

<b>Reference:</b>	21/00312/FUL
<b>Application Type:</b>	Full Application
<b>Ward:</b>	Kursaal
<b>Proposal:</b>	Demolish upper floors, erect three storey building over existing ground floor restaurant to form 9no. self-contained flats with balconies to rear and associated bin and cycle storage
<b>Address:</b>	Wimpy, 40B - 42 Marine Parade, Southend-On-Sea
<b>Applicant:</b>	Mr G Gill
<b>Agent:</b>	Mr Andrew Cooke of Dovetail Architects Ltd
<b>Consultation Expiry:</b>	1st April 2021
<b>Expiry Date:</b>	4th June 2021
<b>Case Officer:</b>	Spyros Mouratidis
<b>Plan Nos:</b>	4083_L01, 4083_PL01, 4083_PL02, 4083_PL03, 4083_PL04, 4083_PL05, 4083_PL06, 4083_PL07, 4083_PL08, 4083_PL09, 4083_PL10
<b>Supporting Documents:</b>	Design & Access Statement, Flood Risk Sequential Test Assessment, Flood Risk Assessment 2614/RE/12-20/01, Transport Statement 2007980-01, Environmental Noise and Noise Impact Assessment LA/1729/02R/ML
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b> subject to conditions



## **1 Site and Surroundings**

- 1.1 The site is located on the northern side of Marine Parade, at its junction with a private road, locally known as Strutt Way, within the central seafront of Southend and it is occupied by a part single, part two and part four-storey building. At ground floor there is currently a restaurant (Wimpy) and the upper floors are partially used by the restaurant and partially as an existing residential unit. The entirety of the site is hardsurfaced or developed and there is no car parking provision. Access to the site is available from its frontage, from Hartington Road to the west via an alleyway and the private unnamed road to the east.
- 1.2 To the north, there are residential properties, with Jubilee Cottages being nearer to the site. To the east and west there are commercial properties with offices or residential units above. Marine Parade in this area has a town centre character with many leisure and commercial uses at ground floor level. On the opposite side of Marine Parade there is public open space and the beach.
- 1.3 The area is within the designated Central Seafront Policy Area according to the Southend Central Area Action Plan. The site and its vicinity are within Flood Zone 3. The building at the western end of the parade, the Cornucopia Public House, is a locally listed building. In the vicinity of the site there is also another locally listed building, the Falcon Public House, and a Grade II statutory Listed Building, the Hope Hotel.

## **2 The Proposal**

- 2.1 Planning permission is sought for the enlargement of the upper floors of the building to accommodate nine (9no.) self-contained flats over three-storeys, including the loft space. The existing upper floors would be demolished to make way for the proposal. The built form above the ground floor on site would be extended to measure up to 16.8m deep at first floor and up to 15.3m deep above by up to 14.1m wide. The proposed roof would have a maximum height of 13m, the same maximum height of attached neighbouring buildings. The rear part of the proposed upper floors would accommodate terraces and balconies. The materials to be used on the proposed development would match the external appearance of those already in use on site.
- 2.2 The proposal would result in the loss of the commercial use at first floor level and part of the rear of the ground floor, creating a smaller commercial unit. The existing apparatus on the roof of the ground floor would be removed to accommodate the residential part of the development. The proposed housing mix would include three studio units, five flats with one bedroom and one flat with two bedrooms. The three flats facing towards the north would benefit from terraces and a balcony. Access to the upper floors would be taken from the rear part of the site. Bin storage and nine cycle parking spaces would be provided to the rear.

## **3 Relevant Planning History**

- 3.1 Although the site was the subject of previous planning applications, these relate to ground floor extensions, shopfront replacements and signage, and are not considered to be relevant to the determination of the current proposal. The relevant planning history of the site is shown on Table 1 below:

**Table 1: Relevant Planning History of the Application Site**

Reference	Description	Outcome [Date]
20/01549/PREAPF	Redevelopment of upper floors to form eight additional self-contained flats.	Response provided [01.10.2020]

## 4 Representation Summary

### Call in

- 4.1 This application was called-in for determination by the Council's Development Control Committee by Councillor Dent.

### Public Consultation

- 4.2 Fifteen (15) neighbouring properties were consulted and a site notice was displayed. Representations from six interested parties have been received. Their objections and comments are summarised as follows:

#### *Design and impact on the character of the area*

- The proposed height of the building would be out of character with the surrounding development.
- Overdevelopment.

#### *Impact on residential amenity*

- Claimed rights of light for the cottages will be affected.
- The location of the bins would be a health hazard to nearby residents.
- The proposed balconies would be too close to neighbouring properties.
- Loss of privacy.
- Loss of sunlight.
- Noise, disturbance and pollution during construction.

#### *Living conditions of future occupiers*

- Fire hazard.
- Unsatisfactory exit routes in case of an emergency.

#### *Parking, Access and Highways*

- Access for parking via the Strutts passage and claimed easement rights will be blocked.
- The building works will affect access.
- Lack of parking would be harmful.

#### *Other matters*

- Significantly larger demand on the sewage system.
- The developer did not consult neighbours.
- Financial loss.
- Loss of view from neighbouring dwellings.
- Concerns over antisocial behaviour.

- 4.3 The comments have been taken into consideration and the relevant planning matters raised are discussed in subsequent sections of the report. The objecting points raised by the representations have been taken into account in the assessment of the proposal but are not found to represent justifiable reasons for recommending refusal of the planning application in the circumstances of this case.

### **Parks**

- 4.4 No comments.

### **Highways**

- 4.5 No objections.

### **Environmental Health**

- 4.6 No objections subject to conditions regarding hours of construction, waste management and noise mitigation.

### **Fire Safety Officer**

- 4.7 No objections.

### **Essex Police**

- 4.8 No objections – The applicant should consider gaining a ‘Secure by Design’ accreditation.

### **London Southend Airport**

- 4.9 No objections – subject to height being no greater than adjacent buildings.

## **5 Planning Policy Summary**

- 5.1 The National Planning Policy Framework (NPPF) (2019)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2019)
- 5.3 National Housing Standards (2015)
- 5.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generation), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), 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), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM15 (Sustainable Transport Management).
- 5.6 Southend Central Area Action Plan (2018): Policies DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport, Access and Public Realm), CS1 (Central Seafront Policy Area Development Principles)
- 5.7 Design & Townscape Guide (2009)
- 5.8 Technical Housing Standards Policy Transition Statement (2015)
- 5.9 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.10 Essex Coast Recreational Avoidance Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)

## 5.11 Community Infrastructure Levy (CIL) Charging Schedule (2015)

## 6 Planning Considerations

- 6.1 The main considerations in relation to this application include the principle of the development, the design and impact on the character and appearance of the area, the residential amenity for future and neighbouring occupiers, traffic and parking implications, energy and water use sustainability, refuse and recycling storage, flooding and drainage, ecology and mitigation for impact on designated sites and CIL.

## 7 Appraisal

### Principle of Development

#### Loss of employment use/community

- 7.1 Local policies, including policy CP1 of the Core Strategy and DM11 of the Development Management Document, do not support the loss of floorspace in commercial use. However, as the restaurant at ground floor would be retained, the loss of some associated floorspace at first floor level, would not be detrimental to the retention of a commercial use on site. A new unit which would be created as a result of this proposal would be large enough to be viable and it would strike an appropriate balance between various policy objectives which include increasing housing delivery.

#### Housing provision

- 7.2 Paragraph 117 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions." Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.
- 7.3 Paragraph 121 of the NPPF states: "Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework."
- 7.4 The site is previously developed land, and it is therefore relevant to Core Strategy policy CP8, which supports the provision of dwellings on such land, subject to detailed considerations, where it is expected that the intensification of development will play a role in meeting the housing needs of the Borough. Policy DM3 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." Policy CS1 of the SCAAP seeks to secure high quality and sustainable redevelopment of poor quality, vacant or underused sites and buildings.

- 7.5 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the Borough. Similarly, the Council's Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the Borough. The South Essex Strategic Housing Market Assessment (SESHMA) identifies that Southend has a higher proportion of flats/maisonettes and a housing stock comprised of a greater proportion of one-bed units and smaller properties a consequence of which is that there is a lower percentage of accommodation of a suitable size for families.
- 7.6 For the proposed provision of housing the HDT and 5YHLS weigh in favour of the principle of this type of development. In these circumstances, the provision of additional housing is a consideration which should be given increased weight in a balancing exercise, although, it should also be noted that a scheme for this quantum of housing would have limited effect on the overall supply of housing. The proposal would create additional housing which would not be considered as family dwellings as per the definition of policy DM7. It is noted that whilst the existing residential unit on site appears to be a three-bed property and therefore a family dwelling according to policy, the overall size of the property and the size of the bedrooms would not be of an acceptable modern standard for family accommodation.

#### Housing within a Flood Risk Zone

- 7.7 National and local planning policy, including policy DS4 of the SCAAP, directs housing development towards areas with lower probability of flooding. According to the Flood Risk Vulnerability Classification of the PPG, residential uses are more vulnerable and should be allowed within the lower probability zones.
- 7.8 Paragraph 163 of the NPPF states that development should only be allowed in areas at risk of flooding where, in the light of a site specific Flood Risk Assessment (FRA) and the sequential and exception tests, as applicable, it can be demonstrated that:
- a. within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b. the development is appropriately flood resistant and resilient;
  - c. it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d. any residual risk can be safely managed; and
  - e. safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
- 7.9 The application is supported by a site specific FRA and a Sequential Test assessment. The sequential test follows the standing advice provided by the Environment Agency and considers whether alternative and more preferable sites are available within the appropriate plan area, which is the area covered by the SCAAP. Applying a sequential approach, it is considered that there are no other sites within areas of lower flood risk which could provide for similar housing development. Furthermore, as the proposed housing would be located above ground level, the most vulnerable development is located in an area of lower risk from flooding and habitable rooms will be above the design flood level, with an allowance for climate change as required by policy DS4 of the SCAAP. The recommendations of the FRA would ensure that the other criteria stated above are satisfied.

- 7.10 For the exception test to be passed it should be demonstrated that:
- a. the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b. the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 7.11 In this instance, considering the supply of housing in the Borough against HDT targets, the benefits of the proposal would outweigh the risk of flooding subject to the mitigation measures suggested with the submitted FRA. It is not considered that the development would increase flood risk elsewhere.
- 7.12 Overall, it is considered that the principle of the development is acceptable. Other material planning considerations are discussed in the following sections of the report.

### **Design, Impact on the Character of the Area and Impact on Heritage Assets**

- 7.13 Good design is a fundamental requirement of new development to achieve high quality living environments. Its importance is reflected in the NPPF, in Policies KP2 and CP4 of the Core Strategy and also in Policy DM1 of the Development Management Document. The Design and Townscape Guide also states that: “the Borough Council is committed to good design and will seek to create attractive, high-quality living environments.”
- 7.14 Paragraph 124 of the NPPF states that: “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.” 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.”
- 7.15 Special attention should be paid to the desirability of preserving or enhancing the character or appearance of heritage assets. Policy DM5 of the Development Management Document states:
- “Development proposals that are demonstrated to result in less than substantial harm to a designated heritage asset will be weighed against the impact on the significance of the asset and the public benefits of the proposal, and will be resisted where there is no clear and convincing justification for this.”
- 7.16 The local character is varied and mixed, comprising three storey Georgian buildings, three-storey Victorian buildings, mid-century additions of rudimentary design and early-20th century development. The proposal would not alter the layout of the development at ground floor level. At upper floors, the built form would not be extended further than the ground floor. In terms of layout the proposal would not alter the existing layout of the building and its impact on the urban grain would not be significant or harmful.

- 7.17 In terms of scale, the proposal would not result in the maximum height of the building being increased. The enlargement of the built form on the upper floors would result in the western part of the building being in line with the maximum depth of the neighbouring building to the west and the eastern part projecting some 2.8m further to the rear. The scale of the resulting building would not be regarded as subservient to the existing building or the surrounding development. This is a negative aspect of the proposal.
- 7.18 The proposed form would reference the form of the neighbouring development and would be acceptable. In terms of appearance, the proposal has taken visual cues from its western neighbour including fenestration. All elevations are resolved satisfactorily with reasonable horizontal and vertical alignment and proportionate levels of glazing. The appearance of the proposal would benefit the streetscene.
- 7.19 In terms of materials, it is proposed that the fenestration, walls and roof would be of materials that would match in external appearance the materials used on the existing building. There are limited opportunities for hard and soft landscaping to complement the development.
- 7.20 The proposal would not have a negative impact on the setting of nearby heritage assets. The proposed development would preserve the significance of the two locally listed buildings, the Cornucopia Public House and the Falcon Public House, and the Grade II Listed Building, the Hope Hotel. In the round, the proposal is considered acceptable and policy compliant on heritage, design and character grounds.

### **Standard of Accommodation and Living Conditions for Future Occupiers**

- 7.21 Delivering high quality homes is a key objective of the NPPF and it is reflected in policy DM8 of the Development Management Document. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents. Policy DM1 requires developments to provide an internal and external layout that takes account of all potential users. Policy DM8 requires new dwellings to comply with the residential space standards, to be flexible to meet the changing needs of residents and ensure the provision of outdoor amenity space.

#### Space Standards

- 7.22 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes. The required overall sizes for residential units and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

**Table 2: Housing Standards**

Type	Area (m <sup>2</sup> )	Bedroom 1	Bedroom 2	Storage area (m <sup>2</sup> )	Amenity (m <sup>2</sup> )
Standard for 1 bed 1 person (one storey)	39 (37)	7.5m <sup>2</sup> Wmin=2.15m	N/A	1	N/A
Standard for	50	11.5m <sup>2</sup>	N/A	1.5	N/A



1 bed 2 person (one storey)		Wmin=2.75m			
Standard for 2 bed 3 person (one storey)	61	11.5m <sup>2</sup> Wmin=2.75m	7.5m <sup>2</sup> Wmin=2.15m	2.0	N/A
Proposed Flats 1, 4 & 7 (1 bed 1 person)	37	Studio	N/A	1	N/A
Proposed Flats 2, 5 & 8 (1 bed 2 person)	50	13m <sup>2</sup> W = 2.75m	N/A	1.8	N/A
Proposed Flats 6 & 9 (1 bed 2 person)	52	13.1m <sup>2</sup> W = 2.9m	N/A	1	Terrace 11.7 Balcony 7
Proposed Flat 3 (2 bed 3 person)	61	15.6m <sup>2</sup> W = 2.75m	9.9m <sup>2</sup> W = 2.4m	2.2	Terrace 17.6

7.23 The table shows that the proposed flats would meet the overall space, the bedroom area and dimensions requirements of the NDSS. All flats, with the exception of flats 6 and 9 would also meet the minimum internal storage space required by the NDSS. The shortfall of internal storage space on those units is marginal and while this is a negative of the proposed scheme, it is not considered that it would result to significant harm to the living conditions of future occupiers.

#### Daylight, Sunlight and Outlook from Habitable Rooms

7.24 All habitable rooms would have acceptable outlook and benefit from suitable levels of daylight and sunlight.

#### Amenity Provision

7.25 In relation to the provision of amenity space Policy DM8 states that all new dwellings should: "Make provision for usable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this could take the form of a balcony or easily accessible semi-private communal amenity space. Residential schemes with no amenity space will only be considered acceptable in exceptional circumstances, the reasons for which will need to be fully justified and clearly demonstrated."

7.26 Only three of the proposed units would be provided with private amenity space. The absence of communal or private amenity space for the other six flats is a negative element of the scheme. However, given the town centre location of the site and its proximity to public open spaces at the seafront, along with the proposed type of accommodation, for smaller sized households the proposed level of amenity provision is considered, on balance, to be acceptable in this instance.

#### M4 (2)/ M4 (3) – Accessibility

7.27 Accessibility requirements are not a strict policy requirement for extensions to existing buildings. Whilst no proposed unit would benefit from step-free access, there is no conflict with policy in this regard.

#### Pollution, noise and disturbance

- 7.28 It is noted that the existing use of the site is as restaurant/ hot food takeaway. The proposal seeks to retain the ground floor in the same use, creating a smaller commercial unit. This would require some form of extraction. There is also potential for noise and fumes resulting from this use. The existing apparatus will be removed to accommodate the residential aspect of the development. Given the proximity of the proposed flats to commercial development on site and in the immediate vicinity, there is potential for the future occupiers to be impacted by noise and disturbance resulting from the behaviour of customers or apparatus associated with these uses. A condition is recommended to ensure that appropriate noise mitigation measures would be incorporated in the proposal. It is also noted that an area at the north-western part of the building is proposed to be retained for services. This could be used to accommodate the necessary extraction. The Council's Environmental Health service raised no objection subject to such condition.
- 7.29 Overall, it is considered that the proposal would not result in substandard accommodation for future occupiers and would not be detrimental to their living conditions. The proposal is acceptable and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 7.30 Policy DM1 of the Development Management Document requires all development to be appropriate in its setting by respecting neighbouring development and existing residential amenities and also: "having regard to privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight."
- 7.31 The nearest residential properties to the application site are to the north-west, the flat above 4 Hartington Road and the dwelling at 6 Hartington Road, and the Jubilee Cottages, a row of three dwellings to the north of the site. The existing upper floors of the building on site are located some 16m from the front elevation of Jubilee Cottages. The proposed development would reduce this distance to approximately 12m. The proposal would also be located some 7m away from the flat above 4 Hartington Road and 7.5m away from the dwelling at 6 Hartington Road.
- 7.32 In terms of overlooking and privacy, the most affected properties would be Jubilee Cottages. The proposal would create amenity spaces and result in more windows facing towards those properties so there will be an impact. However, weighed against this is the fact that they are already overlooked by the existing residential property on site and the upper floors of neighbouring buildings to the west. It is considered, on balance, that the additional impacts would not be harmful to a degree that would warrant the refusal of the application on this ground. Whilst the proposal is likely to affect some views of the seafront and estuary available from dwellings to the north of the site there is no entitlement to protection of a private view within the planning regime. No public views would be affected.
- 7.33 Given the angle to and distance from other properties, overlooking and loss of privacy would not detrimentally affect those neighbours. The proposal would have an acceptable relationship with neighbouring dwellings in terms of overbearing effect, sense of visual enclosure or loss of outlook. Whilst some loss of sunlight would occur given the location of the proposed development to the south of neighbouring dwellings, the separation distance is sufficient to ensure that such loss would not be significantly harmful to residential amenity in this regard.

- 7.34 The construction of the development may give rise to some pollution, noise and disturbance. Conditions to control the hours of construction and to require a construction method statement are suggested and would be sufficient to limit any harm arising from the construction activity. No concerns are raised in relation to pollution, noise and disturbance as a result of the proposed residential use. The relocation of the apparatus associated with the commercial use of the site would require appropriate noise assessment and potentially mitigation and a condition is suggested to this effect. The Council's Environmental Health service raised no objection. Overall, the proposal is acceptable and policy compliant in these regards.

### **Traffic and Transportation Issues**

- 7.35 Policy DM15 of the Development Management Document states: "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". The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards. Policy DS5 of the SCAAP requires that development proposals in the central area of the Borough to have regard to the above-mentioned policy. Residential vehicle parking standards may be applied flexibly where the development is proposed in a sustainable location with frequent and extensive links to public transport.
- 7.36 Assessed against parking standards, the minimum car parking standard required for flats is one space per unit. As per the policy requirement, the minimum standard should be applied flexibly in this instance due to the sustainable location of the application site. The application was submitted with a supporting Transport Statement which justifies the absence of car parking provision. Given the proposed type of accommodation, the sustainable location of the site which is in close proximity to public transport routes and hubs as well as a range of amenities and services and the proximity of the site to public car parks, the proposal is considered to be acceptable without any car parking provision. The Council's Highways service raised no objection in this regard.
- 7.37 The parking standards require the provision of one cycle parking space per dwelling. It is proposed to provide nine cycle parking spaces to the rear part of the ground floor of the building in line with the required standard. The access arrangements to the site would not be altered as a result of the proposal. Concerns have been raised by residents about the need for scaffolding within the private way to the east of the site and the impact it would have on the access arrangements to other properties. Given that no changes are proposed to the private way, such issues would be outside the planning regime and would be private matters to be resolved between interested parties under separate legislation. The proposal is acceptable and policy compliant in the above regards.

### **Refuse and Recycling Storage**

- 7.38 The submitted plans show an area for waste storage to the rear part of the site. That area appears capable of accommodating four 1100ltr Eurobins for waste and recycling and one 140ltr bin for food waste which would exceed the Council's requirements for up to ten dwellings as described in the waste management document. In terms of convenience, the location is considered to be acceptable as it would be accessible both for the future occupiers of the proposed units and the waste collection services. The proposal is acceptable and policy compliant in this regard.

## **Flooding and surface water drainage**

- 7.39 National policy requires that any development is safe from flooding and does not increase the risk of flooding elsewhere. The proposal would be erected on top of existing impermeable areas and would not significantly increase the runoff of surface water. The implications of the provision of housing within a flood risk zone are discussed in the principle section of this report. The development would be acceptable and policy compliant in these regards.

## **Energy and Water Sustainability**

- 7.40 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.
- 7.41 No information has been provided to demonstrate whether any renewable energy resources would be installed in order to meet at least 10% of the anticipated energy consumption in line with policy requirement or how the water consumption would be limited. It is considered that the requirement for renewable energy and restrictions on water usage can be controlled with conditions. This aspect of the proposal is, therefore, considered to be acceptable and policy compliant in these regards, subject to conditions.

## **Ecology - Essex Coast RAMS**

- 7.42 The site falls within the Zone of Influence for one or more European designated sites scoped into the Essex Coast 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 Essex Coast RAMS SPD, which was adopted by the Council on 29 October 2020, requires that a tariff of £127.30 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.
- 7.43 The applicant has already paid the relevant tariff. The development would offer suitable mitigation of the in-combination effect of the net increase of eight dwellings on habitats and species. The development is acceptable and in line with policies in this regard.

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

- 7.44 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 some 917.5m<sup>2</sup>, which may equate to a CIL charge of approximately £23,572.69 (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.

## **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 local and national policies and guidance. The proposal is acceptable in principle and subject to conditions, it would have an acceptable impact on the character and appearance of the area, the significance of nearby heritage assets, the living conditions of future occupiers and the residential amenity of neighbouring occupiers. Subject to conditions the proposal would also be acceptable in relation to highway and parking conditions in the area, waste management, energy and water sustainability and it would provide acceptable drainage strategy on site. The development offers suitable mitigation for its in-combination effects to protected ecology sites.
- 8.2 This proposal creates new housing. Therefore where and if any harm were identified, including those identified within this report's analysis of the proposal it would be necessary to demonstrate that in reaching the decision an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any such harm. The Council has a deficit in housing land supply so the tilted balance in favour of sustainable development should be applied when determining the application as relevant. The test set out by the NPPF is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the NPPF taken as a whole. The proposal would make a contribution to the housing needs of the borough which must be given increased weight in the planning balance, albeit the weight to be attached to this would not be significant in this instance in view of the number of units involved. This application is recommended for approval subject to conditions.

## **9 Recommendation**

- 9.1 GRANT PLANNING PERMISSION subject to the following conditions:**

### *General Conditions*

- 01 The development hereby permitted shall begin no later than three years from 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 approved shall be carried out in accordance with the approved plans: 4083\_L01, 4083\_PL01, 4083\_PL02, 4083\_PL03, 4083\_PL04, 4083\_PL05, 4083\_PL06, 4083\_PL07, 4083\_PL08, 4083\_PL09, 4083\_PL10.

**Reason:** To ensure the development is carried out in accordance with the development plan.

*Design and related conditions*

- 03** Notwithstanding the details shown on the plans submitted and otherwise hereby approved the development hereby permitted shall not commence, other than for site preparation works, unless and until full details and specifications of the materials to be used for all the external surfaces of the proposed building at the site including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascia and balconies have been submitted to and approved in writing by the local planning authority. The works must then be carried out in full accordance with the approved details before the dwellings hereby approved are first occupied.

**Reason:** In the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2019) and the Design and Townscape Guide (2009).

*Living Conditions*

- 04** The use of the ground floor unit shall be solely within Use Class E as defined within the Town and Country Planning (Use Classes) Order 1987 as amended.

**Reason:** To determine the scope of the permission in the interest of the character and functionality of the area in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP1, Development Management Document (2015) Policies DM10, DM11 and DM12 and Southend Central Area Action Plan (2015) Policies DS1 and PA1.

- 05** The hours of operation of the ground floor commercial unit shall be 7 am to 11 pm.

**Reason:** In the interest of the living conditions of future occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 06** Prior to the first use of the commercial unit hereby approved, a detailed vibration and noise assessment shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall include vibration and noise mitigation measures where needed along with a verification of their effectiveness on site after they have been carried out. The rating level of noise for all plant (including but not exclusively the ventilation, refrigeration and air conditioning equipment) installed at the site determined by the procedures in British Standards

**BS 4142:2014, shall be at least 10dB(A) below the background noise level with no tonal elements at all times. The LA90 to be determined according to the guidance in British Standard BS 4142:2014 at 3.5m from ground floor facades and 1m from all facades above ground floor level to residential premises. The assessment shall be carried out by a suitably qualified and experienced acoustic consultant who would normally be a member of the Institute of Acoustics. The equipment shall be maintained in good working order thereafter. The plant must not have distinctive tonal or impulsive characteristics.**

**Reason: To ensure the resulting noise from the commercial unit would not be detrimental to living conditions of future occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).**

- 07 Prior to commencement of development on site, other than demolition and site preparation works, details of vibration mitigation and noise mitigation measures to ensure that all habitable rooms achieve the requirements of British Standard BS 8233:2014, shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be fully implemented as approved prior to the first residential occupation of any part of the development hereby approved.**

**Reason: To mitigate the noise from the uses in the area in the interest of the living conditions of future occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).**

*Impact on residential amenity of neighbours*

- 08 No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy (to include Noise and Dust Mitigation Strategies) has been submitted to and approved by the Local Planning Authority pursuant to this condition. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Strategy 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, dirt and noise during construction**
- vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.**
- vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction.**
- viii) details of the duration and location of any noisy activities.**

**Reason: A pre-commencement condition is justified in the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).**

- 09 Construction works for the approved development on site shall only be undertaken between 8 am to 6 pm on weekdays, between 8 am and 1 pm on Saturdays and not at any time on Sundays and Public Holidays.**

**Reason:** In the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2019), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015).

- 10 Notwithstanding the details shown in the plans submitted and otherwise hereby approved the development hereby granted planning permission shall not be occupied unless and until plans and other appropriate details are submitted to the Local Planning Authority and approved in writing which specify the size, design, obscenity, materials and location of all privacy screens to be fixed to the building, including on proposed balconies and terraces where needed. Before the development hereby approved is occupied, the privacy screens shall be installed in full accordance with the details and specifications approved under this condition and shall be permanently retained as such thereafter.**

**Reason:** In the interests of the residential amenity of future occupiers and adjoining residents and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the Design and Townscape Guide (2009).

*Highways*

- 11 Prior to the first occupation of the residential units hereby approved the nine (9) cycle parking spaces as shown on approved plan 4083\_PL06 shall be provided and made available for use on site. The cycle parking spaces shall be retained for the benefit of the future occupiers of the approved development in perpetuity.**

**Reason:** To ensure the provision of adequate cycle parking in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policy CP3 and Development Management Document (2015) Policies DM3, DM8 and DM15.

*Waste management*

- 12 No part of the development hereby approved shall be brought into residential use unless and until the bin store area shown on approved plan 4083\_PL06 have been created solely in accordance with design details which have previously been submitted to and approved in writing by the Local Planning Authority, equipped with at least two 1100 litre waste and recycling containers and one 150 litre food waste container and are available for use and operation in accordance with a waste management plan which has previously been submitted to and approved in writing by the Local Planning Authority. The bin storage areas shall thereafter be maintained for the lifetime of the development.**



**Reason: To ensure the provision of adequate waste, recycling and food waste storage and in the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2019), the Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).**

- 13 No part of the development hereby approved shall be brought into commercial use unless and until details of commercial waste storage and management have been submitted to and approved in writing by the Local Planning Authority. The approved waste storage facilities shall be provided and made available for use prior to the first use of the commercial use here by approved and shall thereafter be maintained for the lifetime of the development and managed in accordance with the approved details.**

**Reason: To ensure the provision of adequate waste, recycling and food waste storage and in the interest of visual amenity in accordance with the National Planning Policy Framework (2019), Core Strategy (2007) Policies KP2, CP3 and CP4, Development Management Document (2015) Policies DM1, DM3, DM8 and DM15, and the advice contained within the National Design Guide (2019), the Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).**

*Flood Risk*

- 14 The development hereby approved shall be implemented and undertaken in strict accordance with the findings, recommendations, mitigation and resilience measures contained within the submitted Flood Risk Assessment by Evans report reference 2614/RE/12-20/01 dated December 2020.**

**Reason: To ensure the approved development is safe and does not increase flood risk elsewhere in accordance with National Planning Policy Framework (2019), Core Strategy (2007) Policies KP1, KP2 and KP3.**

*Energy and water sustainability*

- 15 Prior to occupation of the development hereby approved details of energy efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority and implemented on site in accordance with the agreed details.**

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

- 16** The dwellings hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Development Management Document to limit internal water consumption to 105 litres per person per day (lppd) (110 lppd when including external water consumption), including measures of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting before they are occupied.

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

#### **Positive and proactive statement**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

#### **Informatives:**

- 1** Please note that the development which is 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](mailto:S106andCILAdministration@southend.gov.uk) to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).
- 2** 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.**