

Reference:	23/00866/OUTM	
Application Type:	Outline Major	
Ward:	Victoria	
Proposal:	Erect four storey building comprising of 22 self-contained flats with parking to lower ground level (outline application)	
Address:	165 Sutton Road, Southend-on-Sea, Essex, SS2 5PE	
Applicant:	Irving Brown Limited	
Agent:	Mr Sam Lees of Reeve Brown	
Consultation Expiry:	20.07.2023	
Expiry Date:	01.12.2023	
Case Officer:	Oliver Hart	
Plan Nos:	Location Plan; 010 Rev G; 011 Rev H; 012 Rev H; 013 Rev F; Tree Protection Plan Rev 1 by Andrew Day	
Supporting Documents:	Planning Statement (dated May 2023); Statement of Community Involvement (dated June 2023); Arboricultural Report Rev 1 by Andrew Day Consultancy (dated 10th October 2023); Outline Surface Water Drainage Strategy by Ashfield Solutions Group (Ref. 172723-F01 dated 10/05/2023); Transport Statement by Cottee Transport Planning (Ref. 2309/AF dated May 2023); Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment by Brown 2 Green Associates Ltd. (Ref. 2873/Rapt 1v1 dated July 2021); Viability Scoping Opinion by S106 Management dated 30/08/2023	
Recommendation:	DELEGATE to the Executive Director (Environment and Place), Director of Growth and 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)	



1 Site and Surroundings

- 1.1 The application site is a corner plot with frontages along Maldon Road (south) and Sutton Road (east). It is presently vacant and hoarded. There are remnants of old structures and boundary walls. It is understood that the former building at the site was used as a warehouse. Self-seeded trees have grown at the northern boundary of the site. A vehicular access serves the site from Maldon Road. Land levels within the site fall from east to west.
- 1.2 The application site is to the north of the Sutton Road Local Centre and on the edge of Southend Town Centre, within the Central Area as identified in the Southend Central Area Action Plan (SCAAP). The site is within the Sutton Gateway Neighbourhood as defined in the SCAAP and is within Flood Zone 1, the zone with the lowest risk of flooding.
- 1.3 This section of Sutton Road is mixed in character with mainly commercial uses at ground floor and residential above. The areas beyond to the east, west and south are mainly residential comprising terraced housing. Bordering the site to the north is the Greyhound Retail Park.
- 1.4 Excluding the bingo hall to the north, the street scene has a fine grain of mainly 2 storey traditional small scale shop units. Larger buildings with a positive presence in Sutton Road are the locally listed former Co-op bakery which is 3 storeys and the furniture store at Wimborne Road which is 2.5 storeys.
- 1.5 Further north in Sutton Road are a number of new flatted blocks which have been built on redundant former industrial sites. These range from three to five storeys. They are separated from the site by the Greyhound Retail Park. A four-storey flatted development has been recently granted planning permission at 245 Sutton Road (reference 19/02255/FULM) to the north of the Greyhound retail park.

2 The Proposal

- 2.1 Outline planning permission with all matters reserved, is sought to erect a four-storey building comprising 22 self-contained flats with parking at lower ground floor level. Whilst scale, appearance, layout and landscaping are reserved matters, indicative plans have

been submitted to demonstrate one way in which the site could be developed within the scope of the proposed decoration of development. Such indicative drawings are therefore not definitive and other approaches to form and design may be possible within the scope of the development's description. The indicative drawings illustrate a part two, part four-storey flatted block with basement and with an apex-style gabled frontage shown to both the southern and eastern elevations.

2.2 The indicative proposal spans the full width of the street block; some 33m along its Maldon Road frontage and 26m along its Sutton Road frontage. The maximum height of the indicative building would be approximately 12m. Whilst the indicative building line is shown as relatively consistent along the Maldon Road frontage, the building line to the Sutton Road frontage is shown to taper in line with the adjacent public highway.

2.3 Indicative unit layouts have also been provided, detailing the size, occupancy and broad position of windows and private amenity spaces (shown as balconies and terraces). The composition of units is as follows:

- 9No 1-bed units;
- 8No 2-bed units; and
- 5No 3-bed units

2.4 The Planning Statement also confirms that a communal external amenity space to the north-west corner of the site would be provided for future occupiers.

2.5 The indicative plans also show 22No parking spaces within the lower ground floor level, together with 22No cycle parking spaces and cycle storage facilities. At ground floor, a refuse storage area is shown.

3 Relevant Planning History

3.1 The most relevant planning history for this application is shown on the table below:

Table 1: Relevant planning history of the Site

Reference	Description	Outcome
12/01312/FUL	Demolish existing building, erect a three storey building with car parking at lower ground, commercial units at ground floor and 4 self-contained flats to the upper floors with terraces and erect three part two/three storey dwelling houses and lay out car parking and form vehicular access onto Maldon Road	Permission Refused
13/01628/FUL	Demolish existing building, erect a three storey building with car parking at lower ground, commercial units at ground floor and 4 self-contained flats to the upper floors with terraces and erect three part two/three storey dwelling houses and lay out car parking and form vehicular access onto Maldon Road (amended proposal)	Permission Granted
14/00412/AD	Application for approval of details pursuant to condition 03 (samples of materials), condition 04 (details of the loading bay) and condition 07 (details of renewable energy) of planning	Permission Granted

	permission 13/01628/FUL dated 02/01/2014	
Enforcement		
19/00263/UNBG_B	Untidy Development Site	Section 215 Notice served and complied with

4 Procedural matters

- 4.1 This application is presented to the Development Control Committee because it is a major development and upon consultation with the Chair of the Committee it was considered prudent to do so.

5 Representation Summary

Public Consultation

- 5.1 34No neighbouring properties were consulted, a site notice displayed and a press notice placed. No representations have been received.

Lead Local Flood Authority (LLFA)

- 5.2 No objections subject to conditions requiring submission of additional technical information regarding Sustainable Drainage Systems (SuDS).

Anglian Water

- 5.3 No objection subject to a condition requiring details of a surface water management strategy and informatives.

Environmental Health

- 5.4 No objections subject to conditions relating to land contamination, noise impact assessment and mitigation measures, construction management plan, refuse and recycling details, controls on external illumination and informatives.

Tree officer

- 5.5 No objections to the revised Arboricultural Impact Assessment and Tree Survey subject to the works being carried out in accordance with the recommendations for tree protection measures and appropriate arboricultural supervision.

London Southend Airport (LSA)

- 5.6 No objections.

Highways

- 5.7 No objections. Policy compliant access, car and bicycle parking would be provided.

Education

- 5.8 A financial contribution of £31,083.33 is required towards secondary education at Cecil Jones Academy.

[**Officer comment:** A planning obligation for a financial contribution towards secondary education is included in the recommended Heads of Terms from paragraph 8.68 onwards of this report.]

Health Care (NHS)

- 5.9 Financial contribution of £10,300 requested for the benefit of patients of the Primary Care Network operating in the immediate area.

[**Officer comment:** Funding for primary health care provision is achieved through CIL and as such a separate contribution has not been sought. See paragraphs 8.74 to 8.75 of this report.]

6 Planning Policy Summary

- 6.1 The National Planning Policy Framework (NPPF) (2023).
- 6.2 Planning Practice Guidance (PPG) (2023).
- 6.3 National Design Guide (NDG) (2021).
- 6.4 Technical Housing Standards – Nationally Described Space Standards (2015).
- 6.5 Core Strategy (2007) Policies: KP1 (Spatial Strategy), KP2 (Development Principles), KP3 (implementation and Resources), CP1 (Employment Generating Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure), CP8 (Dwelling Provision).
- 6.6 Development Management Document (2015) Policies: DM1 (Design Quality), DM2 (Low Carbon Development and Efficient Use of Resources), DM3 (Efficient and Effective Use of Land), DM5 (Southend on Seas Historic Environment), DM6 (The Seafront), DM7 (Dwelling Mix), DM8 (Residential Standards), DM10 (Employment Sectors), DM11 (Employment Areas), DM13 (Shopping Frontage Management outside the Town Centre), DM14 (Environmental Protection), DM15 (Sustainable Transport Management).
- 6.7 Southend Central Area Action Plan (SCAAP) (2015) Policies: DS5 (Transport, Access and Public Realm), PA9 (Sutton Gateway Neighbourhood).
- 6.8 Southend-on-Sea Design and Townscape Guide (2009).
- 6.9 Technical Housing Standards Policy Transition Statement (2015).
- 6.10 Waste Storage, Collection and Management Guide for New Developments (2019).
- 6.11 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020).
- 6.12 Community Infrastructure Levy (CIL) Charging Schedule (2015).
- 6.13 Guide to Section 106 & Developer Contributions (2015).
- 6.14 Interim Affordable Housing Policy (2016)
- 6.15 Electric Vehicle Charging Infrastructure for new development Supplementary Planning Document (2021).

7 Planning Considerations

- 7.1 The main considerations in relation to and within the scope of this outline 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, flood risk and drainage, sustainability, RAMS, equality and diversity considerations, CIL and developer contributions.

8 Appraisal

Principle of Development

Housing Provision and Loss of Employment Land

- 8.1 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.
- 8.2 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.
- 8.3 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. Policy CP1 of the Core Strategy goes on to state 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.
- 8.4 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.
- 8.5 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.

- 8.6 As noted, the former use of the building on this site had been for warehousing (storage) and as such, it is considered that the use of the site represented an employment generating facility. Demolition of the building took place some time ago (believed to be since 2015) and the site has been vacant since such that there is no such employment facility present on the land. It is considered that this significantly reduces the weight to be attached to the requirement for incorporation of such 'employment' floorspace.
- 8.7 Limited supporting information has been submitted with respect to the loss of employment land. The Planning Statement provides some quantitative and qualitative assessment and in summary states that:
- The site has sat vacant since 2015.
 - There is an abundance of commercial space available within Southend. As of submission, and as described in detail within their planning statement the applicant identifies that there were some 53 commercial premises available on Rightmove ranging in size from 8sqm all the way up to 1640sqm. The proposed development will result in a loss of approx.900sqm of potential commercial space and therefore, is modest in comparison with that available such that the loss of this employment land will not be detrimental to the vitality of the City Centre.
 - There is need in Southend for new housing;
- 8.8 Whilst this proposal would result in a loss of employment floorspace in relative proximity to the Town Centre which is a negative aspect of the scheme to be weighed in the overall balance, due regard is had to the length of time the site has been vacant, the significant amount of available commercial space within the Southend Central Area and the absence of an employment designation for the site, such that in the particular circumstances of this case, including because of the relative weight attached to the provision of housing, on balance, this loss is found to be acceptable in principle. The site is also in a poor condition visually. Only very limited weight is attached to this as justification for the proposed redevelopment as the site physical and visual condition is within the owner's control albeit efforts over recent years to secure site improvement have been protracted.
- 8.9 For the proposed provision of housing the HDT and 5YHLS weigh in favour of the principle of this type of development. This proposal would provide 22 new dwellings for which there is an identified need including, as indicated, potentially family sized, 3-bed units and wheelchair accessible, building regulations M4(3) compliant units. In these circumstances, the provision of additional housing is a consideration which should be given increased weight in a balancing exercise and is acceptable in principle.

Infill Development

- 8.10 Policy DM3 paragraph (2) of the Development Management Document requires that all development on land that constitutes backland or infill development will be resisted where the proposals will:
- “(i) Create a detrimental impact upon the living conditions and amenity of existing and future residents or neighbouring residents; or
(ii) Conflict with the character and grain of the local area; or
(iii) Result in unusable garden space for the existing and proposed dwellings in line with Policy DM8; or
(iv) Result in the loss of local ecological assets including wildlife habitats and significant or protected trees.”

- 8.11 This proposed development is considered to constitute an infill development site. The surrounding area is mixed in character and the development would add to the supply of dwellings in the city. On this basis, the acceptability or otherwise of the proposal is considered to be dependent on the detail of how the development would relate physically to its surroundings and assessed against the above criteria. This is considered in more detail below.
- 8.12 Given the location of the site and noting it is extensively hardsurfaced, it is not considered that the development would result in the loss of local ecological assets or any protected trees in accordance with criterion (iv) of Policy DM3.

Dwelling mix

- 8.13 Policy DM7 of the Development Management Document seeks that residential development provides 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. The dwelling mix indicated by Policy DM7 compared to the proposal is shown in Table 4 below.

Table 2: Proposed and preferred policy dwelling mix by size

Type of unit proposed	Number	Percentage	Policy (%)
One-bedroom flat	9	40.9%	9%
Two-bedroom flat	8	36.4%	22%
Three-bedroom flat	5	22.7%	49%
Four-bedroom flat	0	0%	9%
Total	22	100%	100%

- 8.14 The indicative plans received show that the scheme would be capable of incorporating a mix of dwelling sizes, including three bed units capable of family occupation. It is considered that the dwelling mix could accord reasonably with the higher density context of the site surroundings and the compact nature of the site. It would not unreasonably affect the character of the area in terms of flat sizes. The proposal would make a useful contribution to meeting the housing needs of the city and is considered to be acceptable and policy compliant in the above regards.

Affordable Housing

- 8.15 Policy CP8 seeks an affordable housing provision of 20% for major residential proposals of 10 - 49 dwellings which should be split 60:40 between affordable rented and shared ownership units. Were it to apply here, a policy compliant provision would be 5 dwellings, comprising 3 affordable rented units and 2 shared ownership units.
- 8.16 It is also noted that this is an outline application, and the final layout of the development including whether the site can viably accommodate affordable housing will be controlled and considered at Reserved Matters stage. However, a policy compliant provision of

affordable housing is proposed in principle and the independent viability review carried out by the Council's consultants reasonably demonstrates that this can be achieved.

Conclusion on principle of development

- 8.17 In the round, the principle of providing a residential led development on the site is considered acceptable.

Design and Impact on the Character of the Area

- 8.18 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.
- 8.19 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 Council's Design and Townscape Guide provide further details on how this can be achieved.
- 8.20 Matters of detailed design including appearance, landscaping, layout and the scale of the proposed development are reserved matters and as such, cannot be subject of a detailed assessment by the Local Planning Authority at this stage. However, the indicative plans illustrate a development with dual frontage along both Maldon Road and Sutton Road with an apex-style gable roofed design a maximum 12m high. An area of flat roof is shown set in from the indicative gable roofed frontages.
- 8.21 As indicated the development could be articulated into two principal sections at the Sutton Road elevation, separated by the pedestrian entrance. Further articulation could be made by stepping-in along Maldon Road and the smaller apexes along both principal elevations.
- 8.22 The indicative plans also illustrate a slight variation in the scale of the development, from 2-storeys in height to its westernmost boundary next to No 89 Maldon Road (a 2 storey dwellinghouse) before increasing to a 4-storey scale and continuing around and onto the Sutton Road frontage.
- 8.23 Whilst the street scene southwards of this site along Sutton Road comprises mainly 2 - 2.5 storey traditional small scale shop units and dwellinghouses, larger buildings along Sutton Road are noted, including the former Co-op bakery which is 3 storeys. To the immediate north of the application site is the Greyhound retail park which comprises buildings of functional design and appearance of approx. 2 - 2.5 storeys in height found at a significantly lower level and within a retail park type layout. To this end, it is considered the application site occupies a transitional position in the streetscene.
- 8.24 Weighting of any significance should not be attached to such illustrative plans in the determination of the application, but it can reasonably be concluded that in terms of scale, there is variation in the wider surrounds so the site is reasonably capable of accommodating a flatted development that whilst noticeably taller than neighbours on both frontages, need not be of a scale or height that would dominate the streetscene.

8.25 With regards to the appearance, this is an outline application with all matters reserved for later consideration. Based on the indicative plans submitted, it is considered that a scheme of 22 flats of up to 4 storey height could be reasonably designed and accommodated within the general mix indicated on the site that would be of an acceptable overall design and design quality and that could suitably respect the character of the surrounding area. Conditions relating to design detailing such as materials can be imposed to ensure an appropriate, high-quality development. Subject to that plus conditions limiting the scope of any development to a maximum four storeys and specified height above ground level the development is considered acceptable in these regards.

Trees

8.26 The application has been submitted with an Arboricultural Impact Assessment (Rev 1) which identified seven trees within and next to the site (denoted as T1-T7). Trees T1-T5 are along the northern boundary of the site and T6 and T7 are street trees along Maldon Road on the public highway next to the junction with Sutton Road.

8.27 The arboricultural report's conclusions state that the overhanging canopies of trees T2 – T5 will need to be pruned back to the boundary and will be done in accordance with British Standard BS3998:2010 and take into account any relevant wildlife legislation. In relation to T6 and T7, it is likely that root development has developed in a more parallel fashion along the boundary line and pavement line, rather than extending into the site. Care will therefore be taken when works to remove hard surfacing on site and excavation of new foundations takes place. Any roots encountered under 25mm will be pruned clear and suitably covered. Any over this will be retained and protected if pruning is not permitted by the Council's tree officer.

8.28 It was noted in the report that the new buildings will sit on the outer edges of the Root Protection Area (RPA) of tree T2 – T7 and it is feasible that significant roots will not be impacted. Care and arboricultural supervision will be in place when works in the RPA is required. The trees can be adequately protected from construction pressures by implementing and adhering to the protection measures provided in the method statement in Appendix 3 of the Arboricultural Assessment as well as the Tree Protection Plan (Rev 1).

8.29 The Council's Tree Officer has raised no objections subject to adherence to the recommendations outlined in the report. Details for soft and hard landscaping (including additional planting) can be dealt with at reserved matters stage.

8.30 Overall, it is considered that subject to conditions, a development of up to 22 dwellings could be provided on the site which would provide an acceptable landscaped setting. The outline proposal is considered acceptable in this respect.

Standard of Accommodation and Living Conditions for Future Occupiers

8.31 Delivering high quality homes is a key objective of the NPPF. 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.

Space Standards and Quality of Habitable Rooms

- 8.32 All new homes are required to meet the Technical Housing Standards (THS) – 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.

Table 3: THS – NDSS requirements

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings
1b	1p	39 (37) *
	2p	50
2b	3p	61
	4p	70
3b	4p	74
	5p	86
	6p	95

- 8.33 This application is in outline, with all matters reserved for later consideration. As such, the design, layout, scale and appearance of the dwellings is yet to be determined. It is considered that a scheme of up to 22 dwellings could be provided on the site that would satisfy the minimum requirements of the technical housing standards. It is also noted that the sizes shown on indicative plans indicates that the flats would be designed to meet the minimum size requirements of the technical housing standards. The development is acceptable and policy compliant in this regard.
- 8.34 Assessment of the receipt of Daylight/Sunlight to each flat can be satisfactorily addressed at reserved matters stage. Having regard to the site layout, it is considered that a development of up 22 flats could be provided on the site that could provide adequate and acceptable levels of light, outlook and ventilation for any future occupiers.

External Amenity Space

- 8.35 Policy DM8 of the Development Management Document states 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 reason for which will need to be fully justified and clearly demonstrated.'
- 8.36 The indicative plans show that private balconies and terraces could be provided for the flats. The planning statement also refers to a potential communal amenity space to the north-west of the site. On this basis, it is judged that a scheme of up to 22 flats could be designed on the site that would provide acceptable amenity areas for the future occupiers. A relevant condition can be imposed.

M4(2) and M4(3) – Accessibility

- 8.37 Policy DM8, as amended by the Technical Housing Standards Policy Transition Statement, requires that 10% of dwellings in 'major applications' should be built to

comply with Building Regulation M4(3) with the rest of the units complying with Building Regulation M4(2).

- 8.38 The submitted planning statement makes it clear that this would be confirmed during the detailed design phase, but that it is anticipated that the development, which indicates suitable accommodation for a lift, could comply with this requirement. Subject to a condition requiring 10% of the units to comply with the Building Regulations M4(3) standard and the remaining units to be Building Regulations M4(2) compliant, the development is acceptable in this respect.

Noise and Disturbance

- 8.39 With regards to noise, Sutton Road is heavily trafficked and is a main route to the A13 and into the City centre. In view of this, Environmental Health advise that a Noise Impact Assessment (NIA) will be required at reserved matters stage to ensure that internal noise levels and noise levels in any external amenity spaces (balconies referred to) are in accordance with those laid down in British Standard BS8233. In addition, the NIA should investigate any noise sources (plant, extract systems etc.) associated with the adjacent retail park. The NIA should outline mitigation measures as appropriate and should include reference to means to prevent overheating should windows need to be kept closed to reduce internal noise levels. These matters can be addressed within any detailed reserved matter submission although it is not guaranteed that the Environmental Health expectations for noise conditions in the external amenity space(s) can reasonably controlled in planning terms within this urban location.

Land Contamination

- 8.40 The site falls within a wider area historically used for ceramics, cement and asphalt manufacturing. In addition, the application site itself was last used as a warehouse but no details of the nature of the storage use have been provided. A Phase 1 Geo-Environmental Desk Study and Preliminary Risk Assessment has been submitted for review.
- 8.41 The report's methodology and findings advise that the risk has been assessed in terms of the end use being both non-residential and residential. The report advises that as the site is covered with concrete hardstanding, this will act as a break/barrier in the source-pathway-receptor link for any contamination existing in the made ground below the concrete (due to the former use as brickworks and later infilling). If the use is as flats with no gardens/extensive areas of soft landscaping, the risk is minimal but would rise to Low/Medium should there be gardens.
- 8.42 Environmental Health officers note that the plans do not show any private gardens, and soft landscaping is confined to small areas adjacent to the pavements which serves to minimise any risk. However, as a lower ground floor area is to be excavated and used for car parking, this needs to be investigated by appropriate intrusive sampling once the existing floor slab of the former building has been removed. In addition, due to the infilling, gas monitoring may be necessary.
- 8.43 In view of this, the recommendations contained in section 9 of the submitted Contamination report are agreed with. The phase 1 Desk Study should be reviewed to assess the risk based on the residential use and also the lower ground floor car park area, and a Phase 2 intrusive assessment, remediation plan, remediation and closure report (as appropriate) will be needed. This can be conditioned and addressed at the

appropriate later stage.

- 8.44 Overall, subject to the described conditions, it is considered that a development of up to 22 flats could be designed on the site that would provide acceptable living conditions for future occupiers. The outline proposal is therefore acceptable and policy compliant in the above regards.

Impact on Residential Amenity

- 8.45 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.
- 8.46 The application site sits next to No 89 Maldon Road to the west and the Greyhound retail park to the north. It is separated from properties to the east and south by public highway.
- 8.47 On this basis, owing to the nature of the Greyhound retail park as commercial premises and noting the significant separations to neighbouring properties to the east and south (between 13m-18m) it is considered that a scheme to develop up to 22 flats on the site need not result in any significant residential amenity concerns in terms of dominance, an overbearing impact, loss of light and outlook, overshadowing or material overlooking and loss of privacy.
- 8.48 No.89 Maldon Road is flats (Nos. 89 and 89A). Flank windows adjoin the site. These appear to serve either non-habitable rooms, in this instance the access hallway and bathroom at ground floor and a bathroom at first floor or, as secondary openings to habitable rooms (lounge/kitchen diners) at both floors. On this basis and noting that indicative plans show a two-storey scale of development next to No 89 Maldon Road, with the four storey elements illustrated a minimum of 7m from the shared boundary, it is considered that a scheme could be designed on the site that need not result in any significant residential amenity concerns in terms of dominance, an overbearing impact, loss of light and outlook, overshadowing or material overlooking and loss of privacy.

Light Pollution

- 8.49 Limited details have been submitted with this application in respect to light pollution. Given that the application is outline in nature, it is considered that conditions can be imposed requiring full details of lighting proposed in the interests of residential amenity and highway safety. Subject to such a condition, no objection is raised on this basis.
- 8.50 A planning condition is also needed to require the submission of a construction management plan and to enable the Council to control the impact on neighbours' amenity arising from construction noise and other associated environmental considerations.
- 8.51 The outline proposal is acceptable and policy compliant in the above regards subject to the described conditions.

Traffic and Transportation Issues

- 8.52 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.”
- 8.53 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. Policy DM15 also states residential vehicle parking standards may be applied flexibly where it can be demonstrated that the development is proposed in a sustainable location with frequent and extensive links to public transport and/ or where the rigid application of these standards would have a clear detrimental impact on local character and context.
- 8.54 The Planning Statement states that car parking will be provided in accordance with Policy DM15 (1 space per flat). Indicative details suggest that parking would be provided within a lower ground floor parking area. Subject to a condition requiring the necessary parking in accordance with policy, the development is acceptable and policy compliant in this respect. Electric vehicle parking charging infrastructure can also be required by condition.
- 8.55 The Planning Statement states that cycle parking will be provided in accordance with Policy DM15 (1 space per flat). Indicative details suggest that parking would be provided within a lower ground floor level. Subject to a condition requiring the necessary cycle parking in accordance with policy, including convenient access thereto, the outline proposal is acceptable and policy compliant in this respect.
- 8.56 The vehicular access arrangements will not differ from the existing situation. Vehicular access and egress will be achieved through the crossing point on Maldon Road. Highways colleagues have reviewed the available information and raise no objections.

Relationship with London Southend Airport (LSA)

- 8.57 The proposal would be the tallest structure in the immediate vicinity. LSA have been notified and raise no objections subject to an informative for the applicants to notify LSA of crane use prior to commencement of construction works.

Waste and Servicing

- 8.58 Indicative plans show an internal waste store at ground floor for use by future occupants. The requirement as outlined with the Council’s waste management document is for 7 1100L Eurobins (4 for general waste and 3 for recycling). An internal communal waste store some 21sqm in area is shown at ground floor with internal access for future occupants and external access out onto Maldon Road for collection. On this basis, it is considered that a development of up to 22 flats on the site could be designed to provide suitable refuse and recycling facilities and waste servicing. Subject to conditions in this respect no objection is raised on this basis.
- 8.59 Overall, there would be no significant harm caused to the parking conditions, traffic or highway safety of the area. The outline proposal is acceptable and policy compliant in the above regards.

Energy and Water Sustainability

- 8.60 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), such as those set out in Design and Townscape Guide, wherever feasible. How the development will provide for the collection of re-usable and recyclable waste will also be a consideration.” Policy DM2 of the Development Management Document also states that “to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions.”
- 8.61 No information is submitted for 10% renewable energy provision for this outline proposal. This would accompany a future detailed reserved matters submission and/or can be secured by condition.
- 8.62 Policy DM2 (iv) of the Development Management Document 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, appliances and water recycling systems such as grey water and rainwater harvesting. No information is submitted for water efficiency provision for this outline proposal.
- 8.63 This would accompany a future detailed reserved matters submission and/or can be secured by condition. No objections are raised on this basis.

Flood Risk and Drainage

- 8.64 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.
- 8.65 The site is within Flood Zone 1, the lowest risk zone, so is sequentially preferable for residential development. A drainage strategy has been submitted with the application which has been deemed sufficient by the LLFA for this stage of development. Additional detailed information is required, and this can be dealt with through a planning condition.

Essex Coast Recreational Disturbance Avoidance Mitigation Strategy (RAMS)

- 8.66 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), was adopted by Full Council on 29th 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. This payment will be secured via the S106. Subject to this the proposal would be considered to be acceptable and policy compliant in this regard.

8.67 Overall, it is considered that, subject to securing the implementation of ecology mitigation and enhancement measures as proposed, and the securing of the RAMS payment via the S106 agreement, the proposal would be acceptable in terms of biodiversity and ecological impacts and is policy compliant in this regard.

Planning Obligations

8.68 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.”*

8.69 Paragraph 58 of the NPPF states *‘Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.’*

8.70 The Planning Practice Guide makes it clear that *‘Planning obligations can provide flexibility in ensuring planning permission responds to site and scheme specific circumstances. Where planning obligations are negotiated on the grounds of viability it is up to the applicant to demonstrate whether particular circumstances justify the need for viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker.’*

8.71 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.”*

8.72 The planning obligations in the following table have been agreed with the applicant:

Table 4: Planning obligations agreed with the applicant.

	Proposed Head of Term	Details
1	Education	Secondary education contribution of £31,083.33
2	RAMS Ecology mitigation	£156.76 per unit (x 22) = £3,448.72
3	Highways	Travel plan and travel plan monitoring fee up to £5,000. Provision of Travel Information Packs to all residents.
4	Affordable Housing	5 units (Policy compliant 20%)
5	Monitoring Fee	Up to £10,000

8.73 The Section 106 contributions required above are considered to meet the tests set out in the CIL Regulations 2010 (as amended). Without the contributions that are set out above the development could not be considered acceptable. Unless the S106 agreement has been completed within an agreed timescale the application should be refused on this ground and the recommendation below includes wording to this effect. The Council's viability consultants have confirmed that the development can viably offer the above contributions.

NHS Contribution

8.74 The NHS requested a financial contribution of £10,300 to increase capacity for the benefit of patients in the Primary Care Network operating in the vicinity of the application.

8.75 The Council's Supplementary Planning Document 2: Planning Obligations, confirms that funding for potential primary healthcare care is addressed through the Council's Community Infrastructure Levy (CIL), so such funding for the NHS will be secured via CIL rather than planning obligations. The NHS has not made any case for exceptional circumstances which would justify any additional contribution to the NHS via the S106 process and beyond the provisions of CIL.

Summary

8.76 The contributions noted in Table 4 above are considered to meet the tests set out in the CIL Regulations 2010. Without these contributions the development could not be considered acceptable. A draft S106 agreement is currently being prepared but at the time of report preparation has not been formally agreed or completed. The recommendation of this report seeks this committee's approval subject to entering into and then the completion of this agreement.

Community Infrastructure Levy (CIL)

8.77 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. As this is an outline application, the CIL amount payable will be calculated on submission of a reserved matters application when the floorspace figures will be confirmed.

- 8.78 From the indicative plans, the proposed development will likely include a gross internal area of some 2722sqm of residential floorspace which may equate to a CIL charge of approximately £75,696.92 (subject to confirmation). This is an indicative amount only.

Equality and Diversity

- 8.79 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 which notes the potential inclusion of two Building Regulations M4(3) compliant wheelchair accessible units as indicated in the illustrative plans 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 accessible and adaptable dwellings, including dwellings compliant with Building Regulation M4(3), would be a positive aspect of the proposal in this regard.

9 Conclusion

- 9.1 Having taken all material planning considerations into account, it is found that subject to compliance with the attached conditions, this outline proposal would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development, including use of this land for housing, the indicative housing mix and flood risk would all be acceptable. The indicative design and scale of the development would have an acceptable impact on the character and appearance of the site, the streetscene and the wider surrounding area demonstrating that an acceptable design can be achieved within the parameters of this outline proposal. Subject to conditions a proposal could have an acceptable impact on the amenities of neighbours as shown within the indicative scheme. Future proposals would provide an acceptable standard of accommodation for new occupiers in a similar way as indicated in the submitted plans. There would be no significant harmful traffic, parking or highways impacts caused by the proposed development and the proposal would have an acceptable impact on sustainability and ecology if developed in a manner as indicated.
- 9.2 The outline proposal has been found by officers to be acceptable in all relevant regards and is recommended for approval on its individual merits subject to the completion of a S106 legal agreement and conditions. Should Members identify any areas of harm, should they reach a different conclusion from officers on those individual considerations then this needs to be balanced against the public benefits of the proposal including as identified within the body of the report. This proposal creates new housing, therefore, when assessing any harm identified, it is necessary to demonstrate that, in reaching this 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 NPPF 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.

10 Recommendation

Members are recommended to authorise:

- a) That the Council enter into a Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:
- i. Secondary education contribution of £31,083.33
 - ii. RAMS contribution – 22No x £156.76 = £3448.72
 - iii. Travel plan and travel plan monitoring fee up to £5,000, and Provision of Travel Information Packs to all residents.
 - iv. 5 affordable units (Policy compliant 20%)
 - v. Monitoring fee of up to £10,000.
- b) That the Executive Director (Environment and Place), Director of Growth and 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:

General Conditions

01 Details of the appearance, means of access, landscaping, layout and scale (hereinafter called the "reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved under the reserved matters. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 (three) years from the date of this permission. The development hereby permitted shall begin no later than 2 (two) years from the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 (as amended) and because the application is for outline planning permission only and the particulars submitted are insufficient for consideration of details mentioned.

02 The development hereby approved shall be carried out in accordance with the approved plan: Location Plan.

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

Design and related conditions

03 Notwithstanding the details shown on the plans submitted and otherwise hereby approved, no development above ground floor slab level shall take place, unless and until full details, specifications and appropriately sized samples of the materials to be used for all external surfaces of the proposed development, including facing materials, roof detail, windows (including sections, profiles and reveals), doors, balustrading, fascias and balconies,

have been submitted to and approved in writing by the Local Planning Authority, under the provisions of this condition. The development must then be carried out in full accordance with the approved details before any dwellings hereby approved are first occupied.

Reason: In the interest of the character and appearance and visual amenity of the area in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the National Design Guide (2021) and 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 exceed 12m in height or 4 storeys in scale above ground level, plus a single basement level.

Reason: To safeguard character and appearance of the area, the amenities of neighbouring occupiers and to reflect the contamination and drainage information submitted for the proposal in accordance with Policies KP1, KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM14 of the Development Management Document (2015) and advice in the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

- 05 Notwithstanding the information submitted and details shown on the plans submitted and otherwise hereby approved, no construction or site preparation works shall take place on site unless and until details of the levels of the proposed buildings, adjoining land and any changes proposed in the levels of the site associated with the development permitted by this permission, have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. The development shall be implemented in full accordance with the details approved under this condition before it is first occupied or brought into use.

Reason: This pre-commencement condition is required in the interest of visual amenity of the area in accordance with the National Planning Policy Framework (2023), Policies KP2, CP3 and CP4 of the Southend-on-Sea Core Strategy (2007), Policies DM1 and DM3 of the Southend-on-Sea Development Management Document (2015) and the advice contained within the National Design Guide (2021) and Southend-on-Sea Design and Townscape Guide (2009).

- 06 The landscaping details submitted with any Reserved Matters application pursuant to this outline planning permission shall include, but not be limited to:-
- i. Full soft landscaping details (size, number, species together with a planting specification and management plan)
 - ii. Details of means of enclosure of the site and within the site including any walls, gates or boundary fencing;
 - iii. Details of all external hard surfacing including any ramps to the front and rear elevations, and details of exterior lighting;

- iv. Full details of the number, size and location of the trees, shrubs and plants to be retained and planted together with a planting specification and tree management plan.
- v. Details of measures to enhance biodiversity within the site.

Hard landscaping works shall be carried out prior to first occupation of the development and the soft landscaping works within the first planting season (October to March inclusive) following first occupation of the development hereby approved.

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 approved in writing by the Local Planning Authority under the terms of this condition.

Reason: In the interests of visual amenity, biodiversity and the amenities of occupiers and to ensure a satisfactory standard of landscaping pursuant to Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 07 The development hereby approved shall be carried out from its outset solely in accordance with the measures and recommendations outlined in the Arboricultural Report (Rev 1) and separate Tree Protection Plan (Rev 1) both by Andrew Day Consultancy (and dated 10th October 2023) hereby approved.

Reason: This condition is needed to safeguard existing trees and so protect their contribution to the character and appearance of the surrounding area in accordance with the National Planning Policy Framework (2023), Policies DM1 and DM3 of the Development Management Document (2015), Policies KP2 and CP4 of the Core Strategy (2007) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).

Living conditions related conditions

- 08 All residential units within the development hereby approved shall be provided in accordance with the minimum overall, bedroom and storage space standards contained in the Technical Housing Standards - Nationally Described Space Standard.

Reason: This condition is needed to ensure an adequate living environment for future occupants of the development in accordance with Policy DM8 of the Development Management Document (2015) as amended by the Technical Housing Standards Policy Transition Statement (2015) and the guidance contained within the Technical Housing Standards (2015).

- 09 All residential units within the development hereby approved shall be provided with their own private external amenity space by way of either a balcony or terrace area.

Reason: This condition is needed to ensure an adequate living environment for future occupants of the development in accordance with Policy DM8 of the Development Management Document (2015) and the guidance contained within the Technical Housing Standards (2015).

- 10 No development shall take place, other than demolition and site preparation works, unless and until full details of vibration mitigation and noise mitigation measures, to ensure that all habitable rooms in the development hereby approved achieve the requirements of British Standard BS 8233:2014, or any subsequent applicable standards, have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved mitigation measures shall be fully implemented as approved prior to the first occupation of any part of the development hereby approved and shall be retained as such for the lifetime of the development.**

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).

- 11 Notwithstanding the details shown in the plans submitted and otherwise hereby approved, no part of the development hereby granted planning permission shall be occupied unless and until plans and other appropriate details have been submitted to and approved in writing by the Local Planning Authority, which specify the size, design, obscenity, materials and location of all privacy screens to be fixed to the proposed development. Before any part of the development hereby approved is occupied the privacy screens shall be implemented in full accordance with the details and specifications approved under this condition unless an alternative timeframe for provision has previously been submitted to and approved in writing under the scope of this condition and shall be permanently retained as such for the lifetime of the development.**

Reason: In the interests of residential amenity and the character and appearance of the area and to ensure that the development complies with the National Planning Policy Framework (2023), 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).

- 12 No development above ground floor slab level shall take place until and unless details have been submitted to and approved in writing by the Local Planning Authority to show how at least 10% and a specified number of the dwellings will be built in compliance with the building regulation M4(3) 'wheelchair user dwellings' standard with all of the remaining dwellings complying with the building regulation part M4(2) 'accessible and adaptable dwellings' standard. Each approved dwelling shall be constructed to comply with either building regulation M4(2) or M4(3) in accordance with the approved details prior to its first occupation.**

Reason: To ensure the residential units hereby approved provide high quality and flexible internal layouts to meet the changing needs of residents in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1, DM8 and the advice in the Southend-on-Sea Design and Townscape Guide (2009).

13 A. Site Characterisation

Notwithstanding the details submitted with this application, no development shall be undertaken, other than that required to carry out additional necessary investigation which in this case may include demolition, site clearance, removal of underground tanks and old structures, unless and until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. 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 produced. The report of the findings must include:

- (i) a survey of the extent, scale and nature of the 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;**
- (iii) an appraisal of remedial options, and proposal of the preferred option(s)**

B. Site Remediation Scheme

No development shall take place 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 pursuant to this condition. 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 the remediation.

C. Remediation Implementation and Verification

No development shall take place other than that required to carry out the agreed remediation unless and until the measures set out in the approved Remediation scheme have been implemented in full. The Local Planning Authority must be given a minimum of 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 and shall be submitted for approval in writing to the Local Planning Authority pursuant to this condition.

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 immediately to the Local Planning Authority under the terms of this condition. The development works must cease 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 under the terms of this condition before the development is brought into first use.

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

Impact on neighbours and related conditions

- 14 No external lighting shall be installed on the development or within the parking, access or landscaped areas of the development hereby approved other than in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. All illumination shall be designed in accordance with the Institute of Lighting Professionals "Guidance Note 01/20: Guidance notes for the reduction of obtrusive light" and "PLG05 The brightness of illuminated advertisements." All illumination within the site shall be retained in accordance with the approved details.

Reason: To protect the privacy and environment of neighbouring residents and to safeguard the visual amenities of the area in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP4, Development Management Document (2015) Policy DM1, and the advice contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 15 Demolition or construction works associated with this permission shall not take place outside 08:00 hours to 18:00 hours Mondays to Fridays and 08:00

hours to 13:00 hours on Saturdays and at no time on Sundays or Bank Holidays.

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

16 No part of the development hereby approved shall take place, including any site preparation or clearance works, unless and until a Construction Environmental Management Plan, Strategy and Method Statement have been submitted to, and approved in writing by the Local Planning Authority under the terms of this condition. The approved Construction Environmental Management Plan and Strategy shall be adhered to in full throughout the development's construction period. The Statement shall provide, amongst other things, for:

- **Construction Traffic Strategy**
- **Noise and Dust Mitigation Strategies and plans to include measures to control the emission of dust, dirt and noise during construction and boundary particulate monitoring during demolition and construction.**
- **The parking of vehicles of site operatives and visitors**
- **Loading and unloading of plant and materials**
- **Storage of plant and materials used in constructing the development**
- **The erection and maintenance of security hoardings**
- **Scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.**
- **Details of the duration and location of any noisy activities and measures to mitigate this.**
- **A scheme to minimise the risk of off-site flooding and to prevent pollution caused by surface water run-off and groundwater during construction works.**
- **A scheme to minimise the impact of the construction on ecology and to protect habitats from impacts including accidental pollution or dust-settling.**

Reason: This pre-commencement condition is justified in the interest of highway safety, ecology and amenity of the area in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007), Policies DM3 and DM15 of the Southend-on-Sea Development Management Document (2015).

Parking and Highways

17 Notwithstanding the information and plans submitted and otherwise hereby approved, the development shall not be first occupied unless and until a minimum of 1 covered, secure, safe and conveniently located cycle parking space per dwelling has been provided and made available for use in accordance with full details that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The cycle parking spaces shall thereafter be permanently maintained solely for use by occupiers of the development and their

visitors.

Reason: To ensure the provision of adequate cycle parking in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policies DM3 and DM15 of the Southend-on-Sea Development Management Document (2015).

- 18 The development hereby approved shall not be first occupied unless and until at least one (1) off street parking space for each permitted flat has been provided on the site and made available for use in accordance with full details that have previously been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. Every space shall be fitted with an active electric vehicle charging point. The parking spaces shall thereafter be permanently maintained solely for the parking of occupiers of and visitors to the development.**

Reason: To ensure adequate car parking and in the interests of providing sustainable transport choices in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP3 of the Southend-on-Sea Core Strategy (2007) and Policies DM3 and DM15 of the Southend-on-Sea Development Management Document (2015).

- 19 The residential dwellings hereby approved shall not be first occupied unless and until full details of refuse and recycling stores have been submitted to and approved in writing by the Local Planning Authority under the terms of this condition. The approved refuse and recycling stores shall be provided in accordance with the approved plans and details and shall be made available for use prior to the first occupation of the dwelling(s) to which they relate and shall be retained as such for the lifetime of the development.**

Reason: To ensure that the development provides adequate refuse and recycling facilities in the interests of highway safety and visual amenity and to protect the character of the surrounding area, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP3 of the Core Strategy (2007) and Policy DM15 of the Development Management Document (2015) and advice in the Southend-on-Sea Design and Townscape Guide (2009).

Flooding and Drainage

- 20 Notwithstanding the submitted drainage details which are otherwise agreed, no drainage infrastructure associated with the development hereby approved shall be installed until details of surface water attenuation for the site, based on Sustainable Urban Drainage principles, have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. Specifically, such details shall have regard to the following;**

- 1. The applicant to undertake infiltration testing in line with BRE 365 to identify whether any form of infiltration will be feasible.**
- 2. The applicant to consider the use of rainwater harvesting systems, green roofs, permeable pavements and other SuDS as a part of their**

- drainage strategy.
3. The applicant to show the proposed exceedance and conveyance routes, ensuring critical areas are protected from flooding where possible.
 4. The applicant to confirm the invert level of the existing manhole to ensure that a gravity connection will be possible from lower ground floor level. The applicant also to confirm acceptance from Anglian Water that this proposed connection is acceptable.
 5. The applicant to provide details on the management of health and safety risks as part of the drainage strategy.
 6. The applicant to provide information on the pollution hazard levels of the surface water and propose methods to reduce this if necessary (preferably SuDS).
 7. The applicant to confirm the groundwater conditions and whether surface water from adjacent land will enter the development and assess the impact of this on the proposed drainage system.
 8. The applicant to consider the construction phase activities that may compromise the below ground surface water drainage infrastructure and take necessary precautions to prevent and/or repair damage.
 9. The applicant to provide details of the management company that will be responsible for the maintenance of the proposed drainage system.

Reason: To ensure the approved development does not increase flood risk elsewhere in accordance with the National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1 and KP2.

Energy and water sustainability

- 21 **Prior to the 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 on-site renewable sources, shall be submitted to, agreed in writing by the Local Planning Authority under the provisions of this condition and implemented on site in full accordance with the agreed details.**

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policy DM2 of the Southend-on-Sea Development Management Document (2015).

- 22 **The dwellings hereby approved shall incorporate water efficient design measures set out in Policy DM2 (iv) of the Southend-on-Sea 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 (2023), Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policy DM2 of the Southend-on-Sea Development Management Document (2015).

- c) In the event that the planning obligation referred to in part (a) above has not been completed before 1st December 2023 or an extension of this time as may be agreed by the Director of Growth and Planning or Service Manager - Development Control, authority is delegated to the Director of Growth and Planning or Service Manager - Development Control to refuse planning permission for the application on grounds that the development will not secure the necessary contributions for secondary education, biodiversity mitigation, the production of Travel Plan and securing the appropriate monitoring fee, the provision Travel Information Packs and affordable housing and that, as such, the proposal would be unacceptable and contrary to the National Planning Policy Framework (2023), Policies KP2, KP3, CP3, CP6 and CP8 of the Core Strategy (2007) and Policies DM1, DM3, DM7 and DM15 of the Development Management Document (2015).

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 proposed development subject of this application is liable for a charge under the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The amount of levy due will be calculated at the time a reserved matters application is submitted. Further information about CIL can be found on the **Planning Portal** (www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy) or the Council's website (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 This permission is governed by a legal agreement between the applicant and the City Council under Section 106 of the Town and Country Planning Act 1990. The agreement relates to the provision of a financial contribution in relation to education and RAMS, production of a Travel Plan and the associated monitoring fee, the provision of Travel Information Packs, provision of 5 affordable housing units and monitoring of the agreement.

- 4 The applicant is advised that development moving forward to Reserved Matter Stage should retain a suitable mix of units materially in line with the indicative dwelling mix as shown in this Outline Permission. Any significant deviation from the indicative mix would require robust justification to be considered acceptable.
- 5 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.
- 6 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.
- 7 Please note that if you require a crane or piling rig to construct the proposed development, this will need to be safeguarded separately and dependant on location may be restricted in height and may also require full coordination with the Airport Authority. Any crane applications should be directed to sam.petrie@southendairport.com / 01702 538521.

8 Anglian Water

(1) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(2) Notification of intention to connect to the public sewer under S106 of the Water Industry Act Approval and consent will be required by Anglian Water, under the Water Industry Act 1991. Contact Development Services Team 0345 606 6087.

(3) **INFORMATIVE** - Protection of existing assets - A public sewer is shown on record plans within the land identified for the proposed development. It appears that development proposals will affect existing public sewers. It is recommended that the applicant contacts Anglian Water Development Services Team for further advice on this matter. Building over existing public sewers will not be permitted (without agreement) from Anglian Water.

(4) Building near to a public sewer - No building will be permitted within the statutory easement width of 3 metres from the pipeline without agreement from Anglian Water. Please contact Development Services Team on 0345 606 6087.

(5) The developer should note that the site drainage details submitted have not been approved for the purposes of adoption. If the developer wishes to have the sewers included in a sewer adoption agreement with Anglian Water (under Sections 104 of the Water Industry Act 1991), they should contact our Development Services Team on 0345 606 6087 at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with

Sewers for Adoption guide for developers, as supplemented by Anglian Water's requirements.

9 Environmental Health

(1) Construction outside of normal hours

If construction works are to be considered outside of normal hours especially overnight or are expected to cause a nuisance to existing receptors it is recommended that the applicant applies for a prior consent application under section 61 of the Control of Pollution Act 1974. A consent enables the applicant to conduct the works without the worry of enforcement provided they comply with it. The applicant will have to submit details of any noisy works including type of plant and machinery to be used, proposed daily start and finish times, consultation with nearby residents and businesses and duration and time scales of the works. The applicant will need an acoustically qualified person who will be able to calculate the predicted noise levels from the operation and the impact on nearby residents and then be able to evaluate mitigation measures that can be used.

If the Council's regulatory Services become aware of any works that are highly likely to cause a nuisance they can serve a notice under section 60 of the Control of Pollution Act 1974 to prevent this. A breach of this will represent a criminal offence.

The application form and guidance are available on the Southend-On-Sea City Council website. The applicant can also contact the Regulatory Services Team at Southend-on-Sea City Council for details.

(2) A UXO Preliminary Risk Assessment of the potential for unexploded ordnance at the site should be undertaken by competent person and any recommendations for further action reported to Southend-On-Sea City Council.

(3) Overheating and Noise Protection

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.

(5) The applicant is also reminded that this permission is separate to the need to comply with Food Safety and Health & Safety at Work laws. These will include the Food Safety Act 1990 (as amended), the Food Hygiene (England)

Regulations 2013, Regulation (EC) 852/2004 and the Health and Safety at Work Etc. Act 1974. Applicants should contact the Council's Regulatory Services Officer for Food and Health and Safety for more advice on 01702 215005 or at Regulatory Services, Southend-on-Sea City Council, Civic Centre, Victoria Avenue, Southend SS2 6ER.