

Reference:	22/00611/FULM	
Application Type:	Full Application Major	
Ward:	Victoria	
Proposal:	Demolish existing buildings and erect two 3 storey blocks comprising of 33 self-contained flats facing Sutton Road, install vehicular access on to Sutton Road, layout parking to rear, cycle and bin storage, amenity space, landscaping and associated works	
Address:	425 - 427 Sutton Road, Southend-on-Sea, Essex	
Applicant:	Mr Chris Dove	
Agent:	n/a	
Consultation Expiry:	5th September 2022	
Expiry Date:	9th December 2022	
Case Officer:	Robert Lilburn	
Plan Nos:	200 P4 Site Location Plan 201 P4 Existing Site Plan 202 P8 Proposed Site Plan 203 P8 Site Context Plan 204 P13 Proposed Ground and First Floor Plans 205 P9 Proposed Second Floor Plan and Roof Access 206 P8 Proposed Roof Plan 208 P5 Proposed Elevations 209 P11 Existing and Proposed Street Scene and Site Plan 210 P4 Existing and Proposed Street Scene with Sections 250 P2 Proposed Public Realm Improvements	
Supporting Documents:	Affordable Housing Viability Report dated 6th December 2021 Construction Method Statement Version 1_13.06.2022 Design and Access Statement inc. Waste Management Strategy P5.0 Feb 2022 Planning Statement – V4 March 2022 Bat Survey John Dobson November 2021 Ecology Report by Wild Frontier November 2021	

	<p>Daylight Sunlight and Overshadowing Assessment dated 28th March 2022 by EEABS</p> <p>211588 C-001 P02 Surface Water Drainage Plan</p> <p>211558 C-503 P01 Drainage External Works Sheet 3</p> <p>211558 C-506 P01 Drainage External Works Sheet 6</p> <p>Drainage Strategy by RLC Ref.211558 May 2022</p> <p>Foul Sewerage and Utilities Assessment dated 11th March 2022</p> <p>SUDS AquaCell Specification</p> <p>Sustainable Urban Drainage Systems Assessment and Details 11th March 2022</p> <p>Gas Membrane specifications</p> <p>Phase I Desk Study and Contamination Assessment dated 21st December 2021</p> <p>Protech GM Super - gas barrier specification</p> <p>Protech GM Super - BBA Certification</p> <p>9546-D-AMS Rev B Tree Protection Plan by Hayden's Arboricultural Method Statement & Tree Protection Plan 01/11/2022 Rev B by Hayden's</p> <p>Noise Assessment Report 13340/1B by Adrian James Acoustics</p> <p>Sustainability Statement version 1.1 dated 29th March 2022</p> <p>Transport Statement 2nd March 2022</p>
<p>Recommendation:</p>	<p>Members are recommended to DELEGATE to the Executive Director (Growth and Housing), Director of Planning or Service Manager - Development Control to GRANT PLANNING PERMISSION subject to CONDITIONS following the completion of a LEGAL AGREEMENT under section 106 of the Town and Country Planning Act 1990 (as amended)</p>

1 Site and Surroundings

- 1.1 The application relates principally to two buildings and their curtilage: a two-storey warehouse-type building, and a single-storey warehouse-type building.
- 1.2 The buildings are situated close to the back of the footpath on the west side of Sutton Road, behind a ribbon of open land. There is a small, gated yard to the south. There are two vehicular accesses.
- 1.3 The surroundings to Sutton Road are mostly residential: a mixture of houses, flats and local shops with flats above. To the north of the site is a small church hall. To the south is a recent development of three-storey flats. To the rear are semi-detached houses at Glenhurst Road.
- 1.4 Sutton Road is a mixture of mainly two and three-storey buildings of mixed character with mature street trees outside the site. To the north and south of the site are a number of three/four storey blocks of flats. In front of the site are double yellow lines, traffic islands and demarcated parking bays. There are nearby bus stops serving traffic in each direction.
- 1.5 The site is identified on the policies map of the Development Management Document as within the Southend Central Area. The Southend Central Area Action Plan identifies the site as part of an opportunity area for development (Opportunity Site PA9.1). The site is within Flood Zone 1.

2 The Proposal

- 2.1 The proposal is for the construction of two separate buildings following demolition of the existing structures. Each building would be three storeys in height, separated by a vehicular access leading to a rear car park.
- 2.2 Block A to the south would comprise 24 flats and Block B to the north 9 flats. All the flats (i.e. 100%) are proposed to be Affordable Housing, split in tenure between Block A as shared ownership (73% of all the 33 dwellings) and Block B as affordable rent (27% of all the 33 dwellings).
- 2.3 External amenity space would be provided on balconies to the front (east) elevations, on private ground floor terraces to all sides, and on rooftop terraces, which would occupy a space on each building to the east of the stair and lift cores, of some 60sqm at Block A and some 35sqm at Block B.
- 2.4 The remainder of the rooftops some 11.5m deep at the front of Block A and 8m deep at the front of Block B, would be given over to green roof with the rear 5.5m of the rooftops for solar photovoltaic panels.
- 2.5 Modest soft landscaping is indicated to the buildings and the site boundaries and within the car parking area. The car park is shown to provide 33no. spaces, 24no. to the rear boundary subdivided by 3no. small, landscaped strips, and a further 9no. in an undercroft at the back of the buildings, this including 4 spaces for disabled people. A new vehicular access would be formed from Sutton Road. Outside the site edged red, public realm improvements would

be undertaken in the street in front of the proposed development, comprising new tree planting plus pavement resurfacing to match that in front of the neighbouring development to the south.

2.6 Bicycle and refuse storage would be provided internally at the ground floor of each building.

2.7 The floor space and accommodation configuration of the proposed flats are shown in **Table 1** as follows:

Table 1: Schedule of accommodation

Floor Level	Bedrooms / Persons	Whether M4(3) compliant	Gross Internal Area (GIA) (sqm)	Internal Storage Space (sqm)	Amenity Space (sqm)	Block
GF	3B4P		74	2.5	16.4	A
GF	2B3P		61	2	6	A
GF	2B3P		61	2	6	A
GF	1B2P	M4(3)	58	1.5	3	A
GF	2B3P		61	2	12	A
GF	2B3P		61	2	0	A
GF	3B4P		74	2.5	18.8	B
GF	2B4P		70	2	21.4	B
1F	2B4P		70	2	16.4	A
1F	1B2P		50	1.5	6	A
1F	2B3P		61	2	6	A
1F	2B3P		61	2	6	A
1F	1B2P	M4(3)	58	1.5	3	A
1F	2B3P		61	1	0	A
1F	2B3P		61	1	0	A
1F	2B3P		61	1	0	A
1F	2B4P		70	2	0	A
1F	1B2P		50	1.5	0	B
1F	1B2P		50	1.5	0	B

1F	1B2P		51	1.5	5.4	B
1F	2B3P		62	2	3	B
2F	2B3P		70	2	16.4	A
2F	1B2P		50	1.5	0	A
2F	2B3P		61	2	6	A
2F	2B3P		61	2	6	A
2F	1B2P	M4(3)	58	1.5	3	A
2F	2B3P		61	1	0	A
2F	2B3P		61	1	0	A
2F	2B3P		61	1	0	A
2F	2B4P		70	2	0	A
2F	1B2P		56	1.5	0	B
2F	2B4P	M4(3)	74	1.5	15.9	B
2F	2B3P		62	2	3	B

2.8 The proposed housing mix is shown in **Table 2** below:

Table 2: Proposed dwelling mix by size and tenure

Type of unit	Number	Percentage		
		Overall	Block A (shared ownership)	Block B (affordable rent)
One-bedroom flat	9no.	27%	21%	44.5%
Two-bedroom flat	22no.	67%	75%	44.5%
Three-bedroom flat	2no.	6%	4%	11%
Total	33no.	100%	100%	100%

2.9 The development would be of a contemporary design and buildings would be flat roofed. Proposed external materials are described as buff brickwork and white render, grey aluminium windows and doors.

2.10 A viability appraisal has been submitted with the application which concludes that the scheme is not viable as open market housing.

- 2.11 As a 'significant development' of more than 10 dwellings, the application falls to be determined by the Development Control Committee further to the adopted Scheme of Delegation.

3 Relevant Planning History

425 Sutton Road

- 3.1 20/00020/FULM: Erect 18 self-contained flats in two blocks of three storeys facing Sutton Road and one block of two storeys at rear, lay out 12 car parking spaces and cycle storage to rear, bin stores to front and install vehicular access on to Sutton Road following demolition of existing buildings (Amended Proposal). Refused 02.04.2020; appeal dismissed 19.10.2021. [**officer comment:** the principle of flats was not a reason for the appeal being dismissed. The reasons for dismissal related to more technical matters such as layout and waste storage arrangements].
- 3.2 19/00634/FULM: Erection of 18 self-contained flats in two blocks of three storeys facing Sutton Road and one block of two storeys at rear, lay out 17 car parking spaces and cycle store to rear, bin stores to front and install vehicular access on to Sutton Road following demolition of existing buildings. Refused 25.09.2019.
- 3.3 18/00076/FUL: Demolish existing buildings and erect nine dwellings comprising of six terraced houses, two semi-detached houses and one detached house layout 9 parking spaces, cycle store to rear, layout bin stores to front and install vehicular access on to Sutton Road (Amended Proposal). Approved 04.04.2018.
- 3.4 17/00163/FUL: Demolish existing buildings and erect nine dwellings comprising of, eight terraced houses, one detached house, layout 12 parking spaces, cycle store to rear, layout bin stores to front and install vehicular access on to Sutton Road (Amended Proposal). Refused; appeal dismissed.
- 3.5 16/01308/FUL: Demolish existing buildings and erect nine dwellings comprising of seven terraced houses, one detached house and one maisonette, layout 12 parking spaces and cycle store to rear and layout bin stores to front. Refused.
- 3.6 00/00545/FUL: Convert first floor of warehouse (Class B8) into one self-contained flat (Class C3). Approved.

427 Sutton Road

- 3.7 14/00029/FUL: Demolish existing building and erect three storey building comprising of six flats with landscaping to rear, cycle storage and refuse storage (Amended Proposal). Approved 06.03.2014.
- 3.8 13/00461/FUL: Demolish existing building and erect four storey building comprising 6 flats with landscaping to rear. Refused 29.05.2013.
- 3.9 Earlier planning history relates to alterations in association with the former use of the buildings as warehouse and light industrial units and is considered to be of little relevance to the current proposal.

4 Representation Summary

4.1 Public Consultation

82 neighbouring properties were notified. A site notice was posted and a press advertisement was published. 4 letters of representation have been received, objecting to the application. The matters of objection are summarised as follows:

- Detrimental effect on character and appearance of the site and surroundings;
- Detrimental impacts on amenities of nearby residential occupiers and of wider area;
- Security of neighbouring dwellings and gardens;
- Traffic, highways and parking impacts;
- Standard of accommodation for future occupiers;
- Effects on bats;
- Infrastructure and services availability in the area;
- Impacts of building works;
- No need for flats and more houses should be provided;
- Overdevelopment of the site;
- Effects on property values.

4.2 These concerns are noted and where relevant to material planning considerations they 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.

4.3 Environmental Health

No objections subject to sound insulation between dwellings and the glazing specification with the correct ventilation strategy. Sound insulation between dwellings and ventilation are not covered by the Noise Impact Assessment. Conditions necessary in relation to noise conditions and thermal comfort. The detailed wording of the suggested conditions has been refined to better reflect the test for planning conditions set out in planning guidance.

4.4 A contaminated land investigation report will be required including ground investigation results, site characterisation and remediation proposals together with implementation and verification information.

4.5 A demolition and construction management plan should be required by condition.

4.6 Highways

No objections. Appropriate reinstatement of vehicle crossovers will be required as part of the development. Travel packs should be required.

4.7 Education

No s106 contribution required for secondary education provision where the development would be 100% affordable housing.

4.8 Strategic Housing

Affordable Housing units - The scheme is required to provide a minimum of 20% affordable housing which would equate to at least 7 units of a size mix of 2no. one-bed, 3no. two-bed, and 2no. three-bed. A 60/40 tenure split (60% rented, 40% intermediate housing) would equate to 4no. flats as affordable rent and 3no. flats as shared ownership. The proposal would exceed each of these requirements. Having reviewed the proposal, the Housing Team are supportive.

4.9 Lead Local Flood Authority

No objection subject to conditions.

4.10 Clinical Commissioning Group (NHS)

Further capacity would be required at the nearest medical practices, and this should be secured through a planning obligation via a section 106 agreement. In the absence of such a contribution the development would place an unsustainable burden upon local healthcare services [**Officer comment:** primary health service contributions are secured through the City's Community Infrastructure Levy, not planning obligations].

4.11 Anglian Water

No objections. There is capacity in the sewer network to accommodate the development. Informatives are suggested.

4.12 London Southend Airport

No objection.

4.13 Parks (Arboriculturist)

No objections to proposed crown reduction of street tree by a maximum 30% as a pruning operation. Proposed tree planting is technically acceptable subject to full details of tree pits, and root barriers in relation to the proposed new street trees.

4.14 Fire Service

Access for fire service purposes is considered satisfactory subject to confirmation that there is access for a pumping appliance within 45m of all parts of all dwellings in the premises, following the route of the hose. More detailed observations on access and facilities for the Fire Service will be considered at Building Regulation consultation stage.

Local Authority Building Control will consult with the Essex Police, Fire and Crime Commissioner Fire and Rescue Authority (hereafter called "the Authority") in accordance with "Building Regulations and Fire Safety - Procedural Guidance". Approved Inspectors will consult with the Authority in accordance with Regulation 12 of the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

The architect or applicant is reminded that additional water supplies for fire-fighting may be necessary for this development. The architect or applicant is urged to contact the Water Technical Officer at Service Headquarters, telephone 01376-576344.

There is clear evidence that the installation of Automatic Water Suppression Systems (AWSS) can be effective in the rapid suppression of fires. Essex County Fire & Rescue Service (ECFRS) therefore uses every occasion to urge building owners and developers to consider the installation of AWSS. ECFRS are ideally placed to promote a better understanding of how fire protection measures can reduce the risk to life, business continuity and limit the impact of fire on the environment and to the local economy. Even where not required under Building Regulations guidance, ECFRS would strongly recommend a risk-based approach to the inclusion of AWSS, which can substantially reduce the risk to life and of property loss. We also encourage developers to use them to allow design freedoms, where it can be demonstrated that there is an equivalent level of safety and that the functional requirements of the Regulations are met.

Planning Policy Summary

- 5**
- 5.1 The National Planning Policy Framework (NPPF) (2021)
 - 5.2 Planning Practice Guidance and National Design Guide (2021)
 - 5.3 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (Implementation and Resources), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment & Urban Renaissance) and CP8 (Dwelling Provision)
 - 5.4 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low carbon development and efficient use of resources), DM3 (The Efficient and effective use of land), DM7 (Dwelling Mix), DM8 (Residential Standards), DM11 (Employment Areas), DM15 (Sustainable Transport Management)
 - 5.5 Southend Central Area Action Plan (SCAAP) (2018) DS1 (A Prosperous Retail Centre) DS5 (Transport, Access and Public Realm) PA9 (Sutton Gateway Neighbourhood Policy Area Development Principles)
 - 5.6 Southend-on-Sea Design & Townscape Guide (2009)
 - 5.7 National Technical Housing Standards (2015) and Technical Housing Standards Policy Transition Statement (2015)
 - 5.8 The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) SPD (2020)
 - 5.9 Guide to Section 106 & Developer Contributions (2015)
 - 5.10 Southend-on-Sea Vehicle Crossover Policy (2021)
 - 5.11 Waste Storage, Collection and Management Guide for New Developments (2019)
 - 5.12 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021) Adopted 2nd November 2021
 - 5.13 Community Infrastructure Levy (CIL) Charging Schedule (2015)

6 Planning Considerations

- 6.1 The main considerations in relation to this application are the principle of the development, including the quantum of housing provision and dwelling mix, design and impact on the street scene and wider area, impacts on amenities of nearby residents, the standard of accommodation for future occupiers, traffic and highways impacts, sustainability including RAMS, ecology, CIL and planning obligations including affordable housing.

7 Appraisal

Principle of Development

- 7.1 The site is within the built-up area and the development would add to the supply of dwellings on previously developed land in Flood Zone 1.

- 7.2 The National Planning Policy Framework (NPPF) encourages effective use of land in particular previously developed land. It states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of underutilised land and buildings especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 7.3 Core Strategy (2007) Policies KP1, KP2 and CP4 seek to direct the siting of development through a sequential approach, minimising the use of 'greenfield' land. Policy CP4 stipulates that this should be achieved by "maintaining and enhancing the amenities, appeal and character of residential areas, securing good relationships with existing development, and respecting the scale and nature of that development".
- 7.4 The Southend Central Area Action Plan (SCAAP) identifies the site as Opportunity Site PA9.1, by which "*the Council will support the redevelopment of this area for high quality housing and community facilities. The Council will require the building design, form and massing to: (a) have regards to residential buildings bordering the Opportunity Site and contribute positively to repairing the street scene and urban grain in this area; (b) include enhancements to the public realm to create a coordinated, sustainable palette of materials and furniture in accordance with the streetscape manual*". The Policy indicates the scope for some 214 new dwellings within the wider Opportunity Site. The applicant has indicated proposed new highway tree planting and public realm improvements to correspond with those carried out at the existing development neighbouring to the south. In this instance these can be reasonably secured by a Grampian style planning condition.

Loss of Employment Land

- 7.5 Policy CP1 states that "*Permission will not normally be granted for development proposals that involve the loss of existing employment land and premises unless it can be clearly demonstrated that the proposal will contribute to the objective of regeneration of the local economy in other ways, including significant enhancement of the environment, amenity and condition of the local area*".
- 7.6 Policies DM10 and DM11 seek to support appropriate sites for employment opportunity in accordance with the spatial strategy. The site is not identified as a 'Priority Urban Area' or industrial estate/employment area in the Core Strategy and is instead identified in the SCAAP for, principally, housing redevelopment.
- 7.7 Policy DM11 states that alternative uses on sites used or last used for employment purposes, outside the identified employment areas, will only be permitted where it can be demonstrated that it will no longer be effective or viable to accommodate the continued use of the site for employment purposes, or the use of the site for B2 or B8 purposes gives rise to unacceptable environmental problems. It will need to be demonstrated that an alternative use will give greater potential benefit to the community and environment than continued employment use. The Appendix to the Policy sets out requirements for supporting information which include a qualitative appraisal referencing the advantages and limitations of the site set against alternative employment uses, general investment or improvements, or through competitive rental levels.
- 7.8 Limited supporting information has been submitted with respect to the loss of employment land. The Planning Statement provides a letter prepared by surveyors Rona dated 26

January 2017, which provides advice in relation to the marketability of the site. The letter provides the following comments:

- Building stock of this age, construction and type in this location are now surplus to requirement as commercial premises;
- The premises are old and beyond their design life and are now in need of complete refurbishment;
- The building will fail an EPC test of being better than band F ...therefore the cost of refurbishment would be prohibitive and uneconomic.

7.9 The letter is now over 5 years old and the condition of the site may have deteriorated during this period, notwithstanding the appearance of ongoing use noted at the time of the officer's site visit in 2022.

7.10 Earlier planning decisions relating to the different parts of the site have expired and carry little weight. Most recently in (application 18/00076/FUL) the loss of employment land at the southern part of the site has been found acceptable for the purposes of housing development. There are no new material considerations of sufficient weight to indicate this does not remain the case. In view of these factors taken together, and given that the entire site is identified in the SCAAP for housing redevelopment, an objection to the development on the basis of loss of employment premises is not considered reasonable or sustainable. The provision of affordable housing would be a considerable community and environmental benefit in principle, noting in addition here, that the proposal is for 100% Affordable Housing. Such use would conform with its surroundings. The proposal is on balance considered acceptable in terms of employment land and premises.

Proposed residential provision

Quantum of housing

7.11 The results of the Housing Delivery Test (HDT) published by the Government show that there is underperformance of housing delivery in the City. Similarly, the Council's Five-Year Housing Land Supply (5YHLS) figure shows that there is a deficit in housing land supply in the City.

7.12 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.

7.13 The deficit in housing land supply weighs 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.

7.14 While the scope for dwelling provision indicated in Policy PA9.1 is not prescriptive, the proposed provision of 33 dwellings would accord reasonably to the total figure having regard for the size of the site and the prevailing pattern of existing development.

Dwelling mix

7.15 Paragraph 60 of the NPPF states that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing

requirements are addressed and that land with permission is developed without unnecessary delay.

- 7.16 Policy DM7 seeks residential development to provide a dwelling mix that incorporates a range of dwelling types and bedroom sizes, including family housing on appropriate sites, to reflect the City's housing need and housing demand. The Council seeks to promote a mix of dwelling types and sizes as detailed below.
- 7.17 9no. flats would be one-bedroom two-person (1b2p) accommodation, 17no. flats would be 2b3p, 5no. flats would be 2b4p and 2no flats would be 3b4p. This dwelling mix is compared to the preference set out in Policy DM7 in Table 3 below. The tenure mix would not correspond to the 60:40 required in absolute proportion terms, but would exceed the overall numbers required by the policy which requires a minimum 20% provision.

Table 3: Dwelling mix policy comparison for Affordable Housing

Type of unit	Proposal		Policy DM7 requirement
	Number	Percentage	Percentage
One-bedroom flat	9	27%	16%
Two-bedroom flat	22	67%	43%
Three-bedroom flat	2	6%	37%
Four-bedroom flat	0	0	4%
Total	33	100%	100%

- 7.18 The proposed dwelling mix tends away from family-sized dwellings, and overall this is a factor of some negative weight in light of the SESHMA. The proposal emphasises one- and two-bedroom flats above the preferences set out in Policy DM7, with three-bedroom flats below the set preference. This is also a factor of some negative weight however set against these negative factors it is noted that some 23% of the two-bedroom flats would be 2b4p and therefore larger-capacity within that band (subject to appraisal of the compliance with NDSS set out in Living Conditions below).
- 7.19 Among the shared ownership flats in Block A, 5no. would be 1b2p, 15no. would be 2b3p, 3no. would be 2b4p and 1no. would be 3b4p. Therefore some 78% of shared ownership flats (Block A) would be two-bedroom.
- 7.20 Among the affordable rent flats in Block B, 4no. would be 1b2p, 2no would be 2b3p, 2no. would be 2b4p and 1no. would be 3b4p. Therefore some 44% of affordable rented flats (Block A) would be two-bedroom and 44% one-bedroom. These are considered to be reasonable distributions within each tenure type.
- 7.21 The scheme proposes to secure all 33 units as affordable housing via the legal agreement so they are protected as such for the lifetime of the development. The proposed quantum and mix of Affordable Housing significantly exceed the policy requirements. The proposal is acceptable and policy compliant in terms of dwelling provision and mix.

Viability

- 7.22 The submitted viability assessment states that the scheme would be unable to support any affordable housing on open market terms. The developer and the registered affordable housing provider (RP) have confirmed their intention that the development would be 100% Affordable Housing funded by the RP. The RP have confirmed that grant funding from Homes England has been applied for and that they consider the scheme viable for them at 95% cost to value.
- 7.23 A 100% Affordable Housing provision would be in excess of policy compliance. A policy compliant level of Affordable Housing would be 20% of the total housing, subject to dwelling and tenure mixes. An independent Review of 'Affordable Housing Viability Assessment' found that the scheme is capable of generating a residual land value. It is considered that the development is capable of providing a policy compliant level of Affordable Housing or a level in excess of policy compliance. The 100% affordable housing provision will be secured in the legal agreement.

Design and Impact on the Character of the Area

- 7.24 The NPPF states that planning decisions "*should ensure that developments ...are visually attractive as a result of good architecture and ...are sympathetic to local character including the surrounding built environment while not preventing or discouraging appropriate innovation or change (such as increased densities)*".
- 7.25 The National Design Guide notes that context including the grain of development, landscaping and the natural environment are important aspects of place and good design. Well-designed new development is integrated into its wider surroundings and responds positively to its context.
- 7.26 Policy DM1 requires development to respect the townscape and contribute positively to the space between buildings and their relationship to the public realm. The importance of good design is reflected in Policies KP2 and CP4 of the Core Strategy, and in Policy DM3 of the Development Management Document, which seek to maintain and enhance the amenities, appeal and character of residential areas.
- 7.27 The proposed density of flats would be consistent with existing characteristics of the area. The positioning of the buildings along the Sutton Road frontage would be consistent with the urban grain. The development would be of a similar design and scale to the recent development situated immediately to the South (411-415 Sutton Road, now Valentine Court, Underwood Court and Hammond Court). It would reduce the diversity of built form in terms of height and design within the street scene however this would not be significantly harmful.
- 7.28 The development would improve the active frontage and would provide modest landscaping to the front. The car parking area to the rear would be reasonably extensive but it is not considered to be harmfully so, given its proportions relative to the site overall and the provision of indicative landscaping. Full details of planting can be secured through a condition.
- 7.29 The design of the buildings would be articulated mainly through the projecting balconies at the front and sides, contrasting materials and relatively large floor to ceiling windows and glazed doors to the front and to some extent to the rear. Full details of external materials

can be secured through a condition.

- 7.30 A mature street tree is situated immediately outside the site on Sutton Road and contributes positively to the street scene together with similar trees elsewhere along the street. The application includes details and a methodology for protection of the tree during the development, and notes that a root barrier has been installed to prevent significant encroachment. The application proposes works to the tree to facilitate the development; details of the works would be subject to agreement by Parks, separately. Subject to implementation of appropriate tree protection measures the development is acceptable in these regards.
- 7.31 The application proposes the introduction of three new street trees to the front of the proposed buildings. This would improve the integration of the development into the street scene, subject to details, and would accord with the details of Policy PA9.1 of the SCAAP. The application also proposes the introduction of tree screening to the rear boundary and states that 7m tall trees would be planted. This arrangement would be consistent with the established development to the south and would enhance the integration of the development into its surroundings alongside the low-level planting indicated.
- 7.32 Subject to the described conditions it is considered that the application is acceptable and policy compliant in the above regards.

Impact on Residential Amenity

- 7.33 The NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.34 Policies DM1 and DM3 of the Development Management Document seek to support sustainable development which is appropriate in its setting, and that *“protects the amenity of the site, immediate neighbours, and surrounding area, having regard to matters including privacy, overlooking, outlook, noise and disturbance, sense of enclosure/overbearing relationship, pollution, daylight and sunlight”*.
- 7.35 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”*.
- 7.36 The position of the proposed buildings would be reasonably consistent with the established grain of buildings and spaces. The key difference from the existing situation would be the increase in height and the use for residential purposes.
- 7.37 The proposed three storey buildings would be separated from the dwellings and private amenity spaces to the rear at Glenhurst Road to the west by the proposed car parking area, some 11.4m deep. This relationship would be similar to that found to the immediate south, with its rear neighbours along Glenhurst Road, approved further to application 18/00679/AMDT. The buildings would be separated from the main dwellings at nos.2-12 Glenhurst Road by some 35m.
- 7.38 On this basis the rear windows of the proposed flats would not cause a significant loss of privacy to the existing occupiers within the dwellings at nos.2-12 Glenhurst Road. Consistent with the approach taken at the development to the South, it is considered that the proposed tree planting can provide screening to reasonably mitigate privacy impacts within the far ends of the existing rear private amenity spaces at nos.2-12 Glenhurst Road.

- 7.39 The proposal would have a different relationship to the closest dwellings at Oakhurst Road, particularly no.14 Oakhurst Road and to a lesser extent nos.16-22 Oakhurst Road. The rear gardens of these dwellings are positioned perpendicular to those at Glenhurst Road, with all the private amenity space of no.14 Oakhurst Road running along the back of the application site.
- 7.40 The application includes mitigation measures to curtail privacy impacts from the rear elevation of Block B to the dwellings and gardens at Oakhurst Road, as follows:
- The second floor of Block B would be set in so that the separation distance between the rear of the block at second floor, to the boundary with no.14 Oakhurst Road, would increase from some 11.9m to some 19.3m towards that dwelling's rear elevation. Articulation at first floor would make a distance of some 14.3m to the same boundary;
 - The lower separation distance of some 11.9m would affect the rearmost portion only of the garden at no.14 Oakhurst Road;
 - The submitted plans indicate that oriel-style windows would be used at the north rear elevation of Block B at first and second floors, angling them slightly away from the rear elevation of no.14 Oakhurst Road;
 - 1.8m screening to the rear roof terrace of proposed Flat 32;
 - The proposed rear-boundary tree planting could provide screening to reasonably mitigate privacy impacts within the rear private amenity space at no.14 Oakhurst Road.
- 7.41 It is considered that, subject to conditions requiring the provision of screening and tree planting as indicated, the privacy impacts would be reasonably mitigated with regards to nos.14-22 Oakhurst Road, having regard to both the rear gardens and rear elevations including the roof dormer at no.14.
- 7.42 The proposed communal roof terraces would be positioned to the east of the proposed solar voltaic arrays, principally behind the stair and lift cores. The separation distances to the rear gardens behind the site would be at least 18m. Consistent with findings for the development to the south, the privacy impacts on neighbours would be within acceptable parameters.
- 7.43 Secondary windows of proposed Block A would be situated within some 1.7m of the north-facing secondary windows to open-plan kitchen and living spaces at ground, first and second floors of the existing flatted development neighbouring to the south at Hammond Court. Privacy conditions can be reasonably protected in this circumstance using obscured glass to those flank windows, which can be required by condition. Obscure glazing should be provided to the north facing flank windows on Block B given the proximity to the neighbouring site and can be secured by condition.
- 7.44 The development's relationship to dwellings on the east side of Sutton Road would be acceptable in terms of privacy conditions given the separation across the public realm. The proposed roof terraces would be set back from the front elevation by a minimum of 3m and would not harmfully affect occupiers' amenity opposite in any relevant regard.
- 7.45 The proposal would affect outlook to the secondary windows to Hammond Court, to the south. As secondary windows this impact would not be significantly harmful. A 'well effect' would be created, some 5.8m deep and 4.4m wide, in relation to the West-facing bedroom windows, sole sources of light and outlook, at ground, first and second floors of Hammond

Court. It is not considered that the impact on outlook from these windows would be significantly harmful.

- 7.46 Given the context of the existing side wall of Hammond Court, it is not considered that the proposed development would cause a significantly harmful sense of enclosure or overbearing relationship to occupiers of those bedrooms.
- 7.47 Given the position of the affected bedroom windows at the north end of Hammond Court where they are already shadowed by the existing building, it is considered that the impact of the proposal in terms of daylight would not be sufficiently harmful to justify a refusal of planning permission on this basis. Situated to the north the proposed development would not cause shadowing to Hammond Court.
- 7.48 By reason of the scale and position of the proposed buildings relative to surrounding dwellings and private amenity spaces, the development would not significantly harm outlook conditions, or cause a significantly harmful sense of enclosure or overbearing relationship to those residents.
- 7.49 By reason of the height, position and orientation of the proposed buildings, the development would not cause a significantly harmful effect in terms of daylight or shadowing conditions to surrounding dwellings and private amenity spaces. The applicant has provided a Daylight, Sunlight and Overshadowing Assessment dated 28th March 2022 by EEABS. This supports these conclusions.
- 7.50 It is acknowledged that roof terraces may have a different relationship to surrounding spaces with respect to noise impacts and a potential perception of noise intrusion. Given the extent and position of the proposed roof terraces, it is not considered that their use would harm surrounding occupiers through noise impacts in a materially different way to any other amenity space.
- 7.51 The proposal would introduce a density of development commensurate with the existing situation neighbouring to the South, and appropriate to the site's location along a main road. It would introduce a different and increased profile of activity in proximity to the residential gardens to the rear compared to the existing situation. Located within the built-up area, noise and disturbance from occupation of the development and associated activity is considered to be within reasonable parameters.
- 7.52 Sound transmission is a matter for building regulations and environmental health legislation, and in this instance, it is considered that the potential for any increased disturbance from the flats and their amenity spaces is unlikely to cause impacts to the amenities of nearby occupiers to an extent that would represent significant harm to residential amenity.
- 7.53 The proposal introduces a car park along the boundary with residential gardens to the West. This would introduce activity with associated noise and car fumes in proximity to the nearby gardens where at present the site is occupied by low-rise buildings.
- 7.54 In relation to nos. nos.2-12 Glenhurst Road, the relationship with the car park would be similar to the arrangement found acceptable to the south. Given the length of the gardens, and proposed screen planting, together with boundary fencing that can be secured by condition, the impacts are considered to be acceptable.
- 7.55 The proposed car parking and tree screening, together with any boundary fencing, would

be situated in close proximity to the entire length of the private amenity space at no.14 Oakhurst Road. The submitted site plan indicates a greater density of tree planting at this location close to the rear of no.14.

- 7.56 The rear boundary of the site is currently formed of the undulating roof of the commercial building and its concrete rear wall, which falls to a single storey structure behind no.14 Oakhurst Road, and which includes an unsightly tall flue.
- 7.57 Taking account of the established situation with buildings of a commercial character, together with the effect of the existing built form and the mitigations provided by tree planting and boundary fencing, which can be secured by condition and situated along the east boundary of no.14 Oakhurst Road, it is considered that the proposed car parking and screening would not cause a significantly harmful effect to neighbouring occupiers' amenity in any relevant regard.
- 7.58 Car park noise and pollution impacts would not be significant given the scale of the proposal and the residential character of the development.
- 7.59 As a non-residential building, impacts to the church hall would not be considered significantly harmful in any relevant regard.
- 7.60 With regard to impacts of building works, a construction method statement has been supplied and can be secured as a condition of planning permission in the interests of free flow of traffic and the amenities of the wider area.
- 7.61 Subject to the described conditions it is considered that the development would be acceptable and policy compliant in its impact upon the amenities of neighbouring and surrounding residential occupiers.

Living conditions

- 7.62 The NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 7.63 Policy DM1 of the Development Management Document requires that developments provide an internal and external layout that takes account of all potential users. Policy DM8 states that the internal environment of all new dwellings must be high quality and flexible to meet the changing needs of residents.
- 7.64 Further to this, from 1 October 2015 the adopted Nationally Described Space Standards (NDSS) state that the following internal floor spaces (gross internal area (GIA) in sqm) are required:
- 1b2p flat: 50sqm;
 - 2b3p flat: 63sqm;
 - 2b4p flat: 70sqm;
 - 3b4p flat: 74sqm.
- 7.65 The submitted schedule of accommodation incorrectly identifies flat 26 as 2b3p, while it is shown on the submitted plans as 1b2p. This error has not prejudiced the accurate assessment of the application. Reference to Table 1 at 2.7 of this report shows that the

proposed dwellings would exceed the requirements of the NDSS and bedrooms would provide twin, double or single accommodation in accordance with the NDSS.

- 7.66 The eight, single-aspect street-facing dwellings are a negative factor to be weighed in the balance. However, floor to ceiling openings, private main doors to the ground floors and balconies to the upper floors would improve the living conditions. Acceptable daylight and outlook conditions would be provided to all dwellings. In the interests of occupier privacy obscure glazing to the internally-facing flank windows at first and second floors should be required by condition given the 7m gap between facing windows at Blocks A and B.
- 7.67 Policy DM8 requires that new developments make provision for useable private outdoor amenity space. The Design and Townscape Guide (2009) states: "*Outdoor space significantly enhances the quality of life for residents and an attractive useable garden area is an essential element of any new residential development*".
- 7.68 12 of the proposed 33 flats would have no dedicated private amenity space in the form of balconies or terraces at ground floor, which is a negative aspect, to be weighed in the balance, but 95sqm communal amenity space would be available at the rooftop to mitigate this. The 3b4p units would both have private terraces. The private amenity spaces to the remainder of the units would be within acceptable parameters. The overall provision of private amenity spaces would be similar to those at the neighbouring development to the south, 411-415 Sutton Road (now Hammond Court), and for several units would be more generous.
- 7.69 Policy DM1 of the Development Management Document requires that development provides an internal and external layout that takes account of all potential users, and Policy DM8 requires development to have regard to Lifetime Homes Standards. Further to the Technical Housing Standards Policy Transition Statement (2015), these have been superseded for the purposes of DM8 by Part M4 (2) and M4 (3) of the Building Regulations.
- 7.70 The submitted Design and Access Statement confirms that all the proposed flats would meet building regulations M4 (2) accessibility standards, with 2no. ground floor units and 2no. second-floor units meeting M4(3) standards, providing 10% of the dwellings in accordance with the policy. Among the M4(3) compliant flats, 3no. would be in Block A and 1no. in Block B. 2no. of each would be sized 1b2p, 1no. would be 2b3p and 1no. would be 2b4p. Lift access would be available to the upper floors providing level access.
- 7.71 The submitted Noise Assessment Report 13340/1B by Adrian James Acoustics identifies the effects of road traffic noise and mitigation measures. These can be secured by condition. No details of the impacts on thermal comfort have been identified but suitable measures can be secured by condition.
- 7.72 The submitted plans show integral cycle stores within the development, and externally accessible bin storage. The cycle stores would provide one space for each dwelling consistent with Policy DM15. The bin stores would be acceptably separated from surrounding flats and would provide for 7no. bins of 1100litre specification for Block A and 4no. bins of 1100litre specification for Block B. This would meet the Council's waste standards for multiple occupancy developments of this scale. Carry and collection distances would be acceptable.
- 7.73 Subject to conditions, the proposal is considered acceptable and compliant with the policies relating to living conditions.

Traffic and Transportation Issues

- 7.74 The NPPF states (para 111) that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or, the residual cumulative impacts on the road network would be severe”.
- 7.75 Policy CP3 of the Core Strategy and Policy DM15 of the Development Management Document aim to improve road safety, quality of life and equality of access for all. Policy DM15 of the Development Management Document (2015) states that all development should meet the parking standards (including cycle parking).
- 7.76 The adopted Vehicle Parking Standards state that at least one space should be provided per dwelling at this location, and that one secure cycle storage space should be provided per dwelling. The application proposes 33 spaces within the rear parking courtyard, including 4 accessible spaces for disabled people. 33 cycle spaces are indicated internally. The standards are therefore met. Travel packs would support sustainable travel as required by Policy DM15(4) and should be secured by legal agreement.
- 7.77 Appropriate construction of the proposed vehicular access and remediation, as well as public realm improvements which would correspond to the adjacent similar development, can be reasonably secured by conditions and informatives. The street trees are acceptable in principle subject to full details which can also be secured by condition. The proposal is acceptable and policy compliant on highway and parking grounds.

Sustainability

- 7.78 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.
- 7.79 A Sustainability report has been submitted with the application, indicating that some 34% of the buildings’ energy needs could come from on-site renewable sources. The submitted plans indicate solar panels to the roofs. This is acceptable in principle. Full details to demonstrate compliance with Policy KP2 can be secured via condition.
- 7.80 The document also proposes the use of water efficient fittings and appliances to limit water consumption. A requirement to limit to no more than 105 litres per person per day can also be conditioned. Subject to these conditions, the proposal is considered to be acceptable and policy compliant in the above regards.

Ecology

- 7.81 The application is supported by a Bat Survey and an Ecology Report. The Bat Survey included external and internal surveying and noted that by reason of the lack of potential roosting places and access places that the site has negligible potential as a roosting place for bats. No evidence of bats was found internally. The site is not considered to meet the criteria for likely bat roosting which is set out in national Planning Practice Guidance.

- 7.82 The submitted ecology survey found that the potential of the site to support protected species was extremely low. The surveys suggest potential ecological enhancements such as native species planting and suitable bird boxes. These matters can be secured through relevant conditions.

Flood Risk and Drainage

- 7.83 Policy KP2 of the Core Strategy states all development proposals should demonstrate how they incorporate sustainable drainage systems (SUDS) to mitigate the increase in surface water runoff, and, where relevant, how they will avoid or mitigate tidal or fluvial flood risk.
- 7.84 The site is located within flood zone 1, low risk, so is sequentially preferable for residential development. A drainage strategy and SUDS assessment have been submitted with the application. The Council's Drainage Engineer and Anglian Water have raised no objections to the proposed drainage in principle but have requested further details be conditioned and agreed prior to the installation of any drainage works. Subject to such condition the proposal is considered to be acceptable and policy compliant in this respect.

Contamination

- 7.85 A Phase I Contamination Assessment has been submitted with the application. This states that the site presents low contamination risk to the proposed land use. It recommends further intrusive investigation and quantitative risk assessment including matters related to mobile and leachable contamination and gas. Subject to conditions requiring further detailed assessment, remediation methods and verification reporting, the proposal is considered to be acceptable and policy compliant in this respect.

Electric Vehicle Charging

- 7.86 Further to the adopted SPD, one active charging point is required per dwelling. The application identifies specific provision of 9 spaces with charging points which is insufficient. It is considered that the necessary additional provision can be reasonably secured through a planning condition.

Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS)

- 7.87 The site falls within the Zone of Influence for one or more European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). It is the Council's duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The RAMS Supplementary Planning Document (SPD) requires that a tariff of £137.21 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement. Subject to the confirmation of this payment, which can be secured via the S106 legal agreement, the proposal is considered to be acceptable and policy compliant in this regard.

Community Infrastructure Levy and Developer Contributions

7.88 Paragraph 57 of the NPPF states that *“Planning obligations must only be sought where they meet all of the following tests:*

- (a) Necessary to make the development acceptable in planning terms;*
- (b) Directly related to the development; and*
- (c) Fairly and reasonably related in scale and kind to the development”.*

7.89 The NPPF states *“Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage”.*

7.90 The National Planning Practice Guidance makes it clear that *“Where local planning authorities are requiring affordable housing obligations or traffic style contributions to infrastructure, they should be flexible in their requirements...On individual schemes applicants should submit evidence on scheme viability where obligations are under consideration”.*

7.91 Core Strategy Policy KP3 requires that *“In order to help the delivery of the Plan’s provisions the Borough Council will:*

2. Enter into planning obligations with developers to ensure the provision of infrastructure and transportation measures required as a consequence of the development proposed. This includes provisions such as; a. roads , sewers, servicing facilities and car parking; b. improvements to cycling, walking and passenger transport facilities and services; c. off-site flood protection or mitigation measures, including sustainable drainage systems (SUDS); d. affordable housing; e. educational facilities; f. open space, ‘green grid’, recreational, sport or other community development and environmental enhancements, including the provision of public art where appropriate; g. any other works, measures or actions required as a consequence of the proposed development; and h. appropriate on-going maintenance requirements”.

7.92 The need for negotiation with developers, and a degree of flexibility in applying affordable housing policy, is echoed in Core Strategy policy CP8 that states *“The Borough Council will...enter into negotiations with developers to ensure that:*

.... all residential proposals of 10-49 dwellings or 0.3 hectares up to 1.99 hectares make an affordable housing or key worker provision of not less than 20% of the total number of units on site...

For sites providing less than 10 dwellings (or below 0.3 ha) or larger sites where, exceptionally, the Borough Council is satisfied that on-site provision is not practical, they will negotiate with developers to obtain a financial contribution to fund off-site provision. The Council will ensure that any such sums are used to help address any shortfall in affordable housing.

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

Supplementary Planning Document".

Planning Obligations and Developer Contributions

Affordable Housing

- 7.93 The policy compliant provision of affordable housing here is 20% which for a site of 33 units equates to 7 units. The application documents state that the proposal will deliver all units (100%) for Estuary Housing Association, a registered provider. The viability study found that the proposal would not be economically viable as open-market housing. The LPA, with the professional advice of an independently appointed assessor (*BNP Paribas Real Estate*), has tested the viability assessment of the proposed scheme and concludes that in the current context the development could generate a surplus (subject to further information and possible revision). Estuary Housing have confirmed their funding of the development and the applicant has confirmed that 100% Affordable Housing will be secured through the S106 Agreement.
- 7.94 It is therefore found that the proposal is capable of implementation as proposed and is acceptable and policy compliant on affordable housing grounds.

Education

- 7.95 Policy CP6 states that development proposals must mitigate their impact on community infrastructure by contributing appropriately to services and facilities that would be adversely affected, in the interests of the education attainment and well-being of local residents. The Education Team have confirmed that, as the proposal is 100% affordable housing, the proposal would be exempt from an education contribution.

Highways

- 7.96 The Council's Highways Officer has requested that Travel Packs be provided to new residents.

Essex Coast RAMS

- 7.97 As noted above the applicant has requested to make the necessary payment for mitigation through the legal agreement. The S106 contribution Heads of Terms can therefore summarised as:
- Affordable housing of 9no. affordable rent (4no. 1b2p, 2no. 2b3p, 2no. 2b4p and 1no. 3b4p units) and 24no. shared ownership (5no. 1b2p, 15no. 2b3p, 3no. 2b4p and 1no. 3b4p);
 - Residential Travel Packs – to be agreed prior to occupation;
 - Essex Coast RAMS – to be paid prior to occupation;
 - Monitoring costs of £2250.
- 7.98 The above addresses the specific mitigation for the proposed development for matters not addressed within the Regulation 123 Infrastructure List covered by the CIL payment. The Section 106 provisions and contributions proposed are considered to meet the tests set out in the CIL Regulations 2010 (as amended). Without the contribution that is set out above the development could not be considered acceptable. Therefore, if the S106 agreement is not completed within the relevant timescale the application should be refused. An option to this effect is included within the recommendation in Section 9.

Community Infrastructure Levy (CIL)

7.99 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 2501sqm, which may equate to a CIL charge of approximately £95807 (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. Since all of the development would be for affordable housing the applicant can apply for an exemption.

8 Conclusion

8.1 The Council has a deficit in housing land supply so the tilted balance in favour of sustainable development is applied when determining the application. Therefore, if any harm were identified, including where discussed as partial negative factors within this report, 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 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 *National Planning Policy Framework* is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the *Framework* taken as a whole. The development would provide 33 additional dwellings for the City and as 100% Affordable Housing secured through a legal agreement, which would be public benefits, and would re-use previously developed land for an appropriate purpose.

8.2 Having taken all material planning considerations into account, it is found that subject to prior completion of the legal agreement and to compliance with the attached conditions, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The proposal would be acceptable in principle including the loss of employment spaces. The scale, layout and design are acceptable in the site context. The development would have an acceptable impact on the amenities of surrounding occupiers and would provide satisfactorily for the amenities of future occupiers. The highways impacts of the proposal are considered to be such that they would not conflict with development plan policies. The development provides reasonably for ecology and sustainability impacts of the proposal, and biodiversity enhancement can be secured through conditions relating to landscaping. This application is therefore recommended for approval subject to completion of a S106 Agreement and conditions.

9 Recommendation

(a) **That the Council enter into a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:**

- **Affordable housing of 9no. affordable rent (4no. 1b2p, 2no. 2b3p, 2no. 2b4p and 1no. 3b4p units) and 24no. shared ownership (5no. 1b2p, 15no. 2b3p, 3no. 2b4p and 1no. 3b4p);**
- **Residential Travel Packs – to be agreed prior to occupation;**

- **Essex Coast RAMS – to be paid prior to occupation;**
- **Monitoring costs of £2250.**

(b) That the Executive Director (Growth and Housing), Director of Planning or Service Manager - Development Control be DELEGATED to GRANT PLANNING PERMISSION subject to the completion of the section 106 agreement referred to above and subject to the conditions set out below:

01 The development hereby permitted shall be begun not later than 3 years beginning with the date of this permission.

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

02 The development hereby permitted shall be carried solely out in accordance with the approved plans:

200 P4 Site Location Plan

201 P4 Existing Site Plan

202 P8 Proposed Site Plan

203 P8 Site Context Plan

204 P13 Proposed Ground and First Floor Plans

205 P9 Proposed Second Floor Plan and Roof Access

206 P8 Proposed Roof Plan

208 P5 Proposed Elevations

209 P11 Existing and Proposed Street Scene and Site Plan

210 P4 Existing and Proposed Street Scene with Sections

250 P2 Proposed Public Realm Improvements

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

03 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no construction works in relation to the proposed residential buildings other than ground preparation and construction up to ground floor slab levels shall take place unless and until full product details of the materials to be used on all external elevations of the buildings including walls, projecting and inset balconies including floor, underside, fascia and soffit, windows and doors, roof and roof terraces, coping, privacy screens, rainwater goods and service doors including serving the cycle and refuse and recycling stores have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before it is brought into first use.

Reason: In the interests of the visual amenities of the area, in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document and the advice contained within the Southend Design and Townscape Guide (2009).

04 The dwellings hereby permitted shall not be occupied until and unless full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping works including boundary treatments shall be carried out prior to

first occupation of the dwellings and the soft landscaping works within the first planting season following first occupation of the dwellings. The details submitted in respect of each shall include, but not limited to:

- **means of enclosure of the site including any gates or boundary fencing;**
- **details of the number, size and location of trees, shrubs and plants to be planted together with a planting specification including for the rear boundary trees, tree pit details, planting-soil and staking conditions, and a watering programme, to ensure their successful establishment;**
- **details of planting to the green roof areas together with supporting media and drainage where necessary, with inspection and management proposals, to ensure their successful establishment;**
- **hard surfacing materials;**
- **minor artefacts and structures (e.g. furniture and planters);**
- **specific measures to enhance biodiversity within the site such as indicated within the submitted Bat Survey by John Dobson November 2021 report and Ecology Report by Wild Frontier November 2021.**

Any trees or shrubs dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority.

Reason: In the interests of the character and appearance of the area and the amenities of neighbouring occupiers, and ecology in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document and the advice contained within the Southend Design and Townscape Guide (2009).

05 The dwellings hereby approved shall not be occupied unless and until the removal and reinstatement of the existing crossovers and the public realm improvements, all shown on plan 250 P2, have been completed in accordance with that drawing and have been certified in writing as complete by the Local Planning Authority.

Reason: In the interests of the character and appearance of the area in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document and the advice contained within the Southend Design and Townscape Guide (2009).

06 The development authorised by this permission shall not begin until full details of additional street trees to the front of the site, as indicated on, and notwithstanding the details within, the 9546-D-AMS Rev B Tree Protection Plan by Hayden's, have been submitted to and approved in writing by Southend City Council as Local Planning Authority. The submitted details shall include tree pits to be constructed in a way that will prevent future root damage to the surrounding hard surfaces, a timetable for implementation, and ten-year management and maintenance proposals. The timetable for implementation shall provide for planting within the first planting season following completion of the public realm works identified in this planning permission. Any trees dying, removed, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed with the Local Planning Authority. The development shall be carried out in accordance with the approved details and

retained thereafter.

Reason: In the interests of the character and appearance of the area in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document and the advice contained within the Southend Design and Townscape Guide (2009).

07 The dwellings hereby permitted shall not be occupied until and unless full details of the privacy screening at first and second floors and roof level have been submitted to and approved in writing by the Local Planning Authority, and the agreed details have thereafter been implemented in full. The agreed privacy screening shall thereafter be maintained for the lifetime of the development.

Reason: In the interests of the amenities of neighbouring occupiers, in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document and the advice contained within the Southend Design and Townscape Guide (2009).

08 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no external lighting shall be installed unless and until a full scheme of external lighting has been previously submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and retained for the lifetime of the development.

Reason: In the interests of residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

09 Prior to first occupation of the first and second floor flats within the development hereby approved, a scheme of obscure glazing to maintain the privacy conditions of adjacent existing and proposed dwellings, the glass to be obscure to at least Level 4 on the Pilkington Levels of Privacy, or such equivalent as may be agreed in writing with the local planning authority) and windows permanently fixed shut and unopenable, except for any top hung light which shall be a minimum of 1.7 metres above the internal floor level of the room or area served by the window , shall have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out solely in accordance with the approved details before it is first occupied and shall be retained for the lifetime of the development.

Reason: In the interests of residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

10 The development hereby permitted shall be carried out in accordance with the Construction Method Statement Version 1_13.06.2022 or in accordance with alternative details for a Demolition and Construction Method Statement which have been submitted to and approved in writing by the Local Planning Authority under the

terms of this planning condition. The approved Statement shall be adhered to throughout the construction period.

Reason: In the interests of the free flow of traffic and general environmental quality in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM3 and Policy DM15 of the Southend-on-Sea Development Management Document (2015).

11 Demolition or construction works of the development hereby approved shall not take place outside 08:30 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays nor at any time on Sundays or Bank Holidays.

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

12 No development above ground floor slab level shall take place unless and until a Noise Impact assessment (NIA) has been conducted by a competent person to assess all external and internal noise impacts on the future residents of the development and submitted to the Local Planning Authority for approval. These shall include but not be limited to:

- Road traffic noise
- Airborne and impact noise caused by normal living where bedrooms are above or below living areas
- Internal plant noise including lifts
- Use of communal stairwells and halls
- Impact of external building services and extract ventilation equipment.

The scheme shall have been carried out by a competent person (normally a member of the Institute of Acoustics) (IOA)) and shall incorporate mitigation measures to ensure that until the internal and external areas of dwellings are protected from external noise in accordance with BS8233:2014 and the current Noise Policy Statement for England. The internal ambient noise levels of the proposed development shall not exceed the guideline values in BS8233:2014 Table 4 as follows:

07:00 to 23:00: Resting - Living room 35 dB LAeq,16hour; Dining - Dining room/area 40 dB LAeq,16hour; Sleeping/Daytime Resting - Bedroom 35 dB LAeq,16hour;
23:00 to 07:00: Sleeping/Night time - Bedroom 35 dB LAeq,8hour;

The mitigation measures shall have regard to thermal comfort in accordance with Acoustic Ventilation and Overheating - Residential Design Guide by IOA and Association of Noise Consultants. Any alternative means of ventilation and air cooling and heating is required to demonstrate that: the alternative means of ventilation and cooling will not compromise any noise protection measures; the alternative means of ventilation and cooling will not present an adverse noise or odour impact on occupants; the alternative means of ventilation and cooling will enable optimum living conditions in all weather and with reference to climate change predictions. The means of ventilation must be in accordance with documents CIBSE Guide A:2015-Environmental Design, CIBSE TM52:2013-The limits of thermal

comfort: avoiding overheating in European buildings and CIBSE TM59:2017-Design methodology for the assessment of overheating risk in homes. The alternative means of ventilation shall be retained for the lifetime of the development thereafter.

The development hereby permitted shall take place only in full accordance with the details and measures in the approved Noise Mitigation Scheme and ventilation measures from first occupation of the development and shall remain as such in perpetuity thereafter.

Reason: In the interests of occupier amenities further to Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM8.

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

Reason: To ensure the dwellings provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with National Planning Policy Framework (2021), Policy KP2 of the Core Strategy (2007), Policy DM2 of the Development Management Document (2015).

14 The dwellings hereby approved shall not be occupied until and unless secure and covered refuse storage for occupiers has been provided at the site and made available for use in accordance with details shown on approved plan 204 P13. The storage shall be retained as such for the lifetime of the development thereafter.

Reason: In the interests of the living conditions of existing and future residential occupiers and provide suitable storage for waste and materials for recycling in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007).

15 The dwellings hereby approved shall not be occupied until and unless a waste management scheme setting out collection arrangements and collection times has been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the living conditions of existing and future residential occupiers and provide suitable storage for waste and materials for recycling in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007).

16 The development hereby approved shall not be occupied until and unless secure cycle storage for occupiers has been provided on site and made available for use in accordance with the details shown on approved plan 204 P13. The storage shall be retained as such for the lifetime of the development thereafter.

Reason: To ensure the provision of adequate cycle parking in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

17 The development hereby approved shall not be occupied until and unless 33 car parking spaces, of which not less than 4 shall be for disabled users, have been provided at the site and made available for use, in accordance with the details shown on drawing 204-P13, together with a properly constructed vehicular access to the adjoining highway. The parking spaces shall be permanently retained thereafter solely for the parking of occupiers of and visitors to the development.

Reason: To ensure the provision of adequate car parking in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015).

18 Notwithstanding the details submitted within the SUDS Assessment Statement from Dove Jeffery Homes reference SUT003 dated 11.03.2022 and the details submitted and otherwise hereby approved no drainage infrastructure associated with this development shall be installed until final details of drainage strategies have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details in full before it is occupied. The details shall provide for the following:

- **Details of surface water management during the construction phase including details on the phasing of drainage installation relative to wider works;**
- **Greenfield runoff rate must be provided, and discharge must be limited to the greenfield run off rate, or show measures taken to achieve this. If existing surface water drains are being used, confirmation is needed and an agreement in principle from Anglian Water regarding the surface water connection point; a maximum flow rate of 2 l/s should be provided if a connection to existing surface water sewers is being made;**
- **Updated drainage modelling calculation outputs should be provided with the following parameters amended - please note these are for review only given the system has been designed to a 1:100 year storm standard**
 - **Cv values set to 1.0 for all storm simulations;**
 - **Maximum rainfall amount set to the maximum allowed by the software or 500 mm/hr, whichever is lowest;**
 - **The Additional Storage factor should be set to 0 unless conclusive evidence is provided to justify why this has been modelled using 10 m³/ha;**
- **Calculations of the brownfield run off rate must be given and a better of 50% must be proven.**

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site for the lifetime of the development and to prevent environmental and amenity problems arising from flooding in accordance with the National Planning Policy Framework (2021), Policy KP2 and CP4 of the Core Strategy (2007) and Policy DM2 of the Development Management Document (2015).

19 (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 and site clearance, 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 other than that required to carry out additional necessary investigation as defined under part (b) of this condition, which in this case may include demolition and site clearance, shall be undertaken unless and until the measures set out in the detailed remediation scheme approved under part (b) of this condition 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: 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 the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007) and Policy DM14 of the Development Management Document (2015).

20 A scheme detailing how at least 10% of the total energy needs of the development hereby approved will be supplied using on site renewable sources must be submitted to and agreed in writing by the Local Planning Authority and implemented in full prior to the first occupation of the dwellings. This provision shall be made for the lifetime of the development.

Reason: In the interests of providing sustainable development in accordance with the National Planning Policy Framework (2021), Policy KP2 of the Southend-on-Sea Core Strategy (2007), and Policy DM2 of the Southend-on-Sea Development Management Document (2015).

21 The development 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 it is brought into use.

Reason: To minimise the environmental impact of the development through efficient use of water in accordance with the National Planning Policy Framework (2021), Policy KP2 of the Southend-on-Sea Core Strategy (2007), Policy DM2 of the Southend-on-Sea Development Management Document (2015).

22 Prior to first occupation of the dwellings hereby approved, no fewer than 33 active electric vehicle (EV) charging points shall have been provided, one to serve each residential parking space. The arrangements shall be retained thereafter for the

lifetime of the development.

Reason: To ensure the provision for adequate EV car parking and charging in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policy DM15 of the Southend-on-Sea Development Management Document (2015), Policy DS5 of the Southend Central Area Action Plan (SCAAP) (2018) and the Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021).

23 Other than the areas specifically denoted as roof terraces on the plans hereby approved, the roofs of the buildings hereby approved shall not be used as a balcony, roof garden or similar amenity area or for any other purpose unless express planning permission has previously been obtained. The roof can however be used for the purposes of maintenance or to escape in an emergency.

Reason: To protect the privacy and environment of people in neighbouring residential properties, in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) policies KP2 and CP4, the Development Management Document (2015) policies DM1 and DM3.

24 No development shall take place until and unless a scheme for the protection of the horse chestnut street tree, adjacent to the site on Sutton Road, has been implemented in accordance with the details contained within 9546-D-AMS Rev B Tree Protection Plan by Hayden's and the Arboricultural Method Statement & Tree Protection Plan 01/11/2022 Rev B by Hayden's. The approved protection measures shall be fully installed before the commencement of works and maintained throughout construction. The development shall be implemented in full accordance with the approved statement, measures and methods.

Reason: In the interests of visual amenity and to ensure a satisfactory standard of tree protection, pursuant to the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).

(c) In the event that the planning obligation referred to in part (a) above has not been completed before 9th December 2022, or an extension of this time as may be agreed by the by the Director of Planning or Service Manager - Development Control, authority is delegated to the Director of Planning or Service Manager - Development Control to refuse planning permission for the application on the grounds that the development will not secure the necessary affordable housing provision and mitigation of impacts on European designated sites. As such, the proposal would be unacceptable and contrary to Policies KP1, KP2, KP3, CP4 and CP8 of the Core Strategy (2007), Policies DM1, DM6 and DM7 of the Development Management Document (2015) and the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (2020).

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has

been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework. The detailed analysis is set out in a report on the application prepared by officers.

Informatives

02 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.

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