

Reference:	23/00264/OUTM	
Application Type:	Full Application	
Ward:	Milton	
Proposal:	Erect 14 storey building comprising of 58 self-contained flats (Class C3) and commercial units at ground floor level (Class E) with ancillary bike and bin store on vacant land (Outline Application)	
Address:	7 Tylers Avenue, Southend-on-Sea, Essex, SS1 2BB	
Applicant:	Mr Kotecha	
Agent:	Mr Steven Kearney of SKArchitects	
Consultation Expiry:	13.06.2023	
Expiry Date:	02.02.2024	
Case Officer:	Oliver Hart	
Plan Nos:	621P01 Rev B; 621P02 Rev G; 621P03 Rev G; 621P04 Rev C; 621P05 Rev B; Arbtech AIA 01	
Supporting Documents:	<p>Biodiversity and Sustainability Statement by SK Architects [February 2023];</p> <p>Daylight and Sunlight Report [Neighbouring Properties] by Right of Light Consulting [13 February 2023]; Daylight and Sunlight Report [Within Development] by Right of Light Consulting [18 October 2023];</p> <p>Design & Access and Planning Statement Rev A by SKArchitects [January 2023];</p> <p>Environmental Noise Impact Assessment Report Rev A 20295.ENIA.RPT.01 by es acoustics Ltd. [15 February 2023]; Letter for Noise Impact Assessment by ex acoustics [6 June 2023];</p> <p>Fire Statement Form; Fire Statement Report by Accendo Fire Safety Services Rev 0 [13 March 2023];</p> <p>Sitecheck Assess (preliminary environmental constraints report) 307165996 by Landmark Information [14 February 2023];</p> <p>Street Tree Removal Statement by SK Architects;</p> <p>SUDS/Surface Water Drainage Statement by HJ Structural Engineers Ltd. MAS1440 [April 2023];</p> <p>Townscape and Visual Impact Assessment by Wynne-William Associates [April 2023]; Computer Generated Images (CGI) of proposal</p> <p>Transport Assessment by ttp consulting [February 2023];</p>	

	<p>Viability Assessment Report by Glenny LLP [27 March 2023];</p> <p>Waste Management Statement by SK Architects [February 2023];</p> <p>Wind Microclimate Assessment 19437 by gia Chartered Surveyors [16 February 2023]; Email confirming mitigation measures by D. Simpson [23/06/2023]</p>
Recommendation:	<p>DELEGATE to the Executive Director (Environment and Place), Director of Planning and Economy or Service Manager - Development Control to GRANT PLANNING PERMISSION subject to CONDITIONS following the completion of a LEGAL AGREEMENT under section 106 of the Town and Country Planning Act 1990 (as amended)</p>



1 Site and Surroundings

- 1.1 The site is currently an empty plot, some 780sqm in area at the south-western corner of Tylers Avenue and Chichester Road. It was previously occupied by a part-single, part-two storey restaurant which was demolished at some point in 2020 or 2021. There is a substantial London Plane street tree beyond the eastern boundary of the site sited along Chichester Road.
- 1.2 The surrounding area contains high office buildings, commercial buildings with their main façades facing High Street, some secondary facades facing Tylers Avenue and rear elevations facing Chichester Road, and two car parking areas. Within the Southend Central Area Action Plan (SCAAP), the car parking area opposite the site, Tylers Avenue and York Road Car Park, is designated as a key visitor car park and, with the Travel Centre farther south, is designated as Opportunity Site PA7.1.
- 1.3 The site is within the High Street Policy Area and the Town Centre Primary Shopping Area as defined in the SCAAP. The north frontage of the site is designated as Secondary Shopping Frontage. Chichester Road is identified in the SCAAP as an area with potential

for Visually Active Frontages and an area for key public realm improvements.

2 The Proposal

- 2.1 Outline planning permission is sought for access, appearance, layout and scale for a mixed-use development providing 2 commercial units at ground floor and 58 residential units above with associated cycle parking and bin storage. Only landscaping is a matter reserved for consideration at the reserved matters stage. The development would be laid out as two adjoining flat roofed tower blocks at part 10, and part 14 storey scale (a maximum 44m high) with a series of projecting balconies and framing elements, notably of the bottom two and top two floors.
- 2.2 The proposal would comprise the dwelling mix shown on Table 1 below.

Table 1: Housing mix

Number of Bedrooms	Number of units	Units – Percentage of total (%)
1	20	34.5
2	28	48.3
3	10	17.2
Total	58	100

- 2.3 With the exception of the two top units which would be arranged as maisonettes, the other units would be flats. The commercial units at ground floor would comprise one unit of some 106sqm and one unit of some 38sqm. Cycle storage and bin storage would be provided at ground floor level with separate provision for the commercial units.
- 2.4 The proposed development would be constructed in a combination of face brick with smooth concrete render used for the framing elements to the top and bottom of the buildings. A different colour palette is proposed for each block. The design detailing of the proposal has been amended during the course of the application.
- 2.5 Level access between all floors would be provided by lifts. The submitted plans specify 6no. units would comply with building regulation M4(3) (Wheelchair use dwellings). Outdoor amenity space would be provided predominantly in the form of balconies and terraces. The terraces would serve the two flats proposed on the 12th floor measuring some 36sqm and 50sqm, respectively.
- 2.6 No car parking would be provided at the site.
- 2.7 Whilst landscaping is a reserved matter, information has been provided demonstrating that the existing mature London Plane tree along Chichester Road is required to be removed to facilitate the development. Indicative replacement tree planting within the north-eastern corner of the site where a semi-public pocket square is proposed to be created is shown.

3 Relevant Planning History

- 3.1 The most relevant planning history for the determination of this application is shown on Table 2 below:

Table 2: Relevant Planning History of the Application Site

Reference	Description	Outcome [Date]
21/02298/PREAPF	Erect building between 6 and 14 storeys comprising 58 units	Issued [10.03.2023]
20/00661/DEM	Demolish existing vacant Restaurant (Application for Prior Approval for Demolition)	Prior Approval Required and Granted [10.07.2020]

4 Representation Summary

Public Consultation

- 4.1 Fifty-one (51) neighbouring properties were consulted, a site notice was displayed, and a press notice was published. No representations have been received.

Design

- 4.2 No objection subject to conditions about materials, including full product details and brick samples, details of design features, including balconies, balustrades, fascias, soffits, details of columns at ground floor level, wind screens, commercial shopfronts, signage strategy, loggias and parapets, residential entrances, reveals and window framings, details about hard and soft landscaping, including trees and plants, paving and hardsurfaces, lighting, boundaries and seating. Conditions are also necessary to ensure that the skyline remains clear of roof plant and shopfronts remain active with no use of vinyl. The maintenance of the landscaped square at the front needs potentially to be part of a S106 agreement. The site is in an area which would benefit from regeneration. The proposed building is significant in scale and will transform the streetscene and skyline from a range of viewpoints, but it will not cause harm on the setting of the surrounding heritage assets.

Lead Local Flood Authority (LLFA)

- 4.3 No objections subject to conditions requiring submission of additional information.

Environmental Health

- 4.4 No objections subject to informatives and conditions requiring additional noise impact assessments in relation to traffic noise, noise from existing plant and equipment, noise from future plant and equipment, restriction of commercial uses within Use Class E to include only retail and office uses, a construction management plan, a land contamination assessment, refuse and recycling details, external illumination details and a local air quality management assessment.
- 4.5 **[Officer comment:** A condition to require a full contaminated land assessment would not be reasonable in this instance given that the information provided does not indicate that contamination on site is likely. A condition to provide details if contamination is found, would pass the relevant tests and is recommended to be imposed.]

Parks

- 4.6 The London Plane growing at this location is of very high amenity value and construction of foundations within the root protection area will be harmful to the tree. The council's tree policy recognises that trees may be removed on occasion to facilitate development so full CAVAT valuation (Capital Asset Value for Amenity Trees) in mitigation of the loss is required as the proposed mitigation of two trees planted within the site is inadequate to compensate for the loss. The full costs of removing the tree should fall to the developer.

[Officer comment – Whilst the tree is indeed of significant value, it is understood that

its removal by the Council was previously decided as necessary and justified in Highway terms in any event in order to address the issues the tree causes to highway safety and pedestrian movements. With this in mind, it is not considered that the figure estimated with the CAVAT valuation nor the full costs for the removal of the tree should be required to be met by the developer. Instead an appropriate portion of these figures is recommended to be required as a planning obligation.]

Highways

In relation to the Plane Street tree removal

- 4.7 Chichester Road / Tylers Avenue has a high volume of vehicular and pedestrian movements given its close proximity to the Travel Centre, Tylers Avenue car park and the Town Centre.
- 4.8 An independent Safety Audit Review of the existing area was carried out and it identified a number of concerns relating to pedestrian movement as a result of the existing street tree. Highways carried out an options appraisal to develop a scheme to try and retain the tree. However, the options considered were not found to be acceptable. Due to the issues relating to accessibility restrictions at this location for pedestrians as a result of the size and location of the existing street tree, highways had, reluctantly, requested the removal of the tree. This was consulted upon in 2021 and was agreed. Given that the issues identified remain, reluctantly highways are recommending the removal of the existing street tree.
- 4.9 A contribution from the developer is sought to support the removal costs and to help provide canopy cover within the city.

In relation to the general parking and highways impacts

- 4.10 No objections. The applicant has provided a robust transport statement to support the application. This includes sustainable travel options, TRICS analysis, census data and a proposed travel plan. The site benefits from being in a town centre location with good links to sustainable travel links, local services and public car parks. Secure cycle parking is provided. It is not considered that the proposal will have a detrimental impact on the local highway network. The applicant will be required to enter into the appropriate highways agreement to carry out the reinstatement works for the vehicular crossover points. Future occupiers will not be eligible for a town centre or parking permit. A Travel Plan including travel packs will be required and can be conditioned.

Strategic Housing

- 4.11 The proposed development will deliver 58 dwellings, which will require a 30% affordable housing provision, equating to 18 homes. The most recent Housing Register data indicates the following dwelling mix is required: 6 x 1-bedroom; 6 x 2-bedroom; 6 x 3-bedroom and the required tenure split is 11 Affordable Rent and 7 Shared Ownership.
- 4.12 [**Officer comment:** The financial viability of the proposal has been independently reviewed and cannot support an affordable housing contribution, as discussed in the relevant section of this report.]

Education

- 4.13 A financial contribution of £73,469.68 is required towards secondary education provision at Southchurch Academy

Health Care (NHS)

- 4.14 Financial contribution of £27,400 requested for the benefit of patients of the Primary Care Network operating in the immediate area.

[**Officer comment** – Primary health care can be funded through CIL and no additional planning obligations can be imposed for this matter.]

Anglian Water

- 4.15 No objections subject to informatives and conditions for details of on-site foul water drainage works and a surface water management strategy.

London Southend Airport (LSA)

- 4.16 No objection subject to maximum height of development of 56.46m (AOD) and a condition requiring third party instrument flight procedure assessment (ILS).

[Officer Comment: The building height is 44m]

Health and Safety Executive

- 4.17 No objection subject to a condition requiring the submission of a satisfactory fire statement with any reserved matters application and continued consultation with the Health and Safety Executive.

5 Procedural matters

- 5.1 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.

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), CP2 (Town Centre and Retail Development), CP3 (Transport and Accessibility), CP4 (Environment and Urban Renaissance), CP6 (Community Infrastructure), CP7 (Sport, Recreation and Green Space), 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), DM4 (Tall and Large Buildings), DM5 (Southend-on-Sea's 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 (2015) Policies: DS1 (A Prosperous Retail Centre), DS2 (Key Views), DS3 (Landmarks and Landmark Buildings), DS4 (Flood Risk Management and Sustainable Drainage), DS5 (Transport, Access and Public Realm),

PA1 (High Street Policy Area Development Principles), PA7 (Tylers Policy Area Development Principles).

- 6.8 Southend-on-Sea Design and Townscape Guide (2009)
- 6.9 Technical Housing Standards Policy Transition Statement (2015)
- 6.10 Addendum to the South Essex Strategic Housing Market Assessment (2017)
- 6.11 Waste Storage, Collection and Management Guide for New Developments (2019)
- 6.12 Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) Supplementary Planning Document (SPD) (2020)
- 6.13 Community Infrastructure Levy (CIL) Charging Schedule (2015)
- 6.14 Guide to Section 106 & Developer Contributions Supplementary Planning Document (SPD) (2015)
- 6.15 Interim Affordable Housing Policy (2016)

7 Planning Considerations

- 7.1 The main considerations in relation to this application are the principle of the development, the design and impact on the character and appearance of the area including heritage, the impacts on neighbours' residential amenity, the living conditions of future occupiers, traffic and transportation matters, flood risk and drainage, sustainability, biodiversity and RAMS, CIL and developer contributions.

8 Appraisal

Principle of Development

Provision of Housing

- 8.1 National and local planning policy promotes the effective use of land subject to safeguarding and improving the environment and local amenity. The NPPF encourages effective use of land, in particular previously developed land. It states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and promote and support the development of underutilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained, and available sites could be used more effectively.
- 8.2 The figures of the Housing Delivery Test (HDT) and the Five-Year Housing Land Supply (5YHLS) show that there is a significant need for housing in the City. The presumption in favour of sustainable development is engaged in this instance as required by the NPPF. The South Essex Strategic Housing Market Assessment (SESHMA) shows that the City needs a higher proportion of family units.
- 8.3 The proposals would create additional housing including additional family units. The results of the HDT and the position on the 5YHLS weigh in favour of the proposal and the amount of housing would make an important contribution to the housing stock of the City. The findings of the SESHMA significantly support the proposal.

Provision of commercial space

- 8.4 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.
- 8.5 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. Policy CP2 of the Core Strategy encourages town centre uses to be located within the designated locations, including the City centre.
- 8.6 Policy DM13 of the Development Management Document states that: “All developments in the secondary shopping frontage, as defined on the Policies Map, must maintain or provide an active frontage with a display function for goods and services rendered and the proposed use will provide a direct service to visiting members of the general public”. Policy DS1 of the SCAAP reflects the above policy direction. Policy PA7 of the SCAAP also seeks active frontages at ground floor level on Chichester Road.
- 8.7 The proposal seeks a mixed-use development comprising two commercial units at ground floor with residential development above. Whilst the site is presently vacant, it was last used for commercial purposes. However, no commercial space can be reinstated at the site without the grant of planning permission following the demolition of the building under the provisions of permitted development legislation. Given that the proposal includes 144sqm of commercial floor space at ground floor level with the provision of active frontages both on Chichester Road and Tylers Avenue, which is part of the Secondary Shopping Frontage, the principle of this commercial space provision is acceptable.

Provision of a large or tall building

- 8.8 Policy DM4 of the Development Management Document states that tall and large buildings will be considered acceptable where the following criteria are met:
- (i) They are located in areas whose character, function and appearance would not be harmed by the scale, mass or bulk of a tall or large building; and
 - (ii) They integrate with the form, proportion, composition, and character of surrounding buildings, urban grain and public realm (including landscape features), particularly at street level; and
 - (iii) Individually or as a group, form a distinctive landmark that emphasises a point of visual significance and enhances the skyline and image of Southend; and
 - (iv) The highest standards of architecture and materials are incorporated; and
 - (v) The latest regulations and planning policies for minimising energy use and reducing carbon emissions over the lifetime of the development are exceeded, where viable and feasible; and
 - (vi) Ground floor activities provide a positive relationship to the surrounding streets; and
 - (vii) They are located in a sustainable area with frequent public transport links, and where local services are accessible by foot and bicycle.
- 8.9 Policy DS3 of the SCAAP states that the Council will support and encourage the creation of new landmarks in, among other areas, Tylers Avenue, where development proposals

must demonstrate that:

- a. design, detailing and use of materials are of exceptional quality and interest and will help to reinforce local character and distinctiveness;
- b. the location would provide a focal point for an existing vista/sight line or generate a new one;
- c. the proposals do not adversely affect the amenity of local residents; and
- d. the proposals do not harm the setting of nearby heritage assets.

8.10 Matters in relation to design will be discussed in more detail in the relevant design and character section of this report. In relation to criteria (i) and (ii) of Policy DM4, it is considered that the character, function and appearance of the wider area, which is mixed in nature and form, would not be significantly harmed. In terms of height and scale, the proposal would be seen in the wider context of other large buildings in the area and is considered to integrate acceptably in the locality at streetscene level. This is aided by the significant proportion of active ground floor facades that would be provided on both frontages (Chichester Road and Tylers Avenue). The stepped footprint, use of contrasting yet complementary materials which provide distinction and separation of the two blocks and the provision of colonnade (at ground floor) and loggia (at roof level) details, each of a two-storey scale, would break up the resultant scale and mass to an acceptable degree. Other positive design elements including the provision of tall windows, projecting and inset balconies have been incorporated and are considered to provide visual interest. The materials detailed are generally considered to be of sufficient quality and finish for such a large scale of development in compliance with criterion (a) of Policy DS3. Some minor issues, for example the use of render on certain design features, as well as the detail of all materials to be used can be secured via condition. It is considered the proposal suitably accords with criteria (iii) and (iv) of Policy DM4 noted above.

8.11 Details of sustainability in relation to criterion (v) of Policy DM4 are discussed in the relevant section of the report. In compliance with criterion (vi) of Policy DM4, some ground floor activities are proposed and conditions can secure an active frontage is maintained. The area is well served by public transport, including bus and train links, and is accessible by alternative means in line with the requirements of criterion (vii) of Policy DM4.

8.12 As discussed in the relevant section of the report, the proposal would not harm the setting of nearby heritage assets and would not adversely affect the amenity of local residents in compliance with criteria (c) and (d) of Policy DS3. Moreover, the proposal would generate a focal point for public vistas from the east, and add interest to the skyline from vistas to the north and south satisfying criterion (b) of Policy DS3.

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 preferred by Policy DM7 as amended by the latest SESHMA compared to the proposal is shown in Table 3 below.

Table 3: Proposed and preferred policy dwelling mix by size

Type of unit	Number	Percentage	Policy
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One-bedroom flat	20	34.48%	18%
Two-bedroom flat	28	48.28%	30%
Three-bedroom flat	10	17.24%	35%
Four-bedroom flat	0	0%	17%
Total	58	100%	100%

- 8.14 Whilst Policy DM7's preferred mix (as amended with the latest evidence from the SESHMA) needs to be considered, it is also the case that, since the adoption of Policy DM7, there has been an evidenced need for all types and sizes of dwellings within the City. This is a factor that must be given significant weight in the assessment of this application.
- 8.15 The units proposed incorporate a mix of dwelling sizes, including three bed units capable of family occupation and 6 units for wheelchair users. It is considered that the dwelling mix would accord reasonably with the higher density context of the site surroundings and the compact nature of the site. 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.

Conclusion on principle of development

- 8.16 In the round, the principle of providing a large building at this site, with additional housing with some ground floor commercial floorspace is considered acceptable.

Design and Impact on the Character of the Area including Heritage Assets

- 8.17 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.
- 8.18 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.
- 8.19 Paragraph 208 of the NPPF states that: "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".
- 8.20 The site is at a point of transition from the High Street to the edge of the city centre. Whilst the older High Street buildings which rise in height from two storeys up to five storeys are the immediate backdrop for the development, in similar transitional settings in the wider locality, high rise buildings of the scale proposed are not uncommon, and in this context, there is no objection in principle to a tall building in this location.
- 8.21 The proposed development is significant in scale and as a result, will transform the streetscene and skyline from a range of viewpoints at varying distances across the City.

In relation to the impact on the townscape, a Townscape and Visual Impact Assessment (TVIA) has been submitted. The TVIA assesses the *Magnitude of Change* along the *Landscape and Visual Sensitivity* from certain viewpoints which were previously agreed with officers of the LPA. Assessing these two factors above, the TVIA offers an assessment about the significance of *Landscape and Visual Effects* of the development and categorises the impact from these viewpoints as beneficial, neutral or *adverse*. The TVIA considers the potential impact of the proposal during the construction phase, 1 year from completion and 15 years following completion of the development.

8.22 The submitted TVIA demonstrates that the proposed development, 1 year and 15 years from completion, will not have an unduly harmful impact on the character and appearance of the area and the nearby heritage assets, despite causing *significant adverse* impact from particular viewpoints during the construction phase. The TVIA states:

“Construction of the proposed scheme will cause a high level of visual change for some receptors in the vicinity of the development site. Uncharacteristic machinery, stockpiles of materials and demolition works will be highly visible from public footways and to residents along Baltic Avenue and the western end of York Road. Moderate substantial adverse visual effects were assessed during construction for receptors closest to the site represented by viewpoints 1, 2, 11, and 13. Moderate adverse effects were predicted for receptors along the High Street at viewpoint 12, with slight adverse effects for receptors represented by viewpoints 9, 10, 17, 18, and 21”.

8.23 The TVIA states that the predicted townscape effects on individual receptors fall below the significance threshold and are outlined below:

- Minor adverse to neutral for the Primary Centre (area around High Street)
- Neutral for the Central Seafront
- Minor adverse for the High Density Perimeter Blocks to the east of the High Street
- Neutral for residential areas to the west of the High Street.

8.24 The assessment of townscape effects has established that the proposals do not cross the significance threshold for requiring mitigation. Furthermore, the TVIA identifies that *slight* and *moderate adverse impacts* would be experienced from the following viewpoints in years 1 and 15 from completion of the development:

Table 4: Viewpoints and characterisation by TVIA for years 1 and 15 from completion

Viewpoint No.	Address	Magnitude of change in year 1 and 15	Significance in year 1 and 15
1	Tylers Avenue – Baltic Avenue	Low to Negligible	Moderate to Slight Adverse
2	High Street – Clifton Road	Low	Moderate Adverse
3	Clifton Road – Southend Central	Negligible	Slight Adverse
9	High Street - Victoria Circus	Negligible	Slight Adverse
10	Porters Civic House	Negligible	Slight Adverse
11	Warrior Square	Low to Negligible	Moderate to Slight Adverse
12	High Street – Station Approach	Low	Slight Adverse
13	Southend Bus Terminal	Low to Negligible	Moderate to Slight Adverse
14	High Street with Haygate Avenue	Negligible	Slight Adverse
17	Kursaal	Negligible	Slight Adverse
18	Queensway (leading to Stanley	Negligible	Slight Adverse

	Road)		
21	End of Southend Pier	Negligible	Slight Adverse

8.25 The TVIA states:

“By Year 15 following construction, moderate adverse visual effects are predicted to remain for people using the pedestrianised footway along a short section of the High Street closest to the site (viewpoint 2). Although the proposed tower will be noticeable, it is not assessed as being wholly uncharacteristic and will not obscure sensitive views to important features on the Southend skyline.

Slight adverse visual effects are predicted by Year 15 for residents immediately east of the site (viewpoint 1), pedestrians and residents close to Warrior Square (viewpoint 11), pedestrians further north and south along the High Street (viewpoints 9, 12, and 14), and pedestrians close to All Saints Church and Porters.

Pedestrians close to the Kursaal (viewpoint 17) as well as residents south-east of the site (viewpoint 18) are also predicted to experience slight adverse effects by Year 15. From the end of the Southend Pier, the proposed building will appear against the backdrop of existing tower blocks, therefore leading to slight adverse visual effects. [...]

By Year 15, predicted visual effects [...] do not cross the significance threshold.”

8.26 Following review of the TVIA and at the time of drafting this report officers have queried some of the findings with the agent. Officers have also requested to be provided with updated information for certain viewpoints. However, this is not considered to prejudice the robust and full assessment of the submitted application.

8.27 In more detail, Viewpoint 5 of the TVIA is positioned in Alexandra Street looking across the bowling green within the Clifftown Conservation Area. The TVIA concludes there will be ‘no change’ due to the presence of trees but there are concerns that this will not be the case during the winter months or, from a slightly different viewpoint looking north-east where there is a gap in the trees which opens up a view of the listed church across the bowling green with no background/skyline interference.

8.28 Whilst a clearer viewpoint has not been generated, it is likely that in that location the proposed block would be visible from the gap described above and from within the bowling green. However, due regard is had to the significant separations involved (approx. 390m) and presence of intervening development of a mixed scale. Consequently, it is considered reasonable that the magnitude of change in this instance will likely be *low* in extent and the resultant significance *slight to moderate adverse*.

8.29 Viewpoint 6 of the TVIA from Clifftown Parade has also been designated as ‘no change’ within the TVIA as the proposed tower would be screened by neighbouring development. However, it is likely that further east from that viewpoint longer distance views would be possible across the more open aspect of Prittlewell Square which currently does not have modern buildings in the background.

8.30 Whilst a viewpoint around that location was not generated, it is likely that the proposed development would be visible there. However, due regard is had again to the significant separations involved (in excess of 450m) and the presence of intervening development of a mixed scale. Similarly, it is considered reasonable that the magnitude of change in this instance will likely be ‘low’ in extent and the resultant significance *slightly adverse*.

- 8.31 Viewpoint 9 of the TVIA from the northern end of the High Street has been designated as being of 'negligible' magnitude and of 'slight adverse' significance on south facing views but makes no mention of the Grade II listed building at No.130 High Street or any impact on this. The viewpoint generated demonstrates that the proposed tower will be highly visible when viewed in the context of 130 High Street. It is considered that the magnitude of change in this instance should be upgraded to *medium* in extent and the resultant significance to *moderate*.
- 8.32 In relation to other heritage assets, the TVIA found that the proposed development will be visible from Warrior Square Conservation Area, the nearest boundary of which is some 230m to the north and the Pier Head to the south but from these locations it will be seen within the context of other taller buildings in the city centre and will not appear as an unduly incongruous or harmful feature. General views from Milton Conservation Area would not be impacted as the area has a tight urban grain with limited open spaces hence limited opportunities for longer views. Furthermore, the proposal would cause a *slight adverse impact* on Porters. It is likely that the Year 15 significance identified from Kursaal would be lower than *slight adverse* or none at all, given that the longer distance views allowed currently over the undeveloped plot to the west, would be restricted when development takes place at that site in line with previously granted permissions.
- 8.33 The harm associated with the proposed development as a result of its significant scale and relationship with the identified heritage assets above is considered to be less than substantial and moderate in degree. Weighed against this are the public benefits of the scheme, notably, that the proposal would result in a clear contribution to the regeneration of the city centre as well as the provision of a significant number of housing units in a sustainable location. The less than substantial harm associated with the impact of the proposed block is considered, in this instance, to be outweighed by the public benefits.
- 8.34 The rectangular form of development proposed is not uncommon for monolithic structures. The proposed built form breaks at the top, framed with columns and beams, and offers a visual relief at this part of the building. Splitting the building vertically into 2 distinct blocks of differing heights and materiality (differing brick colours and pre-cast concrete) together with a stepped footprint, helps to break up the massing of the proposed building into more comfortable proportions, and this is a positive aspect of the design.
- 8.35 The main frontages to the east and north are well articulated and detailed with a range of features, including the two-storey colonnade (at ground floor) and loggia roof design, tall windows and projecting and inset balconies which are positive aspects of the design and add to the visual interest and overall quality of the development. During the course of the application, detailed design changes were agreed with the applicant to extend the two-storey loggia framing detail to incorporate the northern elevation, as well as additional full-length windows to ensure appropriate articulation to the upper levels.
- 8.36 From the south, the lower section will be screened by existing buildings and the two storey loggia roof feature will provide a suitably dynamic roof design in wider views. The TVIA viewpoint 2 demonstrates that the development will be prominent in closer views from the west, including the High Street, where the top section of the development will be fully visible above the small-scale buildings in the High Street. The glass staircase will be the main feature on this side and it is important that this is well detailed. A condition requiring submission of material details and finishes is recommended in the relevant section of this report.

- 8.37 At street level, the ground floor elevations facing Chichester Road and Tylers Avenue are considered to maximise the active frontage they can provide and where active frontages cannot be provided, an appropriate use of materials is proposed to create interest in the frontage at pedestrian level. During the course of the application ribbed concrete panels have been incorporated to ensure sufficient visual interest at this level. This is a positive aspect of the design and details can be conditioned. Owing to the large-scale nature of the building and its visibility from both short and long views across Southend, the external materials proposed, particularly the brick finish, will need to be of sufficiently high-quality befitting of a landmark building. The approach of using lighter and darker palettes of materials is particularly important in visually breaking the bulk of the structure. An informative is added as a reminder to the applicant about the importance of the approach to materials and their quality.
- 8.38 Landscaping is a matter reserved for consideration at a later stage and only limited information has been provided for this. Landscaping is very important to the pedestrian experience of tall buildings. Trees can help to offset the scale of the block and a quality landscaping scheme would assist the development to integrate into the streetscene, provide a human scale reference and to more positively regenerate the area.
- 8.39 Removal of the mature London Plane street tree adjacent to the site (along Chichester Road) will represent a loss to the streetscene as there are few trees in the wider location. An Arboricultural Impact Assessment has been submitted with the application which states that the tree is incompatible with the development owing to the significant pruning of the crown that would be required as well as the potential damage to the tree's root protection area. This tree falls within the Council's Highways ownership.
- 8.40 As summarised in the consultation response from Highways, the street tree will need to be removed for highway safety related reasons in the near future. With this in mind, the estimated value of the tree is some £5,427. This contribution can be secured to achieve planting of trees elsewhere in the city. Furthermore, it is considered that a contribution towards the removal costs in the region of £5,000 would be reasonable and proportionate in the circumstances of this case. These have been agreed with the applicant.
- 8.41 The proposed site plans and CGI views provided show 2No trees would be planted within the area at the north-east corner of the site which is proposed as a new public realm. This is acceptable and it will be important that the trees are of significant size and of a species which would sit well against the scale of the building and that the public realm extends to the corner and in front of the main frontages of the building. Quality seating and lighting should be provided in this location. It is considered that there is sufficient space to provide an acceptable quantum of soft landscaping in the area identified with more details to be provided at reserved matters stage and no objections are raised on this basis.
- 8.42 Advertisement signage associated with the development and the commercial units is dealt with separately under the Advertisement Regulations. However, a condition is required to remove certain deemed consent rights so ensuring that the frontages remain active which relates to the high-quality design required of tall buildings.
- 8.43 In the round, it is considered that the resulting massing, detailed design, layout and use of external materials would be suitably responsive to the mixed character of uses and buildings around the site. The scheme is considered to represent an acceptable standard of design in terms of its appearance therefore justifying the tall building form proposed in this location and wider streetscene and the public benefits associated with

the scheme are considered to outweigh its identified harm to heritage assets, which is low to moderate in degree. The design of the proposal is therefore considered to be acceptable and policy compliant in the above regards subject to conditions controlling the detailing and materials.

Standard of Accommodation and Living Conditions for Future Occupiers

- 8.44 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

- 8.45 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.

Table 5: Minimum space standards

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	

- 8.46 All dwellings within the proposal meet the required minimum standards and are acceptable and policy compliant in regard to flat and bedroom sizes.
- 8.47 The plans show that all habitable rooms will be provided with sufficient windows and openings to provide adequate ventilation and outlook. A Daylight and Sunlight Assessment has been submitted to assess the standards of light within the proposed dwellings. This document concludes that a high percentage of rooms (88%) would meet or exceed the recommendations of the BRE guidelines. The consultant considers this to be a good result for a large development in an urban environment. Those windows that do not meet the guidelines fail to do so marginally, and this is due to the location of balconies above them which are necessary in order to provide private amenity space to the occupants. These flats are as follows:

- Flat 1 (Living/dining/kitchen) - Flat 6 (Living/dining/kitchen)
- Flat 7 (Living/dining/kitchen) - Flat 10 (Living/dining/kitchen)
- Flat 13 (Living/dining/kitchen) - Flat 14 (Living/dining/kitchen)
- Flat 16 (Living/dining/kitchen) - Flat 19 (Living/dining/kitchen)
- Flat 22 (Living/dining/kitchen) - Flat 25 (Living/dining/kitchen)
- Flat 28 (Living/dining/kitchen) - Flat 33 (Living/dining/kitchen)
- Flat 38 (Living/dining/kitchen) - Flat 43 (Living/dining/kitchen)
- Flat 48 (Living/dining/kitchen) – Flat 52 (Living/dining/kitchen)

8.48 Whilst this does limit some of the daylight available to the units, it is considered preferable to retain the balconies both from a general overall future residents' amenity point and because these contribute to the building's articulation.

Amenity Space Provision and Microclimate

8.49 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."

8.50 All units would be provided with external amenity space in the form of balconies and terraces and would comprise one of the following sizes; 3.75sqm, 4.75sqm, 6.15sqm, 25sqm (located at floor 08), 36sqm and 50sqm (both located at floor 12).

8.51 This is considered sufficient on account of the occupancy profile of the units and the context of the scheme as a high-density development in an urban environment.

8.52 The application has been supported by a Microclimate Assessment. This demonstrates that the local environment around the proposed building would not be impacted adversely and most of the external amenity spaced would offer acceptable conditions for residents. However, a number of upper floor balconies and terraces have been identified that would suffer from particularly strong winds and it is recommended in the microclimate assessment that they are screened appropriately. The recommendations of the assessment have been taken into account in the latest iteration of the proposal which is under consideration with this application. In particular, glazed wind screens some 1.8m high are shown on terraces and balconies at floors 6, 8, 12 and 13 as recommended in the submitted microclimate assessment. These proposed measures are considered acceptable including because they do not materially affect the visual qualities of the building and can be secured by condition.

Noise and Disturbance

8.53 The location of the site at this town centre location, near the bus hub of the city could potentially result in a harmful acoustic environment for future residents, particularly at lower floors. A noise survey report has been submitted with the application.

8.54 The noise survey report found sources of noise from existing plant and equipment at neighbouring commercial uses, particularly those found at the McDonalds restaurant to the immediate west. The report also noted traffic noise on Chichester Road and Tylers Avenue as potentially harmful noise sources. A vehicle service yard to the rear of the site serving the McDonalds and M&S used predominantly for deliveries may also have a harmful impact on neighbour amenity, particularly on the lower-level flats.

8.55 The report concludes a number of noise mitigation measures are required, namely;

- Careful choice of external build materials;
- Provision of Acoustic Glazing: Type 1- 1st-7th floors; Type 2- 8th-14th floors;
- Minimising the need to open windows by provision of continuous supply fans (e.g. an MVHR system) or background ventilators (e.g. trickle vents or wall vents).

- 8.56 Environmental Health have not objected to the scheme on this basis. It has been suggested that airborne noise soundproofing between residential and the ground floor commercial units should be at least $50\text{dB}_{\text{DnTw+Ctr}}$ which exceeds the Approved Document E recommendations for residential. However, Environmental Health officers state this is acceptable providing the commercial units on the ground floor are for office or retail uses only. This can be secured via condition.
- 8.57 The noise report states that the external noise levels for the 'inset' balconies, particularly at the lower floors exceed the WHO levels of 50-55dB for external private amenity, measured at 56-62dB(A). The report quotes from guidance that where the recommended levels are "not achievable in all circumstances," these can be accepted in high density, urban environments where there must be a trade-off between noisier settings and convenience of living in these locations. Whilst in principle this position may be acceptable, Environmental Health officers require further evaluation of mitigation measures, including in the design of the external amenity areas. However, officers do not consider that such a requirement would be necessary in the circumstances of this case hence a condition to require such details would not pass the relevant tests. Officers attribute significant weight to the provision of external amenity spaces, particularly within high density urban environments such as the city centre and they consider this a positive feature of the development. Officers consider that the trade-off between the noisier setting and convenience of living in this location would not result in unacceptable living conditions for future occupiers in this instance.

M4(2) and M4(3) – Accessibility

- 8.58 Policy DM8 as amended by the Technical Housing Standards Policy Transition Statement (2015) requires all new dwellings to be accessible and adaptable to meet the Building Regulations M4(2) standards and requires 10% of the units (6 units) to meet the Building Regulations M4(3) wheelchair compatible requirements. Lifts are proposed. The units are not labelled but the plans show that 6No units are Building Regulations M4(3) compliant. The remainder are Building Regulations M4(2) compliant. This can be secured by condition. The proposal is therefore acceptable and policy compliant in this regard.

Land Contamination

- 8.59 The preliminary contaminated land report submitted with this application does not recommend further investigations. The Environmental Health officer has commented that although it is unlikely that future users of the site would be affected, there is a possibility that piled foundations will cause preferential pathways for contamination to move into groundwater. Staff consider that imposition of a condition requiring full investigation would be unreasonable in this instance. Instead it is considered that a condition requiring further details only if contamination is found during the construction activities is justified in the circumstances of this case and is recommended.

Air Quality

- 8.60 An Air Quality Assessment has not been submitted with the application. Environmental Health officers note that the council has two Air Quality Management Areas en-route to this development, so it is considered appropriate for an air quality assessment to be conditioned for this application.

Fire safety

- 8.61 The required form and assessment have been submitted with the application. The Health and Safety Executive advised that the information in front of them is not sufficient because they could not readily see which matters are reserved for future consideration and suggested that a condition is imposed for these documents to be submitted at the reserved matters stage. This matter cannot be considered at the reserved matters stage, but a condition can be imposed on any approval of this application to require details at the appropriate stage.
- 8.62 Overall, subject to the described conditions the proposal would provide an acceptable standard of accommodation and is acceptable and policy compliant in this regard.

Impact on Residential Amenity

- 8.63 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.
- 8.64 The site is next to existing residential units on the upper floors of the buildings facing the High Street, namely the units at Nos 70 and 84 (1 Pitmans Close) High Street. The application is supported by a Daylight and Sunlight Assessment which has been undertaken in accordance with BRE guidance. The assessment states that the properties at even numbers 54 to 62, 66 to 82, 88 and 90 High Street are non-domestic buildings of a type which do not have a requirement for daylight or sunlight. The majority of the windows of residential properties tested meet or surpass the BRE numerical recommendations. Some windows (numbered 121 to 125) on the southern elevation at first floor level of 84 High Street do not meet the relevant numerical recommendations albeit the assessment confirms that these rooms are served by other sources of light. Whilst some windows do not meet the recommendations, the assessor for the report concludes that the results are not unusual in the context of an urban location and advises that the BRE guidance explains that the numerical guidelines should be interpreted flexibly, since natural lighting is only one of many factors in site layout design.
- 8.65 For properties at No.84, windows 121, 124 and 125 do not serve as the sole opening serving the affected rooms, window 122 serves a bedroom where light and outlook requirements can be applied more flexibly and window 123 only marginally fails the vertical sky component numerical requirement of the BRE guidance. There is compliance with relevant BRE requirements in relation to properties at No.70 and other properties are commercial with no required protection of amenity in terms of the BRE guidance. On this basis, the impact in relation to light and outlook on neighbouring properties is considered acceptable.
- 8.66 In terms of overlooking, it is considered that the arrangement of windows, with non-habitable rooms positioned to the west flank elevation serving predominantly stairwells and corridors which can be conditioned to be obscure glazed, is such that the proposal will have an acceptable relationship with neighbours in relation to overlooking and privacy impacts. The elevated position of the proposal's terraces to the west flank elevation which extend significantly above the roofs of neighbouring properties along the High Street is sufficient to preclude harmful degrees of overlooking.
- 8.67 The site is some 16.3m and 12.6m away from neighbouring residential properties at

Nos.70 and 84 High Street, respectively. Despite the significant height of the development, it is not considered that the residential amenity of relationship with these properties or any other properties is such that neighbouring or nearby residents would be significantly impacted in terms of creating an overbearing form of development.

8.68 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 arising from construction noise and other associated environmental considerations. Construction hours also need to be controlled by a condition.

8.69 In the round, and subject to the described conditions, it is considered that the proposed development is acceptable and would comply with national and local planning policies in relation to neighbour amenity.

Traffic and Transportation Issues

8.70 The NPPF states (paragraph 115) 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.”

8.71 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.

Provision of cycle and car parking

8.72 Assessed against the parking standards, the minimum car parking requirements for flats under Policy DM15 is one car parking space and one cycle parking space per unit. For the commercial units, a maximum standard of one parking space per 15sqm is required. No off-street car parking would be provided as part of the development so not meeting to standards. The submitted Transport Assessment comments that 60 residential cycle parking spaces will be provided within two store areas at ground floor. 2 cycle parking spaces for the commercial unit are also shown within a separate store at ground floor.

8.73 The Transport Assessment (TA) submitted with the application demonstrates that the site is in a highly sustainable location, close to the High Street, within walking distance of Southend Central Station and local bus stops as outlined below in Tables 3.1 and 3.2 extracted from the submitted TA.

Stop / Station	Location	Distance	Approximate Walking Time
Travel centre bus stops	Chichester Road	50m	>1 minute
Bus stop 'M'	Cliffdown Road	120m	>2 minutes
Southend Central Station	Cliffdown Road	150m	2 minutes
Southend Victoria Station	Victoria Avenue	600m	7-8 minutes

Amenity	Location	Distance	Approximate Walking Time*
Restaurants and Cafes	High street	80m	>1 minute
Lloyds Bank	High Street	100m	1-2 minutes
DPD Pickup Parcel shop	York Road	170m	2-3 minutes
Iceland	York Road	170m	2-3 minutes
Little Holland Nursery	York Road	180m	2-3 minutes
Royals Shopping Centre	High Street	300m	3-4 minutes
Victoria Shopping Centre	High Street	550m	6-7 minutes

8.74 The assessment also highlights the position of the site close to public car parks, including Tylers Avenue and York Road car park accessible on the other side of Chichester Road to the east. This also provides disabled parking bays. As already highlighted within the SCAAP, this car parking area is designated as a key visitor car park as opportunity site PA7.1. The relevant policy provision states that any future development of the opportunity site must demonstrate how the existing car parking capacity will be retained. It is considered that a development without dedicated on-site car parking provision is acceptable in this location having regard to the particular circumstances of this case.

Impact on highway network

8.75 The TA confirms that the residential trip generation assessment demonstrates there will be a change in the pattern of movements at the site. However, it is expected that the commercial element of the development will not generate new trips but those visiting will do so as part of a linked or pass-by trip. The assessment concludes that the proposed development will not lead to a detrimental impact on the public transport system or local highway network.

8.76 Highways reviewed the TA and raise no objections subject to the imposition of a condition requiring the submission of a Travel Plan. It is considered that the applicant has provided a robust TA to support the application, including sustainable travel options, TRICS analysis and census data.

8.77 It is considered that the removal of the London Plane tree would be a positive for the highway and pedestrian safety in the area. Notwithstanding its amenity merits the tree is obstructing the pavement which leads to pedestrians using the road to walk around the tree.

Waste and Servicing

8.78 There are two separate waste stores proposed for the development, one for residential and one for commercial. There are 10No x 1100L Eurobins proposed for the residential units which will be split between general waste, recycling and paper/card. This is in general accordance with the recommended waste guidelines.

8.79 The Transport Assessment states that residential waste and recycling will be collected by the Council as part of their existing weekly collection regime, with refuse vehicles stopping on Chichester Road. Collection staff will have keypad access to the residential

waste store.

- 8.80 The commercial waste store will provide 2No x 1100L Eurobins, 1No for general waste and 1No for recycling. Commercial waste will be collected via a private contractor, with vehicles expected to stop in the loading bay on Tylers Avenue.
- 8.81 No objections are raised to the proposed waste collection and servicing arrangements.
- 8.82 Other highways matters include the reinstatement of dropped kerbs present at the site to footway. This is not objected to and can be required by conditions.

Relationship with London Southend Airport (LSA)

- 8.83 The proposal would be the tallest structure in the immediate vicinity. During the construction period, due to the use of cranes, it is possible that cranes would operate higher than the maximum height of the proposed building. LSA have been notified and raise no objections subject to conditions limiting the maximum height of the development and requiring a third-party instrument flight procedure assessment (ILS). An informative is recommended as requested by LSA so that the applicant is advised to notify them of crane use prior to commencement of construction works.
- 8.84 Overall, there would be no significant harm caused to the parking conditions, traffic or highway safety of the area. Subject to the described conditions, the proposal is acceptable and policy compliant in the above regards.

Energy and Water Sustainability

- 8.85 Policy KP2 of the Core Strategy requires that *“at least 10% of the energy needs of new development should come from on-site renewable options (and/or decentralised renewable or low carbon energy sources)*. Policy DM2 of the Development Management Document states that *“to ensure the delivery of sustainable development, all development proposals should contribute to minimising energy demand and carbon dioxide emissions”*. This includes energy efficient design and the use of water efficient fittings, appliances and water recycling systems such as grey water and rainwater harvesting.
- 8.86 Details of renewable energy have not been provided. However, the roof plan details the provision of solar panels as the proposed renewable energy generation means. This is acceptable in principle. However a condition will be imposed for details to be submitted that demonstrate compliance with the 10% requirement. This meets the requirements of Policy KP2. Water efficient fittings can also be secured by condition. The proposal is acceptable and policy compliant in this regard.

Flood Risk and Drainage

- 8.87 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.
- 8.88 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.

Anglian Water has also required conditions and informatives to be imposed.

- 8.89 Subject to conditions, the development is acceptable and policy compliant in the above regards.

Biodiversity and RAMS

- 8.90 Landscaping is a reserved matter. Nonetheless, the accompanying Biodiversity and Sustainability Statement makes reference to planting of green roofs with wildflower mix to the areas of flat roof across the development as well as the planting of new trees to the public square to front.
- 8.91 Whilst specific details have not been provided, they can be controlled by condition and would represent a net benefit when considered against the site circumstances at present.
- 8.92 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. The proposal is therefore considered to be acceptable and policy compliant in this regard.
- 8.93 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 is acceptable in terms of biodiversity and ecological impacts and is policy compliant in this regard.

Planning Obligations

- 8.94 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."
- 8.95 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."
- 8.96 The Planning Practice Guidance 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.”

8.97 Core Strategy Policy KP3 requires that: “In order to help the delivery of the Plan’s provisions the 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.”

8.98 The following planning obligations have been agreed with the applicant:

Table 6: Agreed Head of Terms

	Head of Term	Details
1	Education	Secondary education contribution of £73,469.68
2	RAMS Ecology Mitigation	£156.76 per unit (58) = £9,092.08
3	Highways	Reinstatement of PVX’s to pavement under a Sn 278. Travel Plan and Provision of Travel Information Packs to all residents. Travel Plan monitoring fee of £1,500
4	Affordable Housing – financial contribution in lieu of on-site provision	60% of any surplus estimated with a Late-Stage Viability Review Mechanism capped at £941,274.48
5	Tree works	Contribution of £5,427 to go towards planting elsewhere within the City. Contribution of £5,000 towards the removal costs of the London Plane street tree.
6	Monitoring Fee	Maximum £10,000.00 – Currently estimated at £5,474.44

Affordable Housing

8.99 Policy CP8 seeks an affordable housing provision of 30% for major residential proposals of 50+ 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 18 dwellings, comprising 11 affordable rented units and 7 shared ownership units.

8.100 The financial viability assessment (VA) submitted with the application concludes that either provision of affordable housing on site or a financial contribution towards

affordable housing elsewhere is unviable in this case. The Council has had this document independently reviewed by BNP Paribas which verifies that the scheme cannot support any affordable housing either on site or as a financial contribution. Assuming a developer profit of 20% the independent viability review concluded that this scheme would have a projected deficit of -£2.58m. The lack of any affordable housing contribution in this case is therefore justified. However, the applicant has agreed to include a late-stage viability review mechanism in the S106 legal agreement. This is to determine whether the viability position of the development will have changed and therefore whether a contribution can then be made towards affordable housing. If found to be viable at that later stage, 60% of any surplus would be paid to the Council as the affordable housing contribution for the scheme.

NHS Contribution

- 8.101 The NHS requested a financial contribution of £27,400 to increase capacity for the benefit of patients in the Primary Care Network operating in the vicinity of the application. This figure, provided by the NHS is based on their identification of an existing deficit of GP services in the area and their predicted population increase of approximately 133 new residents as a result of the development. This figure is based on the average census household size of 2.3 people per dwelling, the requirement for 120sqm of surgery floorspace for every 1,750 patients and the average cost of new build extensions to health centres.
- 8.102 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 could be secured via CIL funding rather than planning obligations under S106. 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. A planning obligation for this matter would fail the relevant tests and cannot be imposed.

Summary

- 8.103 The contributions in Table 5 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)

- 8.104 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. At this stage, the proposed development includes a gross internal area of some 5,378sqm of residential and 144sqm of commercial floorspace which may equate to a CIL charge of approximately £159,726.92 (subject to confirmation).

Equality and Diversity

8.105 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 inclusion of six Building Regulations M4(3) compliant wheelchair accessible units 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.

Conclusion and Planning Balance

8.106 Having taken all material planning considerations into account, it is found that subject to compliance with the recommended conditions and the completion of a S106 legal agreement for the relevant matters, the proposed development would be acceptable and compliant with the objectives of the relevant development plan policies and guidance. The principle of the development, including the provision of a tall building, the use of this land for a housing-led mixed use development, the housing mix and flood risk are acceptable. The proposed 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 and the development would contribute to regeneration around within city centre. The development responds to the known circumstances that, despite its public amenity value, the mature street tree needs to be removed in any event for highway safety reasons. That is proportionately weighed in the balanced assessment including the extent to which the developer should support tree removal costs and compensate the value of the street tree to support other planting in the city. Whilst less than substantial harm has been identified to the setting of heritage assets, the public benefits of the proposal are considered to outweigh the identified harm. Subject to conditions the proposal would have an acceptable impact on the amenities of neighbours. The proposal would provide an acceptable standard of accommodation for future occupiers. There would be no significant harmful traffic, parking or highways impacts caused by the proposed development. The proposal would also have an acceptable impact on sustainability and ecology.

8.107 The 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, including those areas where judgement has been exercised in this report, and 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. When assessing any harm identified, it is necessary to demonstrate that, in reaching a decision, an appropriate balancing exercise has been undertaken considering the benefits of the proposal and any harm.

8.108 As discussed in the Principle of Development section of this report, due to the results of the HDT and the 5YHLS figure, the presumption in favour of sustainable development is engaged. The test set out by the National Planning Policy Framework is whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework taken as a whole. Following assessment, the proposal has been found by officers to be acceptable in all relevant regards.

9 Recommendation

- 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:
- 1 Education - Secondary education contribution of £73,469.68
 - 2 Ecology Mitigation - RAMS contribution of £156.76 per unit – 58 x £156.76 = £9,092.08
 - 3 Highways - Travel Plan and Provision of Travel Information Packs to all residents. Travel Plan monitoring fee of £1500. Reinstatement of PVX's to pavement under a Sn 278.
 - 4 Affordable Housing – Financial contribution in lieu of on-site provision of affordable housing at 60% of any surplus estimated with a Late-Stage Viability Review Mechanism capped at £941,274.48.
 - 5 Works to Street Tree - Contribution of £5,427 to go towards planting elsewhere within the City. Contribution of £5,000 towards the removal costs of the London Plane street tree.
 - 6 Monitoring Fee - Maximum £10,000.00 – Currently estimated at £5,474.44.
- b) That the Executive Director (Environment and Place), Director of Planning and Economy or Service Manager - Development Control be DELEGATED to GRANT PLANNING PERMISSION subject to the completion of the section 106 Agreement referred to above and subject to the conditions set out below:

- 01 Details of the landscaping, (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 plans: 621P01 Rev B; 621P02 Rev G; 621P03 Rev G; 621P04 Rev C; 621P05 Rev B; Arbtech AIA 01.

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, no development above ground floor slab level shall take place 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 finish and colour have been submitted to and approved in writing by the Local Planning Authority. The details requested include but are not limited to: face brick, roof detail, windows, doors, fascia and soffits, the colonnade/expressed column detail at ground level, wind screens needed

to mitigate microclimate impacts, commercial shopfronts and approach to signage, logia and parapet detail, residential entrance, reveals and window framing. The works must then be carried out in full accordance with the approved details before the development hereby approved is first occupied.

Reason: In the interest of visual amenity in accordance 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 contained within the National Design Guide (2021) and the Southend-on-Sea Design and Townscape Guide (2009).

04 Notwithstanding the provisions of any development order made under Section 59 of the Town and Country Planning Act 1990 (or any Order revoking and re-enacting that Order) the following operations shall not be undertaken without the receipt of prior specific express planning permission in writing from the Local Planning Authority on the building hereby approved:

A. The installation of any structures or apparatus for purposes relating to telecommunications on any part the roof of the buildings hereby approved, including any structures or development otherwise permitted under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any equivalent Order amending, revoking or re-enacting that Order.

Reason: To ensure that the development does not impact adversely on the townscape and character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

05 The commercial units shall retain an unobstructed active frontage with no window graphics or vinyls to be installed.

Reason: To ensure that the development does not impact adversely on the townscape and character of the area and to ensure the Local Planning Authority can control the development in the area so that it accords with policies KP2 and CP4 of the Core Strategy (2007) and policies DM1 and DM3 of the Development Management Document (2015) and advice contained within the Southend Design and Townscape Guide (2009).

06 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. Existing and proposed finished site levels or contours;
- ii. means of enclosure, of the site including any gates or boundary

- fencing;
- iii. pedestrian access and circulation areas;
- iv. hard surfacing materials;
- v. details of the number, size and location of the shrubs and plants to planted together with a planting specification;
- vi. Biodiversity enhancement measures;
- vii. External seating details;
- viii. External lighting for public areas.

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 the same size and species as previously approved by the Local Planning Authority under the terms of this condition.

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

- 07 Prior to the first occupation of the development hereby approved, the residential and commercial cycling parking and bin storage areas shown on the approved plan 621P02 Rev G shall be provided and made available for use by the respective occupiers of the development. These areas shall be retained for the lifetime of the development and waste management shall be undertaken in accordance with the Waste Management Statement by SK Architects [February 2023] thereafter.

Reason: To ensure that satisfactory cycle parking and bin storage is provided and waste management is undertaken in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policy CP3, Development Management Document (2015) Policy DM15 and the guidance in the Waste Storage, Collection and Management Guide for New Developments (2019).

- 08 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 (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1 and DM3 of the Development Management Document (2015).

- 09 No development shall take place unless and until a Demolition and Construction Management Plan and Strategy (to include Noise and Dust Mitigation Strategies) has been submitted to and approved in writing by the Local Planning Authority pursuant to this condition. The approved Demolition and Construction Management Plan and Strategy shall be adhered to in full throughout the construction period. The Strategy shall provide, amongst other things, for:

- i) the parking of vehicles of site operatives and visitors,
- ii) loading and unloading of plant and materials,

- iii) storage of plant and materials used in constructing the development,
- iv) the erection and maintenance of security hoarding,
- v) measures to control the emission of dust, dirt, mud being carried onto the road and noise during construction,
- vi) a scheme for recycling/disposing of waste resulting from construction works that does not allow for the burning of waste on site.
- vii) a dust management plan to include mitigation and boundary particulate monitoring during demolition and construction. and
- viii) details of the duration and location of any noisy activities.

Reason: A pre-commencement condition is justified in the interest of the residential amenity of nearby occupiers in accordance with the National Planning Policy Framework (2023), Policies KP2, CP3 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM15 of the Development Management Document (2015).

- 10** 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 (2023), 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).

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

Reason: To minimise the environmental impact of the development through efficient use of resources and better use of sustainable and renewable resources in accordance with the National Planning Policy Framework (2023), 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).

- 12** 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 development in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), and Policies DM1, DM3 and DM14 of the Development Management Document (2015).

- 13 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 residential 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).

- 14 No dust or fume extraction or filtration equipment or air conditioning, ventilation, or refrigeration equipment shall be installed on the building hereby approved unless and until details of its design, siting, discharge points, predicted acoustic performance and details of any necessary noise, vibration and odour mitigation measures to be used have been submitted to and approved in writing by the Local Planning Authority under the provisions of this condition. The equipment shall be installed only in accordance with the approved details and shall be maintained in good working order in line with the approved details thereafter for the lifetime of the development.

With reference to British Standards BS7445:2003 and BS4142:2014+A-2019 or any similar up to date standard, noise from any plant and equipment used in association with the development hereby approved shall be at least 10 dB(A) below the background noise levels as measured at 1m from the facades of the nearest noise sensitive premises and expressed as a LA90,15minutes.

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).

- 15 Notwithstanding the provisions of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any revocation, amendment or adaptation of this legislation of for the time being may be in force, the commercial floorspace hereby approved shall be used only for purposes falling within Class E with the exception of use as a gymnasium within Class E(d) of the Town and Country Planning (Use Classes) Order 1987 as amended (or any statutory modification or re-enactment or replacement thereof (as the case may be) for the time being in force).**

Reason: In order to protect the amenities of occupiers of the development and surrounding occupiers and to protect the character and amenities of the area including because a gymnasium use could present noise and vibration characteristics and impacts potentially harmful to residential amenity which would warrant further detailed assessment all in accordance with Policies CP1, KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM11 and DM3 of the Development Management Document (2015).

- 16 Deliveries and collections to and from the commercial units within the development hereby approved shall only be undertaken between:**

- Monday to Fridays between 7am and 7pm**
- Saturdays between 8am and 1pm**
- Not at any time on Sundays and Bank Holidays**

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).

- 17 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 residents within the development 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)

- 18 The development shall only be carried out in accordance with the recommendations included in the Wind Microclimate Assessment 19437 by**

gia Chartered Surveyors [16 February 2023] prior to first occupation of any residential unit and shall be retained as such thereafter.

Reason: To protect the living conditions of future occupiers in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM8 as amended by the Technical Housing Standards Policy Transition Statement (2015) and the guidance contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 19 Before the development is occupied or brought into use, the development hereby approved shall be carried out in a manner to ensure that 6No of the flats comply with the building regulation M4 (3) 'wheelchair user dwellings' standard and the remaining 52No flats comply with building regulation part M4(2) 'accessible and adaptable dwellings' standard.

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 National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, Development Management Document (2015) Policies DM1 and DM8 as amended by the Technical Housing Standards Policy Transition Statement (2015) and the guidance contained within the Southend-on-Sea Design and Townscape Guide (2009).

- 20 The two commercial units hereby approved shall not be open for customers outside the following hours:
- 7am to 11pm on any day.

Reason: To protect residential amenity and general environmental quality in accordance with the National Planning Policy Framework (2023), Core Strategy (2007) Policies KP2 and CP4, and Policies DM1 and DM3 of the Development Management Document (2015).

- 21 Notwithstanding the submitted drainage details, including the SUDS/Surface Water Drainage Statement by HJ Structural Engineers Ltd. MAS1440 [April 2023], no drainage infrastructure associated with the development hereby approved shall be installed until and unless a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority and 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, the details shall have regard to the following:

- 1) The applicant shall update their drainage plan to include overland flow routes and exceedance routes, ensuring critical areas are protected from flooding where possible.
- 2) The applicant shall provide evidence to confirm the existing site discharges into the Anglian Water network, otherwise the proposed drainage strategy shall be re-designed to restrict runoff to the greenfield rate.
- 3) The applicant shall provide details on the management of health and

safety risks as a part of the drainage strategy.

- 4) The applicant shall confirm the groundwater conditions and assess the impact on the proposed system. The applicant shall also determine whether any surface water from adjacent areas will make its way to the proposed site.
- 5) The applicant shall 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.
- 6) The applicant shall provide details of the third-party management and maintenance company who will maintain the proposed drainage network.
- 7) It is recommended that infiltration tests are undertaken prior to detailed design to confirm if partial infiltration is achievable in the permeable pavement.
- 8) It is recommended that rainwater harvesting is considered further in the scheme during detailed design, including within the blue roof and underground storage.

The development shall only be implemented in accordance with the strategy and details approved under this condition and no hard surfaced areas shall be constructed until the works have been carried out in accordance with the strategy and the approved details.

The approved drainage works shall be provided on site prior to first occupation of the development and shall be maintained in good working condition for the lifetime of the development in line with the approved details and strategy.

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

- 22 Prior to the construction of the approved development above damp proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to any occupation of the development hereby approved, the foul water drainage works must have been carried out in complete accordance with the approved scheme.

Reason: To prevent environmental and amenity problems arising from flooding in accordance with National Planning Policy Framework (2023) and Core Strategy (2007) Policies KP1 and KP2.

- 23 No construction above ground floor slab level shall take place unless and until a 'Fire Safety Statement' has been submitted to and approved by the Local Planning Authority in consultation with the relevant statutory body (the Health and Safety Executive) under the provisions of this condition. The measures approved shall be incorporated in full accordance with the approved fire safety details prior to first occupation of the development hereby approved and shall be retained as such thereafter.

Reason: In the interest of future occupier safety in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM14 of the Development

Management Document (2015).

- 24 Prior to the commencement of development an Air Quality Assessment shall be undertaken and submitted to the Local Planning Authority for approval. The assessment shall be in accordance with current guidance - Land Use Planning and Development Control: Planning for Air Quality (Institute of Air Quality Management) or an acceptable equivalent.**

Reason: In the interest of future occupier amenity in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM14 of the Development Management Document (2015).

- 25 Occupation of the development hereby approved by this permission shall not begin until the reinstatement of the existing vehicle crossing shown to the immediate east of the site on drawing No 621P05 Rev B has been completed.**

Reason: In the interest of pedestrian and highway safety, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007) and Policies DM1, DM3 and DM14 of the Development Management Document (2015).

- c) In the event that the planning obligations referred to in part (a) above have not been completed before 2nd February 2024 or an extension of this time as may be agreed by the Director of Planning and Economy or Service Manager - Development Control, authority is delegated to the Director of Planning and Economy 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, tree replanting and removal, biodiversity mitigation or Travel Information Packs and a viability review mechanism for a late stage affordable housing viability review 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 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 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) 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 The applicant is advised that the building will represent a landmark building in the City and consequently, the external materials identified must be of a sufficiently high quality and any details submitted for approval need to reflect the design ethos approved with this application.
- 4 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, a financial RAMS contribution, the provision of Travel Information Packs, late-stage affordable housing viability review and monitoring of the agreement.
- 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 **Advertisement signage associated with the development must be submitted for under separate Advertisement legislation.**
- 9 **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.**
- 10 **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.**
- 11 **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.**
- 12 **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.**
- 13 **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.**
- 14 **If Regulatory Services become aware of any works that are highly likely to cause a nuisance we 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.**
- 15 **The application form and guidance is 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.**

Change of Use Class E

- 16 **Should the use hereby permitted change fully, or part, to Class E paragraphs:
o (b) sale of food and drink for consumption (mostly) on the premises
or**

o (d) indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public, there is a risk of harm to human receptors within existing residential and commercial premises, Southend-On-Sea City Council has a duty to investigate and enforce statutory nuisances under section 80 of the Environmental Protection Act 1990 if the council has established that a nuisance exists or is likely to occur. This is particularly due to the likely required operation outside of normal working hours and over seven days. These risks include:

- o Noise from shopfitting and alterations to the premises
- o Noise and vibration from the dropping of free or machine weights and medicine balls
- o Noise from amplified music played in the premises
- o Noise from extract ventilation systems and air conditioning condenser units
- o Noise from customer voices internally and leaving and entering the premises
- o Odour from extract ventilations systems
- o Artificial light from signage

Therefore, where an activity that falls under these paragraphs is proposed it is strongly recommended that an impact assessment of the proposed use is conducted by competent persons. Where likely impacts are established mitigation measures must be evaluated and installed to prevent a statutory nuisance from occurring using the best practicable means to do so.

- 17 The applicant should have regard to the common parts of the proposed development and the fire safety in accordance with the Building Regulations 2000 (as amended) and The Regulatory Reform (Fire Safety) Order 2005 which is regulated by Essex Fire and Rescue Service.
- 18 Southend-On-Sea City Council may serve a Notice Imposing Requirements under section 60 of the Control of Pollution Act 1974 on the person deemed in control of this development which. The Notice will specify certain ways in which demolition and /or construction will be carried out. This power exists to apply to any projects of demolition, construction and engineering works where the council deems it appropriate to do so.
- 19 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, Civic Centre, Victoria Avenue, Southend SS2 6ER'.
- 20 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) 853/2004 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.