

Reference:	20/02156/AMDT
Application Type:	Minor Amendment
Ward:	Milton
Proposal:	Application to vary condition 23 (opening hours of external terraced seating areas) and condition 41 (renewable energy), alter opening hours for external seating areas and alter wording of condition 41 (Minor Material Amendment of planning application 18/02302/BC4M allowed on appeal dated 09.10.2020)
Address:	Seaway Car Park, Seaway, Southend-On-Sea
Applicant:	Turnstone Southend Ltd
Agent:	Mr Matt Hare of Carter Jonas LLP
Consultation Expiry:	26 th January 2021
Expiry Date:	8 th October 2021
Case Officer:	Charlotte White
Plan Nos:	S019/P3000 p12 Cover Letter dated 15th December 2020
Recommendation:	GRANT PLANNING PERMISSION, subject to conditions



1 Site and Surroundings

- 1.1 Whilst the application site focuses on the existing Seaway Car Park, the application boundary extends beyond this facility and totals approximately 3.6 hectares. The application site boundary extends slightly beyond the Seaways Opportunity Site, as defined by the Southend Central Area Action Plan (SCAAP) which is focussed on the existing car parking areas, and the site of the former ice cream factory. There are areas of Protected Green Space to the north of the site. The St. John the Baptist Church footway within the site sits within the Clifftown Conservation Area. There are no listed buildings within the site boundary. There is a significant drop in levels across the site. The highest point of the site is towards the north-west, with an AOD of 17m. The site drops towards Lucy Road, with the lowest point in the south-east corner (6.0M AOD).

2 The Proposal

- 2.1 An appeal against the non-determination of planning application reference 18/02302/BC4M for the *'comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sq.m of Use Class D2 floorspace), 3,256sq.m of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sq.m of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,615sqm of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sqm 80 bedroom hotel (Use Class C1) with cafe; and, a 580sqm building (Use Class A3, A5 or D2) proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station'* was allowed on 9th October 2020, subject to 48 conditions (appeal reference APP/D1590/W/20/3245194).
- 2.2 This application seeks to amend conditions 23 and 41 of this permission which are set out below, along with the proposed changes to the conditions:

Current wording of Condition 23

23) The use of all external seating areas associated with and served by the buildings hereby approved shall be restricted to 1200 - 2000 hours Monday to Thursday, 1200-2100 hrs Friday to Saturday and 1200 - 2000 hours Sunday, Public Holidays and Bank Holidays. The use of the external balcony of the unit on Lucy Road shall be restricted to 1200-2300 hours at all times. No customers shall be seated or served outside, during the excluded hours.

Proposed wording for Condition 23

The use of all external seating areas associated with and served by the buildings hereby approved shall be restricted to ~~1200~~ **0800** - 2000 hours Monday to Thursday, ~~1200~~**0800** - 2100 hrs Friday to Saturday and ~~1200~~ **0800** - 2000 hours Sunday, Public Holidays and Bank Holidays. The use of the external balcony of the unit on Lucy Road shall be restricted to ~~1200~~ **0800** -2300 hours at all times. No customers shall be seated or served outside, during the excluded hours.

Current wording of Condition 41

41) Prior to the first occupation of any building within the development hereby approved a scheme detailing how at least 10% of the total energy needs of that building is to be supplied using on site renewable sources must be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in full prior to the first occupation of the building in question. This provision shall be made available for use for the lifetime of the development.

Proposed wording for Condition 41

Notwithstanding the details submitted and otherwise hereby approved, prior to the commencement of development a strategy that demonstrates how at least 10% of the total energy needs of the development is to be supplied using on site renewable sources shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include proposals to demonstrate how at least 10% of the total energy needs of the communal areas within the main leisure building will be met by onsite renewable sources.

Thereafter, prior to occupation of each individual unit including the communal areas within the main leisure building, a detailed scheme for renewable energy generation to meet 10% of total energy needs for that unit/area and in accordance with the agreed strategy shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme for each unit/area shall be implemented and completed prior to the first occupation of that unit/area and maintained in perpetuity.

3 Relevant Planning History

- 3.1 18/02302/BC4M – Comprehensive redevelopment of site, including the demolition of 1, 3 and 29 Herbert Grove and an existing toilet block; the erection of 3 no. new buildings comprising a mixed-use leisure building with a cinema (3,590sq.m of Use Class D2 floorspace), 3,256sq.m of floorspace for other assembly and leisure uses (within Use Class D2), 2,323sq.m of floorspace for either restaurant and cafes (Use Class A3) or hot food takeaways (Use Class A5), and a further 1,615sq.m of floorspace for either assembly and leisure (Use Class D2) or restaurants, cafes and hot food takeaways (Use Classes A3 and A5), and a new multi-level car park; an 2,961sq.m 80 bedroom hotel (Use Class C1) with cafe; and, a 580sq.m building (Use Class A3, A5 or D2) proposals also include alterations to form a new access from Seaway Roundabout, formation of new public open space and associated works and infrastructure including the erection of an electricity sub-station – Appeal lodged against non-determination of the application. Appeal allowed (reference APP/D1590/W/20/3245194).
- 3.2 21/00705/NON – Application to vary and amend the wording to condition 40 and to allow the final BREEAM certificate to be submitted within 6 months after occupation (Non-Material Amendment to Planning Permission 18/02302/BC4M dated 09.10.2020) – Non-material amendment allowed.

4 Representation Summary

4.1 Public Consultation

467 neighbouring properties were consulted, 7 site notices were displayed and the application was advertised in the press. 2 letters of representation have been received which make the following summarised comments:

- Residential amenity concerns.
- Empty shops in the High Street including Royals and Victoria Shopping Centre.
- Lack of information submitted.
- No details of fencing heights.
- Opening hours of 8am until late will cause more traffic and noise pollution.
- Concerns relating to safety and crime.
- Will attract people to area at all hours.
- Noise concerns including from plant.
- Impact on other businesses in area.
- Parking concerns, including cost to park in Seaway, fear that parking costs may increase and that free parking after 6pm may finish as a result of the development. Concerns car park will become privately owned, meaning increase in parking fees.
- Concerns that access to car park at Seaway may impact business.
- Rely on Seaway car park for business – provides convenient customer parking.
- Request 6-8 parking spaces be allocated to an existing business in Lucy Road.
- Concerns existing businesses in Lucy Road will face delivery entrances and have no passing trade.
- Lack of communication from applicant.

Officer comment: It should be noted that planning permission for the development has been granted at appeal. This proposal seeks to amend the wording of 2 conditions of that permission and therefore it is only the impacts of these changes that need to be considered here. The material concerns raised in the representations 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.

4.2 **Natural England**

Natural England currently has no comment to make on the variation of the conditions.

4.3 **Historic England**

On the basis of the information available to date, we do not wish to offer any comments.

4.4 **Archaeology**

No works are to take place until a WSI has been submitted and approved by the LPA. The scheme should include an assessment of significance and research questions. The WSI should allow for a DBA to be conducted prior to any further approval of works. Once the WSI and then the DBA have been submitted there may be further conditions attached to the application.

Officer comment: Archaeology comments relating to the original application concluded that the Archaeological Evaluation Report submitted fully considered the archaeological potential of the site and that insufficient potential had been found to require further investigation prior to the commencement of the development. As such, no condition was recommended by the LPA nor imposed by the Planning Inspector in relation to archaeology. This application seeks to amend 2 of the conditions originally imposed, none of which relate to archaeology. It is not reasonable to impose such a condition at this stage nor as a result of this application.

4.5 **Parks**

No comment

4.6 **London Southend Airport**

Maximum AOD height of the development should not exceed 67.1m.

4.7 **Fire Authority**

No objections raised – detailed observations on access and facilities for the Fire Service will be considered on submission of suitable plans at Building Regulations consultation stage.

4.8 **Council's Drainage Engineers**

The proposed amendments do not involve SuDS (Sustainable Urban Drainage Systems) so no further review is required from us.

4.9 **Highways Team**

There are no highway objections to this proposal. It is not considered the proposals will have a detrimental impact upon highway safety.

4.10 **Environmental Health**

Suggest that condition 23 is varied for a temporary period to enable the applicant to demonstrate that residents are not adversely affected during the extended period. If the variation did result in complaints, Environmental Health would request that the condition reverts back to the original requirement.

5 **Planning Policy Summary**

5.1 Planning (Listed Buildings and Conservation Areas) Act 1990 - Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require local planning authorities to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) requires that “...*special attention be paid to the desirability of preserving or enhancing the character or appearance...*” of a conservation area.

5.2 Conservation of Habitats and Species Regulations 2017 (as amended), and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) - All planning applications require consideration of whether it is likely to have significant effects (either alone or cumulatively) on protected ‘*habitat sites*’.

5.3 The National Planning Policy Framework (NPPF) (2021), National Planning Practice Guide (NPPG) and National Design Guide (2021),

5.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP1 (Employment Generating Development), CP2 (Town Centre and Retain Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and Green Space), CP8 (Dwelling Provision).

5.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (The Efficient and Effective Use of Land), DM4 (Tall and Large Buildings), DM5 (Southend-on-Sea's Historic Environment), DM6 (The Seafront), DM12 (Visitor Accommodation), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection), DM15 (Sustainable Transport Management).

5.6 Southend Central Area Action Plan (SCAAP) (2018) Policies DS2 (Key Views), DS3

(Landmarks and Landmark Buildings), DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport Access and Public Realm), CS1 (Central Seafront Policy Area Development Principles), CS1.2 (Opportunity Site - Seaways), CS2 (Nature Conservation and Biodiversity).

- 5.7 Design & Townscape Guide (2009)
- 5.8 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 5.9 Southend Car Parking Strategy (2018)
- 5.10 Streetscape (2015)
- 5.11 Planning Obligations - A Guide to S106 and Developer Contributions (2015)
- 5.12 Essex Coast Recreation disturbance Avoidance Strategy (RAMS) (2020) Supplementary Planning Document (SPD).

6 Planning Considerations

- 6.1 The main considerations in relation to the substantive application included the principle of the development, traffic and transport, parking, residential amenity, townscape and visual impacts, design, landscaping, socio-economic impacts, impact on heritage assets, ecology, sustainability, other environmental matters (including ground conditions, flood risk and drainage) and CIL. The planning history is a material consideration of significant weight in the determination of this application.
- 6.2 This application seeks to amend the wording of 2 conditions attached to the original permission granted at appeal as outlined in section 2 of the report above. It does not seek to change the use of the buildings or extend the buildings. These changes are considered to fall comfortably within the scope of a Section 73 application in principle. The description of the development and its site edged red remains unchanged.

7 Appraisal

Principle of Development

- 7.1 The principle of comprehensively redeveloping the site, including the demolition of No's 1-3 and 29 Herbert Grove and the construction of 3 buildings to provide mixed-use leisure buildings with assembly and leisure buildings, a cinema, restaurants and cafes, hot food takeaways, a multi-level car park and a hotel, along with a new access from the Seaway roundabout and associated development, works and infrastructure was been found acceptable at appeal under references 18/02302/BC4M and APP/D1590/W/20/3245194. The proposed amendments to the opening times of the external terraces and changes to the wording of the condition relating to renewable energy would not alter the conclusion that the development is acceptable in principle. Subject to the detailed considerations below, no objection is raised to the principle of the development.
- 7.2 Since the appeal was allowed, the Council has adopted the Essex Coast Recreation disturbance Avoidance Strategy (RAMS) (2020) SPD. However, this is discussed below and does not change the acceptability of the principle of the development. Similarly, whilst the NPPF and other national guidance has been updated since the application was

allowed at appeal, these changes do not materially alter the acceptability of the principle of the development.

Traffic, Transport and Parking

- 7.3 The amendment application seeks to vary the opening times of the external terraces and seeks to change the wording of the condition relating to renewable energy. Given the nature of these changes, with conditions 21 and 22 restricting the restaurants, take-aways and assembly and leisure uses to ensure they are not open to customers outside 07:00 hours to 00:00 (with the exception of 3x cinema screens which can operate 07:00 – 03:00) it is considered that the proposal would not materially impact on the levels of traffic or parking and the development would remain acceptable in terms of traffic, transport and parking considerations. No objection is therefore raised on this basis. It is also noted that the Highways Team have raised no objection to the proposal in this respect. There have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify different conclusions being reached to those found by the Planning Inspector when allowing with the appeal.

Residential Amenity

- 7.4 The proposed changes to the wording of condition 41 relating to the requirement to provide 10% renewables would have no bearing on the impact of the development on the residential amenity of nearby and adjoining residents. However, the proposal to amend condition 23 to allow the external seating area to be used from 0800 on all days of the week instead of the 1200 as currently required by the condition has the potential to impact residential amenity if not suitably managed and mitigated and must be considered on this basis.
- 7.5 The information submitted with the application states *‘There is no strong acoustic basis to the start time of midday as set out in the existing wording of condition 23. The noise environment from 8am to midday is not likely to be materially different to that from midday to 8pm. In planning terms, 8am is one hour into the normal day-time period. Therefore, the use of such external seating areas would not be expected to affect sleep disturbance of adjacent residents. National noise guidance has considered the period from 7am to at least early evening as essentially treatable as a similar noise environment for many decades in the UK, and noise data universally has shown this to be a robust assumption. Activity from the use of the seating areas would be limited by the numbers of seats and their use would not be expected to be noticeably different through the period of the day either side of the mid-day; hence the impact would be similar.’*
- 7.6 The application has been submitted with an acoustic technical note which comments that 8am is one hour into the normal day-time period and as such the proposal would not result in sleep disturbance to adjacent residents and it is unwarranted and unnecessary to restrict the use of these external seating areas from mid-day from a noise control perspective. The technical note refers to the noise surveys previously undertaken along Herbert Grove and concludes that there was little difference in background and ambient noise levels across the day (6:45am, 12pm and 11pm) and confirms *‘By the extent to which noise at receivers is influenced relative to the pre-existing background and ambient levels, there is nothing to indicate on this site and significance in the early morning period compared to late afternoon.’* The report goes on to conclude *‘...disturbance from the use of the seating areas is not likely to cause noise awakenings to the nearest neighbours,*

and therefore we see no reason why it needs restrictions during normal working hours...Predictions would indicate that vocal levels would not cause significant disturbance.'

- 7.7 The site is in a town centre location where ambient noise levels are generally higher than other areas. Given the location of the site and taking account of the information included in the technical report submitted, as outlined above, it is considered that by 0800, all days of the week, background noise levels in this location would be such that the use of these external seating areas as proposed would not result in any significant harm to the residential amenity of nearby and adjoining residents in terms of noise and disturbance. As such it is considered that the use of the terraces from 8am is acceptable on its merits.
- 7.8 It is noted that Environmental Health have suggested that the condition be varied initially for a temporary period only to enable sufficient time to determine whether the proposed extended hours would affect nearby residents or not, and to allow Environmental Health to monitor if the proposed changes cause any noise complaints. The NPPG makes it clear that conditions must meet 6 tests; conditions must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. To ensure that the condition is reasonable in all regards, it is considered that condition 23 should be amended, as requested by Environmental Health, for a temporary period of 1 year to enable sufficient time to determine whether the proposed change causes any noise complaints or noise and disturbance issues or concerns. The NPPG states that *'Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.'* The applicant is agreeable to the proposed temporary change for 1 year to enable the trial run, as advocated by the NPPG so that the impacts of the change to the opening hours can be reviewed after 1 year. This is considered to be an appropriate way forward in the circumstances of this case and the revised condition would satisfy the six tests for conditions as set out above.
- 7.9 Subject to the condition being amended for a temporary period of 1 year, the development is considered acceptable and policy compliant in the above regards.

Townscape, Visual Impacts, Design, Landscaping and Impacts on Heritage Assets

- 7.10 The amendments proposed do not seek to alter the design or appearance of the substantive permission and no changes are proposed to the landscaping. As such, this proposal would result in no harm to the townscape or visual impacts of the development and would not result in any material impact to the setting, character or appearance of the Conservation Area, or Listed and locally listed buildings in the vicinity over and above the extant permission. There have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify different conclusions being reached to those found by the Planning Inspector when allowing with the appeal. The development is therefore acceptable and policy compliant in these regards.

Socio-economic Impacts

- 7.11 The changes proposed to the renewable energy condition (condition 41) would not result in any socio-economic impacts that would be materially different to those found acceptable under the substantive permission.

- 7.12 The proposed change to condition 23 would allow the terrace areas to be used earlier in the mornings. Concern was raised by third parties in response to the public consultation process for the substantive application, and has similarly been raised with this amendment application, about the impact of the development on existing businesses. However, the NPPF makes it clear that pursuing a strong, responsive and competitive economy represents a key objective (one of three) of sustainable development and advises that significant weight should be placed on the need to support economic growth. This is reflected in the SCAAP with objective 1 of the SCAAP seeking to *'improve and transform the economic vitality, viability and diversity of Southend Central Area by encouraging the establishment of a wider range of homes, businesses and shops whilst providing new opportunities for learning, recreation, leisure and tourism.'*
- 7.13 As set out in the original officer committee report under reference 18/02302/BC4M, it is evident that transforming a car park within the Central Area into a new focus for leisure activities will undoubtedly bring with it a host of economic benefits for Southend. The concerns raised by businesses as set out above are noted, however, the planning status of the site, in particular its allocation as a site for a major new leisure development in the SCAAP is an important consideration. The merits of the allocation have already been assessed and found to be acceptable in the context of the preparation and adoption of the SCAAP, that included consideration of the economic impacts of the development on the seafront and existing businesses in the Town. The outcome of this debate was the successful allocation, that allows for, and positively encourages, the creation of a cinema, restaurants, and hotel as part of a high-quality, mixed-use development. As such, subject to compliance with prevailing policy, any trade issues associated with development coming forward at this site relates more to competition between businesses, and as such, falls outside the scope of relevant material considerations for this proposal.
- 7.14 Overall, it is not considered that the proposed alteration to Condition 23, to allow the terraces to be used for an extended period would not result in any significant socio-economic harm. The proposal is acceptable and policy compliant in this regard.

Ecology and Protected Habitats and Species

- 7.15 Given their nature, the proposed amendments hereby sought to conditions 23 and 41 would not result in any material impacts in terms of ecology, beyond that of the substantive permission. The development is acceptable in this respect.
- 7.16 Whilst the RAMS SPD has been adopted since planning permission was granted on appeal (ref. APP/D1590/W/20/3245194) this application concerns amendments only to conditions on opening hours and renewable energy and does not provide new residential units or an increase in visitor accommodation over and above the substantive permission. As such it would be unreasonable to require a RAMS contribution as part of the proposal. There have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify different conclusions being reached to those found by the Planning Inspector when allowing with the appeal.

Sustainability

- 7.17 The applicant seeks to amend condition 41 to require an overarching strategy to be provided initially to demonstrate how 10% of the energy needs of the development will be

provided using on-site renewables and thereafter to require, prior to the occupation of each unit, a detailed energy scheme per unit to meet the 10% requirements. The reason given for the proposed change is that the renewable energy technologies are often delivered as part of the occupier fit-out which are implemented on a unit-by-unit basis.

- 7.18 The grounds given for the proposed change are considered to be reasonable. The proposed change would still meet the requirements of the policy and would provide the developer and each occupier of each unit greater flexibility with no harm caused to the original purpose or objectives of the condition. The proposed alteration to condition 41 is therefore considered acceptable.
- 7.19 All other respects the development remains acceptable in sustainability terms and there have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify different conclusions being reached to those found by the Planning Inspector when allowing with the appeal.

Other environmental matters

- 7.20 Given the nature of this proposal, it is considered that the proposed amendments sought would not result in any significant impacts in terms of environmental matters including ground conditions, flood risk and drainage, beyond that of the substantive permission. There have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify different conclusions being reached to those found by the Planning Inspector when allowing with the appeal. The development is acceptable in these respects.

Community Infrastructure Levy (CIL)

- 7.21 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 23,101.70sqm, which may equate to a CIL charge of approximately £296,767.99 (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.

Developer Contributions

- 7.22 This application does not require any changes to the draft S106 agreement or the original heads of terms of the necessary S106 agreement, the key features of which relate to highways and open space considerations. Subject to the imposition of a condition preventing any development at the site, or the discharge of any planning conditions prior to the execution of the necessary S106 agreement (in the same way as required in the substantive permission, given the circumstances of this site and given the ownership of the site and the inability of the Council to enter into a S106 agreement with itself) the development is acceptable and policy compliant in this respect. As set out above, it is not necessary or reasonable to require a RAMS payment in this instance. There have been no changes in planning policy, guidance or other relevant material planning considerations since the determination of the original application which would justify

different conclusions being reached to those found by the Planning Inspector when allowing with the appeal.

8 Conclusion

- 8.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, amended for conditions 23 and 41, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance in all regards. The application is therefore recommended for approval.

9 Recommendation

9.1 Members are recommended to: GRANT PLANNING PERMISSION subject to the following conditions:

1) No development is allowed to commence nor any condition to be discharged prior to the owner and the Council executing a Section 106 obligation in substantially the same form as the obligation annexed to the planning permission granted in respect of the application bearing ref. no. 18/02302/BC4M.

Reason: To ensure the development is not progressed until the necessary planning obligation is executed.

2) The development hereby permitted shall be begin no later than 3 years from the date of the original permission 18/02302/BC4M dated 22nd September 2020.

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

3) The development shall be carried solely out in accordance with the approved plans:

- S019/P3000.pl2 - Location Plan submitted September 2019
- S019/P3001.pl2 - Existing Site Plan (Topographical Survey) submitted September 2019
- S019/P3002.pl1 - Existing Building Elevations Submitted January 2019
- S019/P3003 - Existing Building Elevations Submitted January 2019
- S019/P3004 - Existing Building Plans Submitted January 2019
- S019/P3005.pl3 - Demolition Plan Submitted September 2019
- S019/P3006.pl2 - Proposed Site Plan Submitted September 2019
- S019/P3007.pl2 - Proposed Lower Ground Level Plan Submitted September 2019
- S019/P3008.pl2 - Proposed Ground Level Plan Submitted September 2019
- S019/P3009.pl2 - Proposed Cinema Level Plan Submitted September 2019
- S019/P3010.pl2 - Proposed Auditorium Level Plan Submitted September 2019
- S019/P3011.pl1 - Proposed Roof Level Plan Submitted September 2019
- S019/P3012.pl1 - Proposed Car Park Plans Submitted September 2019
- S019/P3013.pl1 - Proposed Sections A and B Submitted September 2019
- S019/P3014.pl1 - Proposed Sections C and D Submitted September 2019
- P3015.pl1 - Proposed Sections E and F Submitted September 2019
- S019/P3016.pl1 - Proposed Section G Submitted September 2019
- S019/P3017.pl1 - Proposed Site Sections 1 Submitted September 2019
- S019/P3018.pl1 - Proposed Site Sections 2 Submitted September 2019
- S019/P3019.pl1 - Proposed Site Sections 3 Submitted September 2019
- S019/P3020.pl2 - Proposed North Elevations Submitted September 2019

S019/P3021.pl2 - Proposed East Elevation Submitted September 2019
 S019/P3022.pl2 - Proposed South Elevation Submitted September 2019
 S019/P3023.pl2 - Proposed West Elevations Submitted September 2019
 S019/P3024.pl2 - Unit R1 Proposed Ground Floor Plan Submitted September 2019
 S019/P3025.pl1 - Unit R1 Proposed First Floor and Roof Submitted September 2019
 S019/P3026.pl5 – Unit R1 - Proposed North and West Elevations Submitted September 2019
 S019/P3027.pl5 – Unit R1 Proposed East and South Elevations Submitted September 2019
 S019/P3028.pl1 - Unit R1 Proposed Section Submitted September 2019
 S019/P3029.pl2 - Hotel Proposed Ground Floor Site Plan Submitted September 2019
 S019/P3030.pl1 - Hotel Proposed Floor Plan Submitted September 2019
 S019/P3031.pl2 - Hotel Proposed North Elevation Submitted September 2019
 S019/P3032.pl2 - Hotel Proposed East Elevation Submitted September 2019
 S019/P3033.pl2 - Hotel Proposed South Elevation Submitted September 2019
 S019/P3034.pl3 - Hotel Proposed West Elevation Submitted September 2019
 S019/P3035.pl1 - Hotel - Proposed Section A-A and B-B Submitted September 2019
 S019/P3037.pl2 – Elevation/Section Detail 1 Submitted September 2019
 S019/P3038.pl2 – Elevation/Section Detail 2 Submitted September 2019
 S019/P3039.pl2 – Elevation/Section Detail 3 Submitted September 2019
 S019/P3040.pl2 – Elevation/Section Detail 4 Submitted September 2019
 S019/P3041.pl2 – Elevation/Section Detail 5 Submitted September 2019
 S019/P3042.pl2 – Elevation/Section Detail 6 Submitted September 2019
 S019/P3043.pl2 – Elevation/Section Detail 7 Submitted September 2019
 S019/P3044.pl2 – Elevation/Section Detail 8 Submitted September 2019
 S019/P3045.pl1 – Elevation/Section Detail 9 Submitted September 2019
 S019/P3047.pl2 - Proposed Substation Submitted September 2019
 S019/P3048 pl1 - Proposed Public Toilet Plan Submitted September 2019
 S019/P3050 - Proposed South Elevation - Marine Parade Submitted September 2019
 S019/P3051 - Proposed South Elevation - Lucy Road Submitted September 2019
 S019/P3052.pl1 - Proposed Cycle Shelters (plans) Submitted September 2019
 S019/P3053 - Proposed Cycle Shelters (Elevations) Submitted September 2019
 S019/P3054.pl1 - Proposed Site Plan (Adopted Highway Boundary) Submitted September 2019
 S019/P3056.pl2 - Proposed Site Plan (with proposed area for stopping-up and adoption) Submitted September 2019
 S019/P3057 - Proposed Site Sections 1 (Existing Ground Line Overlay) Submitted September 2019
 S019/P3058 - Proposed Site Section 2 (Existing Ground Line Overlay) Submitted September 2019
 S019/P3059 - Proposed Site Sections 3 (Existing Ground Line Overlay) Submitted September 2019
 S019/P3060 - Proposed North Elevations (Existing Ground Line Overlay) Submitted September 2019
 S019/P3061 - Proposed East Elevation (Existing Ground Line Overlay) Submitted September 2019
 S019/P3062 - Proposed South Elevation (Existing Ground Line Overlay) Submitted September 2019
 S019/P3063 - Proposed West Elevations (Existing Ground Line Overlay) Submitted September 2019
 S019/P3066 - Servicing Strategy Diagram – Proposed Site Plan Submitted September 2019

S019/P3067 - Servicing Strategy Diagram - Proposed Lower Ground Floor Plan Submitted September 2019
S019/P3068 - Servicing Strategy Diagram - Proposed Ground Level Plan Submitted September 2019
S019/P3069 - Servicing Strategy Diagram Service Corridor Plan Submitted September 2019
S019/P3070 - Servicing Strategy Diagram Service Corridor Section Submitted September 2019
739_SC_300_P02 - Landscape Sections 1 of 2 Submitted September 2019
739_SC_301_P02 - Landscape Sections 2 of 2 Submitted September 2019
739_PL_001_P07 - General Arrangement Plan Submitted September 2019
739_PL_002_P05 - Rendered Landscape Masterplan Submitted September 2019
6113-D-AIA_E – Prelim AIA Submitted September 2019

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

4) No development shall take place, including any works of demolition, unless and until a Demolition and Construction Management Plan and Strategy to include a Dust Mitigation Strategy has been submitted to, and approved in writing by the Local Planning Authority. The approved Demolition and Construction Management Plan and Strategy 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 and dirt 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: This pre-commencement condition is required in the interests of the amenities of nearby and surrounding occupiers pursuant to Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of the Southend Central Area Action Plan (2018).

5) No development shall take place, including any works of demolition, unless and until a Construction Noise and Vibration Management Plan and Strategy has been submitted to, and agreed in writing by the Local Planning Authority, for the control, mitigation and monitoring of noise and vibration from the construction phase. The approved Construction Noise and Vibration Management Plan and Strategy shall be adhered to in full throughout the construction period.

Reason: This pre-commencement condition is required in the interests of the amenities of neighbouring occupiers and in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of the Southend Central Area Action Plan (2018).

6) Demolition and construction works associated with this permission shall not take place outside 7.30am to 6pm Monday to Friday, 8.00am to 1.00pm Saturdays and at no time on Sunday or public holidays.

Reason: In order to protect the character and amenities of the area and neighbouring occupiers in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1 of the Southend Central Area Action Plan (2018).

7) No development shall take place, including any works for demolition unless and until a Car Park Construction Mitigation Strategy, including a communication strategy along with a temporary signage strategy that includes providing supplementary temporary VMS signage linked to the Council's VMS, has been submitted to and approved in writing by the Local Planning Authority. This shall include details of available on-site public car parking during the construction period, which shall be made available where reasonably practicable. The approved Car Park Construction Mitigation Strategy shall be fully adhered to during the period of construction.

Reason: This pre-commencement condition is required to ensure that adequate car parking is provided and retained in accordance with Policies KP2, KP3 and CP3 of the Core Strategy (2007), Policy DM15 of the Development Management Document (2015) and Policies DS5, CS1 and CS1.2 of Southend Central Area Action Plan (SCAAP) (2018).

8) Prior to the first occupation of any buildings hereby approved by this permission or the bringing into use any area of car parking, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of how customer noise and behaviour is managed on and off the premises; staff behaviour including but not limited to opening/closing premises; deliveries; waste disposal and storage; external space management; site maintenance; signage, staff training and dealing with customer complaints. The Noise Management Plan shall be implemented as approved prior to the first use of the development and thereafter retained in perpetuity.

Reason: To protect neighbouring residential occupiers from undue noise and disturbance in order to maintain their amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP and Policies KP2 and CP4 of the Core Strategy (2007).

9) Notwithstanding the details shown on the documents submitted and otherwise hereby approved, noise as a result of this development, from all noise sources including plant and equipment together with extract ventilation from any A3, A5 and D2 units shall not exceed 10 dB(A) (including tonal elements) below the background noise level as measured and expressed as a LA90, over a 15 minute period, from the boundary of the neighbouring residential properties, in perpetuity. Before the development is brought into use background noise levels shall be established for the following periods:

Daytime: 0700 to 1900

Evening: 1900 to 2300

Night: 2300 to 0700

In order to establish background noise level a representative baseline noise survey shall be undertaken in accordance with BS 4142:2014+A1:2019 at the boundary of the nearest residential properties. This shall be undertaken by a suitably competent person and shall

be submitted for approval prior to the installation of any plant or equipment across the site or the site being brought into use. The background noise level survey shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved.

Reason: To protect neighbouring residential occupiers from undue noise and disturbance in order to maintain their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

10) No development shall be undertaken unless and until details of an acoustic barrier along the eastern boundary of the site adjacent to the rear of the residential properties along Hartington Road, and around the hotel has been submitted to and approved in writing by the Local Planning Authority. The approved acoustic barrier shall be completed in accordance with the approved details prior to any demolition or construction works and shall thereafter be retained in perpetuity.

Reason: To protect neighbouring residential occupiers from undue noise and disturbance in order to maintain their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).

11) There shall be no external speakers installed at any part of the site. There shall be no amplified music played or use of public address systems in any external areas of the site. This shall include any amplified music from speakers in the doorways of all premises of any use hereby approved.

Reason: To protect neighbouring residential occupiers from undue noise and disturbance in order to maintain their residential amenities, in accordance with Policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).

12) Notwithstanding the information submitted and otherwise hereby approved, the proposed substation shall not be constructed unless and until full details of the acoustic insulation of this building have been submitted to and approved in writing by the Local Planning Authority. The substation shall be constructed in full accordance with the approved details prior to its first use and shall be retained as such thereafter in perpetuity.

Reason: To protect neighbouring residential occupiers from under noise and disturbance in order to maintain their residential amenities, in accordance with policies DM1 and DM3 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).

13) Notwithstanding the information submitted and otherwise hereby approved, the proposed leisure building shall not be constructed unless and until full details of the acoustic insulation of the cinema have been submitted to and approved in writing by the Local Planning Authority. The leisure building shall be constructed in full accordance with the approved details prior to its first use and shall be retained as such thereafter in perpetuity.

Reason: To protect neighbouring residential occupiers from undue noise and disturbance in order to maintain their residential amenities, in accordance with policies DM1 and DM3

of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and policies KP2 and CP4 of the Core Strategy (2007).

14) No development, excluding works of demolition, shall take place unless and until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details must include the following as a minimum:

- i. Proposed finished levels or contours;
- ii. Means of enclosure;
- iii. Car parking layouts;
- iv. Other vehicle and pedestrian access and circulation
- v. Hard surfacing materials;
- vi. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc);
- vii. Details of the number, size, e.g. semi-mature trees species and location of the trees and shrubs to be planted together with a planting specification and details of the management of the site e.g. the uncompacting of the site prior to planting, the staking of trees and removal of the stakes once the trees are established and details of measures to enhance biodiversity within the site;
- viii. Maintenance Programme;
- ix. Timetable for completion of the soft landscaping and planting.
- x. Evidence of compatibility of landscaping scheme with the proposed drainage and other site services.
- xi. Details of any trees to be retained at the site.

The hard landscaping shall be completed prior to first occupation of the development and soft landscaping/planting shall be completed within the planting season following first occupation of the development. If any trees are removed or found to be dying, severely damaged or diseased within 5 years of planting them, they must be replaced with trees of a similar size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to policies KP2 and CP4 of the Core Strategy (2007), DM1 and DM3 of the Development Management Document (2015) and CS1 and CS1.2 of the SCAAP (2018).

15) No development shall take place, including any works for demolition, unless and until a detailed Arboricultural Method Statement and Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. Details must include:

- (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
- (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
- (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;

(d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site;

(e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.

Reason: This pre-commencement condition is required to minimise the environmental impact of the development and to minimise the risk to retained trees in accordance with policies KP2, CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and Policy CS1.2 of SCAAP (2018).

16) (a) Notwithstanding the details submitted and otherwise hereby approved, no development shall take place, other than that required to carry out additional necessary investigation which in this case may include demolition, site clearance, removal of underground tanks and old structures, and any construction until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall assess the nature and extent of any contamination on the site whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority.

The report of the findings must include:

i) A survey of extent, scale and nature of contamination;

ii) An assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments; and

An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

(b) *Remediation Scheme*: Notwithstanding the details submitted and otherwise hereby approved, no development shall be undertaken, other than where necessary to carry out additional investigation, until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation

scheme works. This must be conducted by a competent person and in accordance with DEFRA and the Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

(c) *Implementation of Remediation Scheme*: Notwithstanding the details submitted and otherwise hereby approved, no development shall be undertaken unless and until the measures set out in the detailed remediation scheme approved under part (b) of this condition shall have been implemented. The Local Planning Authority may give approval for the commencement of development prior to the completion of the remedial measures when it is deemed necessary to do so in order to complete the agreed remediation scheme. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced. This must be conducted by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and the Essex Contaminated Land Consortium's 'Technical Guidance for Applicants and Developers' and is subject to the approval in writing of the Local Planning Authority.

(d) *Reporting of Unexpected Contamination*: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 7 days to the Local Planning Authority. Development must be halted on that part of the site until an assessment has been undertaken in accordance with the requirements of part (a) of this condition, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority in accordance with the requirements of part (b) of this condition. The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority before the development is brought into use.

Reason: This pre-commencement condition is required to ensure that any contamination on site is identified and treated so that it does not harm anyone who uses the site in the future and in accordance with Policies KS1, KP3 and CP4 of the Core Strategy (2007), DM14 of the Development Management Document (2015) and CS1.2 of the SCAAP (2018).

17) Notwithstanding the details submitted and otherwise hereby approved, prior to the commencement of development a strategy for the ventilation of all buildings and the treatment of all smells and fumes including the acoustic attenuation of all equipment for all buildings shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter prior to occupation of each individual unit a detailed scheme for the ventilation of the unit and the treatment of all smells and fumes including the details of the acoustic attenuation of all equipment for that unit shall be submitted to and agreed in writing with the Local Planning Authority. The schemes shall include details of equipment for the suppression of fumes, odours and/or dust including details of noise and vibration attenuation together with a maintenance schedule for the future operation of that equipment. The approved scheme for each building shall be implemented and completed

prior to the first occupation of that building and managed in accordance with the approved maintenance regime in perpetuity.

Reason: In order to protect the amenities of occupiers of the development and surrounding occupiers and to protect the character and visual amenities of the area in accordance with Policies KP2 and CP4 of the Core Strategy (2007), DM1 of the Development Management Document (2015) and CS1.2 of the SCAAP (2018).

18) No drainage infrastructure shall be installed unless and until the detailed design of a surface water drainage scheme incorporating the following measures 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 and completed prior to the first occupation of the development and maintained in accordance with the approved details for the lifetime of the development. The scheme shall address the following matters:

- a. Provide evidence of infiltration tests in accordance with BRE365 and if infiltration is found to be viable provide information in relation to the potential for ground instability or deterioration in groundwater quality because of infiltration.
- b. Provide an updated drainage layout plan indicating the dimensions, storage volumes, pipe sizes and gradients, manhole cover and invert levels, proposed discharge rates, flow controls and final discharge connection in accordance with the submitted calculations. Updated engineering plans shall be provided for each of the Sustainable Urban Drainage Systems (SuDS) and critical drainage elements, including the flow control features.
- c. Provide information on the management of health and safety risks in relation to feature design.
- d. Provide a system valuation (including capital costs, operation and maintenance costs, cost contributions) and a demonstration of long-term economic viability
- e. Provide a method statement regarding the management of surface water runoff arising during the construction phase of the project.
- f. Provide a method statement for the management of surface water runoff arising during the construction
- g. Provide evidence of consent from Anglian Water to discharge at the proposed discharge rate and location.

Reason: To ensure adequate drainage is provided 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 Policy KP2 of the Core Strategy (2007) and DS4 of the SCAAP (2018).

19) No service vehicles associated with the development hereby approved shall be permitted along Herbert Grove between the hours 1900 hours - 0700 hours Monday - Friday, 1300 hours - 0800 hours Saturday and at no time on Sundays and Bank or Public Holidays. No deliveries shall be taken at or dispatched from the approved service bays on Lucy Road, the service area that serves the standalone building on Lucy Road or the service area to the rear of the hotel between the hours of 1900 hours - 0700 hours Monday - Friday, 1300 hours - 0800 hours Saturday and at no time on Sundays and Bank or Public Holidays. During these restricted service hours, all servicing at the site must take place on the service lay by on the main site access, as approved and shown on drawing S019 P3054.pl1.

Reason: In the interests of the amenities of neighbours and to ensure a suitable environmental standard in accordance with Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Document (2015).

20) Notwithstanding the details submitted with this application no take-away collection or pick-up delivery activities other than by non-motorised vehicles shall be undertaken from the public highway in Herbert Grove associated with the A3, D2 and A5 uses hereby approved at any time.

Reason: In the interest of the protection of the residential amenity of nearby 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) The A3, A5 and D2 uses (other than the permitted cinema facility) hereby approved shall not be open to customers outside the hours of 0700 hours - 0000 hours.

Reason: In the interests of the amenities of neighbours and to ensure a suitable environmental standard in accordance with Policy KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Document (2015).

22) The cinema facility hereby approved shall not be open to customers outside the hours 0700 hours - 0000 hours, with the exception of a maximum of three screens and the associated circulation space that shall be allowed to operate 0700 - 0300 hours.

Reason: In the interests of the amenities of neighbours and to ensure a suitable environmental standard in accordance with Policy KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development management Document (2015).

23) The use of all external seating areas associated with and served by the buildings hereby approved shall be restricted to 0800 - 2000 hours Monday to Thursday, 0800 - 2100 hrs Friday to Saturday and 0800 - 2000 hours Sunday, Public Holidays and Bank Holidays. The use of the external balcony of the unit on Lucy Road shall be restricted to 0800 - 2300 hours at all times. No customers shall be seated or served outside, during the excluded hours. The preceding times are hereby approved for a temporary period of 1 calendar year only from the first use of the development hereby approved and shall thereafter revert back to the following times, unless express planning permission has been otherwise granted for alternative hours of use: The use of all external seating areas associated with and served by the buildings hereby approved shall be restricted to 1200 - 2000 hours Monday to Thursday, 1200 - 2100 hrs Friday to Saturday and 1200- 2000 hours Sunday, Public Holidays and Bank Holidays. The use of the external balcony of the unit on Lucy Road shall be restricted to 1200 -2300 hours at all times. No customers shall be seated or served outside, during the excluded hours.

Reason: In the interests of the amenities of neighbours and to ensure a suitable environmental standard in accordance with the National Planning Policy Framework (2021), Policy KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Document (2015).

24) Notwithstanding the details submitted and otherwise hereby approved, all details of the external lighting to be installed in the development hereby approved shall be submitted to and approved by the Local Planning Authority before any part of the development is commenced, other than demolition. The development shall be carried out in accordance with those approved details before the development is first occupied or brought into use and retained as such thereafter.

Reason: In the interest of the safety and amenities of the area, and to protect the amenities of surrounding occupiers in accordance with Policies KP2 of the Core Strategy (2007), CS1.2 of the SCAAP (2018) and DM1 and DM3 of the Development Management Document (2015).

25) Notwithstanding the details submitted and otherwise hereby approved, a detailed Lighting Management Plan, including measures to reduce unnecessary light pollution and energy uses shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the development hereby approved. The lighting at the site shall be managed in accordance with the approved details of the approved plan and retained as such thereafter.

Reason: In the interests of the safety and amenities of the area, and to protect the amenities of surrounding occupiers in accordance with Policies KP2 of the Core Strategy (2007), Policy CS1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Document (2015).

26) Notwithstanding the details submitted and otherwise hereby approved, prior to the first occupation of any part of any building hereby approved a Waste Management Plan and Service Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. The plans shall include full details of the refuse and recycling facilities. Waste Management and Servicing of the development hereby approved shall be implemented prior to occupation in strict accordance with the approved details and carried out in perpetuity thereafter.

Reason: To ensure that the development is satisfactorily serviced, and that satisfactory waste management is undertaken in the interests of highway safety, amenity and to protect the character of the surrounding area, in accordance with Policies KP2 and CP3 of the Core Strategy (2007), and Policies DM1 and DM3 of the Development Management Document (2015).

27) A design code for the ground and lower ground floor units in the leisure building and the café unit in the hotel building, hereby approved, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (excluding works of demolition). The Design Code shall include details of shopfront treatments and signage strategy for these units. All treatments of the external facades of the units including applications to discharge Condition No. 31 shall be required to be implemented in accordance with the approved Design Code.

Reason: To safeguard the character and appearance of the site and surrounding area, the nearby listed and locally listed buildings and the Clifftown Conservation Area in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM5 of the Development Management Document (2015) and Policy CS1.2 of the SCAAP (2018).

28) Prior to commencement of development (excluding works of demolition), the details of any external seating areas associated with and served by the development hereby approved, shall be submitted to and approved by the Local Planning Authority. Details are to include layout, details of any temporary or permanent structures and visual containment proposals to protect prevailing residential amenity. The seating areas shall be operated and laid out in accordance with the approved details and shall remain as such in perpetuity.

Reason: In order to protect the character and amenities of the area and neighbouring occupiers in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

29) No development above ground level shall be undertaken unless and until full details and plans of the cladding on the main leisure building (to include sections of individual panels and larger sections) have been submitted to and approved in writing by the Local Planning Authority. The details shall include design specifications for the cladding and include details of all fixings, profiles, offsets, angles and edge details. The development shall be carried out in accordance with the approved details before it is occupied and be permanently retained as such thereafter.

Reason: In order to protect the character and visual amenities of the area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy DM1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

30) Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development of the hotel hereby granted permission shall not be occupied 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, or such equivalent as may be agreed in writing with the Local Planning Authority. In the case of multiple or double-glazed units at least one layer of glass in the relevant units shall be glazed in obscure glass to at least Level 4.

Reason: In the interests of the amenities of neighbours and to ensure a suitable environmental standard in accordance with Policies KP2 and CP4 of the Core Strategy (2007), Policy SC1.2 of the SCAAP (2018) and Policies DM1 and DM3 of the Development Management Document (2015).

31) Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until samples, full specifications and details of the materials to be used on all external elevations of all buildings hereby approved, including all cladding, roofs, balconies, balustrades, fenestration and all screen/boundary walls and fences, have been submitted to and approved by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

Reason: In order to protect the character and visual amenities of the area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

32) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any order revoking and re-enacting that Order with or without modification, no structure such as canopies, fences, loggias, trellises, telecommunication apparatus or satellite or radio antennae shall be installed within the development or on the buildings without the receipt of express planning permission from the Local Planning Authority.

Reason: In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Conservation Area in accordance with Policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

33) Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until full details of the proposed plant enclosures have been submitted to and approved in writing by the Local Planning Authority. The details shall include specification of materials, colours and any lighting proposed. The plant enclosures shall then be implemented and completed in complete accordance with the approved details prior to the first use of the development and thereafter retained permanently.

Reason: In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Conservation Area in accordance with Policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

34) Notwithstanding the details submitted and otherwise hereby approved, no development above ground level shall be undertaken unless and until full details of the glazing to the south-western corner of the leisure building have been submitted to and approved in writing by the Local Planning Authority. The glazing shall be implemented and completed in accordance with the approved details prior to the first use of the development hereby approved.

Reason: In order to protect the character and visual amenities of the development and the adjacent listed and locally listed buildings and the Conservation Area in accordance with policies DM1 and DM5 of the Development Management Document (2015), Policy CS1.2 of the SCAAP (2018) and Policies KP2 and CP4 of the Core Strategy (2007).

35) No part of any building hereby approved shall be occupied and the car park shall not be first opened to the public until a Car Parking Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include details of the layout and number of car parking spaces, timings for the delivery of on-site car parking spaces, the proposed car park charging scheme, and the management of availability of car parking spaces during low and high peak periods. The parking spaces shall be made available in full accordance with this approved Plan from its approval. All parking spaces in the development shall be available for members of the public and shall not be reserved for the use of any particular building or users.

Reason: To ensure that adequate car parking is provided and retained to serve the development in accordance with Policy DM15 of the Council's Development Management Document (2015), Policy CP3 of the Core Strategy (2007) and Policies CS1.2 and DS5 of the SCAAP (2018).

36) Prior to first occupation of any part of any building hereby approved or the car park being open to the public, details of the number and location of electric car charging points to be installed in the car park shall be submitted to and approved in writing by the Local Planning Authority. At least 20% of all the car parking spaces shall have an electric charging point provided capable of charging vehicles from the outset and every car parking space shall be future proofed so that electric charging points can be installed when demand requires, e.g. four-way duct and drawpits to all service bays. The development shall be implemented in accordance with the approved details before it is brought into use.

Reason: In the interests of providing sustainable transport choices in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and DM2 and DM15 of the Development Management Document (2015).

37) No part of any building hereby approved shall be first occupied unless and until full details of the covered and secure cycle parking have been submitted to and approved in writing by the Local Planning Authority. This shall include provision for not less than 102 cycle spaces, of which 30 must be made available for staff cycle parking. The development shall be carried out in accordance with those approved details before the development is first occupied or brought into first use and shall be retained as such in perpetuity.

Reason: To ensure that adequate cycle parking is provided and retained to serve the commercial development in accordance with Policies KP2 and CP3 of the Core Strategy (2007) and Policies DM1 and DM15 of the Development Management Document (2015).

38) Notwithstanding the details submitted with this application, no part of any building hereby approved shall be first occupied unless and until full details of the proposed disabled car parking across the site's car parks have been submitted to and approved in writing by the Local Planning Authority. Details shall include the number of spaces, locations and specification of layout. The spaces shall be implemented in full compliance with the approved details prior to the first occupation of the development, or the bringing into use of the surface car park and shall be retained in perpetuity thereafter.

Reason: To ensure that adequate disabled car parking is provided and retained to serve the commercial development in accordance with Policies KP2 and CP3 of the Core Strategy (2007), Policies DM1 and DM15 of the Development Management Document (2015) and DS5 and CS1.2 of the SCAAP (2018).

39) No development (excluding demolition) shall take place above ground floor slab level until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve Very Good BREEAM level.

Reason: This pre-commencement condition is required in the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM2 of the Development Management Document (2015).

40 No building hereby approved shall be first occupied unless and until a final Certificate has been issued certifying that BREEAM (or any such equivalent national measure of sustainable building which replaces that scheme) rating "Very Good" has been achieved for that building.

Reason: In the interests of providing a sustainable development, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

41) Notwithstanding the details submitted and otherwise hereby approved, prior to the commencement of development a strategy that demonstrates how at least 10% of the total energy needs of the development is to be supplied using on site renewable sources shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include proposals to demonstrate how at least 10% of the total energy needs of the communal areas within the main leisure building will be met by onsite renewable sources.

Thereafter, prior to occupation of each individual unit including the communal areas within the main leisure building, a detailed scheme for renewable energy generation to meet 10% of total energy needs for that unit/area and in accordance with the agreed strategy shall be submitted to and agreed in writing with the Local Planning Authority. The approved scheme for each unit/area shall be implemented and completed prior to the first occupation of that unit/area and maintained in perpetuity.

Reason: To ensure that the development makes appropriate use of on-site renewable energy in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

42) No development above ground level (excluding works of demolition) shall be undertaken unless and until details of the number, location, and specifications of bat and bird boxes have been submitted to and agreed in writing by the Local Planning Authority. The installation of the approved bird and bat boxes shall be carried out before the development hereby approved is first occupied or brought into first use and shall thereafter be retained in perpetuity.

Reason: To minimise the environmental impact of the development and ensure suitable mitigation is provided for biodiversity, including protected species and habitats in accordance with Policies KP2 and CP4 of the Core Strategy (2007).

43) All clearance, conversion and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive, unless it is necessary for works to commence in the nesting season, then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out by a suitably qualified ecologist. Only if there are no active nests present shall work be allowed to commence within the bird nesting season.

Reason: To minimise the environmental impact of the development and to ensure suitable mitigation is provided for protected species and habitats in accordance with Policies KP2 and CP4 of the Core Strategy (2007).

44) Notwithstanding the details submitted and otherwise hereby approved, no demolition hereby approved shall take place in the bat breeding season unless and until all buildings

to be demolished have been first checked by a suitably qualified ecologist and it has been demonstrated that there are no signs of any bat roosting activity in the buildings to be demolished.

Reason: To minimise the environmental impact of the development and to ensure suitable mitigation is provided for protected species and habitats in accordance with Policies KP2 and CP4 of the Core Strategy (2007).

45) Prior to the first occupation of the development hereby approved, details of a CCTV scheme to serve the internal and external areas of the development shall be submitted to and agreed in writing with the Local Planning Authority. The details shall include the location of CCTV equipment (including CCTV to cover the multi-level car park in the leisure building hereby approved), its management, monitoring of activity, policing and maintenance. The installation of the CCTV shall be carried out in accordance with the approved details before the development hereby approved is first occupied or brought into first use. The CCTV shall thereafter be operated in accordance with the approved details and shall be retained permanently thereafter.

Reason: To protect the residential amenities of nearby occupiers and an environment which limits opportunities for crime and fear of crime, in accordance with Policies KP2 and CP4 of the Core Strategy (2007) and Policy CS1.2 of the SCAAP (2018).

46) Notwithstanding the details shown on the plans submitted, and otherwise hereby approved, the development shall not be first occupied unless and until full details of the public art to be provided to the north of St John's Square has been submitted to and approved in writing by the Local Planning Authority. The approved public art shall be provided in full prior to the first use of the development hereby approved.

Reason: To ensure the scheme incorporates suitable public art and comply with policies KP2 and CP4 of the Core Strategy (2007), Policy DM1 of the Development Management Document (2015) and Policy CS1.2 of the SCAAP (2018).

47) No development above ground floor slab level shall be undertaken unless and until the Local Planning Authority has approved in writing a full scheme of highway works (including detailed designs and contract details) associated with the development which has previously been submitted to the Local Planning Authority. The development and the associated highway works shall thereafter be undertaken in accordance with the approved details before the development is brought into use.

Reason: In the interests of highway safety and a well designed public realm in accordance with Policies KP2, KP3 and CP3 of the Core Strategy (2007), Policies DM1 and DM15 of the Development Management Document (2015) and Policy DS5 of the SCAAP (2018).

48) The toilet facilities accessed via Lucy Road hereby approved shall be open to the public at all times and shall be retained in public use in perpetuity.

Reason: In the interests of amenities in the area, to protect the level of provision of amenities for the community in accordance with Policy CP6 of the Core Strategy (2007).

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.

1 **Informatives**

In relation to Condition 47 you are advised to contact our Highways Service to discuss the requisite Highways Agreements under the Highways Act 1980, Town and Country Planning Act 1990 and Road Traffic Regulation Act 1984. You are advised that we are likely to accept the completion of a legal agreement under section 278 and section 38 of the Highway Act in order to satisfactorily discharge this condition. The relevant legal agreements must be in place before any works are carried out to the public highway. A separate Stopping Up Order under Section 247 of the Town and Country Planning Act 1990 will be required for that part of the site within the public highway.

Please note that the development the subject of this application is liable for a charge under the Community Infrastructure Levy Regulations 2010 (as amended). A Community Infrastructure Levy (CIL) Liability Notice will be issued as soon as practicable following this decision notice. This contains details including the chargeable amount, when this is payable and when and how exemption or relief on the charge can be sought. You are advised that a CIL Commencement Notice (CIL Form 6) must be received by the Council at least one day before commencement of development. Receipt of this notice will be acknowledged by the Council. Please ensure that you have received both a CIL Liability Notice and acknowledgement of your CIL Commencement Notice before development is commenced. Most claims for CIL relief or exemption must be sought from and approved by the Council prior to commencement of the development. Charges and surcharges may apply, and exemption or relief could be withdrawn if you fail to meet statutory requirements relating to CIL. Further details on CIL matters can be found on the Council's website at www.southend.gov.uk/cil

Highways Informative

You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that the 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.

Additional comments from Essex & Suffolk Water include:

Essex and Suffolk Water are the enforcement agents for The Water Supply (Water Fittings) Regulations 1999 within our area of supply, on behalf of the Department for the Environment, Food and Rural Affairs. We understand that a planning application has been made for the above premises which are to be notified under Regulation 5 of the Water Supply (Water Fittings) Regulation 1999.

For clarity notwithstanding the information submitted and otherwise hereby approved this permission does not permit the installation of any shared space.

The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended), the Licensing Act 2003 and the noise provisions within the Control of Pollution Act 1974.

7 Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea Borough Council, Civic Centre, Victoria Avenue, Southend SS2 6ER'.

8 Demolition Prior to demolition of the existing buildings an appropriate Asbestos survey of the buildings shall be undertaken and a scheme implemented to remove and safely dispose of any asbestos-containing materials. It is recommended that the Council's building control department is notified of the demolition.

9 The applicant must consult with Anglian Water regarding the provision of sewerage for foul and surface water. As a major application the applicant shall also need to consult with the Lead Local Flood Authority for the provision of SUDs.

10 It is recommended that applicants consult any premises licensing conditions attached to premises and also note the general obligations under the Licensing Act 2003 for the prevention of public nuisance. Notwithstanding this it is advisable to take all necessary precautions to prevent a nuisance occurring from entertainment on the premises and to this effect monitor noise around the perimeter of the premises during events.

11 The Council expect that the applicant or main contractor for construction and demolitions applies for a Prior Consent under section 61 of the Control of Pollution Act 1974.

12 Please note that if a crane or piling rig is required to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with London Southend Airport. Any crane applications should be directed to sam.petrie@southendairport.com

The applicant is reminded of their responsibilities under the provisions of the Wildlife and Countryside Act.