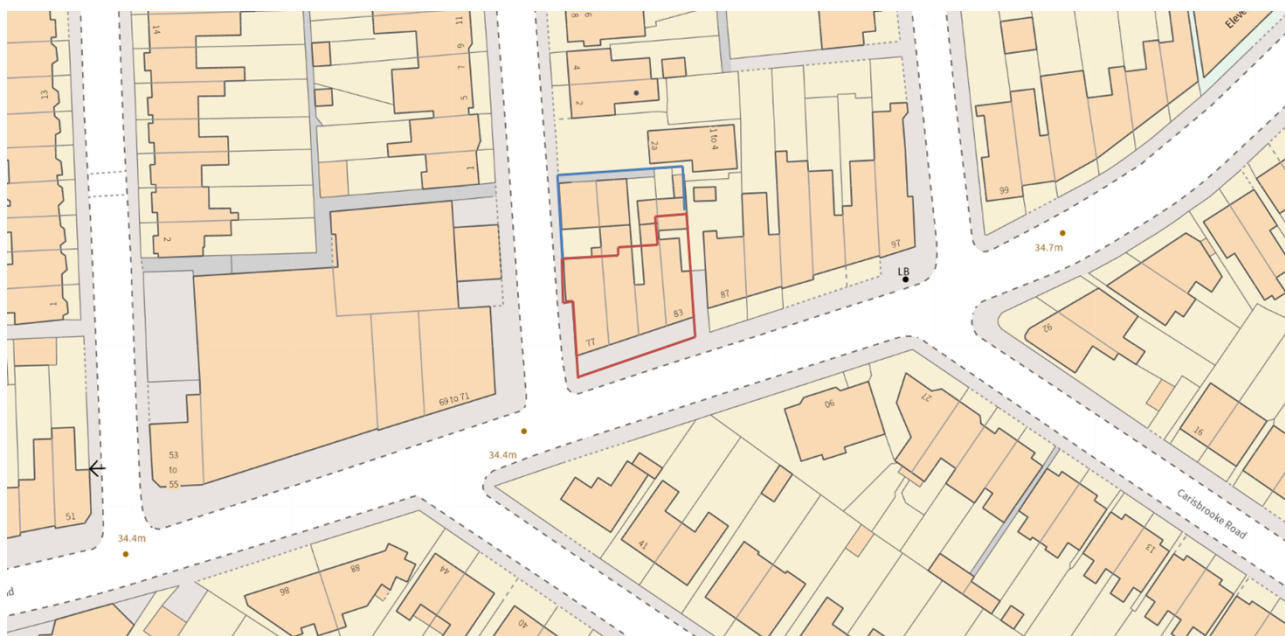


<b>Reference:</b>	23/00305/FUL	
<b>Application Type:</b>	Full Application	
<b>Ward:</b>	Westborough	
<b>Proposal:</b>	Change of use from commercial units (Class E) at ground floors of 77, 79, 81, and 83 West Road to 5no. self-contained flats (Class C3), layout cycle store and amenity space and alter elevations	
<b>Address:</b>	77 - 83 West Road, Westcliff-on-Sea, SS0 9AY	
<b>Applicant:</b>	Mr Halpern – Lands Partners LTD	
<b>Agent:</b>	Mr Stan Beanland of Beanland Associates Architects Ltd.	
<b>Consultation Expiry:</b>	08.06.2023	
<b>Expiry Date:</b>	07.07.2023	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	3002A_50revC; 3002A_51 revC; 3002A_52revC; 3002A_100revC; 3002A_200revC; 3002A_201revD; 3002A_202revC; 3002A_203rev C; 3002A_204rev C; 3002A_E100	
<b>Supporting information:</b>	Design and Access Statement; Environmental Noise Assessment by dBc (dated 20 <sup>th</sup> February 2023); Parking Stress Survey by Alpha Parking (dated January 2023); Justification Statement	
<b>Recommendation:</b>	<b>GRANT PLANNING PERMISSION</b> subject to conditions	



## **1 Site and Surroundings**

- 1.1 The site is on the north side of West Road and contains a mixed-use terrace comprising 4no. commercial units at ground floor and 4no. residential units above. The commercial units are presently vacant.
- 1.2 The surrounding area is mixed in character, comprising residential premises to the north, south and east and commercial premises to the west, including a garage and MOT testing centre along Inverness Avenue.
- 1.3 The site is not in a Conservation Area or subject to any area-specific planning policy designations.

## **2 The Proposal**

- 2.1 Planning permission is sought to change the use of the ground floor units (Nos 77, 79, 81, and 83 West Road) from commercial (Use Class E) to residential, specifically 5no. self-contained flats (Use Class C3).
- 2.2 To facilitate the change of use, internal and external alterations are proposed. Internally, the commercial units are proposed to be sub-divided. Externally, the shopfronts are proposed to be partially infilled with brick to enable a residential fenestration arrangement. The fascia signage area would be rendered. Additional windows and openings are proposed to the rear and flank elevations of the building. These enable additional outlooks to habitable rooms or, to provide access to the units themselves, rear amenity spaces and to the proposed cycle store.
- 2.3 The accommodation proposed is listed below:
  - Unit 77- 1bed 1-person unit – 43sqm (bedsit type arrangement)
  - Unit 77B- 1bed 1-person unit – 43sqm
  - Unit 79- 1bed 1-person unit – 39sqm
  - Unit 81- 2bed 3-person unit – 64sqm
  - Unit 83- 1bed 2-person unit – 51.5sqm
- 2.4 Access to the flats would take place either from West Road or Inverness Avenue.
- 2.5 No off-street parking is proposed for the development. A communal cycle store with capacity for 5no. bicycles is shown (to be accessed from Inverness Avenue). With regards to private amenity, Units 77B, 79, 81 and 83 would have access to their own amenity areas (between 6sqm and 16sqm in size) subdivided by a privacy screen.
- 2.6 Following amendments sought during the course of the application, the proposal also includes the provision of a front garden area some 50sqm in total area enclosed by 1.1m high brick-built boundary walls, access gates and soft landscaping. Specific details of the landscaping have not been provided at application stage although bin storage locations are also shown within this area.

## **3 Relevant Planning History**

- 3.1 22/01773/PA3COU- Change of use from commercial units (Class E) at ground floors of 77, 77B, 79, 81, 81B and 83 West Road to form 6no. self-contained flats (Class C3), layout bin stores and amenity space and alter elevations (Prior Approval) (amended

proposal)- Refused.

- 3.2 22/01767/FUL- Alterations to front, side and rear elevations including changes to fenestration at ground floor level to 77-83 West Road- Refused.
- 3.3 22/01053/PA3COU- Change of use from commercial units (Class E) at ground floors of 77, 77B, 79, 81, 81B and 83 West Road to 6no. self-contained flats (Class C3), layout bin stores and amenity space and alter elevations (Prior Approval)- Refused.

Application at "Land R/O 77-83 West Road" [under same ownership]

- 3.4 23/00136/FUL- Demolish existing outbuildings, erect block of 2no. self-contained flats with associated parking, cycle store and new boundary treatment (part retrospective)- Granted

## 4 Representation Summary

### Call-in request

- 4.1 The application has been called in to Development Control Committee by Councillor Anne Jones.

### Public Consultation

- 4.2 Thirty (30) neighbouring properties were consulted, and a site notice was displayed. Representations from two (2) addresses have been received, summarised below.
- 4.3 The objecting comments are summarised as follows:

- Parking concerns and concerns about pedestrian safety.
- Waste storage concerns.
- Should be left as commercial units – the area needs more shops.
- Concerns about overcrowding.
- Noise pollution from flats.

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

### Environmental Health

- 4.4 No objections subject to conditions requiring a noise impact assessment, land contamination information, refuse and recycling information and to manage construction, including controlling construction hours.

### Highways

- 4.5 No objections – The applicant has supplied a parking stress survey which has demonstrated that approximately 40 spaces within the surrounding area were available during both nights of the survey. Therefore, it is considered that there is capacity on street to accommodate on street parking. Secure cycle parking would be provided and the applicant has also provided detailed information relating to the sustainable modes of transport within the local area.

## 5 Planning Policy Summary

- 5.1 The National Planning Policy Framework (NPPF) (2021)
- 5.2 Planning Practice Guidance (PPG) – National Design Guide (NDG) (2021)
- 5.3 Technical Housing Standards – Nationally Described Space Standards (2015)
- 5.4 Core Strategy (2007): Policies KP1 (Spatial Strategy), KP2 (Development Principles), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP8 (Dwelling Provision).
- 5.5 Development Management Document (2015): Policies DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM7 (Dwelling Mix, Size and Type), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection), DM15 (Sustainable Transport Management).
- 5.6 Southend-on-Sea Design and Townscape Guide (2009)
- 5.7 Technical Housing Standards Policy Transition Statement (2015)
- 5.8 Waste Storage, Collection and Management Guide for New Developments (2019)
- 5.9 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 5.10 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, design and impact on the character and appearance of the area, impacts on neighbours' residential amenity, living conditions of future occupiers, traffic and transportation matters, sustainability, RAMS, equality and diversity considerations and CIL.

## **7 Appraisal**

### **Principle of Development**

- 7.1 Paragraph 119 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions." Furthermore, the NPPF requires development to boost the supply of housing by delivering a wide choice of high-quality homes.
- 7.2 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. 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.

- 7.3 Policies CP1 of the Core Strategy and DM11 of the Development Management Document seek to resist planning permission for proposals which would involve the loss of existing employment uses.
- 7.4 Policy CP1 of the Core Strategy 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.
- 7.5 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.
- 7.6 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.
- 7.7 Limited supporting information has been submitted with respect to the loss of employment use. The justification provided outlines the following:
- The application site has been vacant for a significant period.
  - The application site is not located within a designated primary or secondary shopping frontage.
  - There are established commercial centres within walking distance of the application site.
  - The wider surrounds are predominantly residential in character.
- 7.8 Whilst this proposal would result in a loss of commercial floorspace which is a negative aspect of the scheme, due regard is had to the non-designation of the application site, positioned as it is outside of primary or secondary frontages, as well as its non-conforming nature given the predominantly residential surroundings. Together with the relative weight attached to the need for and provision of housing, in the round, it is considered that it would not be reasonable to refuse planning permission on the basis of a loss of employment premises.

### **Design and Impact on the Character of the Area**

- 7.9 Local and national planning policies and guidance seek to ensure that new development is well designed. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

- 7.10 Local development plan policies seek to ensure that new development is designed so that it adds to the overall quality of the area and respects the character of the site, its local context and surroundings, provides appropriate detailing that contributes to and enhances the distinctiveness of place; and contributes positively to the space between buildings and their relationship to the public realm. Policy DM1 and the Design and Townscape Guide provide further details on how this can be achieved.
- 7.11 The application site is positioned at the beginning of a long uninterrupted run of traditional, two-storey terraced dwellings along West Road. To this end, the conversion of the properties to residential would not appear out of keeping nor harmful to surrounding character as a matter of principle.
- 7.12 Externally, the partial infill of the existing shopfronts with a matching red brick enables a more residential type glazing configuration. The design, proportions and alignment of the new front windows would suitably accord with the existing first floor windows such that this element would not appear harmful to the character of the building or the predominantly residential character of the surrounding area. Partial brick infill, replacement windows and openings are also proposed to the west flank elevation of the building serving proposed units 77 & 77B. The proposed brick infill would integrate suitably with the works to the frontage of the site. The design and proportions of the replacement windows would appear suitably residential and would also accord with the appearance of existing first floor windows to this flank elevation. Final details of the face brick, windows and doors to be installed on site can be conditioned as part of any approval.
- 7.13 As an amendment sought to the original submission, the proposed site layout allows for a reasonable amount of landscaping to be incorporated to the front of the site. Front gardens enclosed by low-level boundary walls are evident in the surrounding areas, including properties along Inverness Avenue (north), Albion Road (south-west) and at properties at Nos. 87 and 89 West Road to the east. Neighbouring front gardens locally are also mixed, comprising both hard and soft landscaping with instances of some planting. To this end, the provision of a landscaped front garden area enclosed by a 1.1m high brick-built boundary walls would not appear out of keeping nor harmful to the character and appearance of the surrounding area. Moreover, it is considered the provision of such a landscaped setting would have a positive visual impact when considered in the context of the application site, the immediate streetscene and the surrounding area at present. Details of the hard and soft landscaping to be installed on the site can be conditioned as part of any approval.
- 7.14 The proposal details the provision of waste store enclosures within the landscaped front gardens. Whilst a negative of the scheme, amenity space at the site is limited and it is noted these amenity areas are in close proximity to habitable rooms. Were the bin storage to be provided to the rear of the site, the arrangements could take away valuable private amenity space. In these circumstances, due regard is had to the limited size of the units (majority single-/two-person occupancy) such that the amount of refuse produced is likely to be modest following weekly collection. In addition, it is considered that scope remains within the front garden following 1.1m high front boundary walls for the presence of discretely designed refuse stores, the details and the location of which can be secured via condition. On this basis, no objections are raised to this arrangement from a design and character standpoint.
- 7.15 Overall, the proposed development is considered to be of an acceptable size and scale and suitably references the general design and appearance of the existing property and

neighbouring properties to the east along West Road. Subject to the described conditions regarding materials, waste stores and hard and soft landscaping details, the proposal is considered to suitably maintain the character and appearance of the site, the streetscene and the wider surrounding area and is acceptable and policy compliant in the above regards.

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

- 7.16 Delivering high quality homes is a key objective of the NPPF and is reflected in policy DM8 of the Development Management Document. Policy DM3 of the Development Management Document states that proposals should be resisted where they create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents. Policy DM1 requires developments to provide an internal and external layout that takes account of all potential users. Policy DM8 requires new dwellings to comply with the residential space standards, to be flexible to meet the changing needs of residents and ensure the provision of outdoor amenity space.
- 7.17 All new homes are required to meet the Nationally Described Space Standards (NDSS) in terms of floorspace, bedroom size and storage sizes. The required overall sizes for residential units and the minimum standards for bedrooms are shown on the following table. The relevant dimensions of the proposed scheme are also shown on the table below:

Table 1: Space Standards and proposed unit sizes

	Unit No.	Area (m <sup>2</sup> )	Bedroom 1	Bedroom 2	Storage area (m <sup>2</sup> )
Standard for (one storey) 1-bed 1-person unit	N/A	37*	7.5m <sup>2</sup> ; Wmin=2.15m	N/A	1
<b>Proposed (one storey) 1-bed 1-person units</b>	<b>77**</b>	43	<b>N/A</b>	<b>N/A</b>	<b>1.4</b>
	<b>77B</b>	43	<b>9m<sup>2</sup>; Wmin=3m</b>	<b>N/A</b>	<b>1.3</b>
	<b>79</b>	<b>39</b>	<b>9m<sup>2</sup>; Wmin=3m</b>	<b>N/A</b>	<b>1.1</b>
Standard for (one storey) 1-bed 2-person unit	N/A	50	11.5m <sup>2</sup> Wmin=2.75m	N/A	1.5
<b>Proposed (one storey) 1-bed 2-person unit</b>	<b>83</b>	<b>51.5</b>	<b>14.5m<sup>2</sup>; Wmin=3m</b>	<b>N/A</b>	<b>1.5</b>
Standard for (one storey) 2-bed 3-person unit	N/A	61	11.5m <sup>2</sup> ; Wmin=2.75m	7.5m <sup>2</sup> ; Wmin=2.15m	2
<b>Proposed (one storey) 2-bed 3-person unit</b>	<b>81</b>	<b>64</b>	<b>12m<sup>2</sup>; Wmin=3m</b>	<b>8.1m<sup>2</sup>; Wmin=2.15m</b>	<b>2.3</b>

\*37sqm if shower room shown

\*\*Unit No.77 has an open 'bedsit' type arrangement and therefore bedroom size is not applicable

- 7.18 Table 1 demonstrates that all the proposed units would either meet or exceed the NDSS.

- 7.19 Privacy screening is proposed within the 'well' space between the two-storey rear outriggers that would serve to separate the private amenity areas serving Nos. 77B, 79 and 81. No details have been provided as to the type of screen proposed to be installed. The purpose of the privacy screening is to prevent interlooking between bedroom windows that face into this space.
- 7.20 Whilst the position of these bedroom windows within the 'well' is a less positive aspect of the development from an outlook point of view, assessment of planning applications must be taken in the round, including regard had to policy compliant bedroom and storage areas and adequate daylight and sunlight to habitable rooms such that when weighed in the tilted balance in favour of new housing, it is not considered reasonable to object on this basis. The quality of the privacy screen itself will be important in mitigating some of these concerns so a condition will be imposed to ensure a screen of sufficiently high quality is installed.
- 7.21 To ensure an adequate outlook and receipt of light and in the interests of retaining occupant privacy, the privacy screening to be installed must be good quality, 'obscure' glazed and a minimum 1.8m in height, and details to this effect can be conditioned.
- 7.22 In relation to the provision of amenity space Policy DM8 states that all new dwellings should: "Make provision for usable private outdoor amenity space for the enjoyment of intended occupiers; for flatted schemes this could take the form of a balcony or easily accessible semi-private communal amenity space. Residential schemes with no amenity space will only be considered acceptable in exceptional circumstances, the reasons for which will need to be fully justified and clearly demonstrated."
- 7.23 None of the units would be of family size (3 or more bedrooms). Units 77B, 79, 81 and 83 would be provided with their own private amenity spaces ranging in size from 6sqm to 16sqm which is considered to be sufficient to reasonably meet their future occupiers' amenity needs. Unit 77 would not be provided with its own external amenity space which represents a less positive aspect of the development to be weighed in the balance. Owing to the low-occupancy design of this unit coupled with the location close to a range of amenities where the case for insisting on a dedicated, conventional amenity space for such type of flat is not considered to be strong in any event, this proposed absence of provision is considered in this instance and on balance to be acceptable.
- 7.24 The proposal involves the conversion of an existing property, not the erection of new dwellings. Policy DM8 states that accessibility for all new dwellings should be of a standard of optional requirement M4 (2) of the Building Regulations but is not applicable to changes of use, as is the case here.
- 7.25 No contaminated land report has been submitted with the application. Given the previous use of the site as workshops and storage, it is possible that the site could be subject of contamination. However, as the proposal does not include operations that would significantly disturb the ground, a condition to control the process if contamination is found can be imposed. Environmental Health officers have raised no objections to the proposal subject to such a condition.
- 7.26 The proposed dwellings will be located opposite a vehicle maintenance garage with open maintenance bays. Consequently, there is potential for a harmful degree of noise and disturbance impact to future occupants from the use of power tools and engine noise. These sources present the potential for causing a noise nuisance which would be difficult to control post-development and therefore, a condition for a Noise Impact



Assessment is required to demonstrate an ambient future living environment. Environmental Health officers have raised no objections to the proposal subject to such a condition.

- 7.27 Overall, and subject to the described conditions, it is considered that the proposed development would not result in substandard accommodation for future occupiers and would not be detrimental to their living conditions. The proposal is therefore acceptable and policy compliant in the above regards.

### **Impact on Residential Amenity**

- 7.28 Local and national planning policies and guidance seek to secure high quality development which protects amenity. Policy DM1 of the Development Management Document specifically identifies that development should protect the amenity of the site, immediate neighbours, and surrounding area, having regard to privacy, overlooking, outlook, noise and disturbance, visual enclosure, pollution, and daylight and sunlight. Further advice on how to achieve this is set out in the Council's Design and Townscape Guide.
- 7.29 The nearest residential occupiers affected by the proposal are those in the 4no. flats above the proposed dwellings and in No.87 West Road to the east. The nature of the proposal is such that it is not considered to have a detrimental impact on any neighbours' amenity having regard to a loss of light, outlook, overbearingness nor an undue increased sense of enclosure. The location of openings is such that neighbours' privacy would also be maintained.
- 7.30 Given the previous use of the site and the location of the site within a mainly residential area, it is considered that 5No low occupancy residential units in this area would not result in unacceptable levels of noise and disturbance to adjoining and nearby residents. Noise, pollution and disturbance during construction can reasonably be controlled with conditions.
- 7.31 Overall and subject to conditions, the proposal is acceptable and policy compliant in the above regards.

### **Traffic and Transportation Issues**

- 7.32 The NPPF states (paragraph 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."
- 7.33 Policy DM15 of the Development Management Document states: "Development will be allowed where there is, or it can be demonstrated that there will be, physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner." The policy also requires that adequate parking should be provided for all development in accordance with the adopted vehicle parking standards. Residential vehicle parking standards may be applied flexibly where the development is proposed in a sustainable location with frequent and extensive links to public transport.
- 7.34 Assessed against the parking standards, the minimum car parking requirements for flats under Policy DM15 is one space per unit and one cycle parking space per unit. The submitted plans demonstrate that no off-street car parking would be provided as part of the development. It is important to note that there is no allocated parking at present for

the existing commercial units which itself generates a notional maximum parking demand of 14 spaces (old use class motor cycle showroom (A1) requires 1 space per 20sqm of floor space. The application site relates to 259sqm).

- 7.35 To support this position, the applicant has supplied a parking stress survey conducted over two days. The survey demonstrated that approximately 40 spaces within the surrounding roads of Albion Road, Carisbrooke Road, Claremont Road, Glenwood Avenue, Hainault Avenue, Inverness Avenue, Silverdale Avenue, Wenham Drive and West Road were available during both nights of the survey.
- 7.36 In addition, the applicant has provided detailed information relating to the sustainable modes of transport available within the local area. On this basis, it is considered that the proposed development would not have a significantly detrimental impact on parking stress in the immediate vicinity of the site. The Highways team have raised no objection to the proposed development on parking, traffic or highway safety grounds.
- 7.37 Cycle parking in accordance with the policy requirements would be provided and this can be secured via condition.
- 7.38 Overall, there would be no significant harm caused to the parking conditions, traffic or highway safety of the area. The proposal is acceptable and policy compliant in the above regards.

### **Energy and Water Sustainability**

- 7.39 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.” The same policy requires all new development to provide “water efficient design measures that limit internal water consumption to 105 litres per person per day (lpd) (110 lpd when including external water consumption). Such measures will include the use of water efficient fittings, appliance and water recycling systems such as grey water and rainwater harvesting.”
- 7.40 No information has been provided regarding proposed renewable energy to demonstrate how the proposal meets the 10% policy requirement or how it would achieve the required maximum water usage. The requirement for renewable energy and restrictions on water usage can be controlled with conditions provided any such externally mounted technologies respect the character and appearance of the building and wider area.
- 7.41 This aspect of the proposal is, therefore, considered to be acceptable and policy compliant in these regards, subject to conditions.

### **Ecology - Essex Coast RAMS**

- 7.42 The site falls within the Zone of Influence for one or more European designated sites scoped into the Essex Coast RAMS. It is the Council’s duty as a competent authority to undertake a Habitats Regulations Assessment (HRA) to secure any necessary mitigation and record this decision within the planning documentation. Any new residential development has the potential to cause disturbance to European designated

sites and therefore the development must provide appropriate mitigation. This is necessary to meet the requirements of the Conservation of Habitats and Species Regulations 2017. The Essex Coast RAMS SPD, which was adopted by the Council on 29 October 2020, requires that a tariff of £156.76 (index linked) is paid per dwelling unit. This will be transferred to the RAMS accountable body in accordance with the RAMS Partnership Agreement.

- 7.43 The applicant has paid the relevant tariff. The development would offer suitable mitigation of the in-combination effect of the net increase of five dwellings on habitats and species. The development is acceptable and in line with policies in this regard.

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

- 7.44 This application is CIL liable and there will be a CIL charge payable. In accordance with Section 70 of the Town and Country Planning Act 1990 (as amended by Section 143 of the Localism Act 2011) and Section 155 of the Housing and Planning Act 2016, CIL is being reported as a material 'local finance consideration' for the purpose of planning decisions. The proposed amended development includes a net gain internal floor area of 240.5sqm, which may equate to a CIL charge of approximately £6,567.50. 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.

### **Equality and Diversity**

- 7.45 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation. The provision of an accessible and adaptable dwelling is a positive aspect of the proposal in this regard.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is concluded that subject to compliance with the suggested conditions, the proposed development would be acceptable and compliant with the objectives of the relevant local and national policies and guidance. The proposal, as amended during the course of the application, is acceptable in principle and when assessed on its individual merits it is found to have an acceptable impact on the character and appearance of the area, and the highway safety, traffic and parking conditions in the area. Subject to conditions, the proposed development would also be acceptable in terms of its impact on the amenity of neighbouring occupiers and the living conditions of future occupants. Conditions can satisfactorily deal with energy and water sustainability. The development offers suitable mitigation for its in-combination effects to protected ecology sites.
- 8.2 Additionally, this proposal creates new housing. Therefore, if any harm is identified, including in those areas for judgement identified within this report's analysis of the proposal, it would be necessary to demonstrate that in reaching the decision an

appropriate balancing exercise has been undertaken considering the benefits of the proposal and any such harm. The Council has a deficit in housing land supply so the tilted balance in favour of sustainable development should be applied when determining the application as relevant. The test set out by the NPPF is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the NPPF taken as a whole. The proposal would make a contribution to the housing needs of the city, which must be given increased weight in the planning balance, albeit the weight to be attached to this would not be so significant in this instance in view of the level of occupancy and number of units involved. This application is recommended for approval subject to conditions.

## **9 Recommendation**

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

- 01 The development hereby permitted shall begin no later than three years from the date of this decision.**

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

- 02 The development hereby approved shall be carried out in accordance with the approved plans: 3002A\_50revC; 3002A\_51 revC; 3002A\_52revC; 3002A\_100revC; 3002A\_200revC; 3002A\_201revD; 3002A\_202revC; 3002A\_203rev C; 3002A\_204rev C; 3002A\_E100**

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

- 03 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not commence, other than demolition or site preparation works, unless and until full details and specifications of the materials to be used for all the external surfaces of the development at the site including facing materials, roof detail, windows, doors, fascia and soffits and the privacy screens have been submitted to and approved in writing by the Local Planning Authority. The works must then be carried out in full accordance with the approved details before the dwellings hereby approved are first occupied.**

**Reason: In the interest of visual amenity in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).**

- 04 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, the development hereby permitted shall not commence, other than demolition or site preparation works unless and until full details of both hard and soft landscape works to be carried out at the site have been submitted to and approved in writing by the Local Planning Authority. The approved hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season following first occupation of the development. The details submitted shall include,**

but not limited to:-

- i. means of enclosure, of the site including any gates or boundary fencing;
- ii. pedestrian access and circulation areas;
- iii. hard surfacing materials;
- iv. details of the number, size and location of the shrubs and plants to be planted together with a planting specification

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

Reason: In the interests of visual amenity and the amenities of occupiers and to ensure a satisfactory standard of landscaping and tree protection measures are implemented pursuant to Policy DM1 of the Development Management Document (2015) and Policy CP4 of the Core Strategy (2007)

- 05 Notwithstanding the information submitted with this application, prior to the first occupation of the development hereby approved, full details (including elevations) shall be submitted to and approved in writing by the Local Planning Authority identifying the provision of secure and enclosed refuse and recycling storage for the approved development at the site. The approved refuse and recycling storage shall be provided in full and made available for use by the occupants of the approved dwellings prior to the first occupation of the dwellings hereby approved and shall be retained as such for the lifetime of the development.

Reason: In the interest of visual amenity and to ensure the provision of adequate waste storage in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM3 and DM8, and the advice contained within the National Design Guide (2021), the Southend-on-Sea Design and Townscape Guide (2009), and the Waste Storage, Collection and Management Guide for New Developments (2019).

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

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

- 07 The cycle parking spaces shown on approved plan 3002A\_100revC shall be provided and made available for use at the site prior to the first occupation of the dwellings hereby approved.

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

- 08 Prior to first occupation of the development hereby approved details of energy

efficiency and other sustainability measures to be included in the scheme, including the provision of at least 10% of the energy needs of the development hereby approved being provided from onsite renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority under the terms of this condition and implemented on site in accordance with the agreed details. The agreed measures shall be maintained on site as approved thereafter.

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

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

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2021), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policy DM2, and the advice contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 10 In the event that contamination is found at any time when carrying out the approved development, development must stop and it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared and submitted for the approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing by the Local Planning Authority.

Investigation, remediation and verification must be undertaken by competent persons and in accordance with the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers' and DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and other current guidance deemed authoritative for the purposes.

Reason: In the interest of the residential amenity of future occupants of the scheme in accordance with the National Planning Policy Framework (2021), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM14 of the Development Management Document (2015).

- 11 Prior to first use of the dwellings hereby approved, a Noise Impact Assessment must be conducted by a competent person to assess the potential impacts of existing commercial and transport infrastructure on the living conditions of future occupiers of the dwellings. The assessment must be made using the appropriate

**standards and methodology for the noise sources and best practice. A report on that noise impact assessment, which must include any mitigation measures needed for the proposal to meet the required noise standards, as specified below, must be submitted to the Local Planning Authority for approval in writing before the dwellings are first occupied.**

**The mitigation measures recommended in the submitted report shall ensure that the internal ambient noise levels of the proposed dwellings shall not exceed the guideline values in British Standards 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 development must be implemented in full accordance with the mitigation and other details submitted in the report approved under this condition before the dwellings are first occupied and thereafter be maintained as such in perpetuity.**

**The applicant must have regard to thermal comfort and noise mitigation in accordance with Acoustic Ventilation and Overheating - Residential Design Guide by IOA and ANC when proposing any scheme. Where alternative means of ventilation and air cooling and heating are to be used the submitted report shall include full details of what they will comprise and 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 implemented in full accordance with the details approved under this condition before the dwellings are first occupied and be maintained as such thereafter in perpetuity.**

**Reason: To protect the environment of people in the development and general environmental quality in accordance with Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM3 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).**

**Positive and proactive statement:**

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:**

- 1** Please note that the development which is the subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and it is the responsibility of the landowner(s) to ensure they have fully complied with the requirements of these regulations. A failure to comply with the CIL regulations in full can result in a range of penalties. For full planning permissions, a CIL Liability Notice will be issued by the Council as soon as practicable following this decision notice. For general consents, you are required to submit a Notice of Chargeable Development (Form 5) before commencement; and upon receipt of this, the Council will issue a CIL Liability Notice including details of the chargeable amount and when this is payable. If you have not received a CIL Liability Notice by the time you intend to commence development, it is imperative that you contact [S106andCILAdministration@southend.gov.uk](mailto:S106andCILAdministration@southend.gov.uk) to avoid financial penalties for potential failure to comply with the CIL Regulations 2010 (as amended). If the chargeable development has already commenced, no exemption or relief can be sought in relation to the charge and a CIL Demand Notice will be issued requiring immediate payment. Further details on CIL matters can be found on the Planning Portal ([www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/community\\_infrastructure\\_levy](http://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy)) or the Council's website ([www.southend.gov.uk/cil](http://www.southend.gov.uk/cil)).
- 2** You should be aware that in cases where damage occurs during construction works to the highway in implementing this permission that Council 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.
- 3** Applicants are advised of the need to ensure the thermal comfort of dwellings under Regulation 40B of the Building Regulations 2010. The code of practice to the Regulations in Approved Document O requires an overheating mitigation strategy and assessment. This includes where noise protection measures require windows and openings to be closed.
- 4** The applicant is reminded that this permission does not bestow compliance with other regulatory frameworks. In particular, your attention is drawn to the statutory nuisance provisions within the Environmental Protection Act 1990 (as amended) and the noise provisions within the Control of Pollution Act 1974. Applicants should contact the Council's Regulatory Services Officer in Environmental Protection for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea City Council, Civic Centre, Victoria Avenue, Southend SS2 6ER.



