7%), together with associated ground floor commercial space (use class E) totalling 280 sqm with an option to split into four units.
- 2.2 2 (over 10%) of the flats will be M4(3) compliant and suitable for wheelchair users. All other units will be M4(2) compliant (accessible dwellings). Each flat has a private balcony or terrace ranging from 140 sqm for the 3 bed unit to 3.5sqm at the lower floors. Two additional areas of communal amenity are proposed which total 160 sqm.
- 2.3 The scheme provides off street parking for 17 vehicles including 16 spaces behind the commercial units in the form of 8 double car stackers and one surface level outside disabled parking space. (One of the parking stackers at the southern end of the run is wider to accommodate an additional disabled parking space.) This equates to 1 space per residential unit with 2 additional spaces. The parking spaces will be accessed from Victor Drive via an existing access. Two existing crossovers to the Broadway frontage will be reinstated and a loading bay will be formed on this frontage to serve the new commercial units. The proposal includes secure residential cycle parking for 23 cycles and separate refuse stores for the commercial and residential uses.

An additional 5 Sheffield cycle stands are proposed in the pavement to the front of the site for visitors.

- 2.4 The proposed building is 38m wide and 21.2m deep following the pavement line on Broadway and Victor Drive. The building reduces to 28.4m wide and 17.1m deep at 3rd floor level. The building is a maximum of 14.3m high reducing to 11.6m high at its southern end and 13.6m high at the northern end adjacent to Grand View. The top floor is set back between 9.5m and 11.4m from the south building line and 1.8m from the west building line.
- 2.5 The proposed materials include brick finish with feature stone detailing to reference the materials of The Grand Hotel opposite. At ground floor the shopfronts are curtain glazing and set below a colonnade.
- 2.6 The proposal includes associated landscaping to the front of the site, comprising the provision of four new street trees, three on the Broadway frontage and the fourth to the south of the site facing Grand Drive.
- 2.7 The proposal does not include a contribution to affordable housing. A viability assessment has been submitted to seek to justify this position. This is discussed in more detail below.
- 2.8 The application is an amended proposal following the refusal of application reference 18/01820/FULM which proposed a part 5, part 4, part 3 storey building comprising of 17 self-contained flats with balconies and amenity space, 272sq. m of commercial retail floorspace (Class A1) at ground floor level. This was refused for the following reasons:

01 The proposal, by reason its size, mass, form and detailed design, would result in a bulky and intrusive addition to the streetscene which harms the character and appearance of the surroundings including views of the Leigh Cliff Conservation Area and the setting of the locally listed Grand Hotel. The development would be over scaled in the streetscene and cause material, less than substantial, harm to the character and appearance of the Conservation Area which is not outweighed by any identified public benefits including the number of additional residential units proposed. This is unacceptable and contrary to the National Planning Policy Framework (2019), policies KP2 and CP4 of the Core Strategy (2007) and polices DM1, DM3 and DM5 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

02 The submission does not include a formal undertaking to secure an appropriate contribution to affordable housing provision to meet the demand for such housing in the area or a contribution to secondary education despite it having been found financially viable for the development proposed to make such contributions. The proposal also has a lack of acceptable servicing arrangements which would be prejudicial to highway safety due to the failure to secure the provision of the proposed layby. The application is therefore unacceptable and contrary to the National Planning Policy Framework (2019) and policies KP3 and CP8 of the Core Strategy (2007) and advice within Supplementary Planning Document 2 Planning Obligations (2015).

2.9 The subsequent appeal reference APP/D1590/W/19/3232683 was also dismissed. The key points raised by the inspector were

'17 notwithstanding the above and their setback position, the proposed fourth and fifth storeys, would - due to their combination of bulk, elevated position, angularity, and modernity - appear as visually jarring 'top boxes', which would noticeably contrast with the brick-faced, round-cornered, middle band of the proposed block, and the facades of the nearby LLB [Locally Listed Building]. Exterior frosted glass cladding would not prevent the combination of above factors drawing attention to the top storeys, and some reflectiveness would add to this harm. The above factors would, together, result in the building 'looming up' discordantly, when looking up Grand Drive and north-east along Broadway.

18. Moreover, the substantial horizontal built mass of the proposed top two storeys would block out spacious views over the local roofscape towards the sea from some windows on the eastern side of the second floor and attic level of the LLB. This would partially sever the visual connection between the LLB and Thames Estuary, including through erosion of picturesque views of the interplay between changing light, sky and sea along the horizon line. Consequently, the proposal would fail to preserve sea views from the LLB, which are important to how the CA [Conservation Area] is experienced from this landmark building, and contribute to a positive and defining element of the CA.

19. The above factors, in combination, would, overall, result in the proposed building sitting uncomfortably within the streetscene, and distracting from and jarring with the heritage character of the CA and the LLB. Consequently, the proposed development would be detrimental to the setting of the CA, the setting of the LLB, and the view of the terminating vista towards the north-eastern end of Broadway within the CA.

22. Taking the above together, I find that the proposal would cause harm to the character and appearance of the area, undermining defining and distinctive characteristics of the CA. It would also fail to preserve elements of the CA's setting which make a positive contribution to how it is experienced. Furthermore, it would have a negative impact on the setting of the Grand Hotel LLB. I attach great weight and importance to this totality of harm.

2.10 The full appeal decision is attached as Appendix 1 of this report.

2.11 In order to address the comments made by the Inspector in the appeal decision the following amendments have been made to the proposal

- The number of units has been reduced from 17 to 15 including alterations to the internal layout.
- The number of storeys has been reduced from a maximum of 5 storeys to a maximum of 4 storeys (2m reduction in height) and the set back at 4th floor at the southern end of the building has been increased from 6m to 9.5m when viewed from the principal elevation from Broadway. The level of reduction in scale to the previous proposals can be seen on drawing reference 206.09. The appeal scheme is the green outline.
- The mix of the development has shifted from 35% 1 bed, 47% 2 bed and 18% 3 bed to 46.5% 1 bed, 46.5% 2 bed and 7% 3 bed.
- The materials for the top storey have been changed to brick to match the lower

floors.

- The current scheme does not propose to include any affordable housing provision or contribution. The previously refused proposal included a contribution of £57,639. A viability appraisal has been submitted with the application which states that an affordable housing contribution would make the scheme unviable.

Relevant Planning History

- 3.1 18/01820/FULM - Demolish existing buildings and erect 5 storey building comprising of 17 self-contained flats with balconies and amenity space, 272sq.m of commercial retail floorspace (Class A1) at ground floor level, layout landscaping, parking and install vehicular access onto Victor Drive (Amended Proposal) - refused and dismissed at appeal. The appeal decision is attached at Appendix 1.
- 3.2 17/02146/FUL - Demolish existing buildings, erect four storey building comprising nine self-contained flats with balconies, terraces and commercial (Class A1) at ground floor, associated landscaping, layout parking and install vehicular access onto Victor Drive – refused for the following reason

01 The proposal by reason of the design approach proposed results in a significant under provision in the total number of new dwellings within the development compared with that which could reasonably be achieved on this brownfield site in Leigh Broadway having regard to adopted planning policy. The under provision of dwellings fails to contribute appropriately both to the Borough's housing needs and also creates a contrived ability for the proposal to sit beneath the policy threshold for making a potential contribution towards affordable housing. The proposal therefore constitutes a materially inefficient and ineffective use of the brownfield site. The proposal would therefore not represent sustainable development and is thus contrary to the objectives of the National Planning Policy Framework (2012), Policies KP1, KP2, CP4 and CP8 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 3.3 16/01756/FULM - Demolish existing buildings and erect 20 self-contained flats with balconies and terraces, 445sqm of commercial floorspace, basement parking, public realm enhancements, associated works and install new vehicular access onto Victor Drive to 114-120 Broadway – refused for the following reasons:

01 The submission does not include a formal undertaking to secure an appropriate contribution to affordable housing provision to meet the demand for such housing in the area despite it having been found financially viable for the development proposed to make such a contribution. The application is therefore unacceptable and contrary to the National Planning Policy Framework; Strategic Objective SO7, and policies KP3 and CP8 of the Core Strategy (2007); and the advice contained within Supplementary Planning Document 2 Planning Obligations (2015).

02 The submission does not include a formal undertaking to secure an appropriate financial contribution to the provision of education facilities in the borough, to mitigate the demand for such facilities generated by the development proposed. The application is therefore unacceptable and contrary to the National Planning Policy Framework; Strategic Objective SO13, and Policies KP2, KP3 and CP6 of the Core Strategy (2007), and the advice contained within Supplementary Planning Document 2 Planning Obligations (2015).

4 Representation Summary

4.1 46 neighbouring properties were consulted, a site notice displayed and a press notice published. 1 letter of representation has been received raising the following summarised issues:

- Impact of neighbour amenity
- Loss of privacy and light
- Would like to see more details of what building would look like and its impact on surrounding area.

Officer Comment: These concerns are noted and those that represent material planning considerations have been taken into account in the assessment of the application. However, they are not found to represent a reasonable basis to refuse planning permission in the circumstances of this case

Highways Team

4.2 The applicant has provided a robust and detailed transport statement which includes TRICS data to support the application. 17 car parking spaces have been provided which exceeds policy standards for 15 dwellings the stacker car parking system is acceptable. The layout of the parking spaces ensures the vehicles can manoeuvre effectively. Secure cycle parking has also been provided. Access is via an existing access point on Victor Drive.

The applicant has proposed a loading bay as part of the development. The associated traffic regulation order will be funded by the developer at a cost of £4,000. All highway works including the loading bay construction, reinstatement of redundant crossovers and proposed tree planting will be carried out under a Section 278 agreement which the developer will be required to enter into with the Highways Section.

Subject to this agreement it is not considered the application will have a detrimental impact upon the highway network.

Environmental Health

4.3 No objections subject to conditions relating to noise report recommendations, plant noise restrictions, the requirement for a contamination Phase II remediation strategy, construction management plan including construction hours and waste management.

Parks

4.4 No objection to trees in the pavement – the developer should carry out the planting following agreement with the parks team.

The Arboricultural Impact Assessment (AIA) covers all the relevant points.

The trees on the adjacent site are moderate specimens. As stated in the AIA the development site is covered in hard surface so it is unlikely they will be significantly affected.

All works and procedures on site should adhere to those outlined in the AIA including inspection for any root damage.

Species of tree recommended for planting would be *Carpinus betulus* 'Frans Fontaine' or similar species tolerant of urban conditions and best suited to the site. These should be planted in a suitable root cell system to avoid damage to any paving and provide a suitable rooting environment for continued growth.

Education

- 4.5 This application falls within the catchment areas for Leigh North Street Primary and Belfairs Academy secondary schools. Both schools are full in most year groups. However, primary and secondary places are available at alternative schools within DfE acceptable travel distance. It is therefore proposed that no funds for education would be required.

Housing

- 4.6 It is acknowledged that the viability review report confirms that the scheme is at a deficit and therefore it is accepted that no commuted sum is viable for affordable housing.

SUDS Engineer

- 4.7 The information provided for the SuDS/Drainage Strategy is deemed sufficient for this stage in line with the Detailed Drainage Design Checklist. However, there are matters that will need to be addressed and submitted to SBC for review and approval during detailed design prior to construction through appropriately worded conditions.

Anglian Water

- 4.8
- The foul drainage from this development is in the catchment of Southend Water Recycling Centre that will have available capacity for these flows.
 - The sewerage system at present has available capacity for these flows.
 - The preferred method of surface water disposal would be to a sustainable drainage system (SuDS) with connection to sewer seen as the last option.

Historic England

- 4.9 No comments.

Essex Fire Service

- 4.10 Access for fire service purposes is considered satisfactory.

Essex Police

- 4.11 The proposal should embrace the principles of Secure by Design and the developer should seek accreditation for this.

Leigh Town Council

- 4.12 Objection - This proposal is a complete overdevelopment of the plot and will adversely impact upon the amenity of neighbouring residents, will harm the character and appearance of the wider area and will lead to a detrimental change of the street's function. It also does not protect the amenity of the site, immediate neighbours and surrounding area, having regard to privacy overlooking, outlook, noise and disturbance and pollution.

In addition it will have a huge impact on the Broadway and the surrounding area. We are aware the application meets the Southend Borough Council parking standards, but we feel that this proposal would cause huge amounts of additional parking stress. Access to the car park via Victor Drive is unsuitable and this road would be unable to accommodate the additional traffic flow safely. The deliveries to the ground floor commercial businesses could also cause an issue with blocking the road, as there is no parking available for this.

5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 National Planning Policy Guidance.
- 5.3 National Design Guide (2019)
- 5.4 Core Strategy (2007) Policies, KP1 (Spatial Strategy); KP2 (Development Principles); KP3 (Implementation and Resources); CP1 (Employment Generating Development); CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility); CP4 (The Environment and Urban Renaissance); CP6 (Community Infrastructure); CP8 (Dwelling Provision).
- 5.5 Development Management Document (2015) Policies DM1 (Design Quality); DM2 (Low Carbon Development and Efficient Use of Resources); DM3 (Efficient and Effective Use of Land); DM4 (Tall and Large Buildings), DM5 (Historic Environment); DM7 (Dwelling Mix, Size and Type); DM8 (Residential Standards); DM10 (Employment Sectors); DM15 (Sustainable Transport Management).
- 5.6 Technical Housing Standards – Nationally Described Space Standards (2015)
- 5.7 Southend Design & Townscape Guide (2009)
- 5.8 Vehicle Crossing Policy & Application Guidance (2014)
- 5.9 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.10 Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (2020)

6 Planning Considerations

- 6.1 The main considerations in relation to this proposal are the principle of the development; design and impact on the character of the area including the setting of the locally listed Grand Hotel and the Leigh Cliff Conservation Area; impact on the amenity of neighbouring buildings occupiers; standard of accommodation for future occupiers; traffic generation; access and parking implications; sustainable construction including the provision of on-site renewable energy sources; ecology impact including RAMs, CIL (Community Infrastructure Levy) and developer contributions and, in the above respects, whether this amended proposal satisfactorily overcomes the inspectors concerns in the recent planning appeal.
- 6.2 The appeal decision on this site reference APP/D1590/W/19/3232683 is a material planning consideration and can be considered to have significant weight. The full appeal decision is attached at Appendix 1.

7 Appraisal

Principle of Development

Proposed Mixed Use

- 7.1 The provision of new high quality housing is a key Government objective.
- 7.2 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.*
- 7.3 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*”.
- 7.4 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*”.

- 7.5 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.
- 7.6 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”*.
- 7.7 The site is now vacant but was most recently occupied by a hand car wash and retail unit. The proposal seeks to erect a mixed used development on the site comprising 280 sqm of commercial floorspace (Class E) at ground floor level with residential above.
- 7.8 Previous applications at this site, including the recent appeal, raised no objections to the principle of retail uses at ground floor and flats above. The recent change to the Use Classes Order in September 2020 has combined town centre uses, including retail, restaurant, offices, community and leisure uses into one use class (Class E), and this is now sought for the ground floor units. This change is in line with the Governments objective to allow more flexibility of uses within commercial centres and is considered reasonable for this site. The proposal for flats on the upper storeys has previously been found to be acceptable on this site including in the recent appeal and this judgement remains unchanged.
- 7.9 The principle of residential flats with commercial use at ground floor is therefore considered to be acceptable and the proposal is policy compliant in this regard

Residential Accommodation Mix

- 7.10 Policy DM7 states that *‘the Council will encourage new development to provide a range of dwelling sizes and types to meet the needs of people with a variety of different lifestyles and incomes.’* The Policy sets out the desired mix of dwellings types and sizes in all new major residential development proposals. This includes providing a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing. The desired mix for major schemes is as follows:

Preferred Private Market Dwelling Mix

No of bedrooms	1-bed	2-bed	3-bed	4-bed
Proportion of dwellings	9%	22%	49%	20%

- 7.11 Where a proposal significantly deviates from this mix the reasons must be justified and demonstrated to the Council. The policy also states that *‘the Council will look favourably upon the provision of family size housing on smaller sites, particularly where the surrounding building types provide an appropriate context for this type of development to be included within a scheme.’*

- 7.12 The recent appeal scheme proposed 17 units at the site made up of 17 units (6x1-bed (35%), 8x2-bed (47%) and 3x3-bed (18%). No objections were raised by the Council or the Planning Inspector to this mix of unit sizes. The current application is seeking 15 private market flats proposed comprising 7 x 1 bed (46.5%), 7 x 2 bed (46.5%) and 1 x 3 bed (7%). This is an increase in 1 bed units and a decrease in the larger 2 and 3 bed units, however on a scheme of this size the changes are more marginal in terms of numbers as only 1 additional 1 bed unit is proposed against a reduction of 1 x 2 bed and 2 x 3 beds. The change to the number of 3 beds is greatest but it is noted that the development at The Grand, for a similar number of units, was considered to be acceptable with no 3 bed units (1 x 1 bed and 17 x 2 bed). Whilst these cases are not directly comparable they are both mixed used developments on adjacent sites. Overall, therefore, in this location, the proposed mix can be considered acceptable.

Affordable Housing

- 7.13 Policy CP8 seeks an affordable housing provision of 20% for major residential proposals of 10-49 dwellings.
- 7.14 A viability statement has been submitted with the application which concludes that the scheme cannot viably provide any on-site affordable units or any off-site contributions towards affordable housing. The Council has had the viability statement submitted independently reviewed which similarly concludes that the scheme cannot support any affordable housing contributions. The independent review of the viability assessment states that having reviewed the benchmark land value, the build costs, the projected sales values and a developer profit of 17.5% the scheme would have a projected deficit of £0.03m. The independent appraisal therefore concludes that the scheme cannot support the provision of affordable housing.
- 7.15 In some instances, where it has been clearly identified that a site cannot support any affordable housing contributions, officers will recommend a review mechanism. However, in this case, as the Council does not have a specific planning policy requiring a review mechanism be imposed, taking into account the findings of recent appeal decisions, including at 10 Fairfax Drive (reference 17/01115/FULM) and given the scale of the development which would not require phased development or a protracted length of time to complete the development, such a review mechanism is not considered reasonable or appropriate in this instance.
- 7.16 The absence of affordable housing can therefore be considered to be justified and the proposal is acceptable and policy compliant in this regard.
- 7.17 Overall, therefore, it is considered that the principle of this type and mix of development in this location is consistent with the policies noted above and is acceptable subject to the detailed considerations set out below.

Design and Impact on the Character of the Area including the adjacent Leigh Cliff Conservation Area and locally listed Grand Hotel

- 7.18 Section 69 of the Planning (Listed Building and Conservation Areas) Act 1990 defines conservation areas as '*areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance*'.

In determining this application the Council has a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special attention should be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas.

- 7.19 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.'*
- 7.20 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."*
- 7.21 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."*
- 7.22 The previous application was dismissed at appeal because the inspector considered that the combination of the *'bulk, elevated position, angularity, and modernity - appear as visually jarring 'top boxes', which would noticeably contrast with the brick-faced, round-cornered, middle band of the proposed block, and the facades of the nearby LLB. Exterior frosted glass cladding would not prevent the combination of above factors drawing attention to the top storeys, and some reflectiveness would add to this harm. The above factors would, together, result in the building 'looming up' discordantly, when looking up Grand Drive and north-east along Broadway (para 17).'*
- 7.23 As noted in Section 2 above the inspector also raised concerns about the impact of the development on the surrounding heritage assets including views of and views out of the conservation area and in particular The Grand Hotel as well as the impact on the interconnection between the locally listed building and the estuary (paragraphs 18 and 19).
- 7.24 In order to address these concerns, the 4th floor previously proposed has been entirely removed and the set back of the 3rd floor from the south elevation has been increased by an additional 3.4m. This will result in a significant reduction in the scale of the development including on the profile of the development when seen from the Broadway to the west and on the scale and height of the building when approached from Grand Drive to the south. The development will also noticeably step down from the Grand View apartments to the north.

- 7.25 The proposed materials have also been amended for the upper floor from that previous proposed. The cladding initially proposed in this location on the appeal scheme has been replaced by brick to achieve a more harmonious scheme and to better relate to the surrounding historic townscape including the locally listed Grand Hotel.
- 7.26 Both these changes are considered to have positively responded to the Inspector's concerns. The reduced scale of the proposal will lessen its impact in the streetscene including in relation to views of and from the Grand Hotel particularly from Grand Drive to the south where the proposal will appear significantly reduced and from the conservation area to the west. The change in the materials to all brick at the upper levels has also materially changed the character of the development to be simpler such that it is not seeking to compete with the surrounding heritage buildings including the Grand Hotel.
- 7.27 These changes are therefore considered to have adequately addressed the concerns of the Inspector noted above.
- 7.28 The Inspector did not raise any concerns about the design of the building at the lower floors and the proposal remains very similar to the appeal scheme at these levels. The only material change is at ground floor where the second residential entrance has been removed from the Broadway frontage leaving all flats to be accessed from Victor Drive, and a realignment of the commercial space to be a consistent depth removing the setback previously proposed at the northern end adjacent to Grand View. These changes are considered to be minor and have resulted in no harm that would constitute a reason for the refusal of the application on design grounds.
- 7.29 Overall, therefore, the amended proposal is considered to have overcome the issues raised by the Inspector in the recent appeal such that the design, scale, form and materials of the proposal would have an acceptable impact on the streetscene including the setting and character of the conservation area and locally listed Grand Hotel and overall it is considered that the proposal would have a neutral impact on the heritage assets as the increase in scale over the existing development is balanced by the benefits of a well-considered and detailed design and improved enclosure to the streetscene. The proposal is therefore considered to be acceptable and policy compliant in respect of design, character and heritage matters subject to conditions relating to materials and detailed design of key elements.

Standard of Accommodation for Future Occupiers

- 7.30 Delivering high quality homes is a key objective of the NPPF.
- 7.31 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.

7.32 All new homes are required to meet the National Technical Housing Standards in terms of overall floorspace and bedroom sizes. The standards are as follows:

- Minimum property size for residential units shall be as follow:
 - 1 bedroom (2 bed spaces) 50sqm
 - 2 bedroom (3 bed spaces) 61sqm
 - 2 bedroom (4 bed spaces) 70sqm
 - 3 bedroom (5 bed spaces) 86sqm

- Bedroom Sizes: The minimum floor area for bedrooms to be no less than 7.5m² for a single bedroom with a minimum width of 2.15m; and 11.5m² for a double/twin bedroom with a minimum width of 2.75m or 2.55m in the case of a second double/twin bedroom.

7.33 The following is also prescribed:

- *Provision of a storage cupboard with a minimum floor area of 1.25m² should be provided for 1-2 person dwellings. A minimum of 0.5m² storage area should be provided for each additional bed space.*

- *Amenity: Suitable space should be provided for a washing machine and for drying clothes, as well as private outdoor amenity, where feasible and appropriate to the scheme.*

- *Storage: Suitable, safe cycle storage with convenient access to the street frontage.*

- *Refuse Facilities: Non-recyclable waste storage facilities should be provided in new residential development in accordance with the Code for Sustainable Homes Technical Guide and any local standards. Suitable space should be provided for and recycling bins within the home.*

- *Refuse stores should be located to limit the nuisance caused by noise and smells and should be provided with a means for cleaning, such as a water supply.*

- *Working: Provide suitable space which provides occupiers with the opportunity to work from home. This space must be able to accommodate a desk and filing/storage cupboards.*

7.34 The proposed flat sizes are as follows:

Flat	Area	Bed 1	Bed 2	Bed 3	Amenity
Flat 1 2 bed 4 person	79.4 sqm	16.6 sqm Width 2.75m	14.2 sqm Width 2.55m		3.5 sqm
Flat 2 2 bed 4 person	70 sqm	15 sqm Width 2.75m	12.9 sqm Width 2.55m		3.5 sqm
Flat 3 2 bed 4 person	79.2 sqm	18.1 sqm Width 2.75m	15.7 sqm Width 2.55m		3.5 sqm
Flat 4 1 bed 2 person	60 sqm	14.6 sqm Width 2.75m			3.5 sqm

Flat 5 1 bed 2 person Wheelchair unit	58 sqm	15.4 sqm Width 3.1m			5 sqm
Flat 6 1 bed 2 person	59 sqm	15.4sqm Width 3m			5sqm
Flat 7 2 bed 4 person	79.4 sqm	16.6 sqm Width 2.75m	14.2 sqm Width 2.55m		3.5 sqm
Flat 8 2 bed 4 person	70 sqm	15 sqm Width 2.75m	12.9 sqm Width 2.55m		3.5 sqm
Flat 9 2 bed 4 person	79.2 sqm	18.1 sqm Width 2.75m	15.7 sqm Width 2.55m		3.5 sqm
Flat 10 1 bed 2 person	60 sqm	14.6 sqm Width 2.75m			3.5 sqm
Flat 11 1 bed 2 person Wheelchair unit	58 sqm	15.4 sqm Width 3.1m			5 sqm
Flat 12 1 bed 2 person	59 sqm	15.4sqm Width 3m			5sqm
Flat 13 1 bed 2 person	57.9 sqm	11.8 sqm Width 3m			10 sqm
Flat 14 2 bed 3 person	69.6 sqm	13.3 sqm Width 3.1m	9.9.sqm Width 2.8m		15.3 sqm
Flat 15 3 bed 5 person	90 .1 sqm	12.7 sqm Width 3m	14.2 sqm Width 2.75m	8.1 sqm Width 2.1m	140 sqm

7.35 All of the proposed flats meet the minimum flat and bedroom sizes required by the technical space standards. The proposal is acceptable and policy compliant in this regard.

Outlook, Daylight and Sunlight for Future Occupiers

7.36 The plans show that all habitable rooms will be provided with sufficient windows and openings to provide adequate ventilation and outlook. A Daylight and Sunlight Assessment has been submitted to assess the standards of light within the proposed dwellings. This document concludes that 94% of rooms would meet or exceed the recommendations of the BRE guidelines in terms of the Average Daylight Factor. 3 rooms would fall below the recommended guidelines because of shadowing caused by balconies. In these cases, it is considered that the benefit of the balcony offsets the slightly reduced quality of light in the room. Overall, the results are considered to be acceptable and representative of an urban environment such as this. The proposal is acceptable and policy complaint in this regard.

M4(2) – Accessibility

7.37 Policy DM8 also requires all new dwellings to be accessible and adaptable to Building Regulations M4(2) standards with 10% of dwellings in major developments being suitable for wheelchairs and meeting M4(3) standards.

- 7.38 The Design and Access statement confirm that all units will meet M4(2) standards and that 2 units are wheelchair accessible units and will meet M4(3). All flats have access to a lift. There is 1 external disabled parking bay at ground floor to the rear of the building and one of the parking stackers at the southern end of the run will be wider to accommodate the second disabled parking space. The internal circulation areas and entrance doors also meet the required standards. The proposal is therefore acceptable and policy compliant in this regard. These requirements can be secured by condition.

Amenity Provision

- 7.39 All units have access to a private terrace of at least 3.5sqm and there are also two shared communal decks to the rear of approximately 160sqm. Subject to appropriate landscaping this will provide adequate amenity space for residents and the amenity provision for the site is therefore acceptable and policy compliant in this regard.

Noise

- 7.40 A Noise Assessment has been submitted which considers the site's prevailing noise climate and assesses potential noise impacts that may affect future occupiers particularly from the adjacent road. The assessment concludes that RW 6/12/6 glazing specification for (RW33)[acoustic glazing] for all habitable rooms combined with a trickle vent ventilation system, would address any potential noise concerns related to road traffic noise and would achieve the relevant internal standard in British Standard BS8233. These mitigation measures can be secured via a condition.
- 7.41 The noise assessment considers the noise potential from the proposed car stacking system. The report includes an example of a car stacking system but states that the exact details of this have not yet been confirmed. It also notes that the adjacent development has a similar stacking parking system that has not incurred any noise complaints. In relation to this issue the report concludes that, as the exact model for the stacking system has not been determined, a pre commencement condition should be imposed to require this information to be submitted prior to installation to demonstrate the impact and to ensure that the system has any mitigation measures necessary to prevent a nuisance for potential residents and neighbours. The Council's Environmental Health Officer has confirmed that this would be acceptable. The agent has agreed to a pre commencement condition in this regard.
- 7.42 In relation to the commercial units the agent has confirmed that they are seeking consent for an E use class which includes a range of town centre uses including retail, office, restaurant and leisure facilities although no details have been provided at this stage. It is therefore considered that a condition should be imposed to restrict noise from customers and any plant related to these units as well as a condition controlling plant to be installed e.g. in relation to restaurant or gym uses permitted within class E. Subject to these conditions, the proposal is considered to be acceptable in terms of noise and internal environment for new residents.
- 7.43 Overall, it is considered that the proposal will provide an acceptable standard of accommodation for future occupiers and is acceptable and policy compliant in this regard subject to the conditions noted above in relation to M4(2)/ M4(3) and noise mitigation.

Impact on Residential Amenity

- 7.44 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.”*
- 7.45 In relation to infill development Policy DM3 states *‘All development on land that constitutes 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’.*
- 7.46 The proposed development has its main length of frontages and outlook facing west and south. There are no upper level windows facing north on the northern elevation of the building except for two small windows at the southern end of the building within the projecting bay but these are further into the site and a significant distance from the neighbour to the north. The windows facing east are secondary windows to kitchens, bathrooms or corridors and are all denoted as being obscure glazed on the plans. There is also a door to the amenity deck at first floor level which would be behind the privacy screen.

Light and Outlook

- 7.47 The closest residential neighbour to the site is Grand View Apartments to the north. There is a separation distance of 3.5m – 5.1m between the proposed development and the south elevation of this neighbour. The proposal has a very narrow frontage on this side measuring only 7.7m. This is less than half the width of Grand View on this side and the same as the appeal proposal. The development would have a maximum height of 13.6m on its north elevation. This is almost 2m less than the appeal proposal which had an additional storey at its northern end. It therefore follows that the impact of the proposal will be less than the appeal scheme. No objections were raised by the Inspector in relation to the impact on this neighbour in relation to the appeal scheme in any regard.
- 7.48 A daylight and sunlight report has been submitted with the application. In relation to the impact on sunlight to Grand View Apartments it concludes that none of the windows in Grand View Apartments would receive sunlight levels below the BRE guidelines as a result of this development. In relation to daylight there are 5 out of 50 windows where the predicted reduction in daylight falls short of the guidelines but this shortfall is partly attributed to the shadowing impact of the existing overhanging balcony and the currently high levels of daylight as a consequence of the open site to the south. It is also noted that the windows affected are bedrooms which have a lower expectation for light than other habitable rooms and that in a number of instances they are not the sole source of light to the rooms they serve. Overall, the scheme has a reduced impact on daylight and sunlight to neighbouring properties than the previous scheme which was considered to be acceptable by the Council and the Planning Inspector. This aspect of the proposal therefore remains acceptable and the proposal is policy compliant in this regard.
- 7.49 It is also judged that, in this urban context, the appeal scheme proposal would not be harmfully overbearing on this neighbour and this remains the case for the current proposal which is of a smaller scale and impact in this regard. Similarly, the impact on 5-7 Victor Drive in terms of light and outlook remains acceptable.

Overall, therefore, it is considered that the proposal would not have an unacceptable impact on the daylight and sunlight to neighbouring properties or their amenity areas and is acceptable and policy compliant in this regard.

Privacy and Overlooking

- 7.50 As noted above the only upper-level windows on the northern elevation of the development are at the southern end of the site where it turns the corner into Victor Drive. These are approximately 30m from the northern boundary so there will be no material overlooking of Grand View apartments. There are a number of windows at all levels on the east elevation facing the amenity areas of 5-7 Victor Drive however, as noted above, the windows here are all proposed to be obscure glazed and fixed shut. An obscure glazed privacy screen of 1.8m is also proposed around the first floor amenity area to prevent overlooking to the east. Further privacy screens are also proposed to prevent inter looking between the amenity areas at 3rd floor. Subject to a condition requiring the retention of obscure glazing as proposed and the details of all privacy screens to be agreed, the proposal is considered to be acceptable and policy compliant in regard to the privacy of neighbours. This is the same conclusion as the appeal scheme which had a similar arrangement of windows and terraces.

Noise

- 7.51 The proposed car stackers and the ground floor commercial space both have the potential to generate noise which could impact on neighbouring occupiers as well as the future occupants of the building. As noted above, as the details of the proposed car stacker system is not known at this time the agent has agreed to a pre commencement condition which requires that an addendum to the noise report be provided to assess this impact and provide any necessary mitigation to ensure that this does not cause harm to the proposed future and neighbouring occupiers.
- 7.52 Similarly, conditions can be used to ensure that any noise from the commercial space such as from plant or customers does not result in harm to the amenities of neighbours and new residents.
- 7.53 Overall, therefore, subject to these conditions relating to obscure glazing, screens and noise control, the proposal is considered to have no unacceptable impacts on the amenities of neighbouring occupiers and the proposal is acceptable and policy compliant in this regard.

Traffic and Transportation Issues

- 7.55 Policy CP3 of the Core Strategy seeks to widen travel choice and improve road safety. Policy DM15 states that *'Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner.'*
- 7.56 In relation to parking, Policy DM15 of the Development Management Document states that one off-street parking space should be provided for each dwelling however it notes that *'Residential vehicle parking standards may be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/ or where the rigid application of these standards would have a clear detrimental impact on local character and context.'*

- 7.57 Policy DM15 requires new residential flats to provide a minimum of 1 secure cycle space per unit. Additional cycle spaces are required to serve the commercial units.
- 7.58 Policy DM15 requires all major developments to accommodate servicing and emergency vehicle access.

Access and Servicing

- 7.59 It is noted that there are a full range of facilities, amenities and services including a variety of public transport modes within walking distance of the site. It is therefore recognised as being in a highly sustainable location.
- 7.60 The proposal site will be accessed by vehicles from the existing vehicular access in Victor Drive to the south. The two other existing vehicular accesses to the site's Broadway frontage will be removed as part of the development. A loading bay to serve the commercial development is proposed to the Broadway frontage. At least 1.8m of clear footway will be maintained between the loading bay and the colonnade of the building. Pedestrians will also be free to walk under the overhang of the building and the Transport Statement comments that the layby has been designed so this could be used as a shared surface allowing pedestrians to traverse when deliveries are not being undertaken. 4 new street trees and 5 visitor cycle hoops are also proposed on the pavement to the front of the site.
- 7.61 The Council's Highways Officer has no objections to the proposed alterations within the footway subject to the agreement of detailed construction/planting details and amendment of the existing traffic regulation order. These can be secured by a Section 278 Highways Agreement. The agent has agreed to a condition requiring the details of this agreement to be approved prior to the commencement of the development.
- 7.62 Subject to this condition the proposal is therefore considered to be acceptable and policy compliant in relation to access and servicing arrangements.

Traffic Generation

- 7.63 A Transport Statement has been submitted with the application. This concludes that there will be a reduction in vehicular trips over the course of a day. This is made up of a negligible increase in vehicular trips during the AM peak hour, and a reduction in vehicular trips in the PM peak hour and a reduction over the course of a typical day as compared to the existing uses on site including the car wash and the commercial unit. The Council's Highway Officer concurs with this and has not raised any objections on traffic generation or highway safety grounds. The proposal is therefore considered to be acceptable and policy compliant in this regard.

Car Parking

- 7.64 The proposed development provides 17 parking spaces, arranged as 8 double car stackers (including 1 wider stacker to accommodate a disabled parking space) and 1 additional surface level disabled space, to serve the development which has 15 flats. This equates to 1 per unit and two additional spaces for the residential units. No off street car parking spaces are proposed to serve the commercial units.

The appeal scheme proposed 17 spaces including 1 disabled space for 17 residential units and no parking spaces for the commercial unit. This was considered to be acceptable by the Council and the Planning Inspector. It therefore follows that the same arrangement for a reduced number of units (15) would also be acceptable. The proposal is therefore policy compliant in terms of car parking for the residential development.

Travel Packs

- 7.65 As the proposal relates to over 10 units, Travel Packs are required for all new residents to encourage sustainable travel choices. The details and provision of these can be secured by condition.

Cycle Parking

- 7.66 Development Management Document Policy DM15 requires a minimum of 1 secure cycle space per flat. Secure cycle parking for 23 cycles, more than 1 per residential unit, is proposed at ground floor level within the building. The plans show the location to be convenient and secure for users. This element of the proposal is therefore considered to be acceptable and policy compliant. No cycle parking is proposed for the commercial units within the building, however, 5 Sheffield cycle stands to serve visitors are proposed within the pavement to the front of the site. These can be secured via the Section 278 Highways Agreement. The cycle parking provision for the development is therefore considered to be acceptable and the proposal is policy compliant in this regard.

Refuse and Recycling

- 7.67 Separate refuse storage for the residents and the commercial units is provided within the building with access from Victor Drive which can each accommodate 4 x 1240ltr Euro bins. This is considered to be an acceptable and accessible location. A construction waste management plan has been submitted with the application but no information has been received in regard to the day to day management and collection of waste or how the proposal intends to provide for and encourage recycling. However, it is considered that a Waste Management Plan could be conditioned to ensure that the proposal meets the requirements of the Council's guidance in this regard. Subject to this condition the refuse storage arrangements are considered to be acceptable.

Construction Management Plan

- 7.68 Given the scale and location of the development it will be necessary for a construction management plan to be submitted to ensure that the free flow of traffic is not disrupted and to control dust and nuisance during construction. This can be required by a pre commencement condition. It is noted that some information has been submitted in relation to the control of waste following demolition but this does not constitute a full construction management plan.
- 7.69 Overall, subject to the above conditions in relation to the Section 278 Agreement, provision of cycle and refuse stores, a waste management plan and a construction management plan, the proposal would have an acceptable impact on traffic and transportation and the proposal is policy compliant in this regard. It is noted that this conclusion is consistent with the appeal decision which raised no objections in relation to traffic and highways for a larger scale of development.

Sustainability

- 7.70 Sustainable development is a key objective of the NPPF.
- 7.71 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.
- 7.72 The submitted proposals are supported by a BREEAM Pre Assessment report which predicts the development will meet the ‘Very Good’ standard and a Sustainability and Energy Report which proposes to install an array of photovoltaic (PV) panels on the roof to provide renewable energy for the development. The strategy has also applied a ‘be lean’ and ‘be clean’ approach to the build which will reduce the overall demand for energy. Energy calculations for the whole development have not been provided so it is not possible to ascertain what area of PVs will be enough to meet the 10% policy requirement; however, it is considered that given the extent of flat roof available the required amount will be achievable. The final details for the renewables can therefore be agreed via a condition. The proposal also makes a commitment to reduced water consumption in line with policy DM2. The proposal is therefore acceptable and policy compliant subject to this condition.

Drainage

- 7.73 The site is located in Flood Risk Zone 1 (low risk). 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.
- 7.74 A Drainage Strategy has been submitted with the application. This states that the proposed roof terraces will be drained via a podium deck drainage system (BluRoof or similar) which includes a water storage layer and flow restrictors and routes via a further storage tank within the parking area to enable the flow of rainwater into the system to be controlled. The report demonstrates that this will withstand the impact of a 1:100 year rainfall event plus climate change. The Council’s Drainage Engineer is supportive of this approach but considers that further details need to be submitted in relation to infiltration testing, more detailed calculations of flow rates, how exceedance flows will be managed and future management and maintenance. It is considered that these requirements can be secured via a condition.
- 7.75 In summary, subject to imposition of conditions, the sustainable construction implications would be acceptable and policy compliant.

Contaminated Land

- 7.76 The site has been in use as a car wash and prior to this a petrol filling station so a Phase 1 Contamination Desk Study and Preliminary Risk Assessment has been undertaken in support of the application to consider the potential for contamination on site.

This assessment concludes that there is a likelihood of buried fuel tanks and associated contaminants on the site which will require removal and remediation. The Council's Environmental Health Officer has reviewed the report and recommends that further investigation and a plan for remediation is agreed. This can be achieved with a prior to commencement condition. Subject to this the proposal is acceptable and policy compliant in this regard.

Impact on Trees

- 7.77 There are no existing trees on the site but there is a large Monterey Cypress tree in the north west corner of the garden of 5 Victor Drive adjacent to the site boundary. The plans show a distance of over 5m between the tree and the proposed amenity deck and over 11m to the main building. An arboricultural impact statement has been submitted with the application. This comments that some works will be required to trim the crown of the tree to enable construction of the development but overall the tree should not be compromised by the development as the existing hardsurfacing on the site close to this boundary means that it is unlikely that there are significant roots encroaching onto the site. Therefore, the tree is not under threat from this proposal. The Council's Arboricultural Officer has confirmed that this is a reasonable conclusion. The site hoarding in this location should provide sufficient protection for this tree.
- 7.78 As noted above the scheme also proposes to plant 4 new trees on the pavement to the west and south of the building. These will soften the visual impact of the development and enhance the streetscene generally and are welcomed. The Council's Arboricultural Officer has suggested that *Carpinus betulus* 'Frans Fontaine' or similar species tolerant of urban conditions would be suited to the site. These trees can be secured as part of the Section 278 Highways agreement.
- 7.79 The proposal is therefore considered to be acceptable and policy compliant in regard to impact on trees.

Ecology

- 7.80 Core Strategy policy KP2 and Development Management Document Policy DM2 requires development to respect, conserve and enhance biodiversity. The site itself has no ecological designation or features however it 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). 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), was adopted by Full Council on 29th October 2020, and 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. This has been paid.
- 7.81 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.

Community Infrastructure Levy and Developer Contributions

- 7.82 Paragraph 56 of the NPPF states that *‘Planning obligations must only be sought where they meet all of the following tests:*
- (a) Necessary to make the development acceptable in planning terms;*
 - (b) Directly related to the development; and*
 - (c) Fairly and reasonably related in scale and kind to the development.*
- 7.83 Paragraph 57 of the NPPF states *‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.’*
- 7.84 The National Planning Practice Guide makes it clear that *‘Where local planning authorities are requiring affordable housing obligations or traffic style contributions to infrastructure, they should be flexible in their requirements...On individual schemes applicants should submit evidence on scheme viability where obligations are under consideration.’*
- 7.85 Core Strategy Policy KP3 requires that:
- “In order to help the delivery of the Plan’s provisions the Borough Council will:*
- 2. Enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed.*
- This includes provisions such as; a. roads , sewers, servicing facilities and car parking; b. improvements to cycling, walking and passenger transport facilities and services; c. off-site flood protection or mitigation measures, including sustainable drainage systems (SUDS); d. affordable housing; e. educational facilities; f. open space, ‘green grid’, recreational, sport or other community development and environmental enhancements, including the provision of public art where appropriate; g. any other works, measures or actions required as a consequence of the proposed development; and h. appropriate on-going maintenance requirements.”*
- 7.86 The need for negotiation with developers, and a degree of flexibility in applying affordable housing policy, is echoed in Core Strategy policy CP8 that states the following:
- The Borough Council will...enter into negotiations with developers to ensure that:*
- all residential proposals of 10-49 dwellings or 0.3 hectares up to 1.99 hectares make an affordable housing or key worker provision of not less than 20% of the total number of units on site...*
- For sites providing less than 10 dwellings (or below 0.3 ha) or larger sites where, exceptionally, the Borough Council is satisfied that on-site provision is not practical, they will negotiate with developers to obtain a financial contribution to fund off-site provision. The Council will ensure that any such sums are used to help address any shortfall in affordable housing.*

- 7.87 Furthermore, the responsibility for the Council to adopt a reasonable and balanced approach to affordable housing provision, which takes into account financial viability and how planning obligations affect the delivery of a development, is reiterated in the supporting text at paragraph 10.17 of the Core Strategy and paragraph 2.7 of “Supplementary Planning Document: Planning Obligations”

Community Infrastructure Levy (CIL)

- 7.88 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 1801.50sqm which may equate to a CIL charge of approximately £120,002.35 (subject to confirmation). Any existing floor area that is being retained/demolished that satisfies the ‘in-use building’ test, as set out in the CIL Regulations 2010 (as amended), may be deducted from the chargeable area thus resulting in a reduction in the chargeable amount.

Planning Obligations and Developer Contributions

- 7.89 As noted above the independent review of the submitted viability appraisal confirmed that the proposal is unable to support the provision of affordable housing. The Council’s Education Team has also confirmed that there is no requirement for a contribution to secondary education because the catchment school, Belfairs Academy, has a surplus of places. As noted above the changes to the highway, including the loading bay, amendment to the traffic regulation order, reinstatement of redundant vehicular accesses, new street trees and cycle hoops can be secured via a Section 278 Highways Agreement which can be required by a planning condition. Similarly travel packs for the occupants of the new flats can also be secured via condition. The only other item which could be included in a Section 106 legal agreement is the RAMS payment however the agent has confirmed that this will be paid under the direct payment option. This has been paid so there is therefore no requirement for a S106 legal agreement in this instance. Subject to the RAMS payment, and conditions relating to the Section 278 agreement and travel packs the proposal is considered to be acceptable and policy compliant in terms of planning obligations.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development including the proposed mix of uses and flat sizes is considered to be acceptable. The amended design has satisfactorily overcome the Inspectors concerns in relation to design and heritage impacts. The proposal has an acceptable impact on the character, appearance and setting of the site, nearby locally listed buildings and the conservation area more widely, it will provide an acceptable standard of accommodation for future occupiers and does not result in any unacceptable impacts on the amenities of neighbouring properties. Subject to a Section 278 Highways Agreement, which can be secured by condition, the proposal will have an acceptable impact on traffic and transportation. The proposal is also acceptable in terms of sustainability, ecology, impact on trees and planning obligations. This application is therefore recommended for approval subject to conditions.

9 Recommendation

9.1 MEMBERS ARE RECOMMENDED TO GRANT PLANNING PERMISSION subject to the following conditions:

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

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

02 The development hereby permitted shall be carried out in accordance with the following approved plans 001.01, 200.12, 201.07, 202.11, 203.11, 204.14, 205.08, 206.09, 210.02, 211.02

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

03 No development approved by this permission shall be commenced unless and until the Local Planning Authority has approved in writing by way of a Section 278 Highways Agreement a full scheme of highway works (including detailed designs and contract details) and the relevant highways approvals are in place, in relation to the proposed loading bay, alterations to the existing accesses including reinstatement of redundant crossovers on Broadway, amended traffic regulation order, planting specifications and details of 4 new street trees and details of the 5 new visitor cycle hoops. The works shall thereafter be undertaken in accordance with the approved details and completed prior to occupation of the development hereby approved.

Reason: A pre commencement condition is required in the interests of highways management, the character of the area and safety in accordance with Core Strategy (2007) policies KP2, CP3 and CP4 and Development Management Document (2015) policies DM1, DM3 and DM15 and the advice contained within the Southend Design and Townscape Guide (2009).

04 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition and construction up to ground floor slab level shall take place unless and until full product details of the materials to be used on all the external elevations, including walls, inset balconies and projecting windows, roof and roof terraces, coping, windows and doors, shopfront, colonnade, fascia and soffits, balcony balustrades and screens, bin and cycle store doors, entrance gates, rainwater goods and boundaries have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before it is brought into first use.

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

05 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition above slab level shall take place unless and until full detailed design drawings and cross sections of the residential entrance and shopfronts including approach to signage, window surrounds including brick and stone detailing, balustrades design, reveals, parapet details and rainwater drainage solution at a scale of 1:20 or 1:10 as appropriate have first been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details before it is brought into use.

Reason: In the interest of the visual amenities and character of the area and adjacent conservation area, and to protect the amenities of surrounding occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015).

06 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works other than demolition above slab level shall take place until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the local planning authority. The approved hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include, but not limited to:-

- i. Existing and proposed finished site levels or contours;**
- ii. means of enclosure, of the site including any gates or boundary fencing including to the roof top terrace areas;**
- iii. hard surfacing materials including for the amenity terraces and under the colonnade to the front;**
- iv. minor artefacts and structures (e.g. furniture, planters, lighting, etc.) including lighting of the colonnade to the front and main entrance;**
- v. details of the number, size and location of the trees, shrubs and plants to be planted together with a planting specification**
- vi. details of measures to enhance biodiversity within the site;**

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: To safeguard character and appearance of surrounding area in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the Design and Townscape Guide (2009).

07 The development shall not be occupied until 17 car parking spaces, of which not less than 2 shall be for disabled users, have been provided at the site and made available for use solely for occupiers of the residential units hereby approved and their visitors all in accordance with drawings reference 200.12 and 211.02 together with properly constructed vehicular access to the adjoining highway, and the reinstatement of existing redundant crossovers in Broadway all in accordance with the approved plans. The parking spaces shall be permanently retained thereafter solely for the parking of occupiers of and visitors to the development.

Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy CP3 of the Core Strategy (2007) and Policy DM15 of the Council's Development Management Document (2015).

08 The development shall not be occupied until at least 15 secure, covered cycle parking spaces to serve the development as shown on drawing 200.12 have been provided at the site and made available for use in full accordance with the approved plans by occupiers of the units hereby approved and their visitors. The approved scheme shall be permanently retained thereafter.

Reason: To ensure that adequate cycle parking is provided and retained to serve the development in accordance with Policies CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

09 The development shall not be occupied unless and until the commercial and residential refuse stores that serve the development as shown on drawing 200.12 have been provided at the site in full accordance with the approved plans and made available for use by occupiers of the residential and commercial units hereby approved. The approved scheme shall be permanently retained for the storage of waste and recycling thereafter.

Reason: To ensure that adequate refuse and recycling storage is provided and retained to serve the development in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM8 and DM15 of the Development Management Document (2015).

10 Prior to the first occupation of any dwelling, details of the Residential Travel Packs shall be submitted to and approved in writing by the local planning authority. The approved travel packs shall then be provided to each dwelling within 1 month of their first occupation.

Reason: In the interests of sustainability in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policy DM15, and Design and Townscape Guide (2009).

11 The development shall not be occupied or brought into use until a waste management plan and service strategy has been submitted to and agreed in writing by the Local Planning Authority. The waste management and servicing of the development shall thereafter only be carried out in accordance with the approved details and maintained in perpetuity.

Reason: To ensure that the development is satisfactorily serviced and that satisfactory waste management is undertaken in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015).

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

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding
- v. measures to control the emission of dust, noise and dirt during construction
- vi. a scheme for recycling/disposing of waste resulting from demolition and construction works that does not allow for the burning of waste on site.
- vii. Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.

Reason: A pre commencement condition is required in the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policy CP4 of the Core Strategy (2007) and Policy DM1 of the Development Management Document (2015).

13 Before any of the residential units hereby approved are first occupied or brought into use, the development hereby approved shall be carried out in a manner to ensure that 2 of the flats hereby approved comply with building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 13 flats comply with building regulation M4(2) 'accessible and adaptable dwellings standard.

Reason: To ensure the residential units hereby approved provides high quality and flexible internal layouts 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 DM2 and the Design and Townscape Guide (2009).

14 Notwithstanding the details shown in the plans submitted and otherwise hereby approved, the development hereby granted consent shall not be occupied or brought into use unless and until plans are submitted to the Local Planning Authority and approved in writing which clearly specify all the windows and other openings in the development that are to be permanently glazed with obscured glass and fixed shut or provided with only a fanlight (or other similar) opening and the manner and design in which these windows and openings are to be implemented. The development hereby permitted shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use and shall be permanently retained as such thereafter. The windows included within such agreed scheme shall be glazed in obscure glass which is at least Level 4 on the Pilkington Levels of Privacy. The windows shall be retained in accordance with the agreed details in perpetuity thereafter.

Reason: To avoid overlooking and the resultant loss of privacy of the adjoining residential properties, in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, and Development Management Document (2015) Policy DM1 and advice contained within the Design and Townscape Guide (2009).

15 No development shall take place above ground floor slab level until details of the design and specification of the privacy screen to the east terrace and the privacy screens to the terraces at 3rd floor level have been submitted to and approved in writing by the local planning authority. The development shall be carried out solely in accordance with the approved details before it is first occupied and shall be retained as such in perpetuity.

Reason: To protect the privacy and environment of people in 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).

16 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works above the ground floor slab level shall take place unless and until a scheme detailing how at least 10% of the total energy needs of the development will be supplied using on site renewable sources has been submitted to and agreed in writing by the Local Planning Authority. The renewables shall be implemented in full in accordance with the approved details prior to the first occupation of the dwellings. This provision shall be made for the lifetime of the development.

Reason: In the interests of providing sustainable development in accordance with Policy KP2 of the Core Strategy (2007) and Development Management Document (2015) Policy DM2.

17 Prior to occupation of the flat 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 the Design and Townscape Guide (2009).

18 Prior to the commencement of development an instructive investigation (Phase

II Site Investigation) must be undertaken in order to quantify and remediate the risks identified by the Phase 1 Site Investigation by Geo- Environmental Assessment (Desk Study & Ground Investigation) Report Ref: P9093J631 of July 8, 2015. The submitted phase II report shall include:

- i. Details of all measures to be undertaken to make the site suitable for the intended use, including a timeframe for the works.**
- ii. Confirmation that all underground fuel storage tanks will be removed from the site by a suitably qualified contractor and disposed of off site. Validation soil samples from areas around the tank(s) must be tested to ensure that they are suitable to be left in-situ and the results provided to the Council.**
- iii. Confirmation that all hydrocarbon contaminated soil will be excavated to the appropriate depth and disposed off-site to a facility licensed by the Environment Agency. The waste transfer certificate must be included in the validation report.**
- iv. Confirmation that all imported soil for any backfilling operations must be suitable for the intended use and certified to the CLEA or any other relevant standard.**
- v. Prior to commencement of development, the Validation Report must be submitted to the Local Planning Authority for approval. The Validation Report must contain details of the remediation measures undertaken to make the site suitable for use including their effectiveness. The report must also contain details of the volume of soil removed from the site (including any waste transfer certificate) and the volume of imported soil to the site (including their chemical contents).**
- vi. If during the development, land contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further works shall be carried out until a method statement detailing a scheme for dealing with suspect contamination has been submitted to and agreed in writing with the Local Planning Authority. Any such works shall then be undertaken and completed solely in accordance with the agreed method statement.**

Reason: A pre commencement condition is necessary to ensure that any contamination on the site is identified and treated so that it does not harm anyone who uses the site in the future, and to ensure that the development does not cause pollution to Controlled Waters in accordance with Core Strategy (2007) Policies KP2 and CP4 and Policies DM1 and DM14 of the Development Management Document (2015).

19 All the noise mitigation measures outlined in Section 7 of the Noise Impact Assessment by Cambridge Acoustics reference 1009.20 dated 10th September 2020 to protect future residents of the building from the impact of vehicular noise along Broadway and the surrounding area must be implemented in their entirety prior to occupation of any of the residential units hereby approved to achieve an internal noise level which meets British Standards BS 8233:2014 criteria. The approved measures implemented shall be maintained in perpetuity.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers and to protect the character the area in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

20 Prior to the commencement of the development hereby approved, full details of the proposed car stacking system, including provision for a wider unit to accommodate 1 disabled space within this system, together with a report detailing any mitigation measures proposed in respect of noise impacts of this system shall be submitted to, and approved in writing by, the Local Planning Authority. The installation of the car stacking system shall be carried out in full accordance with the approved details, including any noise mitigation measures to be undertaken in association with the agreed details, and made available for use prior to first occupation of any of the residential units hereby approved. With reference to British Standards BS4142 the noise rating level arising from all plant and car stacking equipment shall be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

Reason: A pre commencement condition is required in order to protect the amenities of the surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

21 No deliveries or refuse collection shall be taken at or despatched from the ground floor Class E use hereby permitted outside the hours of 07:00 to 20:00 hours Mondays to Saturdays and 09:00 to 18:00 hours on Sundays nor at any time on Bank or Public Holidays.

Reason: In order to protect the amenities of occupiers of the development surrounding occupiers in accordance with policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015)

22 The non-residential Use Class E units hereby approved shall not be open for customers outside the following hours: - 0700 hours to 2200 hours on any day.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework, Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

23 No plant or ventilation equipment for the proposed non-residential uses hereby approved shall be installed until and unless full details of its location, design and technical specifications and a report detailing any mitigation measures proposed in respect of noise impacts on the nearest noise sensitive properties has been submitted to, and approved in writing by, the Local Planning Authority. The installation of the plant and ventilation equipment shall be carried out only in full accordance with the approved details and specifications and any noise mitigation measures undertaken in association with the agreed details before the plant and ventilation equipment is brought into use.

With reference to British Standards BS4142 the noise rating level arising from all

plant and ventilation equipment shall be at least 5dB(A) below the prevailing background at 3.5 metres from the ground floor facades and 1m from all other facades of the nearest noise sensitive property with no tonal or impulsive character.

Reason: To protect the amenities of the occupiers from undue noise and disturbance in order to protect their amenities in accordance with Core Strategy (2007) policies KP2 and CP4, Policies DM1, DM3 and DM8 of the Development Management Document (2015) and Design and Townscape Guide (2009).

24 Notwithstanding the details submitted within the Flood Risk Statement and SUDS Strategy by Ardent Consulting reference V674-02 dated Sept 2020 and on the plans otherwise hereby approved no drainage works shall be constructed at the site until a detailed design of a surface water drainage for the site, including the additional details specified below, has been submitted to and agreed in writing with the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme shall be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- i. Further justification for discarding infiltration based on site investigation (including soakaway testing if applicable). Even if total infiltration is unlikely, the applicant should consider partial infiltration where possible, considering the deterioration of groundwater quality and ground stability if required;
- ii. Justification for not using rainwater harvesting, rain gardens and trees; and consider, where possible, these systems. The applicant should outline the location of podium deck attenuation on the Preliminary SuDS / Surface Water Drainage Strategy (V674-003);
- iii. A catchment plan with all areas positively draining into the proposed drainage system;
- iv. Outline conveyance routes from the rainwater downpipes to the proposed below-ground surface water drainage network on the Preliminary SuDS / Surface Water Drainage Strategy (V674-003);
- v. Overland flow paths on a plan based on the proposed levels design (that ensures people and property are protected during an exceedance or failure event);
- vi. A review of the runoff rate and storage calculations in further detail and provide clarity on:
 - a. ○ The evidence of the runoff rate calculations made for the existing site and proposed site. This should include evidence that the existing site was already connected into the sewer.
 - b. ○ It is noted that the proposed discharge rates in Table 5.1 of the FRS are not in line with the calculation results in the appendices. This requires clarification.
 - c. ○ The impermeable areas considered within the calculations, ensuring they are consistent with the FRS.
 - d. ○ Detailed hydraulic calculations for the proposed network.
- vii. Water quality analysis following the Simple Index Approach (or other acceptable method) to ensure water quality metrics are met (utilising proprietary treatment systems where necessary);
- viii. Evidence of health and safety management for the proposed drainage/SuDS;
- ix. A strategy for information delivery and community engagement (if applicable);

- x. **A valuation of the proposed drainage designs (if applicable);**
- xi. **CEMP prior to construction;**
- xii. **Confirm the details of the management company and the proposed maintenance schedule for the drainage system;**
- xiii. **Details of the foul water drainage strategy for the The applicant should provide construction details outlining the connection to the existing Anglian Water surface water sewer at manhole 6951. site; and**
- xiv. **Construction details outlining the connection to the existing Anglian Water surface water sewer at manhole 6951.**

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 policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

25 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the building hereby approved:

- i. **The installation of any structures or apparatus for purposes relating to telecommunications on any part the roof of the buildings hereby approved, including any structures or development otherwise permitted under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any equivalent Order amending, revoking or re-enacting that Order**

Reason: To ensure that the development does not impact adversely on the townscape and character of the adjacent conservation area and to ensure the Local Planning Authority can control the development in the area so that it accords with policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

26 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).

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 advised that the appropriate highways licences should be obtained prior to the commencement of the development.

04 In relation to Condition 03, you are advised to contact Highways Engineer Martin Warren (Tel 01702 534328) to discuss the requisite 278 Highways Agreement and any associated Highways Licence. You are advised that a Highways Licence needs to be in place before any works are carried out to the public highway and you will need to employ a Council approved contractor to carry out any works.

05 The applicant is advised that the Council Parks Section have recommended that the species of tree most suitable for planting in the Highway would be *Carpinus betulus* 'Frans Fontaine' or similar species tolerant of urban conditions. These should be planted in a suitable root cell system to avoid damage to any paving and provide a suitable rooting environment for continued growth. Full details will need to be agreed as part of the required Section 278 Highways Agreement.

06 The applicant is encouraged to include electric vehicle charging points at the site which is in accordance with Policy DM15 which encourages their provision wherever practical and feasible.

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